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HOUSE OF REPRESENTATIVES—*Monday, July 25, 2005*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. CONAWAY).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 25, 2005.

I hereby appoint the Honorable MICHAEL K. CONAWAY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. SHIMKUS) for 5 minutes.

MEDICAL LIABILITY CRISIS

Mr. SHIMKUS. Mr. Speaker, I rise today again to remind my colleagues of the importance of passing a Medical Liability Reform bill on the floor of the House this week.

I would like to submit for the record and read a brief section of a news story from my district. These type of stories have become common in the media in my area over the past few years.

I quote, "One doctor who has been treating patients in Bethalto for more than 20 years is moving his practice to another state."

"The rate increases are forcing some doctors in Madison County to take their practices elsewhere. That is the case for Dr. Charles Sammis, who took over his father's practice 20 years ago.

"It would be so nice if I could stay here, but the way it is it is impossible." Dr. Sammis has been treating patients at his family practice in Godfrey for 20 years. Friday was his last day.

Dr. Sammis says the rising medical malpractice insurance rates in Madison County have forced him out. He is not alone. The whole Madison County area, I think there is maybe two or three left and everybody else has pretty much either retired or left.

Meantime, Dr. Sammis' departure has been especially hard on his patients. "You have all been nice to me and I appreciate it," he is quoted as saying. Dr. Sammis and his family are moving to Wisconsin where he plans to open another practice.

I would urge my colleagues to vote in favor of H.R. 5 this week. To stay competitive in the global marketplace and keep jobs in America, we need to ensure that our health care delivery system is fully intact.

BETHALTO DOCTOR CLOSES OFFICE DUE TO RISING MEDICAL MALPRACTICE RATES

(By Erin O'Neill)

The debate continues over rising medical malpractice insurance costs and who's to blame. Some doctors in Madison County, Illinois say the jump in insurance premiums has forced them to close their offices.

One doctor, who has been treating patients in Bethalto for more than 20 years, is moving his practice to another state.

While medical malpractice is a problem all across the U.S., a recent report from the American Tort Reform Association suggested its especially common in the Metro East. Some say frivolous lawsuits are to blame, others say it is price gouging by the insurance companies.

The rate increases are forcing some doctors in Madison County to take their practices elsewhere. That's the case for Dr. Charles Sammis, who took over his father's practice 20 years ago.

"It would be so nice if I could stay here, but the way it is, it's impossible." Dr. Sammis has been treating patients at his family practice in Godfrey for 20 years. Friday was his last day.

Dr. Sammis says the rising medical malpractice insurance rates in Madison County have forced him out. He's not alone. "The whole Madison County area I think there's maybe two to three left and everybody else has pretty much either retired or left."

Dr. Sammis says frivolous lawsuits are to blame. Not so, says former Missouri Insurance Commissioner Jay Angoff, "The insurance companies are telling the doctors look over here its their fault when it's the insurance companies themselves."

Angoff says malpractice rates have more than doubled in the last five years, while the amount of money paid in claims actually dropped, so he says lawsuits aren't the problem. "So, there is no justification for premiums going up the way they are. And, if I were a doctor in Illinois I would call ISME up, that's a major malpractice insurer in Illinois, and say 'Why are my premiums going up when claim payments are going down?'"

But Dr. Sammis still believes needless litigation is behind the escalating costs and hopes tort reform is a solution. In May, Illinois lawmakers approved a plan to cap lawsuit awards in medical malpractice cases, but the bill remains on the Governors desk. "And we were hoping that our Governor would sign the bill and he's still waiting on it. And I know there's a lot of issues with that, but its getting very difficult to practice medicine here right now."

Meantime, Dr. Sammis' departure has been especially hard on his patients, "You've all been nice to me and I appreciate it."

Bob Vieregge has been going to Dr. Sammis for 20 years, "I told him the other day I said I lost my wife and I lost my priest and good friend and now I'm losing my doctor." Patient Mary Stanton says, "We just wish him all the best of everything where he's going."

Angoff says insurance companies in both Illinois and Missouri are notorious for very weak insurance regulation. He says insurance companies can raise rates at will and the insurance commissioner can't do anything about it. He says the solution is for local doctors to rally behind legislation that requires insurance companies to get the approval of the commissioner before raising rates.

Meantime, Dr. Sammis and his family are moving to Wisconsin where he plans to open another practice.

CENTRAL AMERICAN FREE TRADE AGREEMENT

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Oregon

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(Mr. DEFAZIO) is recognized during morning hour debates for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, I was just actually watching a speech by the President. It was sort of the Grimm's Fairy Tales version of why Members of this House should vote for CAFTA, why Members of this House should vote to extend a failing trade policy to another five nations in Central America as a template for an even larger expansion of failed U.S. NAFTA free trade policies throughout the western hemisphere.

He talked about their subsistence farmers and how, if only the tariffs on very expensive U.S. agricultural machinery were removed, that additional 10 or 15 percent on the cost, how the subsistence farmers who average less than $1,000 a year will be buying $100,000, $500,000 pieces of farm equipment. They will just trot right down to the local bank, and I guess the bank will extend them a loan for a $500,000 piece of equipment they will never be able to pay for, and they will not be able to afford fuel to put this.

Now, that is the same kind of falsehood we heard about NAFTA, that this was going to be a boon for U.S. workers and manufactured goods because all the people of Mexico would take all their pesos, put them together, and they could afford to buy almost as much stuff as the people of New Jersey. In the case of CAFTA it is an even smaller economy, less capability.

He talked about how the factory workers there are just waiting in line to buy American goods. Of course $0.40 an hour, you are not going to be buying a lot of American goods or probably not any. But they are working for a lot less than American production workers.

So what is going to happen with CAFTA? The same thing that happened with NAFTA. You are going to see U.S. capital flood south into Central America so that they can produce things that were once made here, textiles and other things in the case of Central America and in all probability. In the case of NAFTA, it was automobiles, auto parts, it was a whole flood of things, washing machines, driers, other appliances. It all went to Mexico. They predicted that NAFTA, just like with CAFTA, they said, oh, CAFTA is going to be great for the American economy. It will put people to work, create jobs. They said the same thing about NAFTA. It was going to create a million jobs. Instead it lost a million jobs.

Now, what they do is really tricky when they talk about CAFTA. They talk about how they have studied it and studied it, and they see an increase in exports to Central America.

What they do not say is the President's own trade commission sees a much bigger increase in imports from Central America. That means a net deficit. That means we are selling less there than we are buying back. It means we are going to lose more jobs. It is the same condition we are in with the rest of the world.

The United States of America is borrowing $2 billion a day to finance the purchase of overseas goods, goods that were once made here by people who earned a decent living.

This is not a sustainable model. And to extend it to Central America is not going to begin to put America on a better path to bringing jobs home to the United States, bringing wages back up for our production workers, seeing that they continue to have benefits.

American workers should not be asked to compete with workers who earn less than a $1 an hour in Central America. But that is what will happen if this is passed.

Time and time again, the experts, the administrations, including the Democratic administration, the Clinton administration, which was a total disaster on trade, as bad as Bush and maybe worse, they come to this Congress and they say if only, if only you will open up our borders, it will bring great wealth to the American people, prosperity and jobs. And what it has brought is the loss of 3 million manufacturing jobs, a deficit of $2 billion a day in trade, and driven down wages in countless industries across this country where all the boss has to say is, you will not take a pay cut? Not far to the Mexican border. That is where your plant is going. And they have done that again and again and again. So we should not extend this disaster one more time. And when all the apologists stand up and talk about all the wealth it is going to create, all the jobs and all the exports, remember, they said exactly the same thing about the NAFTA. They said exactly the same thing about China MFN and the WTO, and they were wrong, and there is no reason why they are not going to be wrong again, because they know that what they are saying is not true. It is just the way they have got to sell the package here to benefit a few industries to the disadvantage of the rest of the people in this country.

It is time for a trade policy that makes sense for all the people of America, not just a treasured few who own the stock and the factories of the multinational corporations that have been profiting from our failures.

ASSOCIATION HEALTH PLANS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Pennsylvania (Mr. FITZPATRICK) is recognized during morning hour debates for 5 minutes.

Mr. FITZPATRICK. Mr. Speaker, I rise today to address the issue of health care insurance in America, its rising costs and a solution that will help to reduce the cost for many Americans. Our Nation is in the midst of a health care crisis. This crisis affects Pennsylvania's health care professionals, their patients and the doctor-patient relationship. This crisis is especially acute in my district in Southeastern Pennsylvania.

Last week I held a small business committee forum in my district. The health care crisis and how it affects small businesses was the topic of the forum. The gentleman from Illinois (Mr. MANZULLO) was kind enough to come to the forum and to apply his many years of experience to the issue, and I thank the gentleman for his contribution and for his insights.

Pennsylvania's health care problems are among the worst in the Nation. Doctors in Pennsylvania are faced with some of the highest medical malpractice insurance rates in the country. Because they cannot afford to pay for malpractice insurance, many Pennsylvania physicians are practicing defensive medicine or simply shutting their doors, moving to other states or retiring. Young doctors establishing a new practice are reluctant to consider Pennsylvania because of malpractice insurance problems.

Over 50 percent of Pennsylvanians say their family has had difficulty in paying the cost of health care or obtaining health insurance coverage. Since 2001, the cost of health insurance has risen 59 percent, and employers who offer health care benefits are paying an average of 11 percent more for health insurance premiums than they did in 2004. This is the fourth year in a row of double digit increases with no end in sight.

From a national perspective, the statistics are staggering. The Labor Department has recently reported that 3.7 million new jobs were created since May of 2003, marking 25 consecutive months of positive job growth for the U.S. economy. Unfortunately, there are 41 million Americans who are without health care insurance. Nearly 60 percent of the 41 million uninsured Americans are employed by small businesses or are dependent on someone who is employed by a small business. As health care costs continue to increase, fewer employers and working families will be able to obtain coverage, and the number of uninsured will inevitably rise. For a Nation of the 21st Century, and in a country that boasts the world's largest and most productive economy, this is simply unacceptable.

The skyrocketing cost of health care is making employer-sponsored health coverage harder and harder for businesses, especially small businesses, to provide to their employees. This fact makes it nearly impossible for many hard working families to receive affordable care that they need and deserve.

I am proud to say the House Republicans have a plan to increase and improve America's access to affordable and high quality health care. Association Health Plans will help employers, especially small business owners, afford quality health care for their employees and their families, will improve the quality of life and provide much needed health security. AHPs address both health care access and cost by allowing small businesses to create associations that may jointly purchase health insurance for their workers at a lower cost.

Specifically, AHPs establish eligibility requirements so that all AHPs are required to offer fully-insured and/or self-insured benefits. AHPs encourage broad participation and coverage by prohibiting discrimination of any kind against certain "high-risk" individuals. AHPs will cover specific diseases, maternal and newborn hospitalization and mental health issues. AHPs will be exempt from costly and burdensome state health insurance regulations to enable greater and more effective coverage. AHPs will be financially strong and responsible by reserving enough funds for potential costs and other obligations.

AHPs have enjoyed the support of a wide coalition, including the U.S. Chamber of Commerce, the National Federation of Independent Businesses, the American Farm Bureau, the Associated Builders and Contractors, the Latino Coalition, the National Black Chamber of Commerce, the National Association of Women Business Owners and the National Restaurant Association.

These organizations have endorsed AHPs because AHPs will reduce health insurance costs for employers. For example, insurers selling directly to small employers typically incur administrative costs of 20 to 25 percent. By contrast, the Congressional Budget Office has estimated that small businesses that obtain insurance through AHPs will save an average of 13 percent. Other estimates have indicated cost savings could be as much as 25 percent. AHPs will significantly reduce the number of uninsured Americans. AHPs, according to a study by the Research Corporation, estimates that up to 8.5 million uninsured workers and dependents could gain coverage from AHP legislation. And this study confirms even a small cost savings can result in large increases in purchasing power for all of our small businesses. The CBO has concluded, Mr. Speaker, that Association Health Plan legislation would extend insurance coverage for up to two million uninsured American workers with no cost to the government.

I encourage my colleagues to support the Small Business Health Insurance Act, H.R. 525, when it comes to the floor this week.

CENTRAL AMERICAN FREE TRADE AGREEMENT

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from California (Mr. DREIER) is recognized during morning hour debates for 5 minutes.

Mr. DREIER. Mr. Speaker, this week we will address one of the most important national security issues of the 109th Congress. It also is an extraordinarily important economic issue, when it comes to the challenge of growth in this country and throughout this hemisphere. I am talking of course about the Dominican Republic Central American Free Trade Agreement.

As I listened to my colleague from Oregon just a few minutes ago decry the problems of the North American Free Trade Agreement and the fact that there will be overpromising when it comes to the Central American Free Trade Agreement, I was struck by the fact that he really did not get the message that was provided by that great former senator, democratic presidential candidate from Massachusetts, Paul Tsongas, who said, the problem with my democratic party is that they love employees but they hate employers.

The fact of the matter is, if you look all the way across the board, we know that globalization is inevitable. And as Prime Minister Singh said in his address to us a week ago tomorrow, right here in a joint session of Congress, we cannot ignore what is taking place in any other part of the world because of the fact that the globe is shrinking.

Now, Mr. Speaker, I am not going to overpromise and say passage of the Central American Free Trade Agreement is all of a sudden going to solve every ailment of society. But I do know this, 22 years ago, we, with a huge bipartisan vote passed the Caribbean Basin Initiative, which, instead of sending aid, provided an opening, an opportunity for the Caribbean nations to have access to the U.S. consumer market. That has helped us and it has helped them.

Right now, with the Central American Free Trade Agreement, all we are saying is let us have a reciprocal arrangement. 80 percent of the goods, including 99 percent of agricultural products from Central America come tariff free, tax free to U.S. consumer. That is a good thing. It has allowed us, Mr. Speaker, to allow the high standard of living that we have as Americans.

Now, what we are saying is, through this agreement, let us open up their markets so that the 44 million consumers in the Dominican Republic and the 5 Central American countries can have access to U.S. manufactured goods.

Now, one of the challenges that we face, of course, is our competition that is going on with the Pacific Rim. We, at the end of last week, saw finally moves toward re-evaluation of the yuan, the Chinese currency. And we know that if we are going to compete, it is important for us to implement hemispheric wide trade here so that we can compete with Asia and, specifically, with China.

One of the things we also know, Mr. Speaker, is that if you buy a shirt from China it has a little more than 1 percent of U.S. content. If you buy a shirt from Central America that is manufactured in Central America, over 60 percent of it has U.S. content. So this agreement is going to enhance our ability, not only as a Nation, but as a hemisphere to be more competitive.

We put together a wide range of agreements over the last several years, bilateral agreements with Jordan, Singapore, Australia, Chile, Morocco. They have all been great bilateral agreements. But right now, Mr. Speaker, we have the opportunity to put together a very important multilateral agreement with six countries. That also will lay the groundwork for the very important effort that we have that will begin in the coming days to proceed with the Doha round with the WTO in Geneva. Why? Because the goal as was set forth back in 1947 when the general agreement on tariffs and trade was established was to eliminate tariffs. And we all know, Mr. Speaker, that a tariff is a tax. And so cutting taxes enhances the standard of living and the quality of life for people. This is a win-win for the United States of America, for the Central American countries, and for our region as a whole.

I hope very much that our colleagues join in a strong bipartisan way, doing exactly what we did in 1983 when we passed the Caribbean basin initiative. Let us send this to the President so that it can be signed and so that we can have this win-win all the way around.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 49 minutes p.m.), the House stood in recess until 2 p.m.

☐ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. KOLBE) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Loving God, bless all those who work for the U.S. House of Representatives.

May all House Members and all who serve as their staff be instruments of consultation and wisdom to accomplish the legislative work of the American people.

Renew this Nation in its trust of Your divine providence and in the honest trust of human relationships.

Without trust there can be no open society.

Trust allows us to seek knowledge, experience, and personal wisdom from others.

Trust builds strong partnerships in business and in government.

Trust helps us take down walls, remove barriers, and eliminate friction.

Lord, make us a people who are trustworthy and skilled in building trust.

For this Chamber proclaims what America prays: "In God we trust" now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Illinois (Mr. SHIMKUS) come forward and lead the House in the Pledge of Allegiance.

Mr. SHIMKUS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

CENTRAL AMERICAN FREE TRADE AGREEMENT

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I rise today to highlight the benefits of the Central American Free Trade Agreement to agricultural interests in my home State of Illinois.

As the number two soybean and soy products exporter, Illinois already sends approximately $50 million worth of soy products per year to CAFTA countries. The immediate duty-free access for some products and reductions in tariffs on others are expected to significantly improve opportunities for Illinois soybeans and their products.

Illinois corn farmers are the Nation's number two exporter of feed grains. U.S. corn exports to CAFTA countries will benefit from reduced tariffs and duty-free access for corn products. In total, CAFTA countries are already Illinois' 22nd largest export market, accounting for more than $211 million in exports in 2004. After the first year of CAFTA implementation, Illinois is expected to realize $79 million in increased output across all industries in the State and $24 million in increased employees earnings and nearly 700 new jobs created.

This historic agreement will eliminate tariffs and trade barriers and expand regional opportunities for the workers, manufacturers, consumers, farmers, and service providers of all the countries.

LANCE ARMSTRONG

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, it has been said that a quitter never wins and a winner never quits.

Seven-time winner of the Tour De France, Lance Armstrong, embodies these words. Raised in Plano, Texas, Lance Armstrong has become a household name synonymous with sacrifice, victory, and courage.

Most agree Lance's biggest victory was defeating cancer. Lance has spread his message that "you too can help fight the disease and beat it."

Many now where his yellow Livestrong bracelets, with countless dollars pouring into cancer research to help find a cure. He truly is a hero of hope.

I thank Lance Armstrong for all he has done for the American spirit and the cancer community. His tenacity, courage, and strength are an inspiration. I congratulate him on his seventh Tour De France victory. God bless him. I salute him.

SUPPORTING EGYPT

(Mr. ISSA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISSA. Mr. Speaker, today the President and countless others will be sending their condolences to the people of Egypt. For the second time in less than a week, they have suffered a loss at the hands of terrorists, this time in Sharm el-Sheik, the site of the historic peace conference between Israel and the Palestinians that have led to the quiet period and the hope for a Palestinian state and for two peoples living side by side once and for all in peace.

It is amazing to me that Iraq's first Arab ambassador came from Egypt, and yet this body seems to be always in doubt about whether or not Egypt is our ally, whether or not military support is necessary for this largest Arab nation anywhere in the world. I believe today after the assassination of their ambassador in Iraq, after the attacks in Sharm el-Sheik, after so many times Egypt has been there for us and paid a price, we should reflect on this special relationship and be glad that this Arab nation is there for us in our time of need.

DOMINICAN REPUBLIC-CENTRAL AMERICAN FREE TRADE AGREEMENT

(Mrs. BIGGERT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BIGGERT. Mr. Speaker, I rise today in strong support of the DR-CAFTA accord, not just because it is good for America but because it is good for the businesses and workers in my district in suburban Chicago.

Recently, I received a letter from one of the largest employers in my district. He wrote to say that today the tariff he pays on one of the products he manufactures and sends to Guatemala is 5 percent. If it enters the Dominican Republic, he pays 8 percent. And if it goes to Costa Rica, the tax is 14 percent.

In his letter he pointed out that all that will change on the day that DR-CAFTA goes into effect. Most tariffs on U.S. manufactured goods, including the product he wrote about, will be completely eliminated. For his company, shareholders, and workers, it means profits, greater competitiveness, and jobs.

About 80 percent of the goods made in DR-CAFTA countries already enter the U.S. duty free. Let us level the playing field and do something positive for our manufacturers and workers. Let us pass DR-CAFTA now.

CAFTA AND ITS NEGATIVE IMPACT ON LATINOS

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, today I rise in opposition to CAFTA because it is a bad policy for families that I represent in my district, particularly Latino families not only in the United States but in Central America.

CAFTA will outsource valuable American jobs. In fact, in the last 10 years when we approved NAFTA, we lost 1,000 jobs in my district alone.

CAFTA will destroy the jobs of subsistence for farmers and others who depend on the environment in Central America.

As the only member of Central American descent, I think I do have the right to say that poverty there is still something that is very real for many of the people that live in Central America and particularly they will be most affected, whether it is their health care, access to medicines, whether it is farming jobs there. All that is at stake for people in Central America.

I am afraid to say that if we take away those opportunities, those individuals might want to come here to this country. And I know that there is a movement here in this country to say close the borders, but at the same time we are sending signals that we are going to be helping the very wealthy in these countries and not those who need it very much.

So I would oppose CAFTA and ask my colleagues to do so as well.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. On July 24, 1998, at 3:40 p.m., Officer Jacob J. Chestnut and Detective John M. Gibson of the United States Capitol Police were killed in the line of duty defending the Capitol against an intruder armed with a gun.

Later today the Chair will recognize the anniversary of this tragedy by observing a moment of silence in their memory.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

EXPRESSING SENSE OF CONGRESS WITH RESPECT TO COMMEMORATION OF WOMEN SUFFRAGISTS

Mr. ISSA. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 59) expressing the sense of Congress with respect to the establishment of an appropriate day for the commemoration of the women suffragists who fought for and won the right of women to vote in the United States, as amended.

The Clerk read as follows:

H.J. RES. 59

Whereas one of the first public appeals for women's suffrage came in 1848 when Lucretia Mott and Elizabeth Cady Stanton called a women's rights convention in Seneca Falls, New York, on July 19, 1848;

Whereas Sojourner Truth gave her famous speech titled "Ain't I a Woman?" at the 1851 Women's Rights Convention in Akron, Ohio;

Whereas in 1869, suffragists formed two national organizations to work for the right to vote: the National Woman Suffrage Association and the American Woman Suffrage Association;

Whereas these two organizations united in 1890 to form the National American Woman Suffrage Association;

Whereas in 1872, Susan B. Anthony and a group of women voted in the presidential election in Rochester, New York;

Whereas she was arrested and fined for voting illegally;

Whereas at her trial, which attracted nationwide attention, she made a speech that ended with the slogan "Resistance to Tyranny Is Obedience to God";

Whereas on January 25, 1887, the United States Senate voted on women's suffrage for the first time;

Whereas during the early 1900s, a new generation of leaders joined the women's suffrage movement, including Carrie Chapman Catt, Maud Wood Park, Lucy Burns, Alice Paul, and Harriot E. Blatch;

Whereas women's suffrage leaders devoted most of their efforts to marches, picketing, and other active forms of protest;

Whereas Alice Paul and others chained themselves to the White House fence;

Whereas the suffragists were often arrested and sent to jail, where many of them went on hunger strikes;

Whereas almost 5,000 people paraded for women's suffrage up Pennsylvania Avenue in Washington, DC; and

Whereas on August 26, 1920, the 19th Amendment to the United States Constitution granted women in the United States the right to vote: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of Congress that women suffragists should be revered and celebrated for working to ensure the right of women to vote in the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ISSA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the Committee on Government Reform, I rise in support of House Joint Resolution 59. This legislation, introduced by the distinguished gentlewoman from Las Vegas, Nevada (Ms. BERKLEY) recognizes women's suffrage as a great milestone in our Nation's history.

The resolution specifically intends to commemorate the struggle waged by suffragists such as Sojourner Truth, Lucretia Mott, Elizabeth Cady Stanton, and Susan B. Anthony as a culmination in women's earning the right to vote. Many people reviled social reformers like these women leaders in the mid-19th Century. Today, however, they rightfully celebrate the fight to end this injustice.

I appreciate the gentlewoman from Nevada's work in further recognizing the legacy of the American civil rights movement.

From the women's rights meeting called by Mott and Stanton in Seneca Falls, New York in 1848 until the ratification of the 19th amendment in 1920, the determination of these women was as strong and has endured as any in our history. To earn the right to vote, these women chained themselves to the White House gates. They went on hunger strikes. They participated in marches and often were arrested and jailed for their disobedient action.

Despite the difficult obstacles and resistance they faced, suffragists remained committed to giving women the equal voice in American politics. Their victory was finally secured when Secretary of State Colby certified the ratification of the 19th amendment to the United States Constitution on August 26, 1920. The joint resolution under consideration marks the 19th amendment's upcoming 85th anniversary on August 26.

The 19th amendment reads: "The rights of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex." This single, timeless sentence ensured that our democracy would never again restrict women from voting for their leaders.

Mr. Speaker, the story of the women suffragists included many excruciating chapters, but its tumultuous activities and its conclusion is a credit to democracy and the ability to adapt and improve.

For all these reasons, I strongly urge my colleagues to support the adoption of this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleague in consideration of H.J. Res 59, expressing the sense of Congress with respect to the establishment of an appropriate day for the commemoration of the women suffragists who fought for and won the right of women to vote in the United States.

Mr. Speaker, the women's rights movement began in the mid-1800s when women such as Sarah Grimke, Angelina Grimke, Lucy Stone, Abby Kelly, Lucretia Mott, and Sojourner Truth found it necessary to speak out for women's rights because they were not allowed to participate equally with men in anti-slavery and temperance reform movements.

The right to vote was not their original focus. A convention held in Seneca Falls, New York in 1848 changed that. It was at that historic event that the women's suffrage movement formally began.

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The movement culminated with the passage of the 19th amendment to the Constitution in 1920.

Suffragists employed a variety of arguments to press their case. Some argued from the basis of natural law, arguing equality for all. Some argued on the grounds that women were compelled to pay taxes on the property they owned and, therefore, should not be subject to the injustice of taxation without representation.

Susan B. Anthony, Elizabeth Cady Stanton, and Lucretia Mott were among the most well-known suffragettes who pushed for a constitutional amendment. These women emerged as the leaders of the movement and helped to secure the right to vote for all women in America.

Mr. Speaker, I want to commend my colleagues, and specifically the gentlewoman from Nevada (Ms. BERKLEY), for bringing this bill to the Floor today. We should never forget how our country has emerged to being a representative democracy, knowing full well that we have not totally achieved everything that we wants to achieve, but we are continuing to try and form a more perfect Union.

Mr. Speaker, I urge support for this bill.

Mr. Speaker, I yield back the balance of my time

Mr. ISSA. Mr. Speaker, I have no further speakers at this time, and I urge adoption of House Joint Resolution 59.

Mrs. JONES of Ohio. Mr. Speaker, I rise today to honor all the women, particularly the African-American women who participated in the suffrage movement, in the 19th and 20th centuries.

The historic women's rights convention in Seneca Falls, NY, in 1848 first brought the issue of women's suffrage to the forefront of the women's rights movement. This conference ignited passion for women nationwide to pursue a right they have previously been denied for far too long.

A second convention held in Akron, OH, in 1851, not far from my district in Cleveland, was equally historic for the powerful speech given by Sojourner Truth, entitled "Ain't I a woman?" Her rousing oratory and trying personal experiences provided a unique perspective to both women's rights as well as the institution of slavery.

Another historic female figure, Harriet Tubman, spoke of her desire for women's rights while she was a slave runaway. Ms. Tubman, as many other African-American women, correctly recognized the hypocrisy in the patronage of women even after the abolition of slavery. The shackles of subservience still weighed down on African-American women at that time.

Although the 19th amendment, which extended voting rights to include women, was not passed until 1920 the indispensable contributions from African-American women helped usher in the long overdue law. With the passage of this amendment came a big step toward the gradual deterioration of a system of patronage that has made the battle for gender equality an uphill climb.

It gives me great pride to rise with the my fellow congressional colleagues to honor the women who fought tirelessly for this amendment.

Mr. HONDA. Mr. Speaker, I rise in strong support of H.J. Res. 59 introduced by my friend and colleague, Congresswoman SHELLEY BERKLEY, and I commend her for introducing this bill.

The battle for suffrage began in earnest in 1848, when Lucretia Mott and Elizabeth Cady Stanton organized a convention in Seneca Falls, NY, to advance women's rights. Their struggle continued for 72 years, until August 18, 1920, when ratification of the 19th amendment to the United States Constitution finally gave women the right to vote.

Like other civil rights campaigns, the fight for suffrage required strong and principled individuals who risked health, wealth, and societal denigration. Susan B. Anthony and her fellow activists were fearless in their efforts to win the right to vote in the 19th century. Their courage inspired a new generation of suffragists, including Carrie Chapment Catt, Maud Wood Park, Lucy Burns, and Alice Paul, and Harriott E. Blatch, who would not allow themselves to be silenced despite harassment and arrest. Their efforts resonated nationwide, and in 1920 they achieved their goal; political equality for women.

We must not forget their struggle or undervalue their achievement. The 19th amendment makes for a more equitable society and for a more truly representative government. In fact, the number of women serving in national, State and local elected office has steadily increased. The 109th Congress has 83 female Members, including House Democratic Leader NANCY PELOSI. Leader PELOSI is a role model for all those aspiring to public service, and I am hopeful and confident that in my lifetime there will be full parity between men and women in this legislative institution.

Commemorating these brave suffragists reminds us of the hard fight for gender equality and the ongoing struggle today. Women continue to face discrimination in the workplace, where women make less money and are promoted less frequently. In government, women, despite great gains, are underrepresented in every branch and at every level.

By passing this resolution, the House not only honors the women who won passage of the 19th amendment, but it also sends a clear message that we are committed to eliminating the inequalities that women face today. I urge my colleagues to support H.J. Res. 59.

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in support of H.J. Res. 59, a resolution commemorating the women suffragists who fought, and won the right for women to vote in the United States.

This legislation applauds women's rights activists whose commitment to changing an unjust system led to the eventual passage of the 19th Amendment in 1920. As we all know, the 19th Amendment granted women in the United States the right to vote.

The women's suffrage movement began in the mid nineteenth century when Lucretia Mott and Elizabeth Cady Stanton held the first women's rights convention in Seneca Falls, New York, on July 19, 1848. Established in 1869, the National American Woman Suffrage Association fought tirelessly against discrimination and oppression, often times receiving severe punishment in response to their protests.

After only several decades, due to the progress of women's rights activists, women in the U.S. experienced advancement in property rights, employment and educational opportunities, divorce and child custody laws, and increased social freedoms. As new generations of women continued to bolster the strength of the movement, they initiated a social revolution that would touch every aspect of life.

The time has come for Congress to recognize these brave individuals who struggled for equality in the face of adversity, and ultimately amended our constitution to allow for equality among both genders. The suffragists' accomplishments are a credit to American democracy. Their unfettered commitment to equality for women should serve as an example to nations in which this struggle is still being fought today.

Mr. Speaker, let me conclude by again expressing my support for this legislation and encourage my colleagues' support. It should be a precedence of this Congress to acknowledge the significance of the women's rights movement and honor its leaders with a day of commemoration.

Mrs. MALONEY. Mr. Speaker, I rise today in support of H.J. Res. 59, to Establish Women's Suffrage Commemoration Day.

With this Commemoration Day, we pay tribute to our foremothers, who worked tirelessly for generations to gain the right to vote.

We acknowledge that the journey to equality is long and difficult, but it is well worth the fight.

And we pledge to keep the struggle for women's rights alive.

The journey towards women's rights in America is as old as our country itself. While John Adams drafted the Constitution at the Continental Congress, his wife counseled, "Remember the ladies," but the Constitution made no mention of women's rights.

So our foremothers fought on.

Elizabeth Cady Stanton declared that all men and women are created equal.

Susan B. Anthony was arrested for casting a ballot and refused to pay the bail.

Between 1917 and 1919, over a thousand women held a vigil outside of the White House, asking, "How long must women wait for liberty?"

Finally, in 1920, with the 19th Amendment, women won the right to participate in our democratic process.

As we remember the long and arduous battle for women's suffrage, let us also remember the right not yet won. 157 years ago, Elizabeth Cady Stanton called for equal rights for all Americans. It is time for our Constitution to echo that sentiment. There is no better tribute to our brave foremothers than to pass the Equal Rights Amendment.

Only the ERA can prevent women's rights from being rolled back. Afghanistan, Bosnia and Herzegovina, Finland, Austria, and Portugal are just a handful of the countries that already guarantee non-discrimination based on sex in their constitutions. It is time we join their ranks.

Alice Paul used to say, "When you put your hand to the plow, you can't put it down until you get to the end of the row."

For Alice and Elizabeth, for Sojourner and Lucretia, for our foremothers, our grandmothers and our daughters, let us put our hands to the plow and pass the ERA.

Ms. PRYCE of Ohio. Mr. Speaker, I rise today to commemorate women suffragists. As one of the eighty-three women serving in the House and Senate, the Women's Rights Movement was, and continues to be, in my opinion, one of the most inspirational series of events to occur in United States history.

The battle for suffrage, fought by the early women's rights leaders was thought to be the most effective way to change an unjust system. Constant barriers were thrown ahead of them, and degrading stereotypes were placed upon them.

Challengers of women's suffrage claim that women were less intelligent and less able to make political decisions than men. The women of the suffrage movement dismissed these accusations with the ratification of the 19th Amendment, giving women the right to vote. Now, women utilize this freedom more so than men. Among citizens, women's voting rates have surpassed men's ever since the 1984 presidential election. 54 percent of the 2004 presidential election votes belonged to women and 46 percent of the votes to men.

Women like Lucretia Mott, Elizabeth Caddy, Sojourner Truth, and Susan B. Anthony were the pioneers of the suffrage movement. They took risks and broke laws in order to pave the way for the new generation of suffrage leaders like Carrie Chapman Catt, Maud Wood Park, Lucy Burns, Alice Paul, and Harriot E. Blatch. All of these women devoted their lives to this cause. That is why it is so important that we devote a day to honor these women.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. EMANUEL. Mr. Speaker, I rise today in strong support of H.J. Res. 59, expressing the support of Congress for the establishment of a day to honor the women suffragists who fought for and won voting rights for women in the United States.

On July 19, 1848, Lucretia Mott and Elizabeth Cady Stanton convened the first women's rights convention in Seneca Falls, New York. From that time onward the leaders of the women's suffrage movement exhibited boundless courage and perseverance in their quest for equal representation.

Their journey was neither quick nor painless, and leading suffragists experienced public scorn and official persecution during nearly a century of campaigning. The women's rights movement relied on different methods of protest ranging from picketing and marches to hunger strikes. One suffragist, Alice Paul, led a famous protest in which she and several other women chained themselves to the White House fence.

These and similar acts of civil disobedience often landed the suffragists in jail. In 1872, when Susan B. Anthony and a group of women voted in the presidential election in Rochester, New York, she was arrested and fined. However, no amount threats or abuse could deter her or the other suffragists. At the close of her trial and with the whole nation watching, Susan B. Anthony made a fiery speech, stating "Resistance to Tyranny Is Obedience to God."

Even in the face of persecution, this unrelenting commitment to justice, democracy, and the ideals set forth in the Constitution of the United States ultimately won the day. On August 26, 1920, the 19th Amendment to the United States Constitution granted women in the United States the right to vote.

The women who led the fight for equal voting rights for women deserve our recognition not only for their tireless pursuit of justice in the face of persecution, but also for their tremendous contribution to the creation of a more perfect Union.

The success of the suffragists proved that even a prejudice rooted in centuries of custom and reinforced by all of the laws of the day cannot stand indefinitely against reasoned appeals to the ideals upon which our great nation was founded.

Mr. Speaker, I am pleased to join with my colleagues in support of setting a day to commemorate the contributions of these courageous Americans.

Ms. SCHAKOWSKY. Mr. Speaker, I rise in support of H.J. Res. 59, which honors and commemorates the contributions of women suffragists who fought for and won the right of women to vote in the United States.

The women's suffrage movement began with women speaking out for women's rights when their efforts to participate equally with men in the great reform movements of the mid-1800s—including antislavery and temperance—were rebuffed. These early feminists demanded a wide range of changes in women's social, moral, legal, educational, and economic status.

Although women in this country now have the right to vote, we must look back at the efforts of these pioneers and apply their passion to the continued fight for women's equality today.

Since 1920, when the Nineteenth Amendment finally granted women the right to vote, women have made great strides. Women have voted at a slightly higher rate than men in every Presidential election since 1964. What is even more encouraging is that more and more women are seeking elected office. For 20 years after Jeanette Rankin of Montana was elected to Congress in November 1916, the number of women in Federal office following each election never exceeded 9. I am proud to say that that number has dramatically increased since then. In 1980, women comprised 4 percent of the Congress. In 1990, 6 percent. Currently, in the 109th Congress, there are 83 women serving—69 in the House of Representatives and 14 in the Senate—over 15 percent of the Congress.

We have come a long way, but we still have a long way to go. So today, as we honor the women who fought for the rights so many of us today enjoy, we recommit ourselves to the ongoing fight for equality for women and all who are oppressed in this country and around the world.

Mr. ISSA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLBE). The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and agree to the joint resolution, H.J. Res. 59, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ISSA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL LIFE INSURANCE AWARENESS MONTH

Mr. ISSA. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 181) supporting the goals and ideals of National Life Insurance Awareness Month, and for other purposes, as amended.

The Clerk read as follows:

H. CON. RES. 181

Whereas life insurance is an essential part of a sound financial plan;

Whereas life insurance provides financial security for families in the event of a premature death by helping surviving family members to meet immediate and longer-term financial obligations and objectives;

Whereas nearly 50,000,000 Americans say they lack the life insurance coverage needed to ensure a secure financial future for their loved ones;

Whereas recent studies have found that when a premature death occurs, insufficient life insurance coverage on the part of the insured results in three-fourths of surviving family members having to take measures such as working additional jobs or longer hours, borrowing money, withdrawing money from savings and investment accounts, and, in too many cases, moving to smaller, less expensive housing;

Whereas individuals, families, and businesses can benefit greatly from professional insurance and financial planning advice, including the assessment of their life insurance needs; and

Whereas the Life and Health Insurance Foundation for Education (LIFE), the National Association of Insurance and Financial Advisors (NAIFA), and a coalition representing hundreds of leading life insurance companies and organizations have designated September 2005 as "Life Insurance Awareness Month", the goal of which is to make consumers more aware of their life insurance needs, seek professional advice, and take the actions necessary to achieve the financial security of their loved ones: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) supports the goals and ideals of Life Insurance Awareness Month; and

(2) calls on the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to observe the month with appropriate programs and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ISSA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois (Mrs. BIGGERT), the author of this bill.

Mrs. BIGGERT. Mr. Speaker, I thank the gentleman from California for yielding me this time.

Mr. Speaker, I rise today to urge my colleagues to support House Concurrent Resolution 181, which supports the goals and ideals of National Life Insurance Awareness Month, September of 2005.

I want to thank my friend and colleague, the gentleman from Pennsylvania (Mr. KANJORSKI), the Ranking Member of the Committee on Financial Services Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, and a member of the Financial and Economic Literacy Caucus, for introducing this resolution with me for a second year, and for his support on this issue.

I also want to thank the gentleman from Virginia (Mr. DAVIS) for expeditiously moving this resolution through the Committee on Government Reform. In addition, I would like to thank Senator CHAMBLISS for working with us on this side of the Capitol to craft identical resolutions with both bipartisan and bicameral support.

Mr. Speaker, House Concurrent Resolution 181 calls on the Nation to observe the month of September as Life Insurance Awareness Month. A number of associations, including the Life and Health Insurance Foundation for Education, the National Association of Insurance and Financial Advisors, the American Council of Life Insurers, and a coalition representing hundreds of leading life insurance companies and organizations have designated September 2005 as Life Insurance Awareness Month.

Our collective goal for the month is to make consumers more aware of their life insurance needs, seek professional advice, and take the actions necessary to achieve financial security for their families.

Life insurance is too often thought of only when it is too late. Over half of adult Americans do not have a life insurance policy, and among those who do have life insurance, the amount is often too small to safeguard the financial futures of their loved ones. Life insurance can provide financial security for every American family that incurs the untimely death of a loved one.

This September, during Life Insurance Awareness Month, I will join my colleagues and many life insurance organizations and advocates to encourage Americans to seek out information about the benefits of life insurance so that if the premature death of a loved one does occur, they will be spared the economic hardships that often accompany tragedy.

I ask my colleagues to join me in supporting the goals and ideals of National Life Insurance Awareness Month, September 2005.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H. Con. Res. 181, which expresses the sense of Congress regarding the importance of life insurance.

Life insurance provides financial security for families in the event of a premature death by helping surviving family members to meet immediate and long-term financial obligations and objectives.

Fifty million Americans say they lack the life insurance coverage needed to ensure a secure financial future for their loved ones. Yet the need for life insurance is well documented.

Recent studies have found that when a premature death occurs, insufficient life insurance coverage on the part of the deceased often results in the surviving family members being placed under an insurmountable burden, forcing family members to take on extra jobs, work longer hours, borrow money, and spend less time with their families. This takes place at a time when spending time with loved ones is important to healing and recovering from the tragedy of losing a family member.

By designating a month each year as Life Insurance Awareness Month, we are establishing just how important it is to families to learn and educate themselves about life insurance. As a society, we must take steps to make sure that our children are provided for and are safe.

By supporting Life Insurance Awareness Month, we are signaling to the American people that this is an important issue that they should consider in their financial planning.

Mr. Speaker, I yield back the balance of my time.

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

I urge all of my colleagues to support the adoption of House Concurrent Resolution 181 that emphasizes the significance of life insurance. I support this resolution. Today as many as 50 million Americans currently lack life insurance coverage. This reality puts countless families at risk of losing their assets in the event of a wage-earner's unexpected death.

Mr. KANJORSKI. Mr. Speaker, I rise today to offer my thoughts about House Concurrent Resolution 181, which I helped to introduce with my colleague, the gentlelady from Illinois (Mrs. BIGGERT). House Concurrent Resolution 181 would designate September as National Life Insurance Awareness Month.

Life insurance is a financial planning tool that all families should explore. It can provide security in the event of an untimely death. In families where a premature death occurs, surviving family members are often required to work additional jobs or longer hours, borrow money, withdraw money from savings and investment accounts, and, in too many cases, move to smaller, less expensive housing.

By designating September as National Life Insurance Awareness Month, we will hopefully highlight the importance of this financial instrument for the nearly 50 million Americans who presently lack the life insurance coverage needed to meet the long-term financial needs of their families.

In closing, Mr. Speaker, I urge my colleagues to support this important resolution to promote financial literacy.

Mr. ISSA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 181, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ISSA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

HONORING FORMER PRESIDENT WILLIAM JEFFERSON CLINTON ON THE OCCASION OF HIS 59TH BIRTHDAY

Mr. ISSA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 329) honoring former President William Jefferson Clinton on the occasion of his 59th birthday.

The Clerk read as follows:

H. RES. 329

Whereas former President William Jefferson Clinton was born in Hope, Arkansas, on August 19, 1946;

Whereas William Jefferson Clinton attended Georgetown University as an undergraduate and received a Rhodes Scholarship in 1968;

Whereas William Jefferson Clinton received a law degree from Yale University in 1973;

Whereas William Jefferson Clinton established a record of public service as Attorney General of Arkansas, Governor of Arkansas, and Chairman of the National Governors Association;

Whereas William Jefferson Clinton campaigned for and won the Democratic nomination for President in 1992;

Whereas William Jefferson Clinton was elected the 42d President of the United States in 1992 and was reelected for a second term in 1996;

Whereas during William Jefferson Clinton's time in office the United States experienced 8 years of economic expansion, job growth, and the transformation of a budget deficit into a budget surplus;

Whereas William Jefferson Clinton rallied the members of the North Atlantic Treaty Organization to put an end to ethnic cleansing in the Balkans and to depose the murderous regime of Slobodan Milosevic, actions which eventually led to the signing of the Dayton Peace Accords;

Whereas William Jefferson Clinton played a major role in the Good Friday Peace Accords which finally brought peace to war-torn Northern Ireland;

Whereas William Jefferson Clinton and former President George H. W. Bush were appointed to lead the United States effort to provide private aid to the victims of the devastating tsunami that struck southeast Asia on December 26, 2004; and

Whereas, in the words of President George W. Bush, William Jefferson Clinton “showed a deep and far-ranging knowledge of public policy, a great compassion for people in need, and the forward-looking spirit the Americans like in a President": Now, therefore, be it

Resolved, That the House of Representatives honors former President William Jefferson Clinton on the occasion of his 59th birthday on August 19, 2005, and extends best wishes to him and his family.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ISSA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the distinguished author of House Resolution 329, the gentlewoman from New York (Mrs. MALONEY), and the entire House of Representatives, I wish President William Jefferson Clinton a happy 59th birthday.

House Resolution 329 would honor President Clinton on the occasion of his 59th birthday on August 19th. It would furthermore commend President Clinton's continued commitment to public service and world leadership. Since the House will be out of session in August, I would like to thank the House leadership for scheduling this resolution for early consideration today and support the resolution's adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as someone who grew up, went to school, and still have strong family ties in the State of Arkansas, it is with great pride that I stand to celebrate and honor the life of a man who epitomizes the American dream: President William Jefferson Clinton.

Born in the tiny town of Hope, Arkansas, on August 19, 1946, President Clinton demonstrated from an early age the determination and vision that would ultimately take him to the White House and enable him to lead our country to a period of economic prosperity that has been unrivaled in American history.

As a man who always fought for those who could not always fight for themselves, Bill Clinton spurned private practice after graduating from Yale Law School and began a career in public service. He began his political career after being elected attorney general of Arkansas in 1976. He went on to serve as Governor and by the time Governor Clinton left Arkansas for the White House, the State of Arkansas had been transformed from a State that faced large deficits and polarizing issues into a shining example of what government can do for its citizens when those in government put aside partisan differences in the interest of what is right.

As America's 42nd President, Bill Clinton faced an even more daunting task than the one he faced as Governor. In 1992, the American people were fed up with government. The economy was in bad shape, unemployment was at a record high, and it was a time when many American parents struggled with basic financial decisions, such as what holiday presents they could afford to buy their children. By the time President Clinton left office 8 years later, he had led our country out of this darkness and into one of the brightest eras in American history, a time that was marked by the lowest unemployment rate in modern times, the lowest inflation rate in 30 years, the highest homeownership rate in United States history, and dropping crime rates in many American cities. Contrary to the unjustified stereotype thrown at Democrats, President Clinton proposed the first balanced budget in decades. He balanced the budget, and then went on to produce a surplus.

Since leaving office, President Clinton has continued his lifelong odyssey of working for those in need. Working from his office in Harlem, President Clinton has remained engaged in many social issues. In July, President Clinton addressed the United Nations Economic and Social Council in an effort to sustain the momentum on the recovery efforts in regions devastated by last December's tsunami. In 2003, he brokered an historic agreement with four generic drug companies in order to provide low-cost AIDS drugs in developing countries.

The world is a better place today because of the 59 years President Clinton has given us so far, and we look forward to many more.

Mr. Speaker, oftentimes in a country where we put great emphasis on personal wealth, as one having the ability to emerge and rise to high public office, I have searched and searched, and nowhere did I find in Bill Clinton's history any great personal wealth before he got involved in doing public service. Noplace did I find any great family pedigree. He was simply a person who used himself as effectively as he could to become one of the most influential persons in the history of our country. I wish him a happy birthday.

Mr. Speaker, I will include for the RECORD the statement of the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, on August 19th, William Jefferson Clinton, our 43rd president, will celebrate his 59th birthday—today, we honor him. We honor him not just for being one of 43 Americans to have led history's greatest Nation from its highest office, we honor him for the legacy the current President Bush described as, "a deep and far-ranging knowledge of public policy, a great compassion for people in need, and the forward-looking spirit Americans like in a President."

Since his last birthday, President Clinton characteristically responded to one of the most devastating natural disasters in modern history with the compassion for people in need that President Bush talked about. In the aftermath of the tsunami in Southeast Asia, President Clinton showed the diplomacy and humanity he has always displayed in a career filled with good works. Together with former President Bush, President Clinton helped generate billions of dollars in donations for the tsunami-torn nations. As a representative of our generous and caring Nation, he showed the world America's compassion. And he and former President Bush rolled up their sleeves and lent helping hands to the recovery efforts when they traveled to southeast Asia.

In two terms in the White House, President Clinton stewarded our Nation's longest-ever economic expansion, largest-ever budget surplus, and the growth of 22 million jobs. He helped broker the Good Friday Accords for Northern Ireland, engaged in Middle East peace talks, and brought an end to ethnic cleansing in the Balkans. And he encouraged Americans to care for their fellow man and woman, creating AmeriCorps, which engages more than 50,000 Americans each year in community service.

We in Congress are thankful that President Clinton's health has improved since his recent heart surgeries, and we pray that he continues to be healthy and strong.

Mr. Speaker, I would like to thank Chairman DAVIS and the House leadership for bringing this resolution to the floor in time for President Clinton's birthday.

Mr. Speaker, from his birth in a town called Hope in the State of Arkansas, to his education at Georgetown University, Oxford and Yale Law School, to his service in Arkansas as attorney general, Governor and chairman of the National Governors Association, to his two terms as President of the United States to now, as a private citizen still showing the world humanity and compassion, we honor President Clinton.

President Clinton, happy birthday.

Mr. EMANUEL. Mr. Speaker, I am proud to rise in recognition of the fifty-ninth birthday of former President William Jefferson Clinton, a man whose Presidency was marked by great strides in both global tranquility and economic prosperity.

As a young man, President Clinton was an excellent musician and a scholar, attending Georgetown University, Yale University, and, in 1968, winning a Rhodes scholarship to Oxford University.

President Clinton diligently served the citizens of Arkansas as both Attorney General and Governor before he went on to serve the country as a whole as the forty-second President of the United States of America.

The Presidency of Bill Clinton was a period of unprecedented peace and prosperity, marked by America's lowest unemployment rate in modern times, the lowest inflation rate in 30 years, and the highest home ownership rates in our country's history. President Clinton proposed the first balanced budget in decades and left the country with a budget surplus.

President Clinton was a strong leader who improved America's international standing and showed compassion towards people around the world. President Clinton rallied the members of the North Atlantic Treaty Organization to put an end to ethnic cleansing in the Balkans and played a major role in the effort to end violence in Northern Ireland. His service to the people of the world continues years after his Presidency, including his recent efforts with former President George H. W. Bush in spearheading the United States effort to provide private aid to victims of the devastating tsunami that struck southeast Asia.

It was an honor to serve in the White House under President Clinton, as he helped extend health insurance to millions of uninsured children, placed 100,000 new police officers on the street, passing the North American Free Trade Agreement, reformed welfare, raised the minimum wage, and balanced the federal budget.

Mr. Speaker, I thank the gentlelady from New York for introducing this resolution, and I join my colleagues in wishing a happy and healthy 59th birthday to our 42nd President and my friend, William Jefferson Clinton.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

☐ 1430

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, approximately a year ago, we honored former President William Jefferson Clinton in a very similar way on his 58th birthday. Then we were doing it, to a great extent, because of his quadruple bypass. It seemed appropriate to honor this immediate former President in a time of personal and family concern.

This year, though, we honor President Clinton for what he has done since that time, coming out of the hospital, coming to the aid of people around the world, but particularly in Asia after the December 26 earthquake and tsunami. President Clinton and President Bush, former President Bush, have shown the value of former Presidents.

President Clinton's leadership in this very elite former Presidents' club is a tribute to what can be done by people who stay engaged and involved. And so although it is likely that most people know that I probably did not vote for President Clinton in either of his elections, I certainly would be happy to vote today to honor the President on his 59th birthday because of what he has done since leaving the White House.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLBE). The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and agree to the resolution, H. Res. 329.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

SUPPORTING GOALS AND IDEALS OF NATIONAL HEALTH CENTER WEEK

Mr. ISSA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 289) supporting the goals and ideals of National Health Center Week in order to raise awareness of health services provided by community, migrant, public housing, and homeless health centers, and for other purposes, as amended.

The Clerk read as follows:

H. RES. 289

Whereas community, migrant, public housing, and homeless health centers are non-profit, community owned and operated health providers and are vital to the Nation's communities;

Whereas there are more than 1,000 such health centers serving more than 15,000,000 people in over 3,600 communities;

Whereas such health centers are found in urban and rural communities in all 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands;

Whereas such health centers have provided cost-effective, high-quality health care to the Nation's poor and medically underserved (including the working poor, the uninsured, and many high-risk and vulnerable populations), acting as a vital safety net in the Nation's health delivery system;

Whereas these health centers provide care to 1 of every 7 uninsured individuals, 1 of every 9 Medicaid beneficiaries, 1 of every 7 people of color, and 1 of every 9 rural Americans, all of whom would otherwise lack access to health care;

Whereas these health centers are engaged with other innovative programs in primary and preventive care to reach out to over 621,000 homeless persons and more than 709,000 farm workers;

Whereas these health centers make health care responsive and cost-effective by integrating the delivery of primary care with aggressive outreach, patient education, transportation, translation, and enabling support services;

Whereas these health centers increase the use of preventive health services such as immunizations, Pap smears, mammograms, and glaucoma screenings;

Whereas in communities served by these health centers, infant mortality rates have been reduced over the past 4 years even as infant mortality rates across the country have risen;

Whereas these health centers are built by community initiative, and run by the patients they serve;

Whereas Federal grants provide seed money empowering communities to find partners and resources to recruit doctors and needed health professionals;

Whereas Federal grants on average contribute 25 percent of such a health center's budget, with the remainder provided by State and local governments, Medicare, Medicaid, private contributions, private insurance, and patient fees;

Whereas there are more than 100 health centers that receive no Federal grant funding, yet continue to serve their communities regardless of their patients' ability to pay;

Whereas health centers tailor their services to fit the special needs and priorities of their communities, working together with schools, businesses, churches, community organizations, foundations, and State and local governments;

Whereas health centers contribute to the health and well-being of their communities by keeping children healthy and in school and helping adults remain productive and on the job;

Whereas health centers encourage citizen participation and provide jobs for nearly 100,000 community residents; and

Whereas National Health Center Week raises awareness of the health services provided by health centers: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideals of National Health Center Week; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ISSA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will be brief, because, in fact, the minority member, the gentleman from Illinois (Mr. DAVIS) who is managing this, is the author of this bill.

This bill, House Resolution 289, honors our Nation's community health centers and their invaluable contributions to thousands of Americans, perhaps millions of Americans, in need. Health centers provide primary and preventative medical, dental, and pharmaceutical services; and their work acts as a vital safety net in the health care delivery system.

Mr. Speaker, I urge that we give this resolution immediate consideration.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as one who began much of what I would call my public career working in community health centers, I worked at the Martin Luther King Community Health Center, and I worked at the Miles Square Community Health Center, I was around during the days when we decided to organize a National Association of Community Health Centers and ultimately had the pleasure of serving as its president.

And so, Mr. Speaker, I rise today as the proud sponsor of this resolution to establish a national community health center week.

I would like to thank the cochairs of the Community Health Care Center Caucus, the gentleman from Florida (Mr. BILIRAKIS), the gentleman from Texas (Mr. BONILLA), and the gentleman from Massachusetts (Mr. CAPUANO), for their constant voice to better community health centers.

I would also like to thank the gentleman from New Hampshire (Mr. BRADLEY) for joining the cochairs of the caucus as a main sponsor of this legislation.

As we continue to discuss health care, and as we continue hopefully to move towards enactment of a national health plan that covers everyone without regard to their ability to pay, we can take greet pride in some of our accomplishments in health care. One of the most important and effective accomplishments since the enactment of Medicare and Medicaid has been the development of community health centers.

The community health center network is available throughout the Nation to help those in need, such as those who get displaced by job status or other economic conditions. Community health centers have become the safety net within the health care delivery system, serving more than 15 million people in over 3,600 communities.

They care for one out of every seven uninsured individuals, one out of every nine Medicaid beneficiaries, one out of every seven people of color, and one out of every nine rural Americans. In addition they reach out to over 621,000 homeless persons and more than 709,000 migrant and seasonal farm workers.

Community health centers are established in almost every corner of our Nation, representing every aspect of any congressional district, whether it is assisting the working poor in the inner city, or in the rural farmland, migrant workers or even those who have insurance but do not have access to any other health facilities.

One of the most amazing and important aspects of community health centers is the involvement of the community. Each center tailors its services to best meet the needs and priorities of the communities in which they reside. Citizens in these communities become active participants in their communities' health care decision-making.

Health centers even provide approximately 100,000 jobs to the residents in communities of these areas. These health centers provide high-quality, cost-effective health care as they continue to meet escalating health needs and assist in reducing health disparities.

With the weakened economy and soaring number of uninsured Americans, our Nation's health centers will continue to feel the brunt of increasing numbers of patients.

By establishing a week to raise awareness of community health centers, we will also be highlighting each year the great accomplishments these nonprofit community-owned and -operated health centers offer to many communities throughout the Nation.

With recent numbers indicating that the Nation's uninsured population is even higher than once thought, possibly as high as 60 million, if our Nation will not realize the need for universal health care, we need at least to realize the importance of funding our community health centers.

The United States spends nearly $100 billion per year to provide uninsured residents with health services, oftentimes for preventable diseases that physicians could treat more efficiently with early diagnosis.

Community health centers are one of the keys to such earlier diagnosis and crucial to lowering the overall cost of health care on the uninsured throughout the country.

Therefore, I am pleased with the significant increase in the fiscal year 2006 budget that our community health centers will receive so that they can continue to serve their patients and expand their services.

Mr. Speaker, community health centers are indeed the safety net which is committed to serving all individuals with the mission that everyone deserves quality health care services regardless of where they reside, whether or not they can pay, or whether or not they have insurance.

They are vital to ensuring that even the poor and disadvantaged in this country have the greatest opportunity to be healthy. These centers are indeed a hallmark of our Nation's health care delivery system.

Mr. Speaker, I am pleased that I can stand and be a part of promoting the awareness or their existence and the accomplishments which they have achieved.

I urge my colleagues to stand beside me in supporting this resolution, and I want to thank especially the gentleman from Virginia (Chairman Davis) the ranking member; the gentleman from California (Mr. Waxman); and the Speaker, the gentleman from Illinois (Mr. Hastert), for helping to make sure that this resolution got to the floor before August, because that is the time that we celebrate the initiation and institution of these centers throughout the country.

I also want to commend Tom Van Coverden, who is the president, and Mr. Hawkins, two individuals that I worked with when I used to work in the community health centers. They have both stayed all of that time. Tom is now the president and Dan Hawkins is the vice president. And I commend them for their longevity and great service.

Mr. Speaker, I yield back the balance of my time.

Mr. ISSA. Mr. Speaker, I just want to take a moment to thank the gentleman from Illinois (Mr. Davis) for offering this important legislation and speaking so eloquently on it.

The gentleman's passion for these important centers is evident in the words he said here today.

Mr. RUSH. Mr. Speaker, I rise today to support H. Res. 289 designating the week of August 7 as "National Health Center Week". Community Health Centers provide primary health services to low income, working poor, Medicaid and Medicare enrollees and uninsured individuals.

Community Health Care Centers provide a larger range of services including primary care, cancer screenings, pre-natal care and emergency medical services in medically underserved communities without regard to the patient's ability to pay for the services. This past year almost 35% of all Illinois health center patients were uninsured. Throughout the state of Illinois over 40 percent of those seeking services at community health centers are Medicaid eligible and health care centers are often the only medical support offered to homeless individuals.

The first district in Illinois, which I have the honor and privilege to represent, has ten facilities as part of a statewide network of 250 primary health care delivery sites that will serve 850,000 patients this year. My Illinois colleague, Representative Danny Davis, who introduced this resolution, credits the health centers for contributing to the health and well being of minority communities by keeping children healthy and providing preventive health care so that parents and adults can remain employed.

These centers have significantly increased the availability of preventive health care for minorities, migrant and homeless individuals and families. I am glad to join my colleague in support of this resolution to recognize the efforts of the community based organizations in providing these important services.

Mr. ISSA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Issa) that the House suspend the rules and agree to the resolution, H.R. 289, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

A DAY OF COMMEMORATION OF THE GREAT UPHEAVAL

Mr. ISSA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 294) supporting the goals of "A Day of Commemoration of the Great Upheaval", and for other purposes.

The Clerk read as follows:

H. Res. 294

Whereas on March 3, 1699, France established the French colony of Louisiana, and this event was commemorated in 1999 as FrancoFête 99 and the Congrès Mondial Acadien-Louisiane 1999;

Whereas on December 9, 2003, a royal proclamation was signed in Canada in which Queen Elizabeth II acknowledged for the first time the wrongs committed in the name of the English Crown during the Acadian deportation of 1755;

Whereas this royal proclamation sets July 28th of every year, beginning in 2005, as "A Day of Commemoration of the Great Upheaval";

Whereas the 10,000 men, women, and children exiled from Nova Scotia two and a half centuries ago are the ancestors of many of south Louisiana's French-Acadian or Cajun people;

Whereas in 1803, President Thomas Jefferson purchased the Louisiana territory from France, and the French Napoleonic Civil Code was adopted as the basis of Louisiana's civil law system which continues to the present;

Whereas in 1968, the Louisiana Legislature created the Council for the Development of French in Louisiana (CODOFIL) and mandated that the agency promote French for economic, educational, and touristic purposes;

Whereas since its creation, CODOFIL has recruited teachers from the international community to come to Louisiana to teach French in Louisiana schools;

Whereas there are 30 French immersion schools in Louisiana, and Louisiana leads the Nation in bilingual education;

Whereas Louisiana is officially bilingual pursuant to section 51 of title 1, Louisiana Revised Statutes, which states "Any act or contract made or executed in the French language is as legal and binding upon the parties as if it had been made or executed in the English language";

Whereas in 2004, the Louisiana Legislature declared Acadian Heritage Week to be the third week in September and urged schools in Louisiana to teach children about their Acadian history, culture, and heritage; and

Whereas in 2005, the world will memorialize the 250th anniversary of the Acadian deportation and observe a day of remembrance of the suffering of the Acadian people as a result of their deportation by the British Crown (as memorialized in Queen Elizabeth II's Royal Proclamation dated December 9, 2003): Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals of Acadian Heritage Week; and

(2) supports the goals of "A Day of Commemoration of the Great Upheaval", as established by Queen Elizabeth II's Royal Proclamation, signed on December 9, 2003, in which the sufferings of the Acadian people were acknowledged.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. Issa) and the gentleman from Illinois (Mr. Davis) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. Issa).

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 294, which was introduced by the distinguished gentleman from Louisiana (Mr. Boustany).

This legislation tells the story of the Great Upheaval, which is an event that, while perhaps little known to many Americans, helped shape the culture and history of the State of Louisiana.

The Great Upheaval refers to the expulsion of the Acadian population of Nova Scotia by the British in the mid-18th century, which is the origins of these original French settlers of the land that is now the eastern Canadian province of Nova Scotia, New Brunswick and Prince Edward Island.

The Treaty of Utrecht, signed by the British and French at the conclusion of the War of the Spanish Succession in 1713, ended a series of land trades between the world's powers by finally awarding to the British the region inhabited by the Acadians.

Consequently, by 1730, all Acadians were compelled to swear an oath that gave their allegiance to the British, but the oath further forced them to agree to bear arms against the French or Indians.

However, in 1794 when the French and Indian War broke out, the majority of Acadians refused and disregarded this commitment to fight the French. Consequently, the British deported these Acadians, more than 10,000 strong, who would not commit their loyalty to the British Crown.

The King of France encouraged the displaced French citizens to ultimately settle in Louisiana. These thousands of Acadians exiled from Nova Scotia 2½ centuries ago are the ancestors of many of today's French Acadian, or Cajun, citizens in Louisiana.

Largely due to the Great Upheaval, French influence is still very strong in south Louisiana. The third week of September is officially Acadian Heritage Week in Louisiana. In addition, in December 2003, Queen Elizabeth signed a royal proclamation that acknowledged the mistreatment of the Acadians and designated July 28 of every year a day to commemorate the Great Upheaval.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, the Great Upheaval, also known as the Great Expulsion, was the eviction of the Acadian population from Nova Scotia between 1755 and 1763.

In 1755, colonial authorities began a process of uprooting and deporting 10,000 men, women, and children who had settled on British land. British Lieutenant Governor Charles Lawrence and Massachusetts Governor William Shirley began by seizing colonists' firearms to prevent them from using force to resist.

Then they took a large number of men hostage in order to guarantee the docility of their families at the at the time of deportation. Approximately three-quarters of the total Acadian population was deported. Some were sent to England, others to France, and still others to the area that was to become Louisiana.

During the campaign against the Acadians, property was plundered, communities were torched, lands were seized, and thousands of Acadian lives were claimed.

☐ 1445

Over several generations after the Great Upheaval, the presence of Acadians in Louisiana grew, and their descendants helped to form the nucleus of Louisiana's Cajun life and culture.

On December 9, 2003, Queen Elizabeth II issued a proclamation that acknowledged the suffering experienced by the Acadian people during the Great Upheaval and designated July 28 as "A Day of Commemoration of the Great Upheaval."

H. Res. 294 supports the goals of the proclamation. It also points out how our country has grown and developed and how many of the prejudices that at one time people held have begun, in a serious way, to have diminished. Anybody who has ever visited Louisiana or knows anything about Louisiana knows that the Acadian population is an integral part of the life, the culture, and of the development in the State of Louisiana. So I am proud to support this resolution. I urge its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. ISSA. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. Boustany), the author of the bill.

Mr. BOUSTANY. Mr. Speaker, I thank the gentleman from California (Mr. Issa) for yielding me time, and I thank the gentleman from Illinois (Mr. Davis) for his eloquent comments today.

Mr. Speaker, I rise today in support of H. Res. 294, supporting the goals of "A Day of Commemoration of the Great Upheaval." This resolution recognizes the importance of the Acadian people to Louisiana and is intended to celebrate their contributions to my State of Louisiana and this country.

During the Acadian deportation of 1755, approximately 14,000 men, women and children were expelled from Nova Scotia. Some returned to France, but most wound up scattered throughout the American colonies. Many sailed through to the French colony of Louisiana, where, over the centuries, they have established their own unique French-Acadian or Cajun culture. It is now estimated that there are over 450,000 Acadian descendants in Louisiana alone.

Cajun means many things to many people. While not all Cajuns have Acadian ancestry, a shared heritage, the legacy of the expulsion, and the maintenance of a language and culture distinct from other Americans define the Cajuns as a distinct ethnic group.

Cajun French is a unique dialect of the French language. It is still spoken throughout the Acadiana region of Louisiana, although the number of people who speak Cajun has declined dramatically over the past 50 years. For many years it was considered a distortion of the French language; however, recently it was discovered that a number of Cajuns served as French interpreters for American forces in France during World War II, and their importance has been recognized.

It is difficult to summarize Cajun cuisine and music. I guess you could say we like them both hot and spicy. Gumbo, jambalaya, and etouffee can be found in restaurants throughout the country. Cajun music and its cousin zydeco influenced country music and early rock and roll. Their mark on American music can still be heard on popular radio today.

Cajuns have had an impact on virtually every aspect of American life. Just some examples I will give you, national recording artist Wayne Toups, who has traveled internationally; Super Bowl quarterback of the NFL's Carolina Panthers, Jake Delhomme; painter and creator of the world-famous "Blue Dog," George Rodrigue; Grammy Award-winning artist Michael Doucet of the band Beausoleil; the 13th Commandant of the United States Marine Corps John Archer LeJeune; Cy Young Award winner and New York Yankee Ron Guidry; and last but not least, 12-term Congressman and former chairman of the Committee on Energy and Commerce, our colleague Billy Tauzin. We all remember Billy. He was famous for his keen wit, but also his great jokes, his great Boudreau and Thibodeau jokes.

So from music to sports, from the military to the United States Congress, Cajuns have left their mark on American culture.

In an effort to preserve the Cajun language and culture, the Louisiana State Legislature created the Council for the Development of French in Louisiana, or CODOFIL, in 1968. This organization is committed to the development, utilization and preservation of the French language as found in Louisiana for the cultural benefit of the State. It is to this end that Mr. Warren Perrin, a constituent of mine, has committed years of toil and time to make this day of commemoration a reality. The people of Acadiana and all of Louisiana are grateful to Mr. Perrin for his efforts to preserve and expand the Cajun heritage in Louisiana.

On December 9, 2003, Queen Elizabeth II set July 28 by royal proclamation as a Day of Commemoration of the Great Upheaval to recognize the struggles of these Cajuns who left Nova Scotia. In 2004, the Louisiana Legislature declared Acadian Heritage Week to be the third week in September and urged schools to teach children about their Acadian heritage, history and culture. And the story of the Acadian people should be commemorated and celebrated because of their impact upon American history and society.

This resolution would serve that end by supporting the goals of Acadian Heritage Week and "A Day of Commemoration of the Great Upheaval." I urge colleagues on both sides of the aisle to pass this resolution.

Mr. ISSA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLBE). The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and agree to the resolution, H. Res. 294.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

PAUL KASTEN POST OFFICE BUILDING

Mr. ISSA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2977) to designate the facility of the United States Postal Service located at 306 2nd Avenue in Brockway, Montana, as the "Paul Kasten Post Office Building".

The Clerk read as follows:

H.R. 2977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAUL KASTEN POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 306 2nd Avenue in Brockway, Montana, shall be known and designated as the "Paul Kasten Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Paul Kasten Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ISSA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2977, introduced by the distinguished gentleman and colleague and classmate of mine, the gentleman from Montana (Mr. REHBERG), would name the post office in Brockway, Montana, as the "Paul Kasten Post Office Building." The bill honors rural mail carrier Paul Kasten for his more than five decades of dependable work in the Postal Service.

Mr. Kasten began his postal career in 1947. Believe it or not, in the early years he delivered the mail on horseback. After his lengthy career, Kasten retired earlier this year at the age of 86. He is a credit to the tremendous work performed by the entire Postal Service. That is why we are so pleased to see the House is considering an appropriate honor.

Mr. Speaker, I thank the gentleman from Montana (Mr. REHBERG) for his work, and I ask that this postal naming be approved on behalf of Paul Kasten.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the House Committee on Government Reform, I am pleased to join my colleague in the consideration of H.R. 2977, legislation designating a postal facility in Brockway, Montana, after Paul Kasten. This measure was introduced by the gentleman from Montana (Mr. REHBERG) on July 17, 2005.

A rural letter carrier, Mr. Kasten retired this spring at the young age of 86, after delivering mail for over 50 years. He began his career delivering mail on horseback, covering miles and miles of roads in Montana.

Mr. Speaker, it always gives me such pleasure when we recognize the contributions of postal workers by dedicating a facility in their honor, and I could think of no better way to honor the more than 50 years of service given by Mr. Kasten than to name a postal facility in his honor.

Mr. Speaker, I yield back the balance of my time.

Mr. ISSA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and pass the bill, H.R. 2977.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ISSA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ABRAHAM LINCOLN BIRTHPLACE POST OFFICE BUILDING

Mr. ISSA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2894) to designate the facility of the United States Postal Service located at 102 South Walters Avenue in Hodgenville, Kentucky, as the "Abraham Lincoln Birthplace Post Office Building".

The Clerk read as follows:

H.R. 2894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ABRAHAM LINCOLN BIRTHPLACE POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 102 South Walters Avenue in Hodgenville, Kentucky, shall be known and designated as the "Abraham Lincoln Birthplace Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Abraham Lincoln Birthplace Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ISSA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it would be nearly impossible to pay sufficient homage to President Abraham Lincoln, our sixteenth President of the United States. President Lincoln was a man whose convictions enabled the emancipation of thousands from slavery and led to the preservation of the Union, which allowed our United States to develop into a strong and free Nation that it is today.

In our efforts to commend these and other contributions, it should be recognized that Lincoln's greatness extended far beyond the reaches of his Presidency. Today, however, through the consideration of this legislation, H.R. 2894, we focus on the humble origins that produced for us this great President. Considered by many to be our greatest President, we are designating Abraham Lincoln's Birthplace Post Office Building, for it was in Kentucky that he was born on February 12, 1809, in a log cabin near Hardin County, Kentucky. During his childhood, Lincoln's determined spirited led him to covet education and to develop an insatiable appetite for reading and learning.

Undoubtedly as a result, Lincoln's incredible oratorical capacity strengthened his political influence throughout his life. He effectively appealed to the Nation in such unforgettable speeches as the Gettysburg Address, the Second Inaugural Address, and the famous "House Divided" speech. He truly used his verbal skills to his fullest advantage.

As I am sure the distinguished sponsor of H.R. 2894 would assert, Lincoln's characteristic determination embodied the hard-nosed and ambitious attitude with which Kentuckians as he are often associated. His labors to free the slaves and preserve the Union positively impacted our Nation to an extent that cannot be overstated.

Again, we have often looked at President Lincoln as our greatest President. We have often honored him. But I think it is particularly important to recognize that H.R. 2894 speaks not to the State from which he heralded at the time of his election, not about the end of his life, but Kentucky, the place of the origin and the roots of his life.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleague in consideration of H.R. 2894, and I want to commend the gentleman from Kentucky (Mr. LEWIS) for introducing this legislation.

Although Abraham Lincoln was indeed born in Kentucky, he did, in fact, ultimately move to Illinois. And those of us who live in Illinois, we often regard him as perhaps our greatest citizen, one who emerged from very humble beginnings, was somewhat of a nontraditionalist, but ultimately became President of the United States.

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And then after becoming President of the United States had the courage to take some very decisive action when there was opposition swirling all around him. So I commend the gentleman from Kentucky for naming a postal facility in Hodgenville.

I was always a great Abraham Lincoln fan. As a matter of fact, when I was a small boy, my mother used to tell me stories about Abraham Lincoln, and she would read to us from books about Abraham Lincoln as a way of expressing to us that it was not always a matter of where you came from but oftentimes it could be a matter of where you were going.

So, again, I commend the gentleman for recognizing and honoring the birthplace of Abraham Lincoln with the naming of a postal facility in his honor.

Mr. Speaker, I yield back the balance of my time.

Mr. ISSA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. LEWIS), the author of the bill, and just note that I feel I am on the path between Kentucky and Illinois here, with my own birthplace being Ohio.

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today in support of H.R. 2894, a resolution to designate the United States Postal Service facility located at 102 South Walters Avenue in Hodgenville, Kentucky, as the Abraham Lincoln Birthplace Post Office Building.

Hodgenville, Kentucky, is the birthplace and childhood home of our 16th President, one of the most influential figures in American history. Abraham Lincoln was born on February 12, 1809, in a one-room log cabin at the Sinking Spring Farm in what is now LaRue County, Kentucky. His family lived at Sinking Spring Farm for 2½ years before moving 10 miles away to Knob Creek Farm.

Of his birth and childhood, Lincoln wrote: "I was born on February 12, 1809, in then Hardin County, Kentucky, at a point within the now county of LaRue, a mile or mile and a half from where Hodgen's Mill now is. It was a wild region, with many bears and other wild animals still in the woods. There I grew up."

Thousands of historians, students, and tourists visit the Lincoln birthplace and museum at Sinking Spring and nearby boyhood home each year. Both sites are managed by the National Park Service and maintain historic recreations of the original log cabins. The Hodgenville community is currently hard at work planning for the bicentennial celebration of Lincoln's birth in 2009.

Lincoln's roots on the Kentucky frontier molded character traits, modesty, hard work, spiritual, and an intellectual fortitude and a sense of justice that made him a portrait of human greatness as a legislator, lawyer, father, and steward of his country through the most devastating experience in its national history.

Lincoln's achievements as President saved the Union and freed the slaves, and his martyrdom in death as the war was drawing to a close made him one of the most revered and historically significant figures in American history.

Carved in stone above the portals of the birthplace memorial are the eloquent and poignant words from his second inaugural address in which he urged "malice toward none" and "charity for all" in the peace to come.

Abraham Lincoln's early life in central Kentucky is a source of great pride to me personally and many of my constituents. The birthplace and childhood home provide a great historic treasure in our community. In honor of President Lincoln's connection to Hodgenville and the upcoming bicentennial celebration of his birth, I urge my colleagues to join me honoring Hodgenville and Lincoln's memory by designating the current postal facility as the Abraham Lincoln Birthplace Post Office Building.

Mr. ISSA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLBE). The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and pass the bill, H.R. 2894.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ISSA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

BOONE PICKENS POST OFFICE

Mr. ISSA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 775) to designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, as the "Boone Pickens Post Office".

The Clerk read as follows:

S. 775

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOONE PICKENS POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, shall be known and designated as the "Boone Pickens Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Boone Pickens Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ISSA) and the gentleman from Illinois Mr. (DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of S. 775, a bill to name the postal facility at 123 W. 7th Street in Holdenville, Oklahoma, as the Boone Pickens Post Office.

Well-known businessman Boone Pickens has personified the American Dream through his hard work and determination. Early in his professional life and career, Pickens grew frustrated working at a large impersonal company. Instead of enduring the daily struggle through the organizational red tape, he decided to start his own business in 1956 at age 28. This nascent company ultimately evolved into one of the leading oil and gas exploration firms in the Nation, the Mesa Petroleum Company.

But more important, the House is considering this honor for Boone Pickens not because of his business success but for his philanthropy. Over the years, Pickens has generously invested in his alma mater, Oklahoma State University, supported a wide range of medical research initiatives, and several other scientific and social causes.

Boone Pickens has contributed his time, energy, and resources to make America a better place to live and work; and for these reasons, I support S. 775 today, and I ask my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the House Committee on Government Reform, I am pleased to join my colleague in consideration of S. 775, legislation designating a postal facility in Holdenville, Oklahoma, after Boone Pickens.

This measure, which was introduced by Senator JAMES INHOFE on April 13, 2005, was unanimously passed by the Senate on July 29, 2005.

T. Boone Pickens is known worldwide as the founder of Mesa Petroleum, the Nation's largest independent producer of domestic oil and gas. T. Boone is well respected in Texas for his willingness to spend time and money to improve the lives of those around him. In 1986, he started a nonprofit organization called the United Shareholders Association to fund a newspaper informing shareholders of corporate abuses, and he has served as the chairman of the board of West Texas A&M University business school.

Mr. Speaker, I urge swift passage of this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume to urge all my colleagues to support the effort to name the post office in Holdenville, Oklahoma, where Boone Pickens was born in 1928; and I congratulate our distinguished Senator and my friend, Senator JIMMY INHOFE, on recognizing the importance of T. Boone Pickens in both business and philanthropy.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and pass the Senate bill, S. 775.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

CONGRESSWOMAN SHIRLEY A. CHISHOLM POST OFFICE BUILDING

Mr. ISSA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 571) to designate the facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, as the "Congresswoman Shirley A. Chisholm Post Office Building".

The Clerk read as follows:

S. 571

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSWOMAN SHIRLEY A. CHISHOLM POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, shall be known and designated as the "Congresswoman Shirley A. Chisholm Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Congresswoman Shirley A. Chisholm Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ISSA) and the gentleman Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

Senate 571, sponsored in the other body by the distinguished Senator from New York, Senator CHARLES SCHUMER, honors the late Congresswoman Shirley Chisholm, the first African American woman elected to Congress.

Born in Brooklyn, New York, on November 20, 1924, Shirley Chisholm spent a lifetime advocating civil rights for all Americans. After graduating with honors from Brooklyn College, Shirley Chisholm worked at the Mount Cavalry Child Care Center in Harlem for several years. Later, she founded the Unity Democrat Club, which mobilized black and Hispanic voters. In 1964, Shirley Chisholm ran for and won a State assembly seat in the New York General Assembly. During her term, Ms. Chisholm most notably championed bills to aid day care centers and schools.

In 1968, she campaigned and was elected as the Representative from New York's Twelfth District to the United States Congress, where she served until 1982. Throughout her tenure, Congresswoman Chisholm boldly spoke out on civil rights, women's liberties, and issues specifically affecting those in need.

In 1972, Congresswoman Chisholm was emboldened and encouraged, as many are, to run for President. That year, she sought the Democrat nomination for President and in doing so became the first African American woman to run for the White House on a major party ticket. She received nearly 5 percent of the vote in the Democrat national convention, losing the nomination to then—Senator George McGovern of South Dakota.

Mr. Speaker, Shirley Chisholm sadly passed away on January 1 of this year. It is clear that Shirley Chisholm touched her colleagues and constituents with her courageous and groundbreaking public service career. Thus, it is appropriate to name the post office located in her hometown of Brooklyn in Congresswoman Chisholm's honor. I urge all my colleagues to join me in supporting Senate 571.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the House Committee on Government Reform, I am pleased to join my colleague in the consideration of S. 571, legislation designating a postal facility in Brooklyn, New York, after the late Shirley Chisholm.

This measure, which was introduced by Senator Charles Schumer of New York on March 9, 2005, was unanimously passed by the Senate on July 29, 2005. An identical bill, H.R. 1208, has been introduced by a Democrat in the House, the gentleman from New York (Mr. TOWNS).

Shirley Chisholm, a native New Yorker, was the first African American woman to be elected to Congress. After serving in the New York State legislature from 1964 to 1968, Ms. Chisholm was elected to the 91st Congress, where she represented the Twelfth Congressional District.

As a former educator and child care manager, Shirley worked hard in Congress on issues ranging from employment and education, to day care and income-support programs. She pushed hard to end the draft and reduce defense spending. She served in six Congresses, from 1969 to 1983, and was not a candidate for reelection to the 98th Congress.

Shirley Chisholm will be remembered for always fighting the good fight and for being the first black woman to announce her candidacy for President of the United States in 1972. In her speech before the Democratic National Convention in Miami, she declared "Although I am a woman, and I am equally proud of that, I am not the candidate of any political bosses or special interests. I am the candidate of the people."

Shirley Chisholm was fond of saying that she was unbought and unbossed, simply meaning that she did not represent any particular special interest, but she represented the will of the people.

Sadly, she passed away on January 1, 2005. Mr. Speaker, the late Shirley Chisholm was a legend; and I commend Senator SCHUMER and the gentleman from New York (Mr. TOWNS) for seeking to honor her hard work and dedication in this matter, and I urge support for this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. TOWNS. Mr. Speaker, I rise today to commemorate the legacy of my predecessor and mentor, the Honorable Shirley A. Chisholm. In order to provide her community with an enduring testament to her name, S. 571, and its companion bill H.R. 1209, will designate the facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, as the "Congresswoman Shirley A. Chisholm Post Office Building."

Mrs. Chisholm was a New York icon and committed public servant. She was born in Brooklyn, on November 30, 1924, graduated with honors from Brooklyn College, and earned a Master's degree from Columbia University. She was an active member of the National Association for the Advancement of Colored People (NAACP), founder of the Unity Democratic Club, and Representative in the New York State Assembly (1964–68).

In 1968, Mrs. Chisholm became the first African American woman to be elected to Congress and serve for seven consecutive terms. During her congressional career (1968–82), Mrs. Chisholm served on the House Education and Labor, Veterans' Affairs and Rules Committees, where she passionately advocated for the rights of women, children, and minorities, and staunchly opposed the Vietnam War. In fact, she was unmatched as a voice for social justice.

Mrs. Chisholm was also a founding member of the Congressional Caucus for Women's Issues and the Congressional Black Caucus, and the first African American to seek the nomination of a major political party for President of the United States (1972). Her "unbought and unbossed" political style allowed her to make friends and political alliances on both sides of the aisle. In addition, her lifetime achievements have inspired members of her Brooklyn community, and generations of women and African Americans, to engage in our nation's policymaking. We are forever grateful for her trailblazing effort.

Mrs. Chisholm was truly one in a million. I am honored to have been part of her Brooklyn political circle and to have worked along side her throughout her political career. In particular, I am thankful for her recommendation of my former chief-of-staff, the late Dr. Brenda Pillors. She, like Mrs. Chisholm, was an insightful and innovative force on Capitol Hill and a source of inspiration for me. Mr. Speaker, in light of the accomplishments and contributions of The Honorable Shirley Chisholm, I deem her to be more than worthy of the designation of a post office building in her name.

Mr. RANGEL. Mr. Speaker, I rise in support of designating the United States Postal Service facility at 1915 Fulton Street in Brooklyn, NY, as the Congresswoman Shirley A. Chisholm Post Office Building.

When I think about the honorable lady from Brooklyn, I am constantly reminded of her personal and campaign slogan of "unbought and unbossed." This bold assertion of independence captured the essence of who Shirley Chisholm was: a woman, a Black woman, who was long a champion of justice and a true pioneer who broke the glass ceiling for women in politics and elected office. Her life presented a model of resistance to discrimination, of challenge to the status quo, and of the inappropriateness of stereotypes. She broke barriers by her very presence and she set examples for future generations of leaders by her demeanor and behavior.

Shiirley was an individual with a clear vision of the right—not the political right, but the moral one. She knew that to overcome struggle minorities, those with the least power in a democracy, must stand up to the majority. They must counter the popular misconceptions and prove those in positions of authority of the wrongness of their ideas.

Shirley was determined to lift the Black community in its own eyes as well as the rest of the world. She was confident in herself and her ability to get tasks done and she passed that confidence to those who were in her presence. At a time when few Blacks and few women held elected office, Shirley stepped forward for a seat in the House of Representatives and won that seat. She also stood up against the hierarchy and leadership of the Democratic party and ran for President. Facing insurmountable odds was not enough to prevent Shirley from advocating, fighting for, and working towards the goal of being President of the United States of America. Could you only imagine how different this country would have been if Shirley had won?

I thank the Honorable Gentleman from New York, Mr. TOWNS, as well as the Honorable Senators CHARLES SCHUMER and HILLARY CLINTON for introducing and championing this legislation into the 109th Congress. We send an important message to the Nation by paying honor to this extraordinary individual. We send the message that regardless of your race, your background, and your gender, you can be respected in this country for your determination, commitment, dedication, and hard work to justice and equality. This is a powerful message to send today to our young people in particular.

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Mr. ISSA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLBE). The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and pass the Senate bill, S. 571.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

JAMES T. MOLLOY POST OFFICE BUILDING

Mr. ISSA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3339) to designate the facility of the United States Postal Service located at 2061 South Park Avenue in Buffalo, New York, as the "James T. Molloy Post Office Building".

The Clerk read as follows:

H.R. 3339

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JAMES T. MOLLOY POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 2061 South Park Avenue in Buffalo, New York, shall be known and designated as the "James T. Molloy Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "James T. Molloy Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ISSA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 3339 introduced by the gentleman from New York (Mr. HIGGINS). It would designate the facility of the U.S. Postal Service located at 2061 South Park Avenue in Buffalo, New York, as the James T. Molloy Post Office Building. The entire New York State delegation has cosponsored this bill, and I join with them in support.

In 1975, during the 94th Congress, James Molloy was elected doorkeeper of the House of Representatives, a position he held with distinction until the 104th Congress in 1995. As doorkeeper, he introduced six different Presidents, several heads of state and other dignitaries in joint sessions and other congressional events. In fact, Mr. Molloy is the last doorkeeper of the House of Representatives, and H.R. 3339 would honor his esteemed service. I urge all of my colleagues to support the naming of this post office.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the sponsor of this resolution, the gentleman from New York (Mr. HIGGINS).

Mr. HIGGINS. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) for yielding me this time. I also thank the gentleman from Virginia (Chairman TOM DAVIS) and the gentleman from California (Mr. WAXMAN) from the Committee on Government Reform for allowing this bill to be expedited to the floor.

Mr. Speaker, I am grateful for the opportunity to speak on this measure, which represents a great honor for one of my district's finest citizens, a proud and favorite son of South Buffalo. James T. Molloy was born in South Buffalo on June 3, 1936, to Matthew Molloy and Katherine Hayden Molloy. Educated in Buffalo's Catholic schools, he followed in his father's footsteps by working in the grain elevators of Buffalo's waterfront and fighting fires as a proud member of the Buffalo Fire Department.

Through his labor, James T. Molloy paid his own way through Canisius College, a great Jesuit institution in western New York, and became a lifelong friend of western New York working families.

He was a member of the AFL–CIO, the International Brotherhood of Longshoremen and the International Association of Firefighters.

After pursuing studies at St. John's University Law School, James T. Molloy worked as a schoolteacher in the cities of Buffalo and Lackawanna. He also worked in the office of the Erie County District Attorney where he met his wife, Roseann.

Jim came to Washington in 1968 at the invitation of New York Congressman John Rooney. During his service in the House Finance Office, he oversaw the legislative appropriations for the House as they grew from $75 million to $126 million per year.

James T. Molloy was elected doorkeeper of the United States House of Representatives in 1974 and proudly remained in that post through the 103rd Congress, serving as the primary aide to Speakers Carl Albert, Thomas "Tip" O'Neill, James Wright, and Tom Foley.

In fact, Jim was the last of 30 people to hold the position of doorkeeper from its establishment in 1789 to its elimination in 1995. Within this capacity, he introduced Presidents and numerous heads of state to our august body. He coordinated 71 joint sessions of Congress, as well as many other special events, within this Chamber.

Jim also acted as a vital connection between his hometown, South Buffalo, New York, and Congress, inspiring countless men and women from the Buffalo area to consider careers in public service.

James T. Molloy's strong relationship with Capitol Hill can still be felt today. He continues to serve as chairman of the board on the Wright-Patman Congressional Credit Union, a position he has held for 30 years.

Jim has been awarded numerous honors for his life's work in public service. He has received the Outstanding Citizen Award from the New York State AFL–CIO, the President's Award from the New York State Federation of Police, the United States Senate Youth Alumni Association Outstanding Service Award, and the Sid Yudain Congressional Staffer of the Year Award from Roll Call.

I know that many of my colleagues had the pleasure of serving in this House during Jim Molloy's tenure. His strong commitment to our institution makes offering this bill, to name a South Buffalo Post Office after him, both a privilege and an honor.

James T. Molloy's success has been an inspiration to thousands in my district and throughout all of western New York. I know that many here today will want to join me in saluting James T. Molloy, his wife Roseann, and their daughter Amy in recognition of his invaluable service to this Nation, who was fortunate to have him, and to his hometown of South Buffalo and western New York, who are proud to claim him.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the gentleman from New York (Mr. HIGGINS) for introducing this important legislation. As a member of the Committee on Government Reform, I am pleased to join in support. As one who has spent such a long period of time as a Member of this House working for this House and working for government employees, the chairman of the Wright-Patman Federal Credit Union is indeed an inspiration, and I am sure that many people in western New York will continue to honor and revere him, just as many people will continue to do here in the Nation's Capital. I thank the gentleman from New York for designating a postal facility in his honor.

Mr. Speaker, I yield back the balance of my time.

Mr. ISSA. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in closing, I, too, want to join in thanking the gentleman from New York (Mr. HIGGINS) for bringing this important bill to our attention, and I urge its passage.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and pass the bill, H.R. 3339.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ISSA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ISSA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.J. Res. 59, H. Con. Res. 181, H. Res. 329, H. Res. 289, H. Res. 294, H.R. 2977, H.R. 2894, S. 775, S. 571, and H.R. 3339.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SPOKANE TRIBE OF INDIANS OF THE SPOKANE RESERVATION GRAND COULEE DAM EQUITABLE COMPENSATION SETTLEMENT ACT

Miss MCMORRIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1797) to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.

The Clerk read as follows:

H.R. 1797

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Spokane Tribe of Indians of the Spokane Reservation Grand Coulee Dam Equitable Compensation Settlement Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) from 1927 to 1931, at the direction of Congress, the Corps of Engineers investigated the Columbia River and its tributaries to determine sites at which power could be produced at low cost;

(2) under section 10(e) of the Federal Power Act (16 U.S.C. 803(e)), when licenses are issued involving tribal land within an Indian reservation, a reasonable annual charge shall be fixed for the use of the land, subject to the approval of the Indian tribe having jurisdiction over the land;

(3) in August 1933, the Columbia Basin Commission, an agency of the State of Washington, received a preliminary permit from the Federal Power Commission for water power development at the Grand Coulee site;

(4) had the Columbia Basin Commission or a private entity developed the site, the Spokane Tribe would have been entitled to a reasonable annual charge for the use of its land;

(5) in the mid-1930s, the Federal Government, which is not subject to licensing under the Federal Power Act (16 U.S.C. 792 et seq.)—

(A) federalized the Grand Coulee Dam project; and

(B) began construction of the Grand Coulee Dam;

(6) when the Grand Coulee Dam project was federalized, the Federal Government recognized that—

(A) development of the project affected the interests of the Spokane Tribe and the Confederated Tribes of the Colville Reservation; and

(B) it would be appropriate for the Spokane and Colville Tribes to receive a share of revenue from the disposition of power produced at Grand Coulee Dam;

(7) in the Act of June 29, 1940 (16 U.S.C. 835d et seq.), Congress—

(A) granted to the United States—

(i) in aid of the construction, operation, and maintenance of the Columbia Basin Project, all the right, title, and interest of the Spokane Tribe and Colville Tribes in and to the tribal and allotted land within the Spokane and Colville Reservations, as designated by the Secretary of the Interior from time to time; and

(ii) other interests in such land as required and as designated by the Secretary for certain construction activities undertaken in connection with the project; and

(B) provided that compensation for the land and other interests was to be determined by the Secretary in such amounts as the Secretary determined to be just and equitable;

(8) pursuant to that Act, the Secretary paid—

(A) to the Spokane Tribe, $4,700; and

(B) to the Confederated Tribes of the Colville Reservation, $63,000;

(9) in 1994, following litigation under the Act of August 13, 1946 (commonly known as the "Indian Claims Commission Act" (60 Stat. 1049, chapter 959; former 25 U.S.C. 70 et seq.)), Congress ratified the Colville Settlement Agreement, which required—

(A) for past use of the Colville Tribes' land, a payment of $53,000,000; and

(B) for continued use of the Colville Tribes' land, annual payments of $15,250,000, adjusted annually based on revenues from the sale of electric power from the Grand Coulee Dam project and transmission of that power by the Bonneville Power Administration;

(10) the Spokane Tribe, having suffered harm similar to that suffered by the Colville Tribes, did not file a claim within the Indian Claims Commission Act's 5-year statute of limitations;

(11) neither the Colville Tribes nor the Spokane Tribe filed claims for compensation for use of their land with the Commission before August 13, 1951, but both Tribes filed unrelated land claims prior to August 13, 1951;

(12) in 1976, over objections by the United States, the Colville Tribes were successful in amending their 1951 Claims Commission land claims to add their Grand Coulee claim;

(13) the Spokane Tribe had no such claim to amend, having settled its Claims Commission land claims with the United States in 1967;

(14) the Spokane Tribe has suffered significant harm from the construction and operation of Grand Coulee Dam;

(15) Spokane tribal acreage taken by the United States for the construction of Grand Coulee Dam equaled approximately 39 percent of Colville tribal acreage taken for construction of the dam;

(16) the payments and land transfers made pursuant to this Act constitute fair and equitable compensation for the past and continued use of Spokane tribal land for the production of hydropower at Grand Coulee Dam; and

(17) by vote of the Spokane tribal membership, the Spokane Tribe has resolved that the payments and land transfers made pursuant to this Act constitute fair and equitable compensation for the past and continued use of Spokane Tribal land for the production of hydropower at Grand Coulee Dam.

SEC. 3. PURPOSE.

The purpose of this Act is to provide fair and equitable compensation to the Spokane Tribe for the use of its land for the generation of hydropower by the Grand Coulee Dam.

SEC. 4. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Bonneville Power Administration or the head of any successor agency, corporation, or entity that markets power produced at Grand Coulee Dam.

(2) COLVILLE SETTLEMENT AGREEMENT.—The term "Colville Settlement Agreement" means the Settlement Agreement entered into between the United States and the Colville Tribes, signed by the United States on April 21, 1994, and by the Colville Tribes on April 16, 1994, to settle the claims of the Colville Tribes in Docket 181-D of the Indian Claims Commission, which docket was transferred to the United States Court of Federal Claims.

(3) COLVILLE TRIBES.—The term "Colville Tribes" means the Confederated Tribes of the Colville Reservation.

(4) COMPUTED ANNUAL PAYMENT.—The term "Computed Annual Payment" means the payment calculated under paragraph 2.b. of the Colville Settlement Agreement, without regard to any increase or decrease in the payment under section 2.d. of the agreement.

(5) CONFEDERATED TRIBES ACT.—The term "Confederated Tribes Act" means the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (108 Stat. 4577).

(6) FUND.—The term "Fund" means the Spokane Tribe of Indians Settlement Fund established by section 5.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(8) SPOKANE BUSINESS COUNCIL.—The term "Spokane Business Council" means the governing body of the Spokane Tribe under the constitution of the Spokane Tribe.

(9) SPOKANE TRIBE.—The term "Spokane Tribe" means the Spokane Tribe of Indians of the Spokane Reservation, Washington.

SEC. 5. SETTLEMENT FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States an interest-bearing trust fund to be known as the "Spokane Tribe of Indians Settlement Fund", consisting of—

(1) amounts deposited in the Fund under subsection (b); and

(2) any interest earned on investment of amounts in the Fund.

(b) DEPOSITS.—From amounts made available under section 11—

(1) for fiscal year 2006, the Secretary shall deposit in the Fund $17,800,000; and

(2) for each of the 4 fiscal years thereafter, the Secretary shall deposit in the Fund $12,800,000.

(c) MAINTENANCE AND INVESTMENT OF FUND.—The Fund shall be maintained and invested by the Secretary in accordance with the Act of June 24, 1938 (25 U.S.C. 162a).

(d) PAYMENT OF FUNDS TO SPOKANE BUSINESS COUNCIL.—

(1) REQUEST.—At any time after funds are deposited in the Fund, the Spokane Business Council may submit to the Secretary written notice of the adoption by the Spokane Business Council of a resolution requesting that the Secretary pay all or a portion of the amounts in the Fund to the Spokane Business Council.

(2) PAYMENT.—Not later than 60 days after receipt of a notice under paragraph (1), the Secretary shall pay the amount requested to the Spokane Business Council.

(e) USE OF FUNDS.—

(1) CULTURAL RESOURCE REPOSITORY AND INTERPRETIVE CENTER.—

(A) IN GENERAL.—Of the initial deposit under subsection (b)(1), $5,000,000 shall be used by the Spokane Business Council for the planning, design, construction, equipping, and continuing operation and maintenance of a Cultural Resource Repository and Interpretive Center to—

(i) house, preserve, and protect the burial remains, funerary objects, and other cultural resources affected by the operation of the Grand Coulee Dam; and

(ii) provide an interpretive and educational facility regarding the culture and history of the Spokane Tribe.

(B) EFFECT.—The funding under subparagraph (A) does not alter or affect any authority, obligation, or responsibility of the United States under—

(i) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(ii) the Archaeological Resources Protection Act (16 U.S.C. 470aa et seq.);

(iii) the National Historic Preservation Act (16 U.S.C. 470 et seq.); or

(iv) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) OTHER USES.—Of all other amounts deposited in the Fund (including interest generated on those amounts)—

(A) 25 percent shall be—

(i) reserved by the Spokane Business Council; and

(ii) used for discretionary purposes of general benefit to all members of the Spokane Tribe; and

(B) 75 percent shall be used by the Spokane Business Council to carry out—

(i) resource development programs;

(ii) credit programs;

(iii) scholarship programs; or

(iv) reserve, investment, and economic development programs.

SEC. 6. PAYMENTS BY THE ADMINISTRATOR.

(a) INITIAL PAYMENT.—On March 1, 2007, the Administrator shall pay the Spokane Tribe—

(1) the amount that is equal to 29 percent of the Computed Annual Payment for fiscal year 2005, adjusted to reflect the change in the Consumer Price Index for all urban consumers published by the Department of Labor, from the date on which the payment for fiscal year 2005 was made to the Colville Tribes to the date on which payment is made to the Spokane Tribe under this subparagraph; and

(2) the amount that is equal to 29 percent of the Computed Annual Payment for fiscal year 2006.

(b) Subsequent Payments.—On or before March 1, 2008, and March 1 of each year thereafter through 2033, the Administrator shall pay the Spokane Tribe the amount that is equal to 29 percent of the Computed Annual Payment for the previous fiscal year.

(c) Payment Recovery.—Pursuant to the payment schedule in subsection (b), the Administrator shall make commensurate cost reductions in expenditures on an annual basis to recover each payment to the Tribe. The Administrator shall include this specific cost reduction plan in the annual budget submitted to Congress.

(d) Sunset.—This section shall have no force or effect on and after the date that is 25 years after the date of the enactment of this Act.

SEC. 7. TREATMENT AFTER FUNDS ARE PAID.

(a) Use of Payments.—Payments made to the Spokane Business Council or Spokane Tribe under section 5 or 6 may be used or invested by the Business Council in the same manner and for the same purposes as other Spokane Tribe governmental funds.

(b) No Trust Responsibility of the Secretary.—Neither the Secretary nor the Administrator shall have any trust responsibility for the investment, supervision, administration, or expenditure of any funds after the date on which the funds are paid to the Spokane Business Council or Spokane Tribe under section 5 or 6.

(c) Treatment of Funds for Certain Purposes.—The payments of all funds to the Spokane Business Council and Spokane Tribe under sections 5 and 6, and the interest and income generated by the funds, shall be treated in the same manner as payments under section 6 of the Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act (100 Stat. 677).

(d) Tribal Audit.—After the date on which funds are paid to the Spokane Business Council or Spokane Tribe under section 5 or 6, the funds shall—

(1) constitute Spokane Tribe governmental funds; and

(2) be subject to an annual tribal government audit.

SEC. 8. REPAYMENT CREDIT.

(a) In General.—The Administrator shall deduct from the interest payable to the Secretary of the Treasury from net proceeds (as defined in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k))—

(1) in fiscal year 2007, $2,600,000; and

(2) in each subsequent fiscal year in which the Administrator makes a payment under section 6, $1,300,000.

(b) Crediting.—

(1) In general.—Except as provided in paragraphs (2) and (3), each deduction made under this section shall be—

(A) a credit to the interest payments otherwise payable by the Administrator to the Secretary of the Treasury during the fiscal year in which the deduction is made; and

(B) allocated pro rata to all interest payments on debt associated with the generation function of the Federal Columbia River Power System that are due during the fiscal year.

(2) Deduction greater than amount of interest.—If, in any fiscal year, the deduction is greater than the amount of interest due on debt associated with the generation function for the fiscal year, the amount of the deduction that exceeds the interest due on debt associated with the generation function shall be allocated pro rata to all other interest payments due during the fiscal year.

(3) Credit.—To the extent that a deduction exceeds the total amount of interest described in paragraphs (1) and (2), the deduction shall be applied as a credit against any other payments that the Administrator makes to the Secretary of the Treasury.

SEC. 9. TRANSFER OF ADMINISTRATIVE JURISDICTION AND RESTORATION OF OWNERSHIP OF LAND.

(a) Transfer of Jurisdiction.—The Secretary shall transfer administrative jurisdiction from the Bureau of Reclamation to the Bureau of Indian Affairs over—

(1) all land acquired by the United States under the Act of June 29, 1940 (16 U.S.C. 835d), that is located within the exterior boundaries of the Spokane Indian Reservation established pursuant to the Executive Order of January 18, 1881; and

(2) all land on the south bank of the Spokane River that—

(A) extends westerly from Little Falls Dam to the confluence of the Spokane River and Columbia River; and

(B) is located at or below contour elevation 1290 feet above sea level.

(b) Restoration of Ownership in Trust.—All land transferred under this section—

(1) shall be held in trust for the benefit and use of the Spokane Tribe; and

(2) shall become part of the Spokane Indian Reservation.

(c) Reservation of Rights.—

(1) In general.—The United States reserves a perpetual right, power, privilege, and easement over the land transferred under this section to carry out the Columbia Basin Project under the Columbia Basin Project Act (16 U.S.C. 835 et seq.).

(2) Rights included.—The rights reserved under paragraph (1) further include the right to operate, maintain, repair, and replace boat ramps, docks, and other recreational facilities owned or permitted by the United States and existing on the date of enactment of this Act.

(3) Retention of national park system status.—

(A) In general.—Land transferred under this section that, before the date of enactment of this Act, was included in the Lake Roosevelt National Recreation Area shall remain part of the Recreation Area.

(B) Administration.—Nothing in this section affect the authority or responsibility of the National Park Service to administer the Lake Roosevelt National Recreation Area under the Act of August 25, 1916 (39 Stat. 535, chapter 408; 16 U.S.C. 1 et seq.).

(4) Memorandum of understanding.—The cognizant agencies of the Department of the Interior shall enter into a memorandum of understanding with the Spokane Tribe to provide for coordination in applying this subsection.

SEC. 10. SATISFACTION OF CLAIMS.

Payment by the Secretary under section 5 and the Administrator under section 6 and restoration of ownership of land in trust under section 9 constitute full satisfaction of the claim of the Spokane Tribe to a fair share of the annual hydropower revenues generated by the Grand Coulee Dam project for the past and continued use of land of the Spokane Tribe for the production of hydropower at Grand Coulee Dam.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SEC. 12. PRECEDENT.

Nothing in this Act establishes any precedent or is binding on the Southwestern Power Administration, Western Area Power Administration, or Southeastern Power Administration.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Washington (Miss McMorris) and the gentleman from California (Mr. Cardoza) each will control 20 minutes.

The Chair recognizes the gentlewoman from Washington (Miss McMorris).

GENERAL LEAVE

Miss McMORRIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Washington?

There was no objection.

Miss McMORRIS. Mr. Speaker, I yield myself such time as I may consume.

I am the author of H.R. 1797, which brings fairness to a long-standing problem. I first want to thank my predecessor, the Congressman from Washington, George Nethercutt, for his hard work on this issue. He first introduced a version of this legislation 6 years ago. It is through the foundation of that bill that I am able to present this piece of legislation today before the House of Representatives.

I would also like to thank my colleagues from the Washington delegation, the gentleman from Washington (Mr. Dicks) and the gentleman from Washington (Mr. Inslee). In addition, I would like to thank the gentleman from Michigan (Mr. Kildee) for his support as well.

When the Grand Coulee Dam was built in the 1930s, the accompanying reservoir inundated key parts of the Spokane Indian Reservation. Due to a number of circumstances, the Spokane Tribe has never had the opportunity to pursue monetary claims as a result of these land damages. Rather than focusing on litigation, the tribe has instead worked for many years to bring about a legislative solution.

The bill authorizes Federal funding to compensate the Spokane Tribe for land damages. Since this nonlegal settlement is unique, these payments are sunsetted. The bill also seeks to protect electricity ratepayers by requiring the Bonneville Power Administration to cut costs to make up for the payments to the tribe. As a result, Congress does not expect the Federal Government to use this legislation as any reason for a rate increase.

Mr. Speaker, this bill has bipartisan support and is the result of lengthy discussions for over a decade. I commend the parties for their hard work and commitment to bringing this solution, and urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDOZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Democrats on the Committee on Resources support the passage of H.R. 1797, which will provide a fair and equitable financial settlement for the Spokane Tribe of Indians. H.R. 1797 will provide the Spokane Tribe of Indians with compensation which will be proportional to the compensation provided to the Colville Tribes through enactment of Public Law 103–436, the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act.

Our only concern with H.R. 1797 is the included sunset language in section 6 of the bill. As noted in the additional views filed with the committee report on this bill, however, the Spokane Tribe has agreed to the sunset provision in the bill with the understanding that in the future the tribe may seek an amendment to extend or modify the sunset provision or otherwise seek reauthorization of the Bonneville Power Administration's annual payments after the year 2030.

With this understanding, and in the interest of moving the legislation forward and thereby providing long overdue relief to this tribe, we do not object to the inclusion of the sunset provision in the bill, and urge passage of the bill.

Mr. CARDOZA. Mr. Speaker, I yield back the balance of my time.

Miss McMORRIS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Washington (Miss McMORRIS) that the House suspend the rules and pass the bill, H.R. 1797.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SUPPORTING GOALS OF NATIONAL MARINA DAY AND URGING MARINAS CONTINUE PROVIDING ENVIRONMENTALLY FRIENDLY GATEWAYS TO BOATING

Mr. COBLE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 308) supporting the goals of National Marina Day and urging marinas continue providing environmentally friendly gateways to boating.

The Clerk read as follows:

H. RES. 308

Whereas the people of the United States highly value their recreational time and their ability to access the waterways of the United States, one of the Nation's greatest natural resources;

Whereas in 1928, the National Association of Engine and Boat Manufacturers first used the word "marina" to describe a recreational boating facility;

Whereas the United States is home to more than 12,000 marinas that contribute substantially to local communities by providing safe and reliable gateways to boating;

Whereas the marinas of the United States serve as stewards of the environment and actively seek to protect the waterways that surround them for the enjoyment of this generation and generations to come;

Whereas the marinas of the United States provide communities and visitors with a place where friends and families, united by a passion for the water, can come together for recreation, rest, and relaxation; and

Whereas the Marina Operators Association of America has designated August 13, 2005 as "National Marina Day" to increase awareness among citizens, policymakers, and elected officials about the many contributions that marinas make to communities: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals of National Marina Day; and

(2) urges that the marinas of the United States continue to provide environmentally friendly gateways to boating for the people of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. COBLE) and the gentleman from California (Mr. FILNER) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H. Res. 308 was introduced by the distinguished gentleman from Washington (Mr. DICKS) and cosponsored by the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Tennessee (Mr. WAMP).

□ 1530

This resolution recognizes August 13, 2005, as National Marina Day. This resolution acknowledges the significant contributions that marinas provide to so many of our local waterfront communities.

There are over 12,000 marinas, Mr. Speaker, in the United States, and these facilities serve as a place where people who share a passion for the water can come together to enjoy our Nation's oceans, lakes and rivers. Marinas also serve as stewards of the environment and actively seek to protect the waterways that surround them.

Many Members of this body represent districts in which recreational boating plays an important role in the lives of many of our constituents, and marinas provide an easy access point for citizens who wish to enjoy our Nation's coasts and waterways.

This resolution highlights the importance of marinas and their role in promoting recreational boating and in connecting people to the water. I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume. I thank my friend from North Carolina for managing this bill. We refer to him as the maitre d' of marinas in the House, so I thank the gentleman from North Carolina.

Mr. COBLE. I thank the gentleman from California.

Mr. FILNER. Mr. Speaker, there are 12,000 marinas in the United States providing safe harbor for millions of recreational vessels that operate on the lakes and navigable waters of the United States. This includes boat yards, yacht clubs, and public and private moorings across our country. Marinas in the United States provide employment for more than 140,000 of our citizens. But perhaps most importantly, marinas provide a means for millions of Americans to relax and enjoy themselves boating.

National Marina Day is a time to celebrate the history of marinas and boating and to look to the future of this vibrant industry. National Marina Day activities across the United States will include environmental demonstrations, youth center events, fishing rodeos, boating safety demonstrations, and marina open houses. This day is going to be celebrated from Maine to Florida; from Maryland to my hometown of San Diego, California.

Marina owners are working closely, also, with the United States Coast Guard to step up vigilance at their facilities to improve security on our waterways. This includes being on the watch for any suspicious activities; attempts to gain access to vehicles without proper identification; looking out for any fixtures attached to structures; keeping an eye out for unusual diving operations; and watching out for vehicles and vessels in unusual locations.

Mr. Speaker, it is fitting and appropriate for the House of Representatives to recognize the ongoing contribution of marina operators in the United States to our economy, our security, our environment, and most of all for providing us with a way of enjoying a day on the beautiful waterways of the United States.

I urge my colleagues to join us in supporting H. Res. 308 which recognizes our support for the goals of National Marina Day on August 13, 2005.

Mr. DICKS. Mr. Speaker, I rise in support of H. Res. 308, a bill supporting the goals of National Marina Day and urging marinas to continue providing environmentally friendly gateways to boating.

On August 13, we will celebrate National Marina Day. This annual celebration promotes the United States' 12,000 marinas and offers local marina operators the opportunity to host educational events to bring tens of thousands of people to our country's marinas. These marinas are gateways to boating and help maintain the natural environments that we enjoy. In fact, as we debate this resolution today, Americans throughout the country are using their summer vacations to enjoy their own recreational boats or to charter time on professionally operated vessels.

By serving as stewards of the environment, marina owners help protect our Nation's natural resources for generations to come. Marina operators and owners realize that the success of their industry relies in part on the health and beauty of their surroundings.

In addition, marina owners are working closely with the United States Coast Guard to step up vigilance at their facilities to improve security on U.S. waterways. These efforts include looking out for aggressive activities, attempts to gain access to vessels without proper identification, fixtures attached to structures, unusual diving operations, and vehicles and vessels in unusual locations. Marina owners are on the water every day and when something appears unusual they are able to alert the Coast Guard.

Boating is an important pastime as well as a major business activity in my congressional district. From inside Puget Sound to the Pacific coast of Washington State and the Straits of Juan de Fuca, marinas provide access for recreational sailors and motor-powered cruising boats in addition to home ports for charter boats and commercial fishermen.

Mr. Speaker, it is fitting for the U.S. House of Representatives to recognize the ongoing contribution of marina operators to our economy, our security, our environment, and most of all, for providing us with a way of enjoying a day on the water. I urge adoption of the resolution.

Mr. BISHOP of New York. Mr. Speaker, I rise in strong support of H. Res. 308, a bill supporting the goals of National Marina Day, and urging that marinas continue providing environmentally friendly gateways to boating.

In my district on Eastern Long Island, business associated with local marinas is important to vacationers and residents alike. The tourism and fishing industries are two of the most important contributing elements of the local economy, and marinas help these economic engines create much needed revenue throughout Brookhaven and the five East End Towns.

There are more than 12,000 marinas nationally that benefit local communities by providing safe and reliable gateways to boating. The marinas of the United States serve as stewards of the environment, and they actively protect the waterways that surround them for current and future enjoyment.

The Marina Operators Association of America has designated August 13, 2005, as National Marina Day to increase awareness among citizens and elected officials about the many contributions that marinas make to communities, and it is important that Congress support this initiative.

As vacationers throughout the country flock to the coasts for well-deserved vacations, it is important that we recognize the significance of marinas. I'd therefore echo the Marina Operator's support for National Marina Day and urge my colleagues to do the same.

Mr. FILNER. Mr. Speaker, I yield back the balance of my time.

Mr. COBLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLBE). The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and agree to the resolution, H. Res. 308.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. COBLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

EXPRESSING SENSE OF THE HOUSE THAT THE FEDERAL TRADE COMMISSION SHOULD INVESTIGATE THE PUBLICATION OF THE VIDEO GAME "GRAND THEFT AUTO: SAN ANDREAS"

Mr. UPTON. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 376) expressing the sense of the House of Representatives that the Federal Trade Commission should investigate the publication of the video game "Grand Theft Auto: San Andreas" to determine if the publisher intentionally deceived the Entertainment Software Ratings Board to avoid an "Adults-Only" rating, as amended.

The Clerk read as follows:

H. Res. 376

Whereas the video game "Grand Theft Auto: San Andreas" was given a rating of "Mature" by the Entertainment Software Ratings Board;

Whereas the game contains sexually explicit content that is accessible by consumers but that appears to have been hidden from the ratings board in order to avoid the game receiving an "Adults Only" rating;

Whereas the Entertainment Software Ratings Board took swift action in investigating the matter and revoked the "Mature" rating, ensuring any future sales of "Grand Theft Auto: San Andreas" will be under an "Adults Only" rating; and

Whereas the publisher of the video game, Rockstar Games, may have deceived the ratings board and consumers: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the Federal Trade Commission should investigate the publication of the video game "Grand Theft Auto: San Andreas" to determine if the publisher, Rockstar Games, deceived the Entertainment Software Ratings Board to avoid an "Adults-Only" rating; and

(2) if the Commission determines Rockstar Games to have committed such deception or fraud, the Commission should apply the toughest of penalties.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. UPTON) and the gentlewoman from Minnesota (Ms. MCCOLLUM) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. UPTON).

GENERAL LEAVE

Mr. UPTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the same.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. UPTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last week I was appalled to hear about the release of the new version of the video game Grand Theft Auto: San Andreas having a back door to porn embedded in its files. That kind of material would have certainly earned it an "Adults-Only" rating rather than the "Mature" rating that it has been marketing. I cannot imagine how a good player in the video game industry could make an honest mistake of something like that, so you have to wonder just what they are trying to do.

We have had hearings on rating video games as well as music and movies in our committee, and I believe fully that parents are the first line of defense for controlling what their kids watch. Up until now, parents have been able to trust the Entertainment Software Ratings Board, ESRB, to give them credible information about exactly what is in a video game. I want to make sure that that remains the case.

According to the Federal Trade Commission, the FTC, parents are involved in the purchase and rental of games more than 8 out of 10 times, better than 80 percent, making it indisputably clear that parents are the gatekeepers when it comes to deciding what games they bring into their homes.

The facts about consumer awareness and use of the ESRB ratings: 78 percent of parents are aware of the rating system, up 8 percent in the last 2 years; 61 percent of parents are aware of content descriptors, up 53 percent in the last 2 years; 70 percent of parents regularly check the rating before making a purchase. If this company purposely hid that information or material to make a sham of the ratings, it is nothing less than deceptive advertising and it ought to be punished, in this case severely.

My resolution, coauthored by the gentleman from Massachusetts (Mr. MARKEY), calls on the Federal Trade Commission to investigate Rockstar Games to see if they intentionally deceived the ratings board to avoid the Adults-Only rating, and, if they determine that such deception or fraud has taken place, that they apply the very toughest of penalties or sanctions. The video game industry has gone into great detail to define their ratings, but I want parents to feel confident that the labeling of the video games that they allow their kids to play or purchase is reliable and that bad actors do not get away with deceptions like this.

Mr. Speaker, if these ratings were willfully violated, they ought to be punished, and a firm should not be allowed to profit from that outrageous circumstance when those rules are followed by so many families when they buy or see the video games in their homes. This resolution calls for that.

Mr. Speaker, I include for the RECORD a letter that I sent earlier this week to the Chair of the FTC signed by more than 75 Members of Congress, the cover letter signed by the gentleman from Michigan (Mr. DINGELL), the gentleman from Texas (Mr. BARTON), the gentleman from Massachusetts (Mr. MARKEY) and myself, asking that the FTC take every action that they can if, in fact, the material shows that it was wrong in terms of getting the "M" rating.

CONGRESS OF THE UNITED STATES,
Washington, DC, July 21, 2005.

Hon. DEBORAH PLATT MAJORAS,
Chairman, Federal Trade Commission,
Washington, DC.

CHAIRMAN MAJORAS: We write to express our profound concern regarding the sexually explicit material contained in the rated "M" video game "Grand Theft Auto: San Andreas." We ask for your attention to this matter and to determine if the publisher, Rockstar Games, intentionally deceived the Entertainment Software Rating Board to avoid an "Adults-Only" rating. We believe that they may have and the toughest penalties need to be applied.

The recent release of "Grand Theft Auto: San Andreas" was widely anticipated by consumers, but an "Adults-Only" rating would have severely limited its sales in retail outlets. It appears that the publisher has blatantly circumvented the rules in order to peddle sexually explicit material to our youth, and they should be held accountable.

We stand in agreement that parental involvement is the most important line of defense in determining the type of content suitable for children, and the ratings system empowers parents to do just that. Unfortunately, this latest incident of deceit has severely degraded the integrity of the ratings system. How can parents trust a system in which game makers do an end-run around the process to deliver pornographic material to our kids?

We appreciate the ESRB's swift action in investigating the matter and revoking the M rating and ensuring any further sales of "Grand Theft Auto: San Andreas" will be under an AO rating. But this action should have never been necessary had Rockstar Games complied with industry standards from the outset.

We respectfully request that you investigate this matter, and if Rockstar Games is found to have intentionally deceived American consumers, we ask that severe sanctions are imposed to the greatest extent under the law. This type of profiteering from peddling smut to minors must not be tolerated. A company cannot be allowed to profit from deceit.

We appreciate your attention to this matter and look forward to your response.

Sincerely,

Fred Upton, Ed Markey, Joe Barton, John Dingell, and 75 other Members of Congress.

Mr. Speaker, I reserve the balance of my time.

Ms. McCOLLUM of Minnesota. Mr. Speaker, I yield myself such time as I may consume.

I appreciate the opportunity to speak on House Resolution 376. I would like to commend the resolution's author, the gentleman from Michigan (Mr. UPTON). I agree with the previous remarks made by him.

Let me start by commending an organization, however, I have worked with over the past 3 years, the National Institute on Media and the Family, and its founder Dr. David Walsh, for uncovering and exposing this video game scandal. Dr. Walsh and the Institute on Media and the Family have for years been calling for an independent rating system on interactive video games. They have been national leaders on calling on retail stores across the country to ensure age-specific ratings are enforced. I agree, and I support an independent rating system and retailer responsibility.

The video game industry has a scandal on its hands, and parents across America have been given a wake-up call. Video games can be fun, but they can also be very powerful tools for exposing children to violence, sex and inappropriate material. Grand Theft Auto: San Andreas is not a video game. It is a violent and sexually explicit tool to train virtual victimizers in crime and sexual violence, and this was before the current pornographic scenes were exposed.

In a review of Grand Theft Auto: San Andreas on Amazon.com, it is described as "even more bloody, violent and sadistic than its popular predecessors, offering up an enormous 3-D city in which nearly any criminal act is possible. Players are free to steal cars, beat up the local population for their money or weapons, to make time with prostitutes, or to simply roam to their heart's content." That was a review before the pornographic scenes were made known.

Dr. Walsh has been, as I said, outspoken on this issue. Even before the pornographic scenes were exposed, Dr. Walsh, and I quote him as saying, this was not an appropriate game for our children, this violence training tool was rated "M" for mature, meaning the material was suitable for persons age 17 and older. Titles in this category may contain intense violence, blood and gore, sexual conduct, and/or strong language. The shooting of police officers, the killing of senior citizens for sport and winning points for sleeping with prostitutes and then killing them is not a game for 17-year-olds. It is disgusting, and it is a vile example of an industry with enormous potential being hijacked.

However, I would like to applaud two Minnesota-based retailers, Best Buy and Target, for their responsible and prudent decision to remove this so-called "game" from their shelves. I strongly support the intent of this resolution.

I would also like to enter for the RECORD two editorials, one from the Minneapolis Star Tribune and one from the New York Times, calling on action because of this game.

[From the Minneapolis Star Tribune, July 25, 2005]

GRAND THEFT/ABSENT PORN, STILL NOT FOR TEENS

Take-Two Interactive and Rockstar Games must have thought they were pulling a fast one on parents. Hidden in the bestselling video game "Grand Theft Auto: San Andreas"—activated by an Internet download and a code—are scenes that allow players to engage in virtual sex acts.

But the inside joke eventually went public. And people didn't laugh.

Last week, the Entertainment Software Ratings Board (ESRB) slapped an AO (adults only 18-plus) rating on the popular video game. Immediately, Wal-Mart, Target, Best Buy and several other retailers pulled it from their shelves. Rockstar, the game's developer, which for weeks blamed "outsiders" for the sexually explicit modifications, now admits that the retail version was produced with them on the game. It has now ceased production of that version and will produce one minus the pornography.

Before someone is tempted to nominate either company for a Good Citizenship Award, keep in mind what will remain on the game. "Grand Theft Auto: San Andreas" is definitely not "Ms. Pacman." An amazon.com review describes it as "even more bloody, violent, and sadistic than its popular predecessors, offering up an enormous 3-D city in which nearly any criminal act is possible. Players are free to steal cars, beat up the local population for their money (or weapons), make time with prostitutes, or simply roam to their heart's content."

The "toned-down" version will be rated Mature, making it available for anyone 17 or older.

The violence in "Grand Theft Auto" is not an aberration. Take-Two is excited about its upcoming release, "Bully." Take-Two says "you'll laugh and cringe as you stand up to bullies, get picked on by teachers, play pranks on malicious kids, win or lose the girl, and ultimately learn to navigate the obstacles of the fictitious reform school, Bullworth Academy." Given its track record with other games, it is safe to assume gunplay will be featured prominently in "Bully." We wonder if the folks in Littleton, Colo., or Cold Spring, Minn., will laugh.

This all alarms David Walsh, president and founder of the National Institute on Media and the Family. His research shows that the teen brain is still a work in progress, struggling to manage sexual and violent impulses. These games, which are marketed toward teens, should not be in the hands of teens, he believes.

We agree. The rating system for video games simply doesn't work. The ESRB was established by the Entertainment Software Association. Advising the ESA is an executive from Take-Two Entertainment, which owns Rockstar, which makes of "Grand Theft Auto." It's comparable to letting the defense attorney serve as the jury foreman.

This industry repeatedly has shown it can't be trusted to monitor itself. There is too much money to be made from young people by keeping ratings standards relaxed, and there are no penalties for companies that skirt the rules.

Parents aren't off the hook. They need to take more of an interest in the kinds of games their children are playing. But a truly independent oversight body is necessary. By evaluating and rating these games, a proper oversight panel would help arm parents with the information they need to ensure the video games their children are playing are age-appropriate.

[From the New York Times, July 21, 2005]

Video Game Known for Violence Lands in Rating Trouble Over Sex

(By Seth Schiesel)

Under pressure from Democratic senators, the board that rates video games assigned the latest installment of the Grand Theft Auto series an adults-only label yesterday, effectively removing it form the shelves of most major retail stores.

The decision comes a few weeks after independent programmers uncovered a sexually suggestive scene that the game's creators say was never meant to be seen.

The board's president, Patricia Vance, said yesterday that the move was the first time in years that the group, the Entertainment Software Rating Board, had changed the rating for a game that had already been released. The rating was changed to "Adults Only" from "Mature," which is meant to signal appropriateness for players 17 and older.

Several top video game retailers, including Wal-Mart and Target, said yesterday that they would no longer sells the current version of the game, Grand Theft Auto: San Andreas.

Like the motion picture ratings system, the video game's review system is nominally voluntary but usually compulsory in practice. Just as major movie theater chains almost always refuse to exhibit NC-17 movies, most mainstream retailers refuse to stock adults-only games.

The game's developer, Rockstar Games, which is owned by Take-Two Interactive, said yesterday that it would stop making the current version of the game and would release a new version as soon as possible.

Fueled by a mix of freewheeling play and rough-and-tumble urban motifs, the Grand Theft Auto series has become one of the world's most popular game franchises. According to the NPD Group, a market research firm, the game had sold more than 21 million copies since 2001 and had generated $924 million in revenue for Rockstar Games.

Even as game players, mostly young men, have flocked to the series, politicians have signaled it out for its violence and sexually suggestive material.

The franchise's latest installment, San Andreas, has sold almost six million copies since its release in October but has drawn close scrutiny in recent weeks after independent game enthusiasts uncovered a sex-oriented "minigame" that had been hidden in the program's code.

To unlock the hidden scene, a user must download a program from the Internet known as Hot Coffee that was created by fans of the game. The scene depicts mostly clothed digital people performing sex movements.

"An artist makes a painting, then doesn't like the first version and paints over the canvas with a new painting, right?" said Rodney Walker, a spokesman for Rockstar Games. "That's what happened here. Hackers on the Internet made a program that scratches the canvas to reveal an earlier draft of the game."

Yesterday's decision by the rating board is sure to fuel tension between game companies and a subset of their players, known as modders, who make modifications for their favorite titles. Many companies, including Rockstar, have traditionally encouraged modders as a way of extending the life and relevance of their games.

But yesterday's action may also encourage publishers to make their games less alterable so that they are not held responsible for the changes the modders make or the old code that they unearth.

In a statement, Take-Two said that it was considering legal action against companies that help game players change the content.

Game players can buy devices on Web sites that allow them to alter games for consoles like Sony's PlayStation 2 that are impossible for normal users to change. On personal computers, users can change their games without special hardware.

Ms. Vance, the board's president, said that the mere presence of the Hot Coffee scene on the game disc, even in locked form, was cause to change the rating.

This is the first time that we have dealt with a third-party modification and this raises a number of issues that we as an industry will have to deal with," Ms. Vance said.

"We want to make it very clear to publishers that they must clean up their product before shipping it," she said. "In the past they may have included content on the disc that they never intended the audience to access, but now hackers have sophisticated tools to unlock this stuff and the publishers have to be sure to either disclose the material to us or delete it."

Yesterday's move came as the industry and the ratings board have come under increasing political pressure. After reports about the modification, Senator Hillary Rodham Clinton, Democrat of New York, called on the Federal Trade commission last week to investigate the game's earlier mature rating.

Mr. Walker of Rockstar said the company intended to release a new version of the game without the Hot Coffee code as soon as possible.

Ms. Vance said such a move would restore the Mature rating, and a Wal-Mart spokeswoman said that her company would almost certainly restock the new version.

Nonetheless, Take-Two lowered its financial forecast for its year that ends in October.

The company said it expected net sales for the year of $1.26 billion to $1.31 billion, down from an earlier forecast of $1.3 billion to 1.35 billion. The company said it expected earnings of $1.05 to $1.12 a share, down from an earlier forecast of $1.40 to $1.47 a share.

The Federal Trade Commission should look into this matter and investigate how this hidden material was placed in Grand Theft Auto. Parents across America must learn from this episode and participate and understand the games that their children are playing. They must play the games with their children when they bring them home and constantly review as the child progresses through the game, as the game changes. But right now what is needed more than ever is an independent rating system. We need it. We need it immediately.

Mr. Speaker, I yield back the balance of my time.

Mr. UPTON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I am a dad. I have got two teenagers. My son has an X Box game. We are very careful in terms of the games that come into our house, both when we go to the store to purchase them as well as what both he and my daughter watch. It is my clear understanding, and the gentlewoman from Minnesota and my colleagues here know it is our understanding, that this particular video game never should have had an "M" rating. It always should have been an "Adults-Only." Had it had an "Adults-Only," it would not have been on the shelves of a number of different major retail stores, whether they be Best Buy, Sears, Wal-Mart, et cetera. It was appropriate that they immediately remove those games from their shelves.

□ 1545

It is not appropriate. We are thinking that we are taking the right steps to send that message for all families across this country. Not only did we get the letter that was signed literally in about 10 minutes by more than 75 Members of this House in a bipartisan approach, but I have called the FTC to talk with them as well to make sure that if, in fact, they did violate the standard that they ought to use every sanction that they can to go after this particular manufacturer.

But this resolution spells it all out as well. And I would urge my colleagues to support this resolution because that indeed will send the message not only to this particular gamemaker but to use all the strength that the FTC has for those who violate those standards that we ought to seek sanctions appropriately to go after them so they do not profit from despicable games like this that no 13-year-old ought to be exposed to, let alone families across the country.

Mr. BACA. Mr. Speaker, I rise in support of H. Res. 376, to ask the FTC to look into the misrating of the "Grand Theft Auto" video game.

I have been working on this issue for the last five years, since 2000, and have been working also with Representative WOLF and others to ensure that members and the public understand the importance of this issue to our children. It's good to know that other members are becoming aware of the problem and together we can work in a bipartisan effort and make a difference.

Through our hard work, and that of those who are with us, the ESRB, the Voluntary Industry Rating Board, has now changed the rating of "Grand Theft Auto" from an M to an AO. That is not enough, because there are literally dozens of games out there that have the same type of offensive content, and the burden is now on the industry to explain why all of those games should not be rated AO, also.

But we will not wait for the industry. We must take action now. We must step up the pressure. For this reason, we have asked the FTC to scrutinize all video games, including "Grand Theft Auto", to make sure they are properly rated. We appreciate the continued expression of support by the Congress. Together we can make a difference.

My legislation, the Software Accuracy and Fraud Evaluation Rating Act or Safe Rating

Act (H.R. 1145), would empower parents, by calling upon the FTC to look at all video game ratings.

Parents are the gatekeeper for what their children watch or play, but how can they do that, if the ratings are not accurate? How can they do that if the ratings are confusing? We must empower parents!

The decision to rate "Grand Theft Auto—San Andreas" as adults only represents a small victory for those of us who have been calling on the video game industry to clean up its act.

However, the industry's self-regulation is a case of the fox guarding the hen house—and American children are at risk because of this.

Although the ratings board has decided in July of 2005 that San Andreas should be rated adults only, it has already been sold for at least 18 months, earning millions of dollars for its producer. In fact, it was the best-selling game of 2004! And that means that millions of American children have played it, being exposed to graphic violent and sexual content.

Parents are confused by the ratings and angry that their kids are being exposed to filth and violence.

I hear from concerned parents in my district in California and from all over America.

The most important step we should take now is to pursue an investigation by the Federal Trade Commission into the video game rating system as my legislation calls for.

I have recently met with the FTC chairwoman Deborah Majoras to press for changes in how the games are reviewed and rated.

This is a $25 billion worldwide industry that makes much of its profits by targeting teenage and younger boys.

The industry can give a game an M rating with a wink because it knows that any kid can buy a game even if it has an M rating.

There are several problems with the M Rating:

The wording on the label (in the small print on the back of the package) does not give parents a full and honest understanding of what is really in the game.

The M rating is confusing because the criteria that the industry uses to determine an M rating is almost identical to what it uses for the adults only rating.

Kids are buying these games! This month CBS News reported the results of a recent study: Despite the warning labels, 50 percent of boys age 7–14 have bought a game rated-M, for mature audiences, and a stunning nine out of ten of the boys have played them.

These games are harmful to children. Playing a violent or graphic video game hurts a child even more than watching a violent movie or TV show or listening to an obscene song because the child is role playing. The child assumes the identity of a criminal or a gang member.

Too many video games glorify and reward violent and criminal behavior. Why don't the video games feature heroic characters? Instead of having a child act like a cop-killer, why not make him a police officer? Instead of someone who kills, why not make him a lifesaver, like a fireman or a doctor?

It's time that the video game industry acted responsibly. It's time to take a hard look at their ratings. We must support this legislation on the floor today, and I urge all members to give their full support to my bill, H.R. 1145, to have the FTC look at the ratings of all video games.

Mr. WOLF. Mr. Speaker, with consideration of H. Res. 376, which expressed the sense of the House of Representatives that the Federal Trade Commission Should Investigate the Publication of the Video Game "Grand Theft Auto: San Andreas" to determine if the publisher intentionally deceived the Entertainment Software Ratings Board to avoid an "Adults-Only" rating, I would like to enter a recent article from the Los Angeles Times into the Record. This article highlights the conflict of interest that is inherent in a voluntary rating system. The real question is: Can you trust this industry?

[From the Los Angeles Times, July 21, 2005]

HIDDEN SEX SCENES SPARK FUROR OVER VIDEO GAME

(By Alex Pham)

The oversight board that puts parental ratings on video games took the unusual step Wednesday of slapping its strongest warning on a bestselling title as the game maker admitted putting explicit, interactive sex scenes on the disc.

Retailers began pulling copies of "Grand Theft Auto: San Andreas" from their shelves after the Entertainment Software Ratings Board revoked the game's "Mature" rating and raised it to "Adults Only." Publisher Take-Two Interactive Software Inc. said it planned to rework "San Andreas"—the top-selling video game of 2004—and reissue it later this year.

The ratings board is similar to the Motion Picture Assn. of America's rating board. A "Mature" rating is analogous to an R movie rating, and "Adults Only" is equivalent to NC–17. Most retailers refuse to sell "Adults Only" games.

Executives at New York-based Take-Two had denied for weeks that company programmers were responsible for the graphic sex scenes, which can be unlocked with software that was widely available on the Internet. But Wednesday they acknowledged that the game's designers had created the scenes, dubbed "Hot Coffee."

"The editing of any game is a highly technical process," said Take-Two spokesman Rodney Walker. "We liken it to a painter who paints one painting and paints over it on the same canvas."

Walker's explanation did little to mollify critics, who point to the "Grand Theft Auto" series to highlight the issue of violence and sexuality in video games. The games celebrate nihilistic killing, and Take-Two has reveled in its image as the bad boy of a $25-billion global game industry that's trying to gain respectability to match its profits.

"It looks like Take-Two Interactive purposefully conned the video game industry rating board and parents across the country," said Washington state Rep. Mary Lou Dickerson. "'San Andreas,' as a top-selling game in the country, now is in the hands of thousands of children who can practice interactive pornography. There should be legal consequences . . . so [the company doesn't] laugh all the way to the bank."

"San Andreas," which retails for about $50, has sold more than 12 million copies worldwide since its launch in October. "Mature" rated games are intended for players older than 17. Many retailers keep such games under lock and key and have policies requiring clerks to check the identification of buyers.

Wal-Mart Stores Inc., which accounts for as much as 20% of video game sales in the United States, began removing "San Andreas" from its shelves Wednesday, as did Best Buy Co.

"Our policy is not to carry any adult titles on our shelves," said Wal-Mart spokeswoman Karen Burk, who said buyers "can certainly bring the product back" for a refund.

Take-Two said it would make a patch available for downloading so that customers could block the sex scenes.

Word of the scenes began spreading over the Internet last month after Dutch programmer Patrick Wildenbourg began distributing software that he said unlocked them.

Many video games have secrets to which players gain access as they progress. They might, for instance, win extra powers or reach hidden levels.

"Hot Coffee," by contrast, is an interactive sex game, featuring oral sex and intercourse.

Wildenbourg, who removed his software from the Internet on Wednesday, declined to comment.

As late as last week, Take-Two had insisted that the sex scenes were "the work of a determined group of hackers who have gone to significant trouble to alter scenes in the official version of the game." Hackers, the company said, created the scenes by "disassembling and then combining, recompiling and altering the game's code."

The scenes prompted an outcry from game critics, including Sen. Hillary Rodham Clinton (D–N.Y.), who last week called for a federal investigation into "Hot Coffee."

The Entertainment Software Ratings Board began a review to determine whether the scenes were part of the game's original code and warranted a re-rating of "San Andreas," versions of which play on Sony Corp.'s PlayStation 2, Microsoft Corp.'s Xbox and personal computers.

"After a thorough investigation, we have concluded that sexually explicit material exists in a fully rendered, unmodified form on the final discs of all three platform versions of the game," said Patricia Vance, president of the ratings board. "Clearly the [original] rating was incorrect, and it needed to be corrected."

Take-Two's Walker said Wednesday that the sex scenes were never meant to be seen by the public and that they were revealed only when an outside programmer, called a "modder," wrote software to unlock them.

"The mod community scratched the painting, revealing the earlier work," he said.

Analysts estimated that modifying and remarketing "San Andreas" would cost Take-Two about $40 million in lost sales. Shares of Take-Two fell 11% in after-hours trading.

"It was a very poor exercise of judgment and a very costly one," said Michael Pachter, a video game industry analyst at Wedbush Morgan Securities in Los Angeles. "It's an embarrassment for management because obviously a maverick developer in their studios decided to put this stuff in there. I can only fault the management team for not putting systems in place to vet their games."

Take-Two is no stranger to controversy. Previous installments of "Grand Theft Auto" have been adored by hard-core gamers but excoriated by parent groups and lawmakers for their depictions of violence and sex.

In one, players could have sex with a prostitute and then beat her to death and take back their money. That game was rated "Mature" because players did not see the sex. Instead, they saw a parked car rock back and forth.

Some lawmakers criticized the ratings board for failing to detect the sex scenes in its initial evaluation of "San Andreas" last year. Although the system is voluntary, most game publishers seek a rating from the organization, which evaluated more than 1,000 titles last year.

"It should not have taken this long," said Rep. Joe Baca (D-Rialto). "This is evidence that the voluntary ratings system does not work."

Video game industry executives tried to assure parents that the "San Andreas" incident was an anomaly.

The ratings board "has been in business for 11 years, and there has never yet been an incident of this kind," said Doug Lowenstein, head of the Entertainment Software Assn., the industry's trade group. "You're looking at well over 10,000 games rated. If you look at that track record, you can say parents have every reason to be confident in the ratings system."

Some consumers weren't completely reassured.

"As a parent I've lost some confidence in the [ratings board's] ability to police the industry," said Dennis McCauley, editor of GamePolitics.com. "But [the board] did take a big step today, and I have to give them credit for that."

Mr. HOYER. Mr. Speaker, I rise in support of H. Res. 376, which expresses the sense of the House of Representatives that the Federal Trade Commission should investigate the publication of the video game "Grand Theft Auto: San Andreas" to determine whether the publisher deceived the Entertainment Software Ratings Board to avoid an "Adults-Only" rating.

I believe that the government should always tread lightly and carefully in taking action that evaluates the content of video games, music, movies, books and similar materials.

I also believe that parents have the primary responsibility for evaluating and monitoring the content available to their children.

However, the content industry—movie studios, television networks, record labels, book publishers, and video game developers—also has a responsibility to accurately, honestly and responsibly label and market their products.

Thus, I believe it is appropriate and necessary for the Federal Trade Commission to inquire and investigate the development and marketing process for "Grand Theft Auto: San Andreas."

There is no question that pornographic material was embedded in this video game, and that it has been marketed to teenagers and sold in stores in every community in America. The developers and publishers of this video game owe an explanation. Were they aware that the game contained embedded scenes that would inevitably be revealed? And, did they purposely pursue a rating from the Entertainment Software Rating Board of "Mature" rather than "Adults Only" to ensure that the game could be sold teenagers and thus a broader market?

This is the purpose of this investigation and this bill. Intentional deception must not go unpunished.

Mr. UPTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLBE). The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and agree to the resolution, H. Res. 376, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. UPTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair earlier announced to the Members that there would be a moment of silence observed at this time in honor of Officers Gibson and Chestnut.

However, this moment of silence will be observed this evening in between votes, which will commence at 6:30 p.m.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 3 o'clock and 47 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. EMERSON) at 6 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on three of the motions to suspend the rules previously postponed. Votes will be taken in the following order:

H.J. Res. 59 by the yeas and nays;

H. Con. Res. 181 by the yeas and nays; and

H. Res. 376 by the yeas and nays.

Proceedings on the other postponed questions will resume on another day.

The first and third electronic votes will be conducted as 15-minute votes. The second vote in the series will be a 5-minute vote.

EXPRESSING SENSE OF CONGRESS WITH RESPECT TO COMMEMORATION OF WOMEN SUFFRAGISTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the joint resolution, H. J. Res. 59, as amended.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and pass the joint resolution, H. J. Res. 59, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 378, nays 0, not voting 55, as follows:

[Roll No. 417]

YEAS—378

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Conaway
Conyers
Costa
Costello
Cox
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Dicks
Dingell
Doggett
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
Kingston
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter

McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Oberstar
Obey
Olver
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—55

Bean
Becerra
Berman
Bishop (UT)
Brown, Corrine
Brown-Waite, Ginny
Buyer
Cannon
Clay
Cole (OK)
Cooper
Cramer
Cunningham
Delahunt
Diaz-Balart, M.
Doolittle
Fattah
Feeney
Ford
Fossella
Gallegly
Gibbons
Gutierrez
Hinojosa
Hobson
Hostettler
Hulshof
Istook
Jenkins
Kilpatrick (MI)
King (NY)
Kirk
Linder
Miller (MI)
Neal (MA)
Nussle
Ortiz
Pelosi
Pryce (OH)
Radanovich
Rahall
Reyes
Rothman
Rush
Schiff
Shays
Sodrel
Souder
Strickland
Sweeney
Terry
Tiberi
Weldon (FL)
Weldon (PA)
Young (FL)

☐ 1854

Ms. WOOLSEY and Mr. FERGUSON changed their vote from "nay" to yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the joint resolution was amended so as to read: "Joint Resolution Expressing the sense of Congress with respect to the women suffragists who fought for and won the right of women to vote in the United States.".

A motion to reconsider was laid on the table.

Stated for:

Mr. KIRK. Madam Speaker, on rollcall No. 417 I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. SCHIFF. Madam Speaker, on rollcall No. 417 had I been present, I would have voted "yea."

MOMENT OF SILENCE OBSERVED IN MEMORY OF OFFICER JACOB J. CHESTNUT AND DETECTIVE JOHN M. GIBSON

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to the Chair's announcement of earlier today, the House will now observe a moment of silence in memory of Officer Jacob J. Chestnut and Detective John M. Gibson.

Will all please rise for a moment of silence.

Thank you.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, the next votes will be 5-minute votes.

There was no objection.

SUPPORTING THE GOALS AND RULES OF NATIONAL LIFE INSURANCE AWARENESS MONTH

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 181, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 181, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 377, nays 4, not voting 52, as follows:

[Roll No. 418]

YEAS—377

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Conaway
Conyers
Costa
Costello
Cox
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Dicks
Dingell
Doggett
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Oberstar
Obey
Olver
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stearns
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt

Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—4

Flake
Miller, George
Paul
Stark

NOT VOTING—52

Bean
Becerra
Berman
Bishop (UT)
Brown, Corrine
Brown-Waite, Ginny
Buyer
Cannon
Clay
Cole (OK)
Cooper
Cramer
Cunningham
Davis (FL)
Delahunt
Diaz-Balart, M.
Doolittle
Fattah
Feeney
Fossella
Gallegly
Gibbons
Gutierrez
Hinojosa
Hobson
Hostettler
Hulshof
Istook
Jenkins
Kilpatrick (MI)
King (NY)
Linder
Miller (MI)
Nussle
Ortiz
Pelosi
Pryce (OH)
Radanovich
Rahall
Reyes
Rothman
Rush
Shays
Sodrel
Souder
Strickland
Sweeney
Terry
Tiberi
Weldon (FL)
Weldon (PA)
Young (FL)

☐ 1906

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF THE HOUSE THAT THE FEDERAL TRADE COMMISSION SHOULD INVESTIGATE THE PUBLICATION OF THE VIDEO GAME "GRAND THEFT AUTO: SAN ANDREAS"

The SPEAKER pro tempore (Mr. DENT). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 376, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and agree to the resolution, H. Res. 376, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 355, nays 21, answered "present" 1, not voting 56, as follows:

[Roll No. 419]

YEAS—355

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Conaway
Cooper
Costa
Cox
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Dicks
Dingell
Doggett
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Oberstar
Olver
Osborne
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stearns
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Waxman
Weiner
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)

NAYS—21

Abercrombie
Berkley
Blumenauer
Conyers
Flake
Frank (MA)
Grijalva
Hastings (FL)
Johnson, E. B.
Jones (OH)
Lee
Lewis (GA)
McDermott
Owens
Paul
Payne
Serrano
Stark
Towns
Velazquez
Woolsey

ANSWERED "PRESENT"—1

Watt

NOT VOTING—56

Bachus
Bean
Becerra
Berman
Bishop (UT)
Brown, Corrine
Brown-Waite, Ginny
Buyer
Cannon
Clay
Cole (OK)
Costello
Cramer
Cunningham
Davis (FL)
Delahunt
Diaz-Balart, M.
Doolittle
Fattah
Feeney
Fossella
Gallegly
Gibbons
Gutierrez
Hinojosa
Hobson
Hostettler
Hulshof
Istook
Jefferson
Jenkins
Kilpatrick (MI)
King (NY)
Linder
Miller (MI)
Murtha
Nussle
Obey
Ortiz
Pelosi
Pryce (OH)
Radanovich
Rahall
Reyes
Rothman
Rush
Shays
Sodrel
Souder
Strickland
Sweeney
Terry
Tiberi
Weldon (FL)
Weldon (PA)
Young (FL)

☐ 1923

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: "Expressing the sense of the House of Representatives that the Federal Trade Commission should investigate the publication of the video game 'Grand Theft Auto: San Andreas' to determine if the publisher deceived the Entertainment Software Ratings Board to avoid an 'Adults-Only' rating.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this Chamber today. I would like to the RECORD to show that, had I been present, I would have voted "yea" on rollcall votes 417, 418 and 419.

PERSONAL EXPLANATION

Ms. KILPATRICK of Michigan. Mr. Speaker, personal business prevents me from being present for legislative business scheduled for today, Monday, July 25, 2005. Had I been present, I would have voted "yea" on H.J. Res. 59, expressing the sense of Congress concerning the establishment of an appropriate day for the commemoration of the women suffragists who fought for and won the right of women to vote in the United States (rollcall No. 417); "yea" on H. Con. Res. 181, supporting the goals and ideals of National Life Insurance Awareness Month (rollcall No. 418); and "yea" on H.R. 2977, designating the "Abraham Lincoln Birthplace Post Office Building" (rollcall No. 419).

PERSONAL EXPLANATION

Mr. COOPER. Mr. Speaker, I was unable to be present for a series of rollcall votes occurring the morning of July 22, 2005. During that time I was attending a memorial service for my friend, Avon Williams III, held at the Pentagon. I was also unable to be present for a series of rollcall votes held on the evening of July 25, 2005. During that time I incurred an unavoidable transportation delay.

Had I been present, I would have voted as follows:

On rollcall No. 415, the Velázquez amendment to H.R. 3070, I would have voted "aye."

On rollcall No. 416, passage of H.R. 3070, I would have voted "aye."

On rollcall No. 417, passage of H.J. Res. 59, I would have voted "yea."

On rollcall No. 418, passage of H. Con. Res. 181, I would have voted "yea."

PERSONAL EXPLANATION

Mr. HINOJOSA. Mr. Speaker, I regret that I was unavoidably detained. Had I been present, I would have voted "yea" on rollcall No. 417, "yea" on rollcall No. 418, and "yea" on rollcall No. 419.

ILLEGAL IMMIGRATION AND THE REAL ID ACT

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, on Sunday the Chattanooga Times Free Press ran an op-ed that I wrote about the READ ID Act. They also ran an op-ed by a college professor who disagrees with the READ ID Act.

I want to thank the editors of that paper for being sure that both sides were represented on this issue. That is what every newspaper should strive for: equal time and let the readers decide.

As I pointed out in my op-ed, illegal immigration is clearly a matter of national security, and for too long States like Tennessee have known and done nothing about the ease with which illegal aliens are obtaining valid government IDs. I believe it is unacceptable. I think most Tennesseeans agree with me.

When I was in the State Senate in Tennessee, I fought to fix the problem, and now I am pleased that Congress and this Republican leadership have supported the READ ID Act. We are taking critically important steps toward tightening our licensing and identification policies to fight illegal immigration and terrorism.

UNDOCUMENTED WORKERS

(Mr. KENNEDY of Rhode Island asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Rhode Island. Mr. Speaker, I just want to respond to the previous speech, and that is to say I wish that we would call people "undocumented workers." I do not think it is too much to call people "undocumented workers" because that is who they are. Many times people are working hard in our communities, with families, who are trying to get their families food at night, a place for them to sleep.

To call them aliens, I think, is demeaning to them, and I think it is derogatory, and I think it is unfitting for this country to refer to people in that manner. And I would hope that, in the rest of the debate, instead of calling them "illegal aliens," Members would call them what they are, and that is "undocumented workers."

FIGHTING CHILDHOOD OBESITY

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I rise today to recognize a young lady from my district who is inspiring her peers to live a healthy lifestyle.

Eleven-year-old Madison Newberry of Lewisville, North Carolina was just like any other kid at Lewisville Elementary School, except that she was never able to fit into a pair of jeans. Madison is one of approximately 15 percent of American children who are overweight.

Yet Madison grew tired of wearing stretch pants. And when her doctor told her she had high cholesterol, she knew it was time to make a lifestyle change.

Madison lost 15 pounds by switching to a healthy diet and exercising. In April of 2004, Subway chose Madison to appear in two nationally televised commercials as part of its childhood obesity prevention campaign. Then in July, 2004, she marched in Washington with Subway spokesperson Jared Fogle to help kick off the restaurant's national childhood obesity program.

Obesity among young Americans is a serious problem that can have serious ramifications in the long run. The number of kids affected by obesity has tripled since 1980, and this can be traced in large part to lack of exercise and a healthy diet. I am proud of Madison Newberry for serving as a positive role model to other kids and look forward to seeing more of her peers follow in her footsteps.

THE WAR ON TERROR AND OFFERING SYMPATHY TO THE PEOPLE OF EGYPT

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, as we did just 2 weeks ago and then just 4 days ago on behalf of the people of London to offer them our sympathy for the tragedy of another terrorist attack, I rise today to offer my sympathy to the people of Egypt, who have experienced an enormous tragedy over the last couple of days.

Militant terrorists have terrorized a tourist area where Americans and many others from around the world come in harmony to enjoy summer vacation. This should tell us that we are united and should be united in the war on terror. The war on terror does not have a face, and it does not discriminate. It does not distinguish. It is attacking people of goodwill around the world.

My sympathies to President Mubarak, who stood fast and said that, as the terrorists acted in Egypt, they were going to find them and bring them to justice.

This is the kind of war on terror that we need to join hands with people from around the world. We are not losing the battle, but we need all of the help that we possibly can get; and our focus should be united around those terrorists who do not have country, do not have mind, do not have care, and are attacking people from everywhere all over the world.

We need to stand united against the war on terror.

☐ 1930

SUPPORT ASSOCIATION HEALTH PLANS

(Mr. KELLER asked and was given permission to address the House for 1 minute.)

Mr. KELLER. Mr. Speaker, the number one problem facing small businesses today is the skyrocketing cost of health insurance. Association health plans are a big part of the solution.

I met with many small-business people from my hometown of Orlando, Florida, and they told me that they need association health plans. I believe them, and I will tell you why.

Of the 45 million Americans now without health insurance, 60 percent are small-business employees and their families. They do not have health insurance because their employers cannot afford it. If we allowed these small businesses to join together, they could have the same bargaining power as a large corporation, which could lower their health insurance premiums by up to 30 percent.

Mr. Speaker, association health plans will increase access to health care for millions of Americans now without health insurance.

I urge my colleagues to vote yes on association health plans.

CRITICIZING DRUG LIABILITY PROVISION IN MEDICAL MALPRACTICE LEGISLATION

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, this body is scheduled to vote on medical malpractice legislation. This bill contains an egregious provision to protect drug companies from any form of liability.

Why would this Congress protect companies like Merck, who deceived the American public by hiding the side effects of Vioxx? An estimated 139,000 people have had heart attacks as a result of taking Vioxx, and, according to the FDA, 55,000 people have died. I am not aware of any other industry that would receive this type of liability protection just for going through the government approval process.

The fact is that drug companies have made a smart investment. There is no other place in the world that would give them this type of return on their investment but this Congress.

On one side of the screen, Americans are fighting for fairness in the court. On the other side of the screen, Congress is mounting a rear-guard action to protect the pharmaceutical companies.

Mr. Speaker, when Congress takes up this medical malpractice legislation, I will introduce the Vioxx amendment to strike this blatantly beneficial provision just for the drug companies. When the Speaker's gavel comes down, it is intended to open the people's House, not the auction house.

COMMENDING FELLOW CONGRESSMAN CHRIS COX OF CALIFORNIA

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to commend one of our colleagues, the gentleman from California (Mr. Cox). Tomorrow he will go before the Senate Committee on Financial Services, Housing, and Urban Affairs to have his nomination considered for the Securities and Exchange Commission, and I would like to extend congratulations to him and his family. I have every confidence that in his new capacity, Chris will do an excellent job.

Chris has made such a positive and lasting impression during his tenure here in the House, and he will be sorely missed.

Since 1988, Chris has made countless contributions, especially as the first chairman of the Committee on Homeland Security. In this capacity, he oversaw a momentous and much-needed reorganization of the Nation's security authority.

I feel privileged to have worked with such a distinguished Member of Congress, and I wish him continued success in all of his future endeavors.

THE TIME IS NOW FOR PENSION REFORM

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, the time to pass pension reform is now.

Today, with Senator Johnny Isakson and the gentleman from Georgia (Mr. Westmoreland), I spoke with Delta employees and retirees at the Delta Pension Reform Support Day in Atlanta. The sense of urgency for a solution to our Nation's pension crisis could not have been more evident.

In the face of high fuel costs and a post-9/11 world, financial losses continue to hinder legacy airline carriers' ability to fully fund their pension plans. Having airlines keep their commitments to their employees and not burden taxpayers is what this is all about.

Pension reform is financial security for thousands of airline employees. Retiring with a pension of only a fraction of what you expected is not truly a retirement. A lifetime of work should not be rewarded with wondering how you will make ends meet.

Mr. Speaker, the case has been made. Pension reform is needed now. The employees with whom I spoke today have put forth much effort to make a difference. They realize the crisis their pension plans are in, the American public realizes the crisis that pension plans are in, and it is time we fixed the problem before it is too late and before the burden is put on the backs of the American taxpayers. Without objection.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. Dent). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ORDER OF BUSINESS

Mr. MORAN of Kansas. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

A CELEBRATION OF INA MAE SELFRIDGE'S LIFE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. Moran) is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, this evening I rise to recognize and celebrate the life of a constituent and friend, Ina Mae Selfridge. Ina passed away suddenly on Sunday, July 17, at the age of 76. Her death is a tremendous loss to her family, her community, and the many individuals who were fortunate enough to call her a friend.

Probably the greatest compliment I could give Ina is that she was a great farm girl. In truth, she embodied much of what is good and decent about the family farm and the way of life we enjoy in Kansas. Ina is one of those people you meet and you think to yourself, I am in the presence of an extraordinary human being.

I have known Ina through her many years of service to the organization Women Involved in Farm Economics, otherwise known as WIFE. Most recently, Ina was the national president of WIFE and has served in this position for the past 2 years. Ina was also the State president and member of the Gold Waves Chapter 76 of WIFE located in central and southwest Kansas.

It would not be fitting to talk about Ina and not bring up the ideals and accomplishments of WIFE. Ina truly cared about agriculture and about rural communities. On her many visits to Washington over the years, Ina joined other WIFE leaders to advocate on behalf of the family farm. From health care to energy policy to emergency drought assistance, Ina knew what was going on in farm country because she lived it each and every day.

In fact, Ina's trips to D.C. were usually scheduled so they would not interfere with harvest. In written testimony she gave in 2003 on credit availability in rural areas, she wrote that she would have preferred to be here in person, but it was wheat harvest and "all hands are on deck for the entire family." Indeed, Ina was an integral part of her family farm, even at age 76.

Ina farmed in true partnership with her husband Elmer Selfridge and several of her sons. Their farm in eastern Hodgeman County included wheat, forages and grains for their 1,000-head feedlot. She is survived by her husband; her four sons, Randy, Tyler, Brad, and Wade; and nine grandchildren.

Ina would want me to use part of this time to talk about agriculture. Today I wear a domino on my lapel that she gave to me. It represents WIFE's theme that agriculture has a domino effect on America. Like dominos standing next to each other, when the farmer suffers economic loss, so do local businesses, schools, communities, churches, and local government. Today, however, I wear the domino to show how Ina's life had a positive domino effect on the many lives of everyone who came in contact with her.

Ina had an enthusiasm that few possess. You could not be around Ina and not feel a sense of excitement about what the future might hold. The pioneer spirit of optimism and hard work that established farms across Kansas was alive and strong in Ina. Insights into the life she lived can be derived from her e-mail address, which is simply "happy." This is not to say there were not hardships on the farm. Many parts of Kansas are just now recovering from 5 years of drought, but Ina's can-do personality is an inspiration to us all.

The last time she was in my office she said, "I may not be the WIFE president next year, but I will be back again to remind you about the importance of agriculture." Today I bet she would say, "Time to get back to work. The wheat harvest is in, but we must get ready for the fall crops."

Our thoughts and prayers go out to Ina's family in this time of difficulty with the knowledge that their loss on Earth is God's gain in heaven. It is my absolute privilege to have known Ina. The world is a better place because of her, and she will be greatly missed.

GUN LIABILITY LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

Mrs. MCCARTHY. Mr. Speaker, first I would like to congratulate a colleague of ours, the gentlewoman from California (Ms. WOOLSEY), who is actually having her 100th 5-minute Special Order, and we are very proud of her, the country is very proud of her, on bringing issues that certainly affect her constituency and all of ours. So I congratulate her.

The leadership of Congress is constantly preaching about responsibility. Individuals should accept the consequences of their actions. Unfortunately, this culture of responsibility does not extend to the gun industry and negligent gun sellers.

The other body is planning on taking on legislation to grant the gun industry unprecedented immunity from litigation and other legal action. Under this legislation, dealers and manufacturers of guns would receive immunity from any legal action. The gun industry would be unlike the sellers and makers of nearly every other consumer product. These industries must face the consequences of their negligence and misjudgment. In fact, manufacturers and sellers of toy guns are more liable for their products than the makers and sellers of assault weapons and handguns.

The NRA has named this issue as their number one legislative priority this year. They say this bill will end frivolous lawsuits, but not a single, not a single suit against the gun industry has ever been deemed frivolous by a court of law.

This legislation is not about protecting an honest gun dealer who legally sells a gun to someone who later commits a crime. This legislation protects cases of gross negligence which has led to the deaths of unsuspecting victims.

For example, the owner of the Bull's Eye Shooter Supply Store in Washington State was sued because he could not account for 239 guns in his inventory. One of those guns was the Bushmaster used in the D.C. sniper killings. The D.C. sniper killers were allowed to get their hands on a gun because of a gun seller's negligence. But this legislation would get the Bull's Eye Shooter Supply Store off the hook from any legal action.

Fortunately, a lawsuit was already filed against Bull's Eye and Bushmaster. Part of the settlement was Bushmaster agreeing to work with its dealer to promote safe sales practices to prevent continued instances of negligence. But the bill being taken up by the other body would have forced the immediate dismissal of the lawsuit against Bull's Eye.

The gun industry must be subjected to the same laws that govern every other American business, and courthouse doors must remain open to those injured or who have lost loved ones because of the gun industry's negligence. This bill would allow gun dealers to knowingly sell large quantities of guns to a single customer intending to traffic the guns to criminals without any legal repercussions.

Stripping away the threat of legal action would seriously jeopardize any opportunity to make guns safer. Without the threat of lawsuits, the gun industry would have no incentive to incorporate gun locks, safety triggers, and smart gun technology into their products. Imagine if this bill had been passed 40 years ago to cover the auto industry. Today cars would not have seatbelts, airbags, or antilock brakes.

Instead of giving the gun industry never-before-seen levels of protection, I support giving the industry Federal research and development money. This money will be used to develop reasonable safety measures for their products.

Congress has not been responding to the threat that gun violence poses on our safety and homeland security. So I will speak in a language the congressional leadership understands: dollars and cents.

It is unfortunate Congress will not allow the Centers for Disease Control to study the economic impact of gun violence, so we have to use data from independent sources.

□ 1945

Independent studies have shown gun violence costs our health care system over $100 billion a year, $100 billion a year. The $100 billion-a-year cost includes premiums paid for private health insurance and tax dollars used to pay for Medicaid.

These costs often are not reimbursed and cost the States vital health care money. Victims who survive and suffer years of rehabilitation costs run into the hundreds of thousands of dollars. The average cost of each firearm fatality, including medical care, police services, and lost productivity is almost $1 million per person.

Researchers found taxpayers finance 48 percent of health care costs resulting from gun violence through Medicaid and other government programs, which means the American taxpayers are footing the bill for the destruction gun violence causes.

Mr. Speaker, why are we spending time helping the gun dealers and manufacturers? We should be investigating technology that will make guns safer. Safer, smarter guns prevent lawsuits against the gun industry, but more importantly prevent the tragic, unnecessary loss of life that the gun industry's negligence provokes.

We should be giving them research and development money. We should be doing everything we can to prevent the injuries. People do not understand when gun violence hits home, it is a whole disaster to the family and to the community. We can do a better job. We should be doing a better job.

But protecting the gun industry, or certainly the gun dealers from not being able to be sued, is wrong. We should not be closing the courts for anyone.

ORDER OF BUSINESS

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to speak out of order for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

LACK OF SUPPORT FOR CAFTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I am on the floor again tonight. I have been speaking against CAFTA. I have joined my friends on both the Republican side and the Democratic side who feel that CAFTA is not good for the American workers and not good for the American people and certainly does not help those in Central America.

And tonight I want to take just a few minutes and insert for the RECORD the entirety of a letter from seven members of the general assemblies down in five of the countries that are opposed to CAFTA.

Mr. Speaker, the gentleman that I met recently is from El Salvador, and this was at a conference last week that the gentleman from Ohio (Mr. BROWN) and I attended, Interfaith Council of Protestants, Catholics, and also one rabbi to speak in opposition to CAFTA.

Let me just give the first introductory statement. It says: "Dear Members of the United States Congress, the CAFTA market has fewer than 9.2 million people who can buy U.S. goods."

Now, this is a long letter. It is signed by seven members of the Central American assemblies, El Salvador, Nicaragua, Guatemala and Honduras.

Mr. Speaker, I want to go to the last paragraph of the letter from those members of the elected bodies of those countries. And this is what it says in the close of their letter, not mine, but their letter: "CAFTA is a bad trade deal because it puts the interests of international corporations ahead of the welfare of the working poor and the poor in Central America. If CAFTA is approved, the social instability that CAFTA supporters like to use as a reason for approving the agreement will come not from outside forces, but from the pressures created by the millions of displaced workers who will fall further into poverty."

It is time to say "no" to CAFTA and begin negotiating a new trade agreement that takes into account the region's need for development and real opportunity for its citizens. We respectfully ask you for your support of our people and vote "no" on CAFTA.

Mr. Speaker, again this is from seven people from different countries who represent their people in Central America who are opposed to this agreement.

Let me now go, in the few minutes I have left, to a joint statement concerning the United States Central American Free Trade Agreement by the Bishops' Secretariat of Central America and the chairman of the Domestic and International Policy Committees of the United States Conference of Catholic Bishops.

And let me just make a few points that they make in their long letter of opposition. First it says: "In light of the values and principles that we have outlined as well as the situation of the people, we express some of our specific concerns about the potential impact of CAFTA on our countries, especially in Central America."

I am going to just read a few points: "There has not been sufficient information and debate in our countries about the various aspects of CAFTA and its impact on our societies." Another point: in the area of agriculture, there is insufficient attention given to such sensitive issues as the potential impact that U.S. farm supports on Central America farm products. It seems like that poor farming communities in Central America will suffer greatly when subsidized agricultural products from United States expand their reach into these markets.

Another point made by the bishops: while certain labor and environmental provisions are included in the agreement, it is not clear that the enforcement mechanisms within CAFTA will lead to stronger protections of fundamental worker rights and the environment.

Then there is one other point that I want to read, Mr. Speaker. This, again, was from the Catholic Bishops of Central America and the Catholic Bishops of America: the treaty will have effects on intellectual property rights. The proposed legal framework could jeopardize a right of Central American countries to exercise proper stewardship of their natural resources.

Mr. Speaker, I am here tonight because in my State of North Carolina, I was not here when NAFTA passed back in 1992, enacted in 1993, but we have lost over 200,000 jobs in North Carolina. In the country of America, we have lost better than 2.5 million jobs since NAFTA was enacted in 1993.

I did not vote for Trade Promotion Authority. I did not think President Bush should have it, nor Clinton. I am not for trying to enable the Chinese to have all of the manufacturing, all of the moneys, and to build their military like they are doing. That is of great concern to many Americans in this country.

Mr. Speaker, to my left there is an article that was in a paper in one of my counties in eastern North Carolina about 4 months ago. And it says: VF Jeanswear closes plant. Operations performed in Wilson, North Carolina, which included fabric cutting and finishing garments will be moved to Central America. Quite frankly, it is going to Honduras.

Four hundred forty-five American citizens lost their jobs. They are going to Central America without even CAFTA. I do not know what it takes for this Congress to understand that if this country becomes a second-rate manufacturing country, then we can place our orders for airplanes and tanks from China.

Mr. Speaker, I hope that I do not live long enough to see that happen. But I am afraid it is going to happen. CAFTA is not good for the American people. It is not even good for the people in these five Central American countries. They need to redraw this amendment. I think I can support an amendment if it were fair to America and fair to Central America.

Let us bury CAFTA next week or this week, and God bless America and our men and women in uniform.

The letter previously referred to follows:

JULY 19, 2005.

DEAR MEMBERS OF THE UNITED STATES CONGRESS:

THE CAFTA MARKET HAS FEWER THAN 9.2 MILLION PEOPLE WHO CAN BUY U.S. GOODS

President Bush claims that the CAFTA countries represent a growing market for U.S. goods. Unfortunately, this claim is far from the truth. A document prepared by CEPAL (the Economic Commission for Latin America-United Nations) entitled, "Development Objectives of the millennium, A Glance from Latin America and the Caribbean," June 10, 2005, reveals that of a population of 46 million people in the five Central American countries and the Dominican Republic, 25.6 million are poor. Only 20.4 million people are considered non-poor people. These numbers show that the open market of 44 million people that Pres. Bush claims will buy U.S. made goods does not exist. The majority of Central Americans are too poor to be able to afford U.S. made goods.

Furthermore, the majority of those who are considered non-poor (20.4 million people), are not secure market for most of the higher end goods and services that the North American companies want to export. This fact has been established by the same study CEPAL which affirms that 20 percent of those 46 million people, control more of 50 percent of the income; this can only mean that only 9.2 million people are the real market for U.S. companies. This is the same market that it is already shared with companies of the region, Europe and Asian countries who export to the region.

The low competitive advantage that companies of the Central American region have (i.e., low technology, high interest rates on financing, low skilled workforce), compared to the U.S. companies, will mean that the majority of small and large domestic firms will be devastated, subsequently generating more unemployment and less purchasing capacity for the rest of the population.

As in the case of the agro-business products, the level of asymmetry between the subsidized U.S. agro-products, and the non-subsidized Central American products, the situation of displacement is even worse. On its own account, the U.S. Department of Commerce forecast that the present levels of U.S. production will increase by more than 20 billions dollars in the first nine years of the implementation of CAFTA. More exports of U.S. goods to the region, while it is seen as a benefit for U.S. farmers, only means more displacement of the Central American agricultural production, the destruction of the already vulnerable food industry capacity of the region. This further aggravates the levels of poverty and unemployment of million of central American farmers in the region, who are already facing a very difficult economic and social crisis due to the lack of rural development policies by their own governments.

Therefore based on these facts, we believe the following: CAFTA will only lead to more social instability in the region as more medium and small farmers will lose their livelihoods and become part of the poor population numbers; CAFTA will bring a weakening of the already vulnerable democratic processes in Central America as more people are excluded from the productive sectors of the economy. More exploitation of workers in the formal sectors of the economy will only lead to further social unrest all through the region; CAFTA will only lead to more migration to the U.S. as more people are unable to make a living working on the rural areas, and the jobs perspectives in the cities do not improve. The 20 million who are currently poor, and those that will be further displaced, will turn to immigration to the

U.S. as the only solution to their economic problems. Just like the U.S. has seen an increase of immigrants from Mexico after NAFTA, more central American will turn to migration to the U.S.

As Legislative Representatives of the region, who represent a diverse perspective of political views, we respectfully ask you to vote NO on CAFTA. Some of our countries already approved the agreement (El Salvador, Guatemala and Honduras), others have not (Costa Rica and Dominican Republic); however, in all of the region, there has been real opposition to the agreement with mass protest from all the sectors. And the opposition keeps growing all through the region because this treaty threatens to weaken the already vulnerable democratic institutions that were created during the long conflicts of the 80s.

Our countries want trade, but not trade agreements like CAFTA that limit the possibilities for our countries to enact policies that will truly develop our economies and improve the lives of our people.

CAFTA is a bad trade deal because it puts the interest of international corporations ahead of the welfare of the working poor and the poor in Central America. If CAFTA is approved, the social instability that CAFTA supporters like to use as a reason for approving the agreement, will come not from outside forces, but from the pressures created by the millions of displaced workers who will fall further into poverty. It is time to say NO to CAFTA and begin negotiating a new trade agreement that takes into account the region's needs for development and real opportunity to all its citizens.

We respectfully ask you for your support of our people and Vote NO on CAFTA!

Sincerely,

REP. SALVADOR ARIAS,
National Legislative Assembly, El Salvador.

REP. HUGO MARTINEZ,
National Legislative Assembly, El Salvador.

REP. FERNANDO GONZALEZ,
National Legislative Assembly, El Salvador.

REP. ALBA PALACIOS,
National Legislative Assembly, Nicaragua.

REP. ORLANDO TARDENCILLA,
National Legislative Assembly, Nicaragua.

REP. OTONIEL FERNANDEZ GONZALEZ,
National Legislative Assembly, Guatemala.

REP. DORIS GUTIERREZ,
National Legislative Assembly, Honduras.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 525, SMALL BUSINESS HEALTH FAIRNESS ACT OF 2005

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 109–183) on the resolution (H. Res. 379) providing for consideration of the bill (H.R. 525) amending title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 22, POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 109–184) on the resolution (H. Res. 380) providing for consideration of the bill (H.R. 22) reforming the postal laws of the United States, which was referred to the House Calendar and ordered to be printed.

ORDER OF BUSINESS

Mrs. CHRISTENSEN. Mr. Speaker, I ask unanimous consent to speak out of order for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the Virgin Islands?

There was no objection.

REVIEW MINORITY HEALTH STATUS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) is recognized for 5 minutes.

Mrs. CHRISTENSEN. Mr. Speaker, this past weekend Members of the Black, Hispanic and Asian Pacific Islander caucuses met in Chicago to review the status of health in communities of color there and discuss policy and legislative remedies.

On the weekend before that, the Congressional Black Caucus held a brain trust, held similar meetings in Cleveland, Ohio. Both meetings, like the ones we have held in L.A., Miami, Newark, Charleston, and the U.S. Virgin Island were opportunities to talk to our wider constituencies, particularly people of color in this country, about their health care, or lack of it, their needs and what they think we, their Members of Congress and our colleagues, should be doing about it.

Mr. Speaker, all of the places we visited are communities in which African Americans in particular, but all people of color, suffer disproportionately from disease and disabilities and die prematurely from preventable causes in numbers which are far in excess of our white counterparts.

They are the health disparities that we have repeatedly come to the floor to talk about. Some examples are as follows: American Indian/Alaskan natives have diabetes rates that are nearly three times higher than the overall rate.

The death rate from asthma is more than three times higher among African Americans than among whites. The infant mortality rate for African Americans and American Indian and Alaskan Natives are more than two times higher.

Latino women who were newly diagnosed with breast cancer or lung cancer were diagnosed in later stages and had lower survival rates than white women with the same conditions.

Vietnamese women have cervical cancer death rates that are almost five times higher, and people of color make up almost three-fourths of all new AIDS cases.

In our discussions on these and other realities of health care in our country, what our community said to us was affirming, but it was also frustrating, affirming because their comments, complaints and recommendations told us that our agendas are on target, but frustrating because we have not been able to get this or the other body to make these needs the high priority they ought to be.

What is even more distressing is that what is on the health care agenda of this Congress would instead reduce access and increase gaps in health, and because of this, increase the cost of health care for everyone.

We, people of color, are already over half of the uninsured. Medicaid cuts will further reduce access to quality medical services; so we will continue to get to the system sicker, requiring more expensive care.

Association health plans, like the misguided health savings account, work best for the healthy, which because of centuries of neglect, minority communities are not.

Worst of all, the association health plans remove these plans from State laws that protect our access to an adequate level of benefits and our ability to seek redress if denied. The only place fairness can be found in the bill is in its name.

What our communities have told us they need are adequate coverage, expanding Medicaid. Just to cover 200 percent of poverty would make a major difference. They also want help to overcome the language barriers, and they want language services paid for, and not by the physicians and centers that provide our care.

They want health care providers to reflect the diverse Nation we have become, providers on all levels who know, understand and speak the same language they do. They want comprehensive care and more emphasis on prevention and health maintenance for the diseases that disable and kill us in disproportionate, preventable numbers.

They want a more effective office of minority health, office of civil rights, and Indian health service; and they want the health facilities that take care of us to stay open and be better funded. They also said they want resources and the technical assistance to be provided to our communities and our indigenous organization, not to groups from the outside who then come in and try to provide what only we ourselves can do effectively.

They want all of the agencies of government that impact our communities, and thus our health, to work together. I want to take this opportunity to thank the hundreds of people who came out to meet with us, our sponsors that are too many to name, and our hosts, Case Western Reserve and the University of Illinois at Chicago schools of medicine.

We of the Asian Pacific, Hispanic, Native American, and Black caucuses have listened. And this week we stand ready to provide the vehicle that responds to this important and large segment of the American population.

The health of all Americans and the strength of our Nation depend on fairness in health care services and equality and health status for all of its people no matter their race, socioeconomic status, ethnicity, religion or national background, sexual identification or geography.

Mr. Speaker, I am calling on all of my colleagues to provide the health leadership this country really needs to unite and not divide us as the bills that will be on the floor this week will do, and to support a better America, a stronger America, and the America our Founders envisioned by supporting the Health Care Equality and Accountability Legislation, or the Heal America Act, when it is introduced later this week.

CONGRATULATING COLONEL CHARLES E. POWELL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. CONAWAY) is recognized for 5 minutes.

Mr. CONAWAY. Mr. Speaker, I rise tonight to recognize a friend and constituent, Colonel Charles E. Powell, retired U.S. Air Force of San Angelo, Texas.

On June 14, 2005, Colonial Powell received the Road Hand Award from the Texas Department of Transportation, presented by Texas Transportation Commissioner John W. Johnson.

The Road Hand Award was created in 1973 by Luther DeBerry, a former State highway engineer of the Texas Department of Transportation. It is designed to honor public servants throughout Texas who have dedicated themselves to improving public transportation safety.

In 32 years, only 198 awards have been given, an average of about six per year.

☐ 2000

Previous Road Hand Award winners include former mayor of San Antonio and Secretary of Housing and Urban Development Henry Cisneros, and former Congressman Jake Pickle, who recently passed away.

Colonel Powell is the seventh recipient from the San Angelo district and the first honoree ever to receive the award for their dedication to Texas aviation safety. Honorees have their names inscribed on the Road Hand Hall of Fame plaque, which is displayed in the foyer of the DeWitt C. Greer Highway Building in Austin, Texas.

Colonel Powell's career of service brings credit to all Americans and pride to his hometown of San Angelo. Colonel Powell served as commanding officer at Goodfellow Air Force Base from 1980 to 1984. In 2000 he was appointed to the Texas Aviation Advisory Committee, where he helped increase grants by 44 percent. As a member of the San Angelo Chamber of Commerce, Colonel Powell was a great advocate for local transportation issues, including to our State government, and helped secure funding for the U.S. Highway 67 Houston Harte Freeway through San Angelo.

Texas has over 79,000 miles of roadway, the most in the United States, and it takes a lot of work to keep Texas safe in our many transportation systems. To a long list of honors and awards reflecting a lifetime of public service, Colonel Powell has added the Texas Department of Transportation Road Hand. Colonel Powell represents the best of District 11 and the State of Texas, and I am proud to be his Congressman and his friend.

EXCHANGE OF SPECIAL ORDER TIME

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Maryland (Mr. WYNN).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

SMART SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, on April 20 of last year, I spoke in this Chamber in opposition to the war in Iraq and my belief that we needed a new SMART Security plan to protect America.

Since then nearly every day that this body has been in session, I have again taken to the floor to express my outrage about our Nation's disastrous Iraq policy and the urgency for a different approach. Today I rise for the 100th time on this gravely important topic.

Since I first spoke out last spring, look at what has happened: The Abu Ghraib story broke soon thereafter. We learned that the Pentagon sent our troops into battle without basic safety equipment. The Downing Street memo revealed that the decision to invade Iraq had been made as early as July 2002 with the intelligence and facts being fixed around the policy. And they were so committed to the lies peddled to sell this war that the President's top aide was willing to blow the cover of a CIA agent to smear a White House critic. And most importantly, since last April more than 1,000 Americans have made the ultimate sacrifice in Iraq, with thousands more wounded, and let us not forget the countless innocent Iraqi civilians who have died simply because they had the misfortune of living in a nation we wished to occupy.

And what have we paid for the right to kill and be killed? More than $80 billion in supplemental appropriations for Iraq since last April alone. Since then America and Americans have gradually begun losing confidence in the administration's handling of Iraq. Fifteen months ago when I began, few people dared discuss an end to this war; but by this May, 128 Members of the House voted for my amendment to the defense authorization bill which called on the President to develop and implement a plan to withdraw our troops from Iraq as soon as possible. Unfortunately, the Bush administration remains tone-deaf on this life-and-death issue.

This White House, so famous for refusing to admit mistakes, continues to keep its head down and recite the talking points. Their stubbornness is costing us an average of about 17 American servicemen and women a week and over $1 billion every third day. Over this period I have become even more convinced that we must end this war and bring our brave men and women home to their families as quickly as we can. But that is not enough.

The end to the war must mean the start of a whole new way of thinking about national security, like my SMART Security plan, with SMART standing for sensible, multilateral American response to terrorism.

At the core of SMART is the belief that the use of military force must be an absolute last resort to be pursued only in the most extreme circumstances. SMART recognizes that America faces threats that cannot be ignored, like terrorism and the spread of deadly weapons; but it would address these threats by strengthening our global alliances, improving our intelligence capabilities, and upgrading weapons inspections regimes. SMART would also redirect the money we are currently spending on outdated Cold War weapons systems towards homeland security and an energy independence plan. And SMART is based on the belief that the only way to truly address terrorism is to do something about the poverty and despair that gives rise to terrorism in the first place.

So SMART also includes an ambitious international development component, helping underdeveloped nations with democracy building, human rights education, conflict resolution, sustainable development of natural resources and more.

SMART protects America by relying on the very best of America, not violence and conquests, but our capacity for global leadership, our belief in freedom, and our compassion for vulnerable people around the world.

This first step is to return Iraq to the Iraqi people and return our troops to their families. Until that happens, I will continue to speak out in this Chamber as I have done 100 times. It is my sincere hope, Mr. Speaker, that I will not have to speak 100 times more, but if I must, I will.

EXCHANGE OF SPECIAL ORDER TIME

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Idaho (Mr. OTTER).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

OPENING DOORS WITH CAFTA-DR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, as the House prepares to take up the Central American Dominican Republic Free Trade Agreement, CAFTA-DR, this week, I urge my colleagues to render their full support for this measure.

This is an agreement that is not solely about trade, but also about saving lives and furthering the spread of democracy in the world. Passing CAFTA-DR has many positive and far-reaching implications. It promotes U.S. national security objectives in our own backyard by opening markets and fostering economic development, which are the critical weapons in fighting the conditions that breed instability and terrorism. By supporting CAFTA-DR, we will be giving the people of the countries included under the agreement the hope for change and for progress.

CAFTA-DR is not only vitally important to the future of the Central American nations and to the Dominican Republic, but to our own economic wellbeing and overall strategic considerations. By expanding exports, by lowering the trade deficit, CAFTA-DR creates jobs. Today nearly 80 percent of the products from Central America and the Dominican Republic and 99 percent of the agricultural products already enter the United States duty free. America's markets are already open. But Americans who wish to sell to Central America and the DR, on the other hand, face high tariffs. CAFTA-DR eliminates those foreign taxes, opening the region's markets to goods, services and farm products from the United States.

U.S. investors have invested billions of dollars overseas, stimulating trade. U.S. investors must be treated fairly in foreign markets like Central America if the system is to work fairly. The passage of CAFTA-DR in my home State of Florida would have far-reaching positive implications. Collectively the countries of CAFTA-DR are Florida's largest export destinations. Even individually CAFTA-DR markets are important trading partners for my home State of Florida. CAFTA-DR would provide enhanced market access to the Dominican Republic and to Central America as it will boost opportunities for Florida exporters throughout the region, providing new market access for the State's products.

CAFTA-DR will further obligate our trading partners to bring their laws and their regulations up to U.S. standards in areas such as the regulation of services, investments, intellectual property, telecommunications, procurement, and e-commerce. Establishing a level playing field helps U.S. businesses to compete. Concurrently CAFTA-DR will help strengthen the rule of law and promote transparency against all sectors. In doing so, it would help deny criminal elements and other unsavory characters of the corrupt structures that they could manipulate for anything from money laundering to terrorist financing.

As such, CAFTA-DR also serves to promote democratic governments, thus advancing stability and consolidating freely elected governments that are our allies in the war on drugs and the international war on terror.

By strengthening our allies, our neighboring countries, we are helping to stabilize and strengthen our own Nation. In passing CAFTA-DR, we are helping to ensure that the countries it includes will have the opportunity to fight threats to their democratic institutions that feed off discontent, poverty, and disenfranchisement.

On the other hand, failure to pass CAFTA-DR in Congress will only serve to cripple our efforts in freezing out narcoterrorist gangs and others who threaten our hemispheric stability.

Finally, CAFTA-DR would also allow Central America to thrive by exporting goods through trade rather than exporting people through illegal immigration. Opportunities would also increase access to new technologies and educational opportunities that are going to afford small and medium businesses the ability to expand and diversify. It would open the door to more private investment, to a qualitative and quantitative improvement in the job market, and higher economic growth, government revenue and increased social spending.

In summary, Mr. Speaker, adoption of CAFTA-DR will not only advance our own economic objectives, further our efforts to combat the war on terror and narcotrafficking, but also will strengthen our mission of strengthening and spreading democracy.

I look forward to the passage of CAFTA-DR. A vote for CAFTA-DR is a vote for our U.S. national security.

EXCHANGE OF SPECIAL ORDER TIME

Mr. OWENS. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Maryland (Mr. CUMMINGS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PLANNED WITHDRAWAL FROM IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OWENS) is recognized for 5 minutes.

Mr. OWENS. Mr. Speaker, I rise to congratulate my colleague from California (Ms. WOOLSEY) on the 100th occasion of speaking on this very important subject.

The gentlewoman from California (Ms. WOOLSEY) has maintained a drumbeat of truth on one of the most important issues, probably the most important issue, facing our Nation. It is a most important moral issue. It is the most important political issue also. It is moral because human life is sacred, and too many souls have already been destroyed in this war on both sides, on all sides.

The insurgent fanatics who seem to be growing unlimited are not really that powerful. Insurgent fanatics do not have the support of the majority of the people. A clearly articulated plan for withdrawal will drastically decrease the clusters of support that the fanatic killers have. If people could see the movement towards some progress in resolving this problem, they would abandon the fanatics at a faster rate.

Let us propose a plan. And I do not disagree with any of the plans and proposals that have been made by my colleague, the gentlewoman from California (Ms. WOOLSEY) in her 100 presentations, or plans that have been made by my other colleagues. I think that we have enough brainpower in America with our think tanks and our various academic circles, et cetera, to come up with a plan which really can work.

I want to just add that in that plan should be some more open discussion and honest discussion of oil, the oil wealth of Iraq. Too little is being said about the oil wealth of Iraq and what is going to happen to the oil wealth of Iraq. The people of Iraq, the different factions, I think, would begin to react differently if they heard from America a clear statement of how we propose to fairly divide the oil wealth of Iraq.

□ 2015

First, they will want to hear that we are not going to take a disproportionate amount in investment returns and technical assistance fees, et cetera. That is the first thing they want to hear. But the biggest things for the Kurds, the Sunnis, and the Shiites is how will the oil well be divided as they draw boundaries for sectors or provinces or states or whatever they are going to do in their constitution to divide up the nation.

I think we ought to put on the table, tell the Sunnis, the Kurds, and the Shiites that the oil wells will be fairly shared by all revenue benefits being assigned on a per capita basis, regardless of ethnicity or geographic location; that the revenue, the profits, are going to be divided equally on a per capita basis. So if one area of the country occupied by the Kurds has a certain population, they will get according to the population their share of the oil no matter where the wells are located. No matter where the oil wells are located, those who live in Baghdad, whether Shiite or Sunnis, their particular sector would get a share of the oil revenues also.

I think it is also important because it is necessary to draw some boundaries in this constitutional process, and they will be drawing boundaries. Whether by state or by provinces or whatever, there are going to be boundaries; and there is a need to have some kind of understanding that concentrations of ethnic groups or concentrations of religious affiliations need to be respected. So there will be a necessity to draw some sectors that have a majority of Sunnis, necessity to draw boundaries which have a majority of Shiites, et cetera with the Kurds.

This nation was held together, I think, partially due to the principle that it was divided up into states so that many different kinds of personalities and groups could express themselves through a state process when the states were more independent and the national government was less of an entity. I think the same process would hold in the case of Iraq. We should have a chance for groups to express themselves for local decision-making to be maximized in those areas, in those sectors.

But, overall, they should understand they are not going to be starved for revenue, that the riches underneath the Earth in Iraq are going to be available to every group no matter where they are located.

I think it is up to us to have that kind of honest discussion. There is too little talk about exactly what we are going to do about the oil in Iraq, and too many whispers and too many rumors about our having some kind of hidden agenda that is not to the benefit of Iraq. Let us tell the people of Iraq what we are going to do with the oil.

FEDERAL YOUTH COORDINATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, I am here this evening to speak about the Federal Youth Coordination Act. This act was written in response to a report issued by the White House Task Force on Disadvantaged Youth in 2003. This task force report indicated that 25 percent of U.S. teens are at risk of not having productive lives, not growing up to be people who can hold a job, who are free of substance abuse, and are able to contribute to the society. The estimate is that roughly 10 million young people fall into this category.

This is a very difficult time to be a young person. As almost anyone in our culture knows, we have drug and alcohol abuse, we are the most violent Nation in the world for young people in terms of homicide and suicide, and roughly one-half of the young people growing up in our country today are going to be growing up without both biological parents, so they have undergone a significant amount of dysfunction at some point in their lives.

In response, the Congress, being generous and compassionate, has devised 339 Federal programs which serve youth and their families. There are 339 of these programs. These programs are disbursed over 12 different agencies. The greatest number are in the Department of Education, Health and Human Services and the Department of Justice. Some are in the Department of Labor, some are in the Department of Agriculture, and so on; and so they are spread all over. The cost of all of these programs was $223.5 billion in 2003. So it is a huge part of the Federal budget.

Now, the problem is that these programs are not coordinated in any way at all. They have kind of grown like Topsy. In many cases, they have no measurable quantifiable goals; and in many more cases, no one really knows whether they even serve the purpose which they were first intended to serve. So we have a very confused picture as far as these programs are concerned.

The General Accounting Office refers to this confused government response to troubled youth as a perfect example of "mission fragmentation." The GAO recommends that programs with similar goals, target populations, and services be coordinated, consolidated and streamlined.

As a result of this report and the GAO commentary on it, the Federal Youth Coordination Act was written. It was written in response to the White House Task Force, and it creates a Federal Youth Coordinating Council. Now, this council is designed to do several things.

First of all, it is composed of members from each of the 12 agencies that have these youth-serving agencies. Also included on the council are some young people who actually have been in dysfunctional situations, young people who have been in foster care, and young people who have been through the system and have seen some of the problems. So what this council will do is to meet regularly, at least four times a year; and they are charged with these different responsibilities:

First of all, evaluate youth-serving programs. Does each program really serve any good objective? What programs are duplication? What programs could be combined; what programs could be eliminated?

Secondly, coordinate among Federal agencies with programs serving youth. There may be a program in Health and Human Services that mirrors a program in the Department of Education. Why have that duplication? Why is there no coordination or even communication across agency lines?

Improve Federal programs that serve at-risk youth. What works; what does not work? What types of programs should we be promoting? What should we be putting more money into and what should we be defunding, and so on?

Fourthly, recommend improvements in an annual report. The commission has to file a report with Congress which examines exactly what they have been doing and what they have accomplished.

And then probably most important of all, set and meet quantifiable goals and objectives. In other words, each program has to have a measurable quantifiable goal, a series of goals and benchmarks as to whether they are accomplishing anything or not. We think this is critical in any type of program that is going to move forward.

Lastly, hold Federal agencies accountable for achieving results. Of course, accountability in government sometimes is lacking. So I urge support of this bill. We think it is very important.

IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

Mr. HINCHEY. Mr. Speaker, I want to take this opportunity to commend my colleague, the gentlewoman from California (Ms. WOOLSEY), for making tonight on the floor of this House her 100th statement concerning the war in Iraq.

Over the course of the last 15 months, the gentlewoman from California has made a very substantial contribution to the debate concerning that tragic event in Iraq, the circumstances surrounding it, and also making recommendations as to what we might do in the future to correct the terrible mistakes and injustices that have been perpetrated against the Iraqi people and against our own country. I commend her for doing so.

She and I were among those 143 Members of this House who voted against the resolution that was submitted by the Bush administration to authorize the war in Iraq. It has now come to my attention, and to, I think, many other Members of this House, that there are a growing number of people here, as well as around the country, that understand that this war was a deep and tragic mistake and that the rationale presented for it was based upon falsehoods. The statements which came from various people within the administration were completely false and misleading. Among those initially was the idea that Iraq had something to do with the attack on our country of September 11, 2001. That, of course, was completely and totally false.

Additionally, it was stated by members of the Bush administration that there was some connection between al Qaeda and Saddam Hussein. That has been proven to be completely and totally false. Again, we were told that there were so-called weapons of mass destruction in Iraq, chemical and biological weapons, and the President himself in this House made allegations with regard to the development of a nuclear weapons program by Iraq. That too has been shown to be totally and completely false.

This administration has entirely twisted and distorted the facts and the information and the intelligence to try to fit a policy decision which they made based on no facts or information, but based upon a decision which was made by this administration to suit their own private, personal, and political objectives. The consequence of that has been the loss of more than 1,760 lives of American service men and women for no good reason. That war was unnecessary, unjust; and we need to face up to it. The Members of this House need to face up to it.

We have, over this period of time, been confronted with a gross amount of information which has been totally misleading and totally false. The administration contracted with private-public relations firms to persuade the American people of the falsity of their notions with regard to weapons of mass destruction and the relationship between Iraq and al Qaeda and the attack of September 11, now known to be totally and completely false.

And the administration apparently continues to seek to mislead the country. We have just recently, just today, a report over CNN broadcasting which quotes two separate people in Iraq on two separate circumstances with regard to an attack that took place on July 13 and another that took place on July 24, just yesterday. Let me read into the RECORD what those news releases coming out of Iraq say:

A Sunday, July 24, news release says: "The terrorists are attacking the infrastructure, the ISF, and all of Iraq. They are enemies of humanity without religion or any sort of ethics. They have attacked my community today, and I will now take the fight to the terrorists, said one Iraqi man who preferred not to be identified."

Eleven days earlier, it was reported from the same military sources, a July 13 news release said: "'The terrorists are attacking the infrastructure, the children, and all of Iraq,' said one Iraqi man who preferred not to be identified. 'They are enemies of humanity without religion or any sort of ethics. They have attacked my community today, and I will now take the fight to the terrorists.'"

These are false statements, obviously, and we continue to be afflicted by propaganda out of this administration to attempt to justify the initial attack, now the occupation, and the ongoing occupation which is increasingly dangerous.

So I commend the gentlewoman from California (Ms. WOOLSEY) for what she has done, and the House really needs to pay much more attention to these issues.

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THE SITUATION IN IRAQ

The SPEAKER pro tempore (Mr. DAVIS of Kentucky). Under a previous order of the House, the gentleman from New Jersey (Mr. PAYNE) is recognized for 5 minutes.

Mr. PAYNE. Mr. Speaker, I rise to stand in solidarity with the gentlewoman from California (Ms. WOOLSEY) and other Members who are calling for an end to the U.S. occupation of Iraq. As other Members have stated earlier, I commend the gentlewoman from California (Ms. WOOLSEY) for her persistence, for her 100 days of bringing this issue before the American people as she has so clearly articulated the facts as related to our situation in Iraq.

The war in Iraq has become a crisis of global proportions. Every day there are violent attacks on innocent civilians in Iraq and on our service men and women stationed there. We have seen the fact that the President has overstated the situation in Iraq. We are starting to see a backlash around the world. Just recently, Egypt's Ambassador to Iraq was kidnapped and subsequently killed. Algeria's diplomatic staff of only a handful of people have been withdrawn because, even though the North African country has no troops in Iraq, just to represent the current government and recognize it, two of its staff were kidnapped last week.

The President has overstated the threat that Iraq had weapons of mass destruction and biological and chemical weapons in order to frighten the American public into giving him preemptive strike ability and for the support of this war.

The U.S. presence of approximately 150,000 troops in Iraq is fueling our enemies around the world and causing them to rise up against not only Americans, but anyone who supports the American occupation in Iraq. Our presence is not containing violence, it is almost sparking violence. Almost every day there are fatal car bombings and suicide bombings. Men in the military for Iraq are being targeted. Policemen in the service for Iraq are targeted and killed. Diplomats are being targeted and killed.

We cannot ignore that the deadly bombs in London 2½ weeks ago are also inextricably linked to Iraq. We cannot ignore the fact that the insurgents have not been weakened since Congress authorized the President to use force in Iraq in October 2002, almost 2 years ago, nor can we ignore the fact that life for Iraqis under this occupation is far worse than life was before the occupation.

Estimates range between 15,000 and 17,000 innocent Iraqis have died to date. This is not an improvement in the life they had. These are innocent people who now have lost their lives because of the preemptive strike there. At the very least, basic services that we take for granted in the United States, such as electricity, running water and sewage systems, are destroyed and not accessible to all Iraqis.

Even our brave service men and women are suffering. We still hear about some of their needs that are not being met. When I was there earlier this year, soldiers told me about being attacked in unarmed Humvees, and wanted to know why were there not enough armed vehicles to protect them. They showed me a Humvee that is not properly protected and those that are. It is a world of difference.

A March 27 report in USA Today revealed that the Pentagon realized they did not have enough armed Humvees, only 235 in June 2003. We should not plan a war without having the equipment to fight it. Yet more than 2 years later, I was hearing from our young men and women in the service that still the Humvees are not all up to where they ought to be for protection.

This means there was poor planning and poor execution of this war, and our troops bear the brunt of the Pentagon's shortsightedness. The President must do more to protect our troops.

Let me ask for the support of the gentlewoman from California (Ms. WOOLSEY), H. Con. 35, where she asked for the development of a plan, and I commend the gentlewoman from California (Ms. WOOLSEY) for her persistence.

AFFORDABLE HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 5 minutes.

Mrs. BLACKBURN. Mr. Speaker, when I am back home in my district in Tennessee talking with a lot of small-business owners, which are the primary mode of employment in my district, there are a lot of things that always come up. I can always count on hearing about taxation, the need for deregulation, the effects of illegal immigration, and health care.

Increasingly I am hearing from these owners that they want Congress to open the way for more affordable health care choices. Last week in Roll Call there was a great article talking about association health plans, and I am glad to see some attention is on that idea, and that legislation is going to come before the House.

The gentleman from Texas (Mr. SAM JOHNSON) really should be applauded for introducing the Small Business Health Fairness Act of 2005, which will help our small businesses purchase association health plans through national trade groups. I have joined him as a cosponsor of this important legislation because I believe we have a wonderful opportunity to extend affordable quality health care to millions of Americans.

Mr. Speaker, Republicans and this leadership are fighting to help the engine of economic growth in this country, our small businesses, helping them gain access to the sort of health care typically we only see provided by large corporations.

Small businesses feel like their employees are family members. They want the best for them. Every small-business owner knows that providing those employees with health care can be costly, and it can be a difficult part of running a business. Costs are rising, the paperwork never seems to end, and we have the power to help in this situation. We have the power to provide a vehicle for extending health care to millions of Americans. This does not require a big government program. It will not require spending billions of taxpayer dollars. It is common sense. It is providing an opportunity.

The Small Business Health Fairness Act has the potential to be very effective, to be pro-health care, to be a great effort for our communities across the Nation. The bill is going to reduce costs for entrepreneurs and their employees by letting small businesses band together to pool their purchase power, to work cooperatively and to dilute the risk to the insurers. It will lower premiums, and we believe it will give millions of uninsured Americans the access they want to quality health care.

We have debated this issue for years on end, and it is time for action. It is time to listen to America's small businesses and to their employees. I want to thank the gentleman from Texas (Mr. SAM JOHNSON) for his work on this. I want to thank the leadership for their efforts, and I ask all of my colleagues to strongly support this important effort.

PASS DR-CAFTA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Texas (Mr. BRADY) is recognized for 60 minutes as the designee of the majority leader.

Mr. BRADY of Texas. Mr. Speaker, for the United States to remain the greatest economic power in the world, it is no longer enough to simply buy American, we have to sell American. We have to sell our American products throughout the world, our products and services created by the most productive workforce on this planet.

But when our businesses and farmers try to compete, they discover that Europe and Asia have aggressively negotiated trade agreements with other countries that tilt much of the world in their direction, leaving the U.S. and our companies and businesses and farmers at a severe disadvantage.

That is unfair to American farmers, it is unfair to American businesses, and it is especially unfair to American workers who can compete if given a level playing field and other countries are held accountable to the same trade rules.

Rather than build economic rules around our Nation that only harm American jobs, restrict what we can buy, and raise prices on our families, we must use American muscle to secure favorable trade agreements that tear down the "American need not apply" signs that close off potential customers from our products.

In the coming days, the House of Representatives will give final consideration to the Dominican Republic Central American Free Trade Agreement, the most significant trade agreement in a decade. It will open 44 million new customers to American products, help America win the textile war against China, and honor America's commitment to democracy, freedom and human rights in our hemisphere.

With me tonight are a number of Members of Congress who have examined this trade agreement and feel strongly about it from the standpoint of national security and jobs and agriculture. Joining us tonight is the gentleman from Texas (Mr. MCCAUL), the gentleman from Colorado (Mr. BEAUPREZ), the gentleman from Texas (Mr. CARTER), the gentleman from Texas (Mr. CONAWAY) and the gentleman from California (Mr. HERGER), chairman of the Subcommittee on Oversight of the Committee on Ways and Means.

Mr. Speaker, I yield to the gentleman from Texas (Mr. MCCAUL), who spent a decade with the Department of Justice, the last 4 years as the deputy attorney general in Texas, and understands the national security implications of this trade agreement.

Mr. MCCAUL of Texas. Mr. Speaker, I would like to thank the gentleman from Texas (Mr. BRADY) for his leadership on this issue. He has been the point man on this in Congress, and he has done a great job. I am proud to work with him on this, and proud to call him my friend as well.

Since September 11, we have made this Nation's security and prosperity our number one priority. Halfway around the world, we fight terrorism and promote freedom with the strength of our military. In our own hemisphere, we have several different weapons in the strength of our economy, our business and our trade that will help to guarantee our safety. We must utilize these tools to prevent tyranny and evil from gaining power in our own backyard.

For years, our Central American neighbors were torn apart by civil wars that epitomized the global battle between good and evil. With our help they have created stable and free governments. However, that battle is far from won. There are those who would like to reverse the progress that we have made, and those who wish to use the fragile state of our friends' democracies to attack our very existence.

In order to win the war on terror, we must continue to guarantee the stability of democracy in our own hemisphere. The citizens of this country have entrusted us with their safety and their well-being. They have asked us to represent their interests and to help increase their standard of living. Job creation should not fall prey to politics. We need to rise above partisan politics to work for the good of our country.

That is why this week my colleagues and I in the United States Congress will vote for legislation that will strengthen our economy, our security, and our way of life. The Dominican Republic and Central American Free Trade Agreement will help reinforce freedom and democracy throughout our entire region.

When considering the benefits of CAFTA, we must consider the pitfalls of not passing it. With the improvement of our economic relationship with Central America, we will see an improvement in our security relationship.

Recently I met with Secretary of Defense Donald Rumsfeld at the Pentagon, and he made it clear to me that this trade agreement is crucial to our national security. We are currently engaged in a war on terror on the other side of the world, while there are already terrorists who are using Central America as a base of operations against the United States. This trade agreement is not only good for our economy, it is also vital to our national security by stabilizing Central American democracies.

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In addition to international terrorism, we must also mind the rising threat of China's global influence. If the United States does not adopt CAFTA, we will see China take our place as Central America's biggest and most important trading partner. This would mean an increase in America's trade deficit with nations all over the world and make the United States a secondary economic power. Twenty years ago we helped Central America fight a war against Communist forces, and now China is trying to reassert its influence within our own hemisphere. We will not allow this to happen. This trade agreement keeps America ahead of China and will increase America's financial security. Through CAFTA, Central America should continue to see the U.S. as its main trading partner instead of Communist China.

And on the issue of immigration, by passing CAFTA and helping people to create a better life in Central America, the citizens of those countries will be motivated to work, to prosper, and, most importantly, to stay in their own countries. Working with America, their standards of living will increase. Ultimately my home State of Texas and the rest of the Nation will spend less time and money combating the problem of illegal immigration. This is really, in my view, the long-term solution to our immigration problem.

CAFTA will also level the playing field. CAFTA represents the completion of our trade relationship, not just the beginning of one. Through unilateral preference programs already approved by Congress, nearly 80 percent of CAFTA imports and 99 percent of CAFTA ag products already enter the United States duty free. CAFTA will make this one-way road a two-way superhighway by giving our agriculture and industrial goods and services access to their markets. We will level the playing field by eliminating high tariffs, tariff rate quotas and nontariff barriers. My home State of Texas will be one of the top three States to benefit by enacting this trade agreement.

On the issue of new jobs, CAFTA countries, which include the Dominican Republic, Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, are the United States' largest market for domestic apparel and yarn exports and the second largest market for U.S. fabric exports. Trade with these countries exceeds trade with countries like Australia and Russia. This deal is critical to sustain and expand existing partnerships to give CAFTA goods a competitive edge, particularly with the elimination of global quotas and increased competition from Asia. This trade agreement will help support approximately 400,000 jobs in Central America and the Dominican Republic and 700,000 workers in the United States in cotton, yarn, textile and other apparel sectors.

On the issue of agriculture, America's farmers are also expected to see increases in the needs from Central America for their crops and livestock. Some of the most important U.S. exports to the region expected to gain significantly from CAFTA include feed grains, wheat, soybeans, poultry, pork and beef. That is why the American and the Texas Farm Bureau support CAFTA.

On the issue of technology and business, this agreement creates huge potential profits for our technology industry. CAFTA holds the promise of new opportunities and expanded markets for a wide array of U.S. high-tech merchandise, exporters, manufacturers, service providers and their employees. Total U.S. high-tech exports to Central America in 2003 totaled nearly $2.5 billion. From Dell to Samsung to Applied Materials to Hewlett Packard, the high-tech industry in Texas and the United States will benefit greatly from this trade agreement. And as the standard of living improves in these countries, the demand for more advanced technology will grow with it.

In conclusion, it is essential that we pass CAFTA. Along with President Bush, I believe this trade agreement will mean increased safety and security for our Nation. With their own nations seeing prosperity, Central Americans will have less reason to illegally cross U.S. borders looking for better opportunities in our country. America's farmers and businesses will find new and easier ways to export their goods and services to the tune of billions of new dollars. For the average American, CAFTA will mean a cost savings at the grocery store. And for the entire Western Hemisphere, this trade agreement will spread and strengthen democracy, peace and freedom.

CAFTA has support, wide and deep, from many groups, but it is important to note tonight those who oppose CAFTA. CAFTA is opposed by Marxist leftists and terrorist leaders such as Fidel Castro and Hugo Chavez. In addition, this vote is being watched carefully by Iran, North Korea and China, who all stand to gain by the failure of this vote, a vote we cannot afford to lose.

Mr. BRADY of Texas. If the gentleman would stay for just a moment. You have spent your whole life in law enforcement and a number of your recent years in protecting homeland security from threats. One of the key points you made is that while we are fighting a war against terrorism in Iraq and Afghanistan with our men and women, the fact is we fought a war, as well, 20 years ago in Central America, moving those countries away from communism and socialism toward democracy. They have made real progress, but we still have leaders like Castro and Chavez and Daniel Ortega and FMLM, some of the most Socialist anti-American groups in this hemisphere opposing us because their point is democracy does not work, human rights does not work, the rule of law does not work. Communist does. Come, step backward in time.

One of my colleague's points was the worst thing we could do would be to give that region back to the Communists and Socialists at a time when they have made so much progress.

Mr. McCAUL of Texas. We cannot afford to turn the clock back, as the gentleman mentioned. We won that war 25 years ago, but now we see instability in the region. We see President Chavez down in Venezuela aligning himself with people like Fidel Castro, asking Iran for nuclear technology. We have a triborder region down in South America where al Qaeda and groups like Hezbollah meet and discuss their activities. The threat is very real. It is no surprise that Fidel Castro and President Chavez oppose CAFTA because they know that there is nothing better for us and for Central America in spreading democracy than for CAFTA to get passed. That is why President Hugo Chavez has actually sent money to legislators in Nicaragua to actually oppose CAFTA in their country.

Mr. BRADY of Texas. My understanding, too, is we are seeing letters from legislators down in Central America who are being financed by our Socialists down there who say they are opposing it on the merits, but in fact they are getting a nudge from the enemies of freedom to do so.

Mr. McCAUL of Texas. I think if we fail to pass it, we will give the enemies of freedom a victory. That is a victory we cannot afford to turn over. This is the first of many trade agreements. If this does not pass, it takes away, in my view, a lot of credibility on the part of the administration when it goes to other countries and tries to broker agreements. In the defeat of communism, socialism, and the spread of freedom and democracy, that is why I am here tonight. That is why I ran for Congress, and that is why it is so important that this Congress pass this important piece of legislation.

Mr. BRADY of Texas. I thank the gentleman from Texas for his commitment to law enforcement and homeland security in our hemisphere.

Mr. McCAUL of Texas. I thank the gentleman as well.

Mr. BRADY of Texas. Mr. Speaker, I would like to turn now to a gentleman from Colorado who has a wonderful background. He is a farmer. He is a rancher. He is a community banker. In recent years he has served as an outstanding member of the Ways and Means Committee. I yield to a good friend, a good colleague from the great State of Colorado, BOB BEAUPREZ.

Mr. BEAUPREZ. I thank the gentleman for yielding. He likewise is a very good friend.

I want to applaud, first of all, your leadership. I know many of us in the House have worked on the passage of CAFTA, but I do not know that anybody has worked harder, longer, more diligently and more successfully than the gentleman from Texas. I am confident later this week we will not only take up CAFTA, but we are going to pass CAFTA. We will pass it, I think, in a bipartisan fashion. I fully believe and hope and expect that a number of our colleagues from the Democrat side of the aisle of this great Chamber will join with us.

I want to stay on the point that the gentleman from Texas (Mr. McCAUL) and you were just dialoguing about just a moment ago, this issue of national security. I think you will recall that we had the opportunity, we in our Ways and Means Committee, to sit with the six economic ministers of these member nations. All of them just volunteered to us that they have got a long way to go. They are not the United States of America yet. These are developing, fledgling democracies. But you were just making the point that 20 years ago, what was in the news day after day? El Salvador, Honduras, Nicaragua were hotbeds of communism. Today we would be calling it terrorism; anti-American hatred right on our southern border. Who would think that less than a generation later, economic ministers from these now developing democratic nations would be sitting with us, Members of the United States Congress, saying, please help us.

Someone is going to be the political and economic mentors of these developing nations that are our next-door neighbors. I think that someone ought to be the United States of America, not people like Hugo Chavez, not Fidel Castro, not the anti-American freedom haters around the globe who would love to have a foothold on our southern border.

This is a critical agreement for us in the United States of America. I think sometimes that we get up in the morning, and often it is easier to find a reason to not do something; everything from the simple not getting out of bed on time or not getting out of bed at all, not going to work in the morning, not rolling up your sleeves and putting in a good, hard day's work, or maybe not taking on a real significant challenge. Certainly anybody in this great Chamber can look through this document if they want to go looking for some reason to say no.

But I am saying yes. I join the gentleman from Texas (Mr. BRADY) in saying yes because this is the right thing to do. It is the right thing to do because neighbors help neighbors, and it is not just one way. It is not about us just helping these six developing nations. It is about the United States of America and American workers.

I used to be, as the gentleman pointed out, in the cattle business. We exported cattle all around the world. Nothing would make me happier to wake up some morning and suddenly find out that the United States Congress and our President had just adopted an agreement with some foreign nations that immediately, immediately made my product, my cattle, more competitive to these nations. That is what happens in this agreement. The day it is signed, $1 billion a year of tariff goes away on our goods, our services, the products we send down there. From my State, just like your State of Texas, a lot of that is agricultural products. A lot of it, too, is manufactured goods, in the high-tech sector, plastic molds. We are sending a lot of stuff down there. These are developing nations, meaning that in future years it will be more that we will be sending them. It only makes sense that somebody around this globe is going to meet the needs of those people. I want that somebody to be American farmers and ranchers and laborers and small businesspeople.

I was a community banker. A lot of my bank customers were in the business of making stuff, all kinds of stuff, stuff you could not even imagine that somebody is really out there making that. But they are all anxious for a bigger market. We have got a bigger market right on our southern border. They are begging us to give them a chance to do business with the United States of America. Why? Because they know that by doing business with us, that is the quickest way to emulate us, to be like us, to be a free, open society. That is what they want to become, both politically and economically. How can we as the United States of America, the greatest Nation ever on God's green Earth, deny that kind of hope, that kind of opportunity to our neighbors and friends and at the same time help our own citizens, the workers right here in the United States?

I will just close and yield back to the gentleman here in a moment by saying that when I get up in the morning, I like to be about building up, not tearing down. I think the CAFTA agreement is very much one that builds up. It builds up opportunity for the United States of America and United States workers, but it also does the right thing that we as Americans, compassionate people, know we have an obligation to do around the globe, and that is help people that are reaching out a hand to us.

With that, I will say, let us pass CAFTA later this week. I applaud you for your leadership. Thank you for letting me be part of your Special Order tonight.

Mr. BRADY of Texas. Mr. Speaker, I appreciate the gentleman from Colorado's leadership. The key point, many of them that he made, was that America's agricultural community is so strongly behind this trade agreement. There are nearly 70 ag associations around America who are supporting this. In fact, the American Farm Bureau Federation believes that we will sell almost $1.5 billion more ag products each year to Central America. That is our beef, that is our chicken, that is our pork, our corn, our milk, our potatoes, you name it, at a time when a lot of the world is closed to America's ag products.

□ 2100

We have got the most productive ag community in the world; but if we keep making things cheaper and faster and better but do not have anyone to sell it to, the price just goes down. We want those "American need not apply" signs to be torn up all throughout this world, give our ag community a chance to compete. Watch what we will sell around the world.

And we ought to start with Central America, a neighbor, a proven neighbor, who cannot only buy our goods and services but is easy to ship to and in the process we are going to continue to help those six countries into stronger democracies, a stronger rule of law. It is truly a win-win situation.

I appreciate the gentleman's leadership. As a business person, the gentleman from Colorado (Mr. BEAUPREZ) knows what small businesses and small farmers and small communities have to go through to compete, and giving them a level playing field is good for Colorado and good for America as well.

With that, Mr. Speaker, I would like to yield to the gentleman from Texas (Mr. CARTER), who served, before coming to Congress, as a district judge for more than 2 decades. And his background is just filled with decades of common sense. He did a great job on the bench in Texas. Here in Washington he has been intent not only on national security, supporting our troops, but also in serving on his committee, finding ways to help our American economy grow.

Mr. Speaker, I yield to the gentleman from Texas (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I thank the gentleman from Texas (Mr. BRADY).

who clearly has been in the lead and is outspoken for the CAFTA-Dominican Republic project, for yielding to me.

This is critical not only to the Central America region but to the United States of America. We are opening up trade so that our products get sold in Central America without duties on our products.

The Central American countries have the opportunity to sell in our country, and they do not have a burden on their products up here. And, in fact, we are their number one trading partner. The expansion, the benefit that we see is what is going to happen to our folks.

Whenever I look at one of these things that are coming up in Congress, I try to take a look at my district and see who is in my district and try to learn and study and figure out who is going to get helped by these things. And it was easy to see how the high-tech industry with Dell Computer, one of our great neighbors in Williamson County, it was easy to see what is going to happen there. But I look further down to that dairy farmer in Stephenville, Texas, in Erath County. This is not a little dairy farm operation in Erath County. We are talking about one of the most important parts of the agriculture industry in Texas. The area in my district produces over $40 million to the Texas economy every year in milk and dairy product production. And under the CAFTA agreement, doors are going to open to them that are going to allow them to sell their dairy products in Central America.

Right now they face duties of between 60 percent and the World Trade Organization allows up to 100 percent of tariffs that can be assessed against our products. With the opening of CAFTA, we are going to be able to open up tariff rate quotas the first year starting at 10,000 metric tons across the six countries, and this will expand as the CAFTA agreement goes forward. The TRQs will grow by 5 percent a year for Central American countries and 10 percent a year for the Dominican Republic until we have got a good access to the market, and it is going to be an outstanding source of sales for our milk and milk-related products that come right from my district.

When I look at that, I see the benefit there. I have had, fortunately, in the recent past, within the last 3 months, the good fortune of going down with the Foreign Operations, Export Financing, and Related Programs Subcommittee to Nicaragua and Honduras. And we went down there not on the issue of CAFTA. We went down there on other issues, to look at areas where our foreign aid is being used very productively in those countries. And I was able to talk one on one with folks like farmers and small businessmen and politicians that are down there in Nicaragua and Honduras.

First, let me tell the Members that when we see that country and see what really great potential there is in Nicaragua and Honduras, what resources are available, there are plenty of cattlemen who would love to have about half of Nicaragua to run cattle on in Texas. With underground water less than four meters under the ground. I know a lot of cowmen from my part of the State that would love to be able to have some irrigated grass farms down there in Nicaragua. Beautiful cattle country.

Cheap sources of power are available in that area because they have the ability to create geothermal electricity. They have a lot of potential in Central America. But when we talked to those folks, they said, Look, it is all about CAFTA. The future of our country is all about CAFTA.

Let us take Nicaragua. We had a whole bunch of trouble with the Sandinistas in Nicaragua. And as has been said before here, about 20 years ago we had a pretty good fight down there. And for a while the Sandinistas ran the country and ran it absolutely into the ground. And people who opposed the Sandinistas, it is not like political parties here where we will bicker with our opponents and we will talk, but then we all go back and let somebody reelect us. If one loses to the Sandinistas, they had better get out of the country because these people who were against the Sandinistas had to flee or die.

Today in Nicaragua, underlying like a cancer lying beneath the surface, is the Sandinista Party; and Daniel Ortega still walks the streets down there. But what is he walking the streets with now? He is walking the streets with an offer from Hugo Chavez of up to an unbelievable number, $1 billion, to turn Central America back to the Marxist cause he and Fidel Castro believe in so firmly. He is one of the great threats to the world right now. He is a communist with money, and he is spreading it around. He takes his oil money from Venezuela and is threatening to spread it around because he wants to make sure that the Marxist communist government dominates Central America.

And their only hope is to show how capitalist free trade works. And that is what CAFTA is all about, and that is what they said. They said, This is going to get great support down here. These people, if they can get their markets open, they can get the capital investment they need to grow.

One of the merchants down there I was talking to said, You know what? I do not know why you think you have got to ship your cloth to China and make your shirts and pants and stuff in China. We have a history of making that stuff for you. Let us break down these barriers between our countries. Let us make those things, and you will not have to put it in big containers and ship it across the Pacific Ocean. We can make it just as economically and just as profitably for American companies as they can in China, and we can put it on a train and ship it up into Texas and spread it across the Nation.

That just makes sense to me. That is just good common sense, and CAFTA is good common sense when we get down to it. It meets many requirements that we have.

First and foremost, we help our neighbors. And where the gentleman from Texas (Mr. BRADY) and I come from, and as for most of the folks in this country, but certainly in Texas, number one is taking care of our neighbors because we are kind of out in big spaces and, sometimes if we will not take care of our neighbors, they might be the only people we will get a chance to visit with.

So we need to take care of those neighbors. We need to prevent an enemy, a cancer, from growing in Central America that we will wake up one day and find it is growing right across the Rio Grande. And this agreement is part of stopping that cancer. And those people down there say without CAFTA, without a chance for a level playing field in Central America, what is going to happen to us is the Marxists will rise up and we will either be killed or run out of the country. Those countries will never survive with this type of quality people leaving the country.

And then, finally, it is a benefit to our industry and to our people. It is a win-win-win, and for that reason I think Republicans and Democrats are going to join together this week in this House and pass the CAFTA agreement, pass the free trade agreement. It is important to America.

Mr. BRADY of Texas. Mr. Speaker, reclaiming my time, the gentleman made excellent points tonight in that we need the customers in Central America for our American Texas ag and small business communities. And for national security, this is exactly the wrong time to turn our backs on Central America.

One of the other points he made is deals with China, and the fact of the matter is he talked to that gentleman who said we can survive China.

Since January 1 around the world, of course, all the quotas went off; so anyone can import any of the apparel, the clothes we wear, the towels we use, and China has just swamped the world, including the U.S. And some people say, well, let us just give up; China is just going to win. But that gentleman's point is exactly right. If America partners up with Central America, we grow the cotton in Texas, which is why the Texas Cotton Council supports this. How we can do the fabric and yarn in American textile plants with American workers, send it down to Central America. They cut it, sew it, put it together, and send it back.

So today what is interesting is that if the gentleman from Texas (Mr.

CARTER) and I go to a store down here and buy a shirt that says "Made in Honduras," about 70 to 80 percent of that shirt is made right here in America. But if at the same store we pick up one that says "Made in China," there may be, may be 1 percent of American content there.

And the fact of the matter is if we partner up with American agriculture, with American workers in textiles, which is why so many of the textile industry is supporting this, partner up with Central America, we can survive. We can beat China in the textile areas. We can save jobs in America and save jobs in Central America.

And my understanding is just since January 1, Central America has already lost 28,000 textile jobs to the Chinese. We know where some of those folks might be headed to find jobs. And the fact of the matter is, I think, from an immigration standpoint, Central America wants to keep its best and brightest and hard-working at home. If we partner up, not only do we save American jobs, we save Central American jobs and help preserve our immigration and borders in the process. I think the gentleman made a wonderful point to that extent.

Mr. CARTER. Absolutely, Mr. Speaker. And if the gentleman will continue to yield, these are our neighbors. These are the people in the Americas. They are part of America. They are Central American. And they know the Chinese are breathing down their necks too, and they are very concerned about that, just as the gentleman pointed out.

This is a win for the United States. It is a benefit to a neighbor that needs to be boosted up politically because when Chavez gets in there and spreads his money around, it could be disastrous. So the gentleman is right. It is a win for us. It is a win for our farmers, our textile manufacturers, and others. They can do assembly work. They have got a lot of skilled labor available in Nicaragua and Honduras. They are wonderful people, just as gentle and kind a bunch of people as I have ever been around. They will be good folks to work with. We need what they have to offer, and they need what we have to offer. It is a good trade. And we always say when we walk away from the day having made a good trade, we feel like it has been a pretty good day. Well, I think we can walk away from this day and feel like we made a pretty good trade.

Mr. BRADY of Texas. Mr. Speaker, reclaiming my time, I appreciate the leadership of the gentleman from Texas on national security and on our Armed Forces and today in support of our American Texas farmers and businesses as we partner up with Central America, and I appreciate the gentleman very much.

Mr. CARTER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. BRADY of Texas. Mr. Speaker, we have another gentleman from Texas, who, like the previous one, has experience that relates directly to creating jobs. He has been a small business person for more than 32 years, is an accountant and a small business owner in west Texas. He understands that America needs to be able to sell its products around the world, that Central America can sell them to the United States today and they have for 20 years. Now it is our turn to sell into that growing market.

With that, Mr. Speaker, I yield to the gentleman from Texas (Mr. CONAWAY).

Mr. CONAWAY. Mr. Speaker, I thank the gentleman from Houston, Texas for yielding to me and for hosting this hour tonight. And in addition to all of his other great attributes, he is one of the all-time best second basemen to play for the Republicans in the annual baseball game.

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Mr. Speaker, many of the points have been made tonight, and I would like to continue with some of those, one of which is labor standards. We have an awful lot of criticism of the CAFTA agreement based on labor standards. The other side seems to take the position that a trade agreement can be used to cure labor issues and labor ills in a country that would, in effect, bring their labor standards and their labor conduct up to that of the United States. I think that is really misplaced. In addition, the argument seems to be that if the labor standards or the labor conditions or the pay wages or whatever is going on, it seems that if a fellow is out of a job, he is in a better position to, in effect, change or make improvements to those conditions than if he has a job.

Well, I think that is really wrongheaded. I think that no matter how bad the standards are, no matter how bad the pay or the working conditions, if I have a job, I will take that job and take whatever money is available to me, and I will feed my family as best I can, and then I will work to try to improve those conditions. But while that is going on, I at least have a job that I can make some money at; maybe not as much money as some would like me to make or I would like to make, but I will be able to continue to work and feed my family while those conditions are being addressed.

Under CAFTA, we have negotiated the strongest labor protection and labor improvement agreements of any of our trade agreements, and going forward. The signatories to this agreement have agreed that if we sign this CAFTA agreement, that they are committed to enforce those standards; which has always been one of the issues with trade agreements is that we will put these agreements in place. But, the other side, the leadership of those countries will not enforce those agreements the way they are supposed to. Those commitments in enforcing labor standards, improving labor conditions and wages in those countries, those commitments simply evaporate if we do not sign this CAFTA agreement.

In addition to that, the administration has pledged $610 million over the next 4 years to improve enforcement, to improve economic assistance to the rural areas, and most of these countries would qualify as rural, to help build that capacity, and to help these countries put in place the enforcement processes that will raise labor standards, that will raise wages, and enforce this agreement, and that has to be a better circumstance than those folks being unemployed.

We have had in place what is called the Caribbean Basin Initiative; it dates back to the 1980s. With that agreement we created basically a symbiotic relationship between agriculture interests in this country and jobs in Central America. What happens is, as my colleague already mentioned, when you buy a shirt that says it is made in Honduras or made in Costa Rica or Nicaragua, 60 percent of the inputs into those shirts, those garments, come from the United States. Well, in west Texas that input is another word for cotton, because we grow and harvest a lot of cotton. It is far better for our cotton farmers to be able to sell that cotton into Central America and have it spun into thread and woven into clothes, garments, and cut and sewn and brought back to this country and sold to consumers in America than it is if we have to try to figure out a way to sell that cotton to China. Because if that shirt that you are wearing, and I would challenge my colleagues when they get home tonight to take their shirts off, take their clothes off and look for that label. It says, made someplace, and find out where it was made. If that label says "Made in China," less than 1 percent of the input into that cloth that came from the United States. It does not take a rocket scientist to know that is not real good for Texas cotton farmers.

So this idea of creating this agreement, it does improve labor standards, it enforces labor standards, but it also helps keep in place this Caribbean Basin Initiative which creates a symbiotic relationship with these countries in Central America. My colleague has already said that there is clear evidence that if these jobs do not stay in Central America, they are not coming back to America. As harsh as that is for our good colleagues in North Carolina and Virginia and other places to talk about, having lost those jobs, those jobs, cutting and sewing and weaving and looming jobs, they are not coming back to America. We cannot compete in that arena anymore. Those jobs are going to China, those jobs are going to Thailand or the Philippines. If they go there, they are not going to be using American input as that work is done on those clothes that are shipped back to Americans to purchase.

Let me give an example. I heard recently, earlier today, about the impact that tariffs have on American consumers, or actually American manufacturers. All of us would agree that the manufacture of airplanes is a manufacturing job that we want to keep in America. Now, we can argue about some of the lower-end manufacturing jobs may go places, but no one would argue about outsourcing the manufacture of an airplane. Last year, Cessna, based out of Kansas, lost $43 million in a competitive bid to Embraer, which is based out of Brazil, for sales into these countries. Now, the reason they lost it, one of the reasons they lost it, there is a 15 percent tariff on Cessna airplanes that are made in America and sold into these countries. Embraer does not have that same tariff. Brazil has already initiated or already negotiated a bilateral agreement that dropped that tariff. So head-to-head competition, if it is just on price, and I have a 15 percent competitive advantage against anybody else. I want to use some of that 15 percent to make sure I win the bid. And that is $43 million worth of airplanes that would have been manufactured in Kansas or in America that instead were manufactured in Brazil; somewhere else.

Our colleagues on the other side talk about the 44 million customers in these countries not being able to afford our high-end merchandise. Well, it probably makes for good rhetoric and sound bites, but if you really think about that, it really does not have much of a place in this argument. Quite frankly, I cannot afford all of the high-end merchandise that is manufactured in the United States, so to say that somebody in Central America cannot afford a Cadillac or something like that, and that is a reason to not pass CAFTA, is certainly misplaced in the extreme.

We have also talked about immigration and that impact. Let me say it the way I typically say it, some of the other colleagues have already talked about it, is that everywhere I go in District 11 and talk to folks, they are concerned about border security. In my mind, you cannot separate border security and immigration reform. We have to protect our borders; we need to know who is coming into this country.

One of the long-term best interests of the United States is for opportunities in Mexico and, as this phrase is used, OTMs, other than Mexicans, for countries, for opportunities to be created in those countries, because that is who is coming to America. It is not just Mexicans, but it is OTMs, other than Mexicans, percolating up through Mexico and coming into this country. CAFTA will help keep jobs in Central America. If somebody has a job in Central America, they are going to be less likely to want to try to percolate up through Mexico and come into the United States.

So I thank my good friend who has hosted this hour tonight. I am supporting CAFTA, I am voting for CAFTA. There are a lot of reasons: we have heard them on national security and immigration and trade. All of these are good reasons why we should support CAFTA, and I would encourage my colleagues across the aisle and on our side of the aisle to vote for CAFTA. Let us put this trade agreement in place. Let us take advantage of the opportunities for dropping the tariffs that our manufacturers currently face like Cessna in selling and trying to operate in these Central American countries.

Mr. BRADY of Texas. Mr. Speaker, I appreciate the leadership of the gentleman from Texas. Several of the points he made, such as the fact that Central America already sells in the United States, and now is the chance for us to sell our products to those 44 million new customers, and that is critical.

Mr. Speaker, I see people who make fun of Central America and say they are too poor and too backward, not worthy, I guess, of trading with the United States, and they could not be more wrong. Economically, I think, those critics are pretty unwise. Central America is already our tenth largest trading partner, and growing. I do not know very many successful businesses that have made it very long by only selling to one or two customers. It does not happen very often. The fact of the matter is they have the potential to grow even larger. They are not large by American standards, but they are large by world standards, and those 44 million customers already buy more from the United States than Italy, which is a world power. They buy more from us than Australia. They buy more from us than Russia, India, and Indonesia combined. In fact, if you took the total economies of Central America together, it is larger than 33 sizes of the United States, those economies in total, and they have not even begun yet.

It makes great economic sense, at a time when America needs more customers, to strengthen the ties with the customer in our backyard that is the tenth largest, and growing every day. My colleagues know how important it is. There is a reason why Europe and Asia and China are trying to get trade agreements with Central America, because they want to sell their products there. But it is time for us, it is our turn to sell there, and I appreciate the leadership of the gentleman from Texas (Mr. CONAWAY) on this issue.

Mr. Speaker, let me conclude myself, but before we do that, I want to turn to the chairman of the Subcommittee on Oversight in the House Committee on Ways and Means, the gentleman from California (Mr. HERGER). He has been looking for ways to strengthen democracy around the world for many years. He is a big supporter of finding new customers for California's products. In fact, California is the largest agriculture State in America. And he has also here in America helped to rewrite our welfare laws, so he understands what it means to get people back to work.

Mr. Speaker, I yield to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, I thank the gentleman from Texas (Mr. BRADY) for his leadership on this incredibly crucial issue of trade.

As the gentleman mentioned, California is the richest agricultural State in the Nation; actually, the richest agricultural area in the world. The Imperial Valley, the San Joaquin Valley, the Sacramento Valley, which is part of what I represent, north of Sacramento, and more than 250 different major commodities come from California. Again, I thank the gentleman for his active role in getting the facts out, the truth out about trade.

We are the largest trading Nation in the world, bar none other. And in the United States we have very low, and many times almost nonexistent, barriers for other countries to be able to trade to the United States. Yet we see very major trading barriers to other countries. So it is really win-win when we have an agreement such as CAFTA that can help bring down their barriers.

I would like to reemphasize the importance of CAFTA to farmers and ranchers, both in my home State of California and in the greater United States. Especially now, as we fast approach a vote in the House on CAFTA-ratifying legislation, it is important to note a few points on this agreement in general.

First, CAFTA was negotiated by all countries in the agreement, and already three have ratified it. Secondly, CAFTA is the only legislation of its kind that will come before the Congress. If it fails, the prospects of approving any similar agreement for the Central American countries and the Dominican Republic fail as well.

Finally, CAFTA has to be considered with some degree of historical context. In May 2000, I joined 308 of our 435 colleagues in the House to lower or eliminate tariffs on products entering the U.S. from CAFTA nations. At the time there was no reciprocal treatment. In other words, the U.S. products would continue to face high tariffs and other barriers to entry in CAFTA nation markets. The CAFTA-ratifying agreement soon to come before us will immediately zero out tariffs on 50 percent of U.S. agricultural products exported to the region, with the remaining schedule to be eliminated in 10 years. The American Farm Bureau estimates that this could mean an increase in U.S. agricultural exports of $1.5 billion per year.

In California, exports of farm products help boost both farm prices and income generated in the agricultural sector. Taken together with jobs, both on and off the farm, agriculture employs in California alone 129,560 workers, including food processing, storage, and transportation. Agriculture exports account for roughly $8.2 billion, or about 30 percent of the total export product of California.

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CAFTA implementation would increase those exports. As the Nation's largest producer and exporter of dairy products, with cash receipts of over $4 billion, California dairy producers would benefit greatly from reductions of the current duties imposed in CAFTA countries, which can be as high as 60 percent.

As our Nation's leading exporter of fruits, California fruit producers too would benefit from CAFTA passage. Grapes, for example, are the State's third largest source of farm cash receipts. Current duties on grapes can reach 20 percent in some CAFTA countries and could grow as high as 135 percent under WTO rules.

Producers and processors would benefit from the immediate elimination of duties on grapes and raisins in all CAFTA nations. California peaches grown in my district, a nearly $250 million industry, would benefit from elimination of duties on both fresh and canned peaches immediately.

Pears would also gain immediate duty-free access under CAFTA. Mr. Speaker, California is the leading producer of tree nuts in the United States, accounting for over $2 billion in farm cash receipts. California almonds, walnuts, pistachio producers would benefit from the immediate duty-free access in all CAFTA countries.

Current duties on those products can reach 20 percent. With over $1.7 billion in cash receipts, California lettuce producers would benefit from immediate duty elimination in Costa Rica and duty phase-out in most other Central American countries within 5 years.

The California tomato and broccoli industries would see similar tariff elimination. Another crop, California rice, which is a major commodity in my district, currently faces duties of up to 60 percent. As the Nation's second largest rice exporter, California rice producers would benefit from the immediate market access of 400,000 metric tons of U.S. rice in CAFTA countries.

As the Nation's second largest cotton exporter, California cotton would benefit from immediate market access worth up to $73.1 million.

For beef, too, CAFTA passage brings with it positive economic prospects. With cash receipts of nearly $1.6 billion, California would see tariffs reduced from as high as 30 percent to zero. Tariffs on some cuts of meat will be eliminated immediately in Central American countries.

Mr. Speaker, as stated in a letter from the California Ag Coalition for Free and Fair Trade, California producers of beef, fruit, nuts, vegetables, cotton, poultry, dairy products, wheat and rice stand to gain in a major way under CAFTA.

I support this agreement for passage, and I urge my friends on both sides of the aisle to do likewise. CAFTA would help level the playing field for America's agriculture, increasing export opportunities for our growers and producers. It would be truly tragic for our Nation's agriculture and all of our economy if we let this opportunity escape us.

Mr. BRADY of Texas. Mr. Speaker, I appreciate the gentleman from California (Mr. HERGER) speaking about this issue, because opponents to CAFTA say that does not matter. It would help our trade deficit if we just ignored selling all of our products to Central America. I do not understand how it helps our trade deficit to turn down 44 million new customers, in all of the ag, in technology and small business and manufacturing trade that we have and want to sell to.

I would ask the gentleman, how does that help our trade deficit to turn down a growing country and all of those new customers?

Mr. HERGER. Well, obviously, it does not help our trade deficit; it makes it worse. As the gentleman is pointing out, if we lose that, and the gentleman has pointed this out, there are other countries that are seeking to take these markets. China is working very diligently to take these markets, and we cannot allow this to happen.

So it is imperative that we move, and we look to be having a vote this week, that we win and we have a big win in this very important area of trade.

Mr. BRADY of Texas. I notice, too, the gentleman serving on Ways and Means, all we hear about is NAFTA; but what the critics do not tell you is that there is one huge difference between the two agreements, ignoring for a minute that during NAFTA years Texas grew by 1.7 million jobs. Our economy grew by 75 percent, we doubled our sales to Mexico, ignore all of that.

But the big difference is, Central America already sells most of its products in the United States today; they have for 20 years. If a company wanted to move away, they had 2 decades to do it. Now it is our turn to sell into Central America. Those are the ag sales and manufacturing sales and financial and insurance and telecommunications and chemicals from the Gulf Coast and forest products from east Texas, and ag from west Texas, and a number of products that we are looking for the new jobs and the new customers that this agreement provides us.

Mr. HERGER. Again I thank the gentleman. You brought up the agreement of NAFTA, the North American Free Trade Agreement, with Canada and with Mexico. And again, it was so tongue-in-cheek, it was so detrimental that we more than doubled our trade to both of these countries who are our major trading partners now, and we see our unemployment rate at one of the lowest levels in our Nation's history, right at 5 percent.

So if these trade agreements are so bad for our country, why are we seeing such incredibly dramatic positive results because of them?

Mr. BRADY of Texas. Well, I appreciate the gentleman from California (Mr. HERGER) for coming tonight and being part of this key debate.

Let me just conclude with a question. In recent years, a bipartisan Congress has extended its trade hand to the Muslim people of Morocco, the sub-Saharan nations of South Africa, our Asian allies in Singapore, and our Arab allies in Jordan. Why would Congress balk now at extending the same hand of trade to our Hispanic neighbors in Central America?

This is good for America and our workers, this is good for Central America, and this will help us defeat China in the war in textiles; and later this week I look forward to the House of Representatives joining the Senate in engagement, in jobs, rather than isolationism and turning our back on a region so close to us.

CAFTA IS BAD FOR AMERICA

The SPEAKER pro tempore (Mr. POE). Under the Speaker's announced policy of January 4, 2005, the gentleman from Michigan (Mr. LEVIN) is recognized for 60 minutes as the designee of the minority leader.

Mr. LEVIN. Mr. Speaker, I would like to yield to my colleague from the Ways and Means Committee, the gentleman from North Dakota (Mr. POMEROY), as much time as he shall consume.

Mr. POMEROY. Mr. Speaker, I commend my colleagues who have just completed their hour discussing on the House floor tonight why we should enact CAFTA.

Clearly, they were sincere, yet the arguments discussed essentially have been the same arguments advanced for why these negotiations even began now 2 years, 18 months ago, certainly being concluded well over a year ago.

It is an enormous privilege to serve on the Ways and Means Committee, the committee of jurisdiction on trade matters. And during the period of time, the extended period of time this has been before the Congress, it has given us a chance to look at this agreement pretty closely.

I could spend my time tonight going into the whats, and the whereases and the what-fors, but I think it might be more fruitful to discuss this in the broader perspective, perspective first of all involving the track we are on relative to our trade agreements and our Nation's economy.

Then, secondly, a particular for instance in terms of where this is just more of the same, in terms of our loss of jobs, loss of economic opportunity here at home, and then finally to discuss the process, a process that I think raises serious questions about this trade agreement.

Well, let us start with the broad pattern. We have been on a track of these trade deals, part of our participation in the global economy, for some years now. A recent commentator contrasted the approach taken by the United States with that of most other nations. It would just seem natural that as you stroll to the table and negotiate on behalf of the country you represent, that you advocate the nation's interests, the nation's jobs, the nation's opportunity to sell more under these agreements. And most nations do precisely that.

But this commentator contrasted the United States, where it is not just local interests that are represented by the big multinational corporations based in this country, it may be a U.S. corporation, but may be jobs all across the world.

Whether or not the interests of the multinational corporations have been advanced, the record is clear. The interest of the American worker and American opportunities have not been advanced. Just look at the trade numbers. Could you possibly have a clearer indicator as to whether this is working or not than the trade numbers? And what do they tell us? They tell us that our trade deficit, the amount we buy more than we sell, has never been greater in the history of our country.

Now, we have been at this awhile, these trade deals. A friend of mine says there is not a trade deal ever negotiated that our silk-shirted Ivy League-educated negotiators could not lose in half an hour. You certainly seem to think there might be truth in that when you look at the job loss that has just wrecked the economies of important parts of our country and led us to a net position, again, where we are buying more than we are selling to a dimension never before seen in the history of the United States.

I represent an agriculture State, North Dakota. We had, growing up when I was a kid in school, we thought of ourselves as North Dakota, bread basket to the world. We were very proud of the role we played in feeding the world. So let us just break out this agriculture component of our economy, take a look at that one. This year, 2005, we are on the brink of importing more food than we export.

The United States of America as a net food importer. Can you imagine something more screwed up than that? Clearly, this trade path that we are on is not working, and quite clearly CAFTA is more of the same.

You know, my friends that just took the preceding hour, they took about the 44 million new customers, the 44 million new customers. You know, we did not just learn of these places down there; heck, we have been dealing with them for years and years and years.

We have got about 94 percent of their wheat market, just to reference a commodity important in North Dakota. How much more are we going to get? They are not 44 million new customers. These are long-established trading partners of the United States. But what is at issue is what we are going to do relative to opening the flood gates to their production, to the further displacement of our workers and our opportunities.

And let me give you a for instance, because it is an industry I represent, the sugar industry. Of all of the commodities of agriculture, sugar is one of the higher value opportunities for the American farmer. And I represent people, third generation, fourth generation on the land, families that broke the prairie under the Homestead Act to begin their family's farming experience and now making a go of it because they raise sugar beets in the Red River Valley.

This is an industry that they have grown by blood, sweat and toil and risks, enormous financial risk. They had farmers not just raising the sugar beets, but when they had an opportunity, they acquired the processing neck of the business. So as a cooperative, farmers joining together, they actually bought the sugar refinery.

□ 2145

That is the place that makes the refined sugar. They put it into the market. Now they control the marketing of it as well.

This entire sugar industry from the Red River Valley sugar beet growers, from the workers in the plants today, to the sugar cane growers down in the South Central and Southeastern part of country, to the sugar beet growers out in the Northwestern United States, significant areas of the country broadly affected by the threat to sugar. Because what is at stake in CAFTA is opening up the border for yet an additional allotment for sugar to come pouring in from the CAFTA countries, countries whose labor wages have no relation to ours, whose environmental protections in their plants are no relation to ours, whose costs are often subsidized to get them down to global dump price.

And I have seen the context of the CAFTA debate argument that what the United States needs is to resort to the global dump price at the end of domestic production of sugar in this country. When will it end? When we decide are U.S. jobs worth fighting for, and the economic hopes and dreams of our families what we ought to be representing? If it is not good for us, why are we doing it? And when it comes to sugar, believe you me, just look right across the opinion of the United Sugar Industry in this country. They do not believe this is good for us. They believe it is the beginning of an end to domestic production of sugar in this country.

What that means in the Red River Valley, we are talking Fargo, Grand Forks, North Dakota, not large places, is a direct and indirect economic impact of up to 2- to $3 billion, direct jobs 2,500, indirect jobs maybe 30,000 in the area I represent. Just another chapter in this global trade path we are on that has cost us so much and brought us the deepest deficit in the history of the country.

Now, you might say, well, those are interesting arguments, but these other guys say something quite different. And so who do we believe? I would just say look at how this bill CAFTA is being handled. It was negotiated in the spring of 2004 and concluded in late spring, early summer. If this was such a point of pride for our trade negotiators who brought this agreement home, why in the world did President Bush not, as an achievement of his administration, put it front and center in the election campaign and run it up to Congress for a vote?

They ran the Australia trade agreement for a vote. That was negotiated after CAFTA. Why did they keep CAFTA like a dark family secret in the back room, out of the way, out of public view after the election? I believe it is because they knew that the American people knew this was another raw deal, another trade deal that was a raw deal; and, therefore, out of sight, out of mind. Let us get the votes. Let us win the election. We will bring it up and run it through later. That is a pretty callous way, I think, to deal with something so important to the people of this country, but that is what they have done.

Now, here we are 7 months into the new year, and just now they are running up for a vote. What has delayed them now that the election is so long past? Very simple. They do not have the votes. Why do they not have the votes? Because the American people understand that we have the deepest trade deficit in the history of the country. They understand that their jobs are not safe. They understand that their friends have lost jobs. They understand that industries are being dislocated. And as a result they do not have much time or attention for this CAFTA.

The House of Representatives is a very imperfect place, but there is one thing that this place captures, and that is what the American people are thinking. And that is why, beginning this last week before the August recess, the majority, the majority who have dictated so much in terms of vote outcomes, did not know whether they have the votes to pass CAFTA. And I believe they do not or we would have had it up for a vote this afternoon.

The Members of this body know that CAFTA is a loser for the American people. And so what are we hearing in these final hours before the CAFTA vote? I want the American people to understand what is at stake just as I discuss it with my colleagues. They have directly linked China to CAFTA. There is no linkage to China and CAFTA. We are upset about China. We are worried about the trade imbalance with China. CAFTA gives us a deeper trade imbalance, in my view, with CAFTA countries. It has nothing to do with China. They are trying cross-linkages, anything to try and get votes. Even more insidious.

There is a highway bill in conference committee. One of the things each and every Member represents is thousands and thousands of miles of roads back in their home districts. It is very important for each of us, Republican and Democrat alike, from every corner of the country, that we get our local needs attended to in the highway bill.

Now, do you think the highway bill is being held up because there is a problem with the highway bill? Absolutely not. The highway bill is being held up to leverage votes for CAFTA. This trade deal, so important for American jobs, is being bartered for highway projects in far-flung congressional districts.

This is no way for us to look at the future of U.S. trade. We can do better than that. It is just wrong to link Federal highway appropriations to preferred votes on trade deals. It is absolutely wrong.

Now we are hearing that it is going to be brought up for a vote late at night, in the early morning hours of the last minutes before we break for August recess. I fully expect that you might see this up for a vote between 2 and 3 in the morning maybe, or 4 and 5 in the morning if they have not corralled the votes before we leave town.

Can you imagine this body acting any more disgracefully than to hold the debate, run it when people are not watching, try and break the arms required to pass the deal, and then leave town under cloak of darkness for a month to hope the heat cools down because we have passed another bad deal for the American people?

I would hope and I would urge those who really determine the outcome of this fight, those who tonight find themselves caught between standing for their constituents and what their constituents want and what their leadership tells them they have to do. I would urge them to do the thing that you could never lose by doing: Stand with your constituents. They are the ones that sent you here. They are the ones we pledged to support. They are the ones who are counting on you tonight.

I was as a freshman in a Democrat majority. We have been in the minority for more than 10 years. And I believe we are in the minority in part because our leaders thought there were times when we had to vote for the majority instead of voting for those who sent us here.

I urge my Republican colleagues who are on the fence on this trade deal, getting tremendous pressure from the leadership, I urge you to stand your ground, stand with your constituents. They need you. They need you badly on this vote.

To the Democrat and Republican Members who have already signaled that we are opposed to this deal, we are opposed to another sell-out of our economy, we are opposed to another rolling over of the concerns about American workers, I urge you to dig down and work harder than we have ever worked before.

We are on the brink of winning this important vote. What happens if we do? It is not like relations end, for heaven's sake, with our near neighbors. We go back to the table and we get a deal we can all be proud of, one that has some fundamental protections for our country. That is all that happens if we defeat this deal. So let us stand together and win one, by golly. The American economy and the American workers deserve no less.

I thank the gentleman for yielding to me.

Mr. LEVIN. Mr. Speaker, I thank the gentleman very much for his excellent statement.

It is now my pleasure to yield to another colleague who comes across the country from the gentleman from North Dakota (Mr. POMEROY), about as far east as you can get from the Dakotas, I think, the gentleman from Maine (Mr. MICHAUD).

Mr. MICHAUD. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, earlier this evening we heard an hour debate of why Congress and the American people should support CAFTA. And to the gentleman from Michigan (Mr. LEVIN) I would like to say, as Paul Harvey would say, Now the rest of the story.

I want to thank my good friend, the gentleman from Michigan (Mr. LEVIN), a distinguished member of the Committee on Ways and Means. He has been a remarkable advocate for issues affecting working families. This week the House is expected to vote on a trade agreement that only promises job losses and devastation.

Mr. Speaker, I rise tonight in strong opposition to CAFTA. I rise tonight for all Mainers who have lost their jobs. I rise for all working Americans and their families, many who are still working at this late hour to help make ends meet. And I know what it is like myself. For almost 30 years I worked at Great Northern Paper Company in East Millinocket, Maine, where my father worked for 43 years, my grandfather before him for 40 years. And that is the way it is in a lot of mill towns in Maine and all across the country.

Two days after I was sworn in as a Member of Congress in January of 2003, I learned that the mill where I worked filed bankruptcy and was shutting its doors. The mill was closed largely due to the pressure created by unfair trade agreements, years of poorly thought-out trade deals that placed manufacturing industries at a huge disadvantage. And one would only have to look at the huge trade deficits that are continuing to grow ever since NAFTA went into effect.

I know firsthand, as many Mainers do, that with these layoffs and closures, when these businesses go under because of unfair trade deals, so does the heart and souls of these communities. In Maine alone, since 1998 and to late 2004, the Federal Government had documented 11,724 workers who lost their job due to trade. Although the real undocumented number is much higher, it has been estimated that 24,000 Mainers have lost their jobs due to NAFTA alone.

The number serves to demonstrate yet again what people in Maine already know through our own tough experience. The economy continues to struggle and our workers see fewer good prospects. Maine has lost 23 percent of our manufacturing base over the last 3 years alone.

Now, I heard my colleague who supported CAFTA earlier talk about the unemployment going down. Well, I can say my first year in Congress we had labor market areas in Maine whose unemployment rate was over 35 percent. And the reason why the number is lower today is not because they have found jobs, it is because this Congress, the previous Congress, has failed to extend the unemployment benefits, so they are no longer counted as being unemployed. They just drop off the list.

We are sick of watching our jobs get shipped overseas as our workers stand waving good-bye to them. It is time to get off the fast track of lost jobs and shattered dreams and on to the right track for fair trade agreements.

When it comes to CAFTA, the benefit is pretty hard to find. Despite having 44 million inhabitants, the CAFTA nations' total purchasing power is the same as New Haven, Connecticut. More than 40 percent of the Central American workers work for less than $2 a day. CAFTA outsources our jobs to cheap labor markets with almost nonexisting environmental or labor standards.

□ 2200

How could such a bad deal for our workers pass?

In recent days, the administration authorized House leadership to secure votes with whatever is at hand, from extra funding, as you heard earlier, for individual Members' districts in the highway projects and energy bill, to the still incomplete appropriations bills. Members are being asked to trade away their votes for agreements that trade American jobs away. This is just unbelievable.

Tomorrow, the House is expected to vote on H.R. 3283, the so-called United States Trade Rights Enforcement Act. This bill does nothing to effectively address China's unfair trade practices and their adverse impact on U.S. workers and manufacturers and the Nation's economy. In fact, it makes it harder to stop unfair Chinese trade practices. But it has a good-sounding title.

This bill is an effort to sway votes for CAFTA, giving Members a fig leaf to hide behind so they can say they are standing up against unfair trade agreements. It is nothing but smoke and mirrors. Smoke and mirrors.

Two years ago, these tactics worked to pass the deeply flawed Medicare bill by one vote. Leadership held open a 15-minute vote for 3 hours while they twisted arms in order to ensure passage. It is expected the same will happen with the CAFTA vote. Is this the way the people of the House should be acting? Is this in the best interest of our Nation?

What message does this send the American people and our workforce and our businesses? And why must these votes always happen in the dark of night? It is because while working Americans sleep, their jobs are being traded away.

Mr. Speaker, all Americans who are watching tonight should check for themselves. They should pay close attention to what time the CAFTA vote happens. They should ask themselves why under such cover of darkness should we be voting. It is said that midnight is the witching hour. Americans should wonder what kind of witchcraft is being passed on the House floor as we consider CAFTA in the dead of night.

The administration may want this deal to pass as quickly as possible before more opposition mounts, but the people who have suffered the most under our trade policies, including many of my neighbors, my coworkers and my family, and many of the good people in Maine have earned the right to ask a simple question about what a new trade deal will mean to their families and get some real answers before we move forward.

One of the things I hear a lot of people say is that large stable companies, like Great Northern was, where I worked for over 30 years, will never move overseas because it is too costly. I can tell my colleagues firsthand that the mill I worked at had six paper machines. They uplifted four of them and shipped them overseas. The mill in Millinocket, the Great Northern Paper Company's other mill, did the same thing. It is nothing for large corporations to unbolt their machines and ship them overseas so they can get that cheap labor.

We heard earlier that in some of these CAFTA countries labor is less than $2 a day. That is exploiting workers. It is not to benefit the CAFTA nations. It definitely will not benefit the United States of America. So I hope Members on both sides of the aisle will take a good hard look at this trade policy because we cannot sell-out the American workers. We cannot sell out the American Dream that we have.

We must reverse these trade policies to once again put the United States of America on the path of growth. The only way we are going to be a secure country, the only way we are going to be able to be respected among other nations, like we have in the past, is to make sure that we have a strong economy.

When we look at what happened during World War II, what made this country the greatest country in the world, with our Greatest Generation, was the ability for Americans back home to work in our manufacturing industry, to work hand in hand. But what are we going to do if we continue to ship these jobs overseas? It is going to weaken the United States' ability to be the number one leader as far as our national defense.

We must vote this CAFTA deal down, regardless of what time in the morning it comes up and regardless of how long the leadership holds the vote open. We must do what is right, and what is right is fair trade agreements.

So I thank the gentleman for yielding to me, and I will be with him voting against CAFTA.

Mr. LEVIN. Mr. Speaker, I thank the gentleman very much for his eloquent statement.

Mr. Speaker, I have had the opportunity tonight to listen to an hour that was presided over by my colleague on the Committee on Ways and Means on the majority side, the gentleman from Ohio (Mr. TURNER), and his fellow Republicans and the statements of my colleagues on the Democratic side. It has been refreshing in this sense, that we have talked about the issues. I very much disagree with the statements of the gentleman from Ohio (Mr. TURNER) and others, and I will get to that; but at least we have been talking about issues.

In the last few days, when it comes to CAFTA, that is not what the administration or the Republican majority have been doing. Instead, we have learned about a number of deals that have been cut, one of them relating to dams and locks in return for a vote; or if not in return, that being taken into account if the vote was cast.

We have heard the administration make statements regarding fabrics, regarding apparel and textiles. They have made commitments that they cannot on their own keep. And if history is any judge, they are unlikely to do so. They have made a commitment, for example, regarding pockets and linings, essentially reopening the agreement, saying that they are going to secure that change. However, the truth of the matter is it would take action by this Congress to do that, and not under Fast Track; and also there would have to be agreement by the six DR-CAFTA countries.

Regarding a provision of concern to Nicaragua, the administration has made some statement that Nicaragua will more or less back off. However, it is only for Nicaragua to make that statement.

And then there has been the same process regarding sugar in order to try to win some votes from people who object to the provisions on sugar. There have been statements about some adjustments that will be made or some further actions that will be taken. Again, they are not in the agreement. There is nothing that this administration can really say that it can be assured of producing.

Oh, and then I guess it was today I read about discussions relating to agricultural shipments to Cuba and some bargaining back and forth between some of the Members of this Congress and the administration regarding that.

So while I very much disagree with the statements in almost every case made by the majority regarding CAFTA, in a way they were talking about issues and they were not talking about bait being offered for people to cast their vote.

I want to talk about what is really, as I see it, and my colleagues in so many cases see it, as the overriding issue. Why are so many of us who have worked for expanded trade, who have helped to shape trade agreements opposed to this agreement? There are economic aspects, and one can argue them various ways. I suggest that they be kept to the economic data in perspective. One estimate is that in terms of GDP, the impact of CAFTA on the U.S. would be less than one-fifth of 1 percent. As to Central American countries, there is evidence on all sides of the issue, including dislocation, that would occur.

But, again, I want to talk about the larger issue, and that is where globalization is today and where it is going. Because here at CAFTA, globalization is at a crossroads, and that is why so many of us who have worked for expanded trade feel that we needed to take a hard look to judge whether this agreement was going to shape globalization so, as was put by President Clinton some years ago, it would level up, not level down.

I think the basic assumption of many proponents of CAFTA is, well, that does not really matter because trade is win-win; that there is no possible loss; that trade inevitably works out for everybody's benefit. But for those of us who, I say, have worked and often worked very hard and successfully to shape expanded trade the right way, we believe this does it the wrong way; that you need to shape trade agreements so it is not a race to the bottom.

And that is why the issues relating to worker rights are so important. That is what this basic issue is really all about. This is why Central America, Dominican Republic and CAFTA, matter so much in terms of where trade is going. Regarding the CAFTA countries, we are now talking about countries in a region that has, Latin America, the worst income distribution of any region in the world. We are talking about within most of the countries immense maldistribution of income. We are talking about immense poverty. There is a weak middle class in most of the countries.

It was interesting to read a Wall Street Journal article just a week ago. The headline was: "In Latin America, Rich-Poor Chasm Stifles Growth," and I quote: "Because of an abundance of natural resources and a large indigenous population, Latin American nations group up relying on raw materials, cheap manual labor to exploit them, and low government taxation. The system concentrated land ownership and wealth in a few hands, deprived governments of money to spend on education and other incentives, and essentially ordered the incentives for the elite to invest not in human capital or technology. Latin America has also historically relied on monopolies and franchises, leaving few opportunities for entrepreneurs to advance through hard work and innovation."

If you look at the history of trade agreements, there has been an effort to begin to have them relate to workers, to take into account the capital of workers as well as financial capital. And so in recent years, we had agreements, Jordan, Cambodia, which essentially said to countries: look, take steps to make sure that workers have their basic rights.

We are not talking about the laws of the United States; we are talking about the five core internationally recognized rights: no child labor, also no forced labor, no discrimination in the workplace, and also, so importantly, the rights of workers to associate and to organize.

And what has happened is that this agreement is a step backwards from where we were going, a step backwards from Jordan, a step backwards from the Cambodia experiment, and also a step backwards from CBI and the second CBI, and what is called the "generalized system of preferences." What this agreement says to a country when it comes to these basic rights of workers is, enforce your own laws, no matter what they are, no matter how bad they are. That is the standard: enforce your own laws.

That standard is not used in any other part of the agreement, whether it is intellectual properties or investments or tariffs or subsidies. Here it is: enforce your own laws.

□ 2215

There has been an effort to obscure what the reality is on the ground in Central America, but State Department reports make it clear, the ILO reports make it also very clear. There is a recent report of USTR itself that it was required to give to Congress. That report also makes it clear.

In reality, workers do not have the ability to exercise internationally recognized rights. When they want to associate, essentially there can be action by the employer with impunity. In some cases all they have to do, if they fire workers who want to form a union, all they have to do is pay severance pay. That is the reality on the ground, and there are so many cases that prove it. In a Special Order that I took on some weeks ago, I spelled out one example in El Salvador.

Why does this matter? Why is it important that workers in Central America have their basic internationally recognized rights? Here is why it matters.

In these countries with immense poverty, in these countries with terrible maldistribution of income, in these countries with weak middle classes, if workers cannot exercise their rights, they are going to remain poor. Their countries are going to remain without the middle classes that they so badly need. Our workers are going to have to compete with workers whose rights are suppressed, and our workers are saying, no, they do not want to do that. And our companies and their workers are not going to have middles classes in Central America that can buy their goods.

So I want to say a few more words about the implications of all this. There has been talk about security and stability. I want to say to my colleagues on both sides of the aisle, what undermines stability and security is when people are impoverished, when people have no opportunity to climb up the ladder to the middle class.

This was also in the Wall Street Journal, I read a letter to the editor by Rutilio Martinez, who is a professor in Colorado, and he was responding to an article about Chavez in Venezuela, and he is very much opposed to the Chavez regime. He concluded, "The rest of Latin America, from Mexico to Argentina, should take notice what is happening in Venezuela and do something to improve their horrible distribution of wealth, otherwise soon there will be very many Venezuelas in this poverty-ridden but resource-rich region."

A major threat to security in Central American countries is terrible income distribution. It is also the absence of strong middle classes and the presence of immense poverty. There was talk about certain groups in Central America opposing this agreement.

I just urge everybody to listen also to bishops who are there with their flock in Central America. I read from a recent joint statement concerning the Central American Free Trade Agreement by the Bishops' Secretariat of Central America and the chairman of the Domestic and International Policy Committees of the U.S. Conference of Catholic Bishops. "In light of a recent visit to Washington, D.C., 23–24 June, 2004, by a delegation of six bishops representing the Church in Central America, the Bishops' Secretariat of Central America and the chairman of Domestic and International Policy Committees of the United States Conference of Bishops wish to express with one voice our observations and concerns about the U.S.-Central American Free Trade Agreement."

I quote from just one of their concerns. This is in subsection 3. "Many have claimed that CAFTA will lead to a significant increase in jobs. However, these jobs could principally be in assembly plants, maquilas, which mainly employ women, and which offer an unstable form of employment. Without proper worker protections, we know from our own experience that this type of employment will not foster authentic human development."

It is said by some defenders of this agreement that the problem is not in the laws, it is enforcement. First of all, that is not true about the laws. No matter how much you put into enforcement, if the laws are inadequate, it will not work.

But also this administration is really not candid about its claims about money for enforcement. It cut moneys for the entity within the Department of Labor that deals with capacity-building of labor departments of other countries. It proposed cuts of 87 percent, and now it is being suggested that some of that money be put back. The record of this administration in terms of trying to bolster enforcement is abysmal. They are now coming forth and saying, well, we will reform, so support CAFTA.

The laws do not measure up to international standards. As I saw a few years ago in Central America in the maquilas in three of the countries, there are no rights of workers on the ground in reality. They are working for 75 cents an hour, maybe a buck, mostly young women in the maquilas, many with children, sole supporter of their children. As soon as they tried to have a voice in the workplace, a voice at work, that voice is kicked out, is snuffed out by their discharge.

Let me make just a few comments. Someone said, well, there are 44 million people, and they cannot buy high-end goods. That is not the issue at all. Let me just read quickly from an article that is going to be published in the Sister City News, "Dos Pueblos: The New York-Tipitapa Nicaragua Sister City Project." Dos Pueblos is a nonprofit organization that began way back in 1987. They went to Nicaragua just recently and reported back, "The salaries they receive, however, are covering fewer and fewer of their families' basic needs. While the minimum salary in 2003 covered 49.2 percent of the basic food basket, 53 products identified as necessary to feed a family of four for a month, the minimum pay in 2005 is only covering 26 percent of these costs." So it is not a question of buying a Cadillac, it is a question of buying food.

Mr. Speaker, it is tragic that this administration has handled trade and shattered the bipartisan foundation for trade that is so necessary, that is so vital that a number of us have wanted to help reestablish in this country. They have shattered that foundation.

Now they are going to come here on this floor in just a few days, and what they are apparently going to try to do once again, instead of getting 250 to 300 votes on a truly bipartisan basis, they are going to essentially, headstrong, I think head-in-the-sand in terms of good trade policy, see if they can squeeze out a victory by one or two votes.

That will not happen. If it did, it would be a defeat for the bipartisan foundation so essential for trade policy. It would be a defeat for the people of Central America, the workers there, for their countries that so badly need the development of a middle class, people moving up the ladder. It will be bad for our workers who refuse to compete against workers whose rights are so badly suppressed, and it will be bad for our companies who need middle classes to sell to.

In closing, the gentleman from Ohio (Mr. TURNER) said at the very end that people supported Morocco, people supported Jordan, I did, because in those countries the rights, the internationally recognized rights of workers were in place, so enforce your own laws, there were laws to implement. There were conditions that were worthy of international respect. That is not true in CAFTA. It is not true in Central America.

We need to renegotiate. I am in favor of a CAFTA. So are others of my colleagues who have worked with me and who are leading this effort to make sure that CAFTA is defeated and we go back to the table and address these basic issues. Globalization is here to stay. The question is whether globalization is going to have its benefits spread, or essentially they are going to be distributed only to a minority.

If that continues to happen in Latin America, we are going to see more people voting with their feet, or voting at the ballot box as they have been doing. People want a share of globalization. They want a stake in globalization. In order to have that, they have to have a voice in the workplace. So that is what this is all about. There are other issues, but there is this larger issue. There is a test here, a test presented by the CAFTA agreement. This administration flunked the test, and now they are just charging ahead hoping to capture a narrow victory. It will not happen. It will be a defeat.

I urge we defeat CAFTA as negotiated and return to the table, which we can do, and refinish this agreement in about a month. In that way we can proudly say we met the challenges of globalization in this case in the year 2005.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Ms. PELOSI) for today.

Ms. KILPATRICK of Michigan (at the request of Ms. PELOSI) for today on account of personal business.

Mr. ORTIZ (at the request of Ms. PELOSI) for today.

Mr. REYES (at the request of Ms. PELOSI) for today.

Mr. HOBSON (at the request of Mr. DELAY) for today on account of being unable to travel due to bad weather.

Mr. LINDER (at the request of Mr. DELAY) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. WYNN, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. NADLER, for 5 minutes, today.

Ms. SCHAKOWSKY, for 5 minutes, today.

Ms. VELÁZQUEZ, for 5 minutes, today.

Mr. CAPUANO for 5 minutes, today.

Mr. HONDA, for 5 minutes, today.

Mrs. CHRISTENSEN, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. CARSON, for 5 minutes, today.

Mr. PAYNE, for 5 minutes, today.

(The following Members (at the request of Mr. PRICE of Georgia) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, for 5 minutes, today and July 26, 27, and 28.

Mr. OSBORNE, for 5 minutes, today and July 26, 27, 28, and 29.

Mr. POE, for 5 minutes, today and July 26.

Mr. RAMSTAD, for 5 minutes, July 26.

Mr. BURTON of Indiana, for 5 minutes, today and July 26, 27, 28, and 29.

Mr. FORTUÑO, for 5 minutes, July 27.

Ms. FOXX, for 5 minutes, July 26 and 27.

Mrs. BLACKBURN, for 5 minutes, today and July 26.

Mr. BURGESS, for 5 minutes, today and July 26 and 28.

ADJOURNMENT

Mr. LEVIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 29 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, July 26, 2005, at 9 a.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3148. A letter from the Acting Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Irish Potatoes Grown in Washington; Order Amending Marketing Order No. 946 [Docket No. AO-F&V-946-3; FV03-946-01 FR] received July 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3149. A letter from the Chief, Regulatory Analysis and Development, Department of Agriculture, transmitting the Department's final rule — Tuberculosis; Reduction in Timeframe for Movement of Cattle and Bison from Modified Accredited and Accreditation Preparatory States or Zones Without an Individual Tuberculin Test [Docket No. 04-065-1] received May 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3150. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the Administration's final rule — Disclosure to Shareholders; Accounting and Reporting Requirements; Federal Agriculture Mortgage Corporation General Provisions; Federal Agriculture Mortgage

Corporation Governance: Federal Agriculture Mortgage Corporation Funding and Fiscal Affairs; Federal Agriculture Mortgage Corporation Disclosure and Reporting Requirements (RIN: 3052-AC18) received July 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3151. A letter from the Architect of the Capitol, transmitting the report of expenditures of appropriations during the period April 1, 2004 through September 30, 2004, pursuant to 40 U.S.C. 162b; to the Committee on Appropriations.

3152. A letter from the Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting the National Defense Stockpile (NDS) Annual Materials Plan (AMP) for FY 2006 along with revisions to the FY 05 Annual Materials Plan and AMPs for the succeeding four years, FY 07 through FY 10, pursuant to 50 U.S.C. 98h-5; to the Committee on Armed Services.

3153. A letter from the Deputy Secretary, Department of Defense, transmitting a financial plan for the U.S. participation in and support of Operation Unified Assistance (Tsunami Disaster Relief Effort), pursuant to 10 U.S.C. 127a; to the Committee on Armed Services.

3154. A letter from the General Counsel, Department of Defense, transmitting a letter discharging the Department of Defense of responsibilities concerning termination of the Panama Canal Commission Office of Transition Administration; to the Committee on Armed Services.

3155. A letter from the Inspector General, Department of Defense, transmitting an audit report entitled, "Defense Infrastructure: DoD Workforce Employed to Conduct Public-Private Competitions Under the DoD Competitive Sourcing Program," pursuant to Public Law 108-375, section 328(1); to the Committee on Armed Services.

3156. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of General Gregory S. Martin, United States Air Force, and his advancement to the grade of general on the retired list, to the Committee on Armed Services.

3157. A letter from the Acting Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting a report on Contractual Offset Arrangements, Memoranda of Understanding, and Procurement Waivers, pursuant to 10 U.S.C. 2534(d)(3); to the Committee on Armed Services.

3158. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Multiyear Contracting [DFARS Case 2004-DO24] received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

3159. A letter from the Assistant Attorney General, Civil Rights Division, Department of Justice, transmitting the 2004 Annual Report regarding the Department's enforcement activities under the Equal Credit Opportunity Act, pursuant to 15 U.S.C. 1691f; to the Committee on Financial Services.

3160. A letter from the Under Secretary for Domestic Finance, Department of the Treasury, transmitting the annual report on the Resolution Funding Corporation for calendar year 2004, pursuant to Public Law 101-73, section 501(a) (103 Stat. 387); to the Committee on Financial Services.

3161. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7875] received May 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3162. A letter from the Counsel for Legislation and Regulations, OH, Department of Housing and Urban Development, transmitting the Department's final rule — Up-Front Mortgage Insurance Premiums for Loans Insured Under Sections 203(k) and 234(c) of the National Housing Act [Docket No. FR-4749-F-02] (RIN: 2502-AH82) received July 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3163. A letter from the Secretary, Department of Veterans Affairs, transmitting a draft of proposed legislation to amend title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.); to the Committee on Financial Services.

3164. A letter from the Assistant Secretary, DCF, Securities and Exchange Commission, transmitting the Commission's final rule — Securities Offering Reform (RIN: 3235-AI11) received July 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3165. A letter from the Assistant Secretary, DMR, Securities and Exchange Commission, transmitting the Commission's final rule — Removal from Listing and Registration of Securities Pursuant to Section 12(d) of the Securities Exchange Act Of 1934 [Release No. 34-52029; File No. S7-25-04] (RIN: 3235-AJ04) received July 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3166. A letter from the Deputy Secretary, DMR, Securities and Exchange Commission, transmitting the Commission's final rule — Commission Guidance Regarding Prohibited Conduct in Connection with IPO Allocations [Release Nos. 33-8565; 34-51500; IC-26828; File No. S7-03-05] received April 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3167. A letter from the Director, Executive Secretariat, BIA, Department of the Interior, transmitting the Department's final rule — Conforming Amendments to Implement the No Child Left Behind Act of 2001 (RIN: 1076-AE54) received April 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3168. A letter from the Asst. Gen. Counsel for Regulatory Services, OSERS, Department of Education, transmitting the Department's final rule — National Institute on Disability and Rehabilitation Research — Disability and Rehabilitation Research Projects and Centers Program — Disability and Rehabilitation Research Projects — received July 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3169. A letter from the Secretary, Judicial Conference of the United States, transmitting a draft bill, "To amend the Higher Education Act of 1965 to make full-time Federal defender attorneys eligible for cancellation of loans for certain public service, and for other purposes"; to the Committee on Education and the Workforce.

3170. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting the annual uranium marketing report for 2004, pursuant to 42 U.S.C. 2296b-5; to the Committee on Energy and Commerce.

3171. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's FY 2004 annual financial report to Congress required by the Prescription Drug User Fee Act of 1992 (PDUFA), pursuant to 21 U.S.C. 379g note; to the Committee on Energy and Commerce.

3172. A letter from the Director, Regulations Policy and Mgmt. Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — Food Additives Permitted for Direct Addition to Food for Human Consumption; Vitamin D3 [Docket No. 2003F-0370] received July 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3173. A letter from the Director, Regulations Policy and Mgmt. Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — Food Additives Permitted for Direct Addition to Food for Human Consumption, Vitamin D3 [Docket No. 2002F-0160] received July 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3174. A letter from the Director, Regulations Policy and Mgmt. Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — Color Additive Certification; Increase in Fees for Certification Services [Docket No. 2005N-0077] received April 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3175. A letter from the Secretary, Department of Health and Human Services, transmitting the second annual report, pursuant to section 302(d) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; to the Committee on Energy and Commerce.

3176. A letter from the Deputy Assistant Administrator, ODC, DEA, Department of Justice, transmitting the Department's final rule — Schedules of Controlled Substances: Placement of Zopiclone Into Schedule IV [Docket No. DEA-262F] received April 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3177. A letter from the Deputy Bureau Chief, CGB, Federal Communications Commission, transmitting the Commission's final rule — Rules and Regulations Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 [CG Docket No. 04-53]; Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 [CG Docket No. 02-278] received June 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3178. A letter from the Deputy Bureau Chief, CGB, Federal Communications Commission, transmitting the Commission's final rule — Rules and Regulations Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003; [CG Docket No. 04-53]; Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 [CG Docket No. 02-278] received June 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3179. A letter from the Chief, Policy and Rules Division, Federal Communications Commission, transmitting the Commission's final rule — Requirements for Digital Receiving Capability [ET Docket No. 05-24] received June 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3180. A letter from the Assistant Bureau Chief for Management, IB, Federal Communications Commission, transmitting the Commission's final rule — Mandatory Electronic Filing for International Telecommunications Services and Other International Filings [IB Docket No. 04-226] received June 20, 2005, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Energy and Commerce.

3181. A letter from the Acting Division Chief, WCB, Federal Communications Commission, transmitting the Commission's final rule — IP-Enabled Services [WC Docket No. 04-36]; E911 Requirements for IP-Enabled Service Providers [WC Docket No. 05-196] received June 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3182. A letter from the Deputy General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule — Interconnection for Wind Energy [Docket No. RM05-4-000 — Order No. 661] received June 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3183. A letter from the General Counsel., Federal Energy Regulatory Commission, transmitting the Commission's final rule — Revision of FERC Form No. 73, Oil Pipeline Data Filing Instructions RM05-14-000 — received July 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3184. A letter from the Acting Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Export and Import of Radioactive Materials: Security Policies (RIN: 3150-AH44) received June 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3185. A letter from the Acting Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — List of Approved Spent Fuel Storage Casks: VSC-24 Revision (RIN: 3150-AH70) received July 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3186. A letter from the Acting Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Export and Import of Nuclear Equipment and Material: Nuclear Grade Graphite (RIN: 3150-AH51) received July 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

3187. A letter from the Chairman of the Board, Pension Benefit Guaranty Corporation, transmitting the semiannual report on activities of the Inspector General of the Pension Benefit Guaranty Corporation for the period October 1, 2004 through March 31, 2005, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

3188. A letter from the Senior Vice President and Chief Financial Officer, Potomac Electric Power Company, transmitting a copy of the Balance Sheet of Potomac Electric Power Company as of December 31, 2004, pursuant to D.C. Code section 43-513; to the Committee on Government Reform.

3189. A letter from the EEO Programs Director, Board of Governors of the Federal Reserve System, transmitting the first annual report pursuant to Section 203(a) of the No Fear Act, Pub. L. 107-174, including data from fiscal years 1999 through 2004; to the Committee on Government Reform.

3190. A letter from the Counsel for Legislation and Regualtions, (OIG), Department of Housing and Urban Development, transmitting the Department's final rule — Office of Inspector General (OIG) Subpoenas and Production in Response to Subpoenas or Demands of Courts or Other Authorities [Docket No. FR-4942-F-02] (RIN: 2508-AA14) received July 7, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3191. A letter from the Archivist of the United States, National Archives and Records Administration, transmitting a report on the National Archives and Records Administration's (NARA) category rating for calendar year 2004, pursuant to 5 U.S.C. 3319(d); to the Committee on Government Reform.

3192. A letter from the Executive Director, National Council on Disability, transmitting the Council's Annual Performance Report to the President and Congress Fiscal Year 2004, as required by the Government Performance and Results Act, pursuant to 31 U.S.C. 1116; to the Committee on Government Reform.

3193. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a Presidential appointment reduction plan, pursuant to section 8403(c) of the Intelligence Reform and Terrorism Prevention Act of 2004; to the Committee on Government Reform.

3194. A letter from the Director, Office of Personnel Management, transmitting the Chief Human Capital Officers (CHCO) Council's Report to Congress covering FY 2004, pursuant to 5 U.S.C. 1401 note Public Law 107-296 section 1303(d); to the Committee on Government Reform.

3195. A letter from the Chairman, Securities and Exchange Commission, transmitting the Commission's Performance and Accountability Report for fiscal year 2004; to the Committee on Government Reform.

3196. A letter from the Chairman, U.S. International Trade Commission, transmitting the Commission's annual report on category rating for 2004; to the Committee on Government Reform.

3197. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS) — Fixed and Floating Platforms and Structures and Documents Incorporated by Reference (RIN: 1010-AC85) received July 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3198. A letter from the Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Astragalus jaegerianus (Lane Mountain milk-vetch) (RIN: 1018-AI78) received April 5, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3199. A letter from the Deputy Asst. Admin. for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Emergency Fishery Closure Due to the Presence of the Toxin that Causes Paralytic Shellfish Poisoning (PSP) [Docket No. 050613158-5158-01; I.D. 061305B] (RIN: 0648-AT48) received July 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3200. A letter from the Deputy Asst. Admin. for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Total Allowable Catches for Georges Bank Cod, Haddock, and Yellowtail Flounder in the U.S./Canada Management Area for Fishing Year 2005 [Docket No. 050331089-5172-02; I.D. 031005A] (RIN: 0648-AS74) received July 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3201. A letter from the Deputy Asst. Admin. for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Atlantic Herring Fishery [Docket No. 050112008-5102-02; I.D. 010605E] (RIN: 0648-AS23) received July 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3202. A letter from the Federal Liason Officer, PTO, Department of Commerce, transmitting the Department's final rule — Changes to Implement the Patent Fee Related Provisions of the Consolidated Appropriations Act, 2005 [Docket No.: 2003-P-026] (RIN: 0651-AB54) received February 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3203. A letter from the Chairman, United States Parole Commission, Department of Justice, transmitting a copy of the Commission's Annual Report covering the period October 1, 2003 through September 30, 2004; to the Committee on the Judiciary.

3204. A letter from the Assistant Attorney General, Department of Justice, transmitting a report on the Workplace Effects from Violence Against Women, pursuant to Section 1207 of the Violence Against Women Act of 2000; to the Committee on the Judiciary.

3205. A letter from the Rules Administrator, BOP, Department of Justice, transmitting the Department's final rule — Bureau of Prisons Emergencies [BOP Docket No. 1117-F] (RIN: 1120-AB17) received June 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3206. A letter from the Secretary, Judicial Conference of the United States, transmitting a copy of a draft bill entitled, "To provide for the appointment of additional Federal circuit and district judges, and for other purposes"; to the Committee on the Judiciary.

3207. A letter from the Chairman, National Prison Rape Elimination Commission, transmitting a request for additional time for the submission of the National Rape Elimination Commission's report; to the Committee on the Judiciary.

3208. A letter from the Congressional Medal of Honor Society of the United States of America, transmitting the annual financial report of the Society for calendar year 2004, pursuant to 36 U.S.C. 1101(19) and 1103; to the Committee on the Judiciary.

3209. A letter from the Assistant Secretary of the Army, Civil Works, Department of the Army, transmitting a copy of the the Final Feasibility Report and Environmental Impact of the Western Sarpy/Clear Creek, Nebraska flood reduction study; to the Committee on Transportation and Infrastructure.

3210. A letter from the Assistant Secretary for Legislative Affairs, Department of Homeland Security, transmitting a report on the Revised Deepwater Implementation Plan for 2005, pursuant to Public Law 108-334; to the Committee on Transportation and Infrastructure.

3211. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determination [Docket No. FEMA-B-7452] received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3212. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; New York Marine Inspection Zone and Captain of the Port Zone, New York Harbor [CGD01-05-025] (RIN: 1625-AA87) received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3213. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Anchorage Grounds; Anacortes General Anchorage and Cap Sante and Hat Island Tug and Barge General Anchorages, Anacortes, WA [CGD13-05-001] (RIN: 1625-AA01) received June 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3214. A letter from the Chief, Regulations and Administrative, USCG, Department of Homeland Security, transmitting the Department's final rule — Regulated Navigation Area, Security Zone and Drawbridge Operation Regulations; Port Everglades, FL [CGD07-05-031] (RIN: 1625-AA11, 1625-AA87, and 1625-AA09) received June 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3215. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Portland Rose Festival on Willamette River [CGD13-05-007] (RIN: 1625-AA87) received June 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3216. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Standards; Bird Ingestion; Correction [Docket No. FAA-1998-4815; Amendment No. 23-54 and 33-20] (RIN: 2120-AF84) received May 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3217. A letter from the Associate Deputy Administrator for Government Contracting and Business Development, Small Business Administration, transmitting a report on the Minority Small Business and Capital Ownership program, pursuant to 15 U.S.C. 636(j)(16)(B); to the Committee on Small Business.

3218. A letter from the Secretary, Department of Veterans Affairs, transmitting a draft of proposed legislative changes to 38 U.S.C. 8110(a); to the Committee on Veterans' Affairs.

3219. A letter from the Assistant Secretary for Health Affairs and Under Secretary for Benefits, Departments of Defense and Veterans Affairs, transmitting an interim report on the Department of Defense and Department of Veterans Affairs' pilot program on seperation physicals, pursuant to Public Law 107-107, section 734; to the Committee on Veterans' Affairs.

3220. A letter from the Secretary, Department of Labor, transmitting the Department's eleventh report on the impact of the Andean Trade Preference Act on U.S. trade and employment from 2002 to 2003, pursuant to 19 U.S.C. 3205; to the Committee on Ways and Means.

3221. A letter from the General Counsel, Department of Defense, transmitting proposals of legislation as part of the National Defense Authorization Bill for Fiscal Year 2006; jointly to the Committees on Armed Services and International Relations.

3222. A letter from the Secretary, Department of Energy, transmitting a proposal of legislation to amend section 161k of the Atomic Energy Act of 1954 to provide executive protection authorities for the Department of Energy Federal protective force; jointly to the Committees on Energy and Commerce and the Judiciary.

3223. A letter from the Secretary, Department of Health and Human Services, transmitting a report on timeframes for completion of site profiles of Department of Energy and Atomic Weapons Employer facilities, pursuant to Public Law 108–375; jointly to the Committees on Energy and Commerce and Education and the Workforce.

3224. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's final rule — Medicare Program; Competitive Acquisition of Outpatient Drugs and Biologicals Under Part B [CMS-1325-IFC] (RIN: 0938-AN58) received July 7, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

3225. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a proposed amendment to the Iran Nonproliferation Act of 2000, Pub. L. 106-178; jointly to the Committees on International Relations and Science.

3226. A letter from the Chairman, Farm Credit System Insurance Corporation, transmitting the Corporation's annual report for calendar year 2004, pursuant to 12 U.S.C. 2277a–13; jointly to the Committees on Government Reform and Agriculture.

3227. A letter from the General Accounting Office, transmitting a report entitled, "Capitol Power Plant: Actions Needed to Improve Operating Efficiency"; jointly to the Committees on House Administration and Appropriations.

3228. A letter from the Director, Office of Electricity and Energy Assurance, Department of Energy, transmitting a report containing the status of the programs and the progress toward meeting the goal in providing sufficient electricity to the Navajo Nation, pursuant to Public Law 106–511, section 602 (d) (114 Stat. 2377); jointly to the Committees on Resources and Energy and Commerce.

3229. A letter from the Secretary, Judicial Conference of the United States, transmitting a draft bill entitled, "Federal Courts Improvement Act of 2005"; jointly to the Committees on the Judiciary and Government Reform.

3230. A letter from the Secretary, Department of Health and Human Services, transmitting a report entitled, "The Use of Specific Claims Payment Error Rates to Improve Effectiveness and Performance of Medicare Contractor Provider Education and Outreach Programs" in response to Section 921(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. 108-173; jointly to the Committees on Ways and Means and Energy and Commerce.

3231. A letter from the Secretary, Department of Health and Human Services, transmitting the report entitled "Coordinating Care for Medicare Beneficiaries: Early Experiences of 15 Demonstration Programs, their Patients, and Providers" in response to the requirements Section 4016(c) of Public Law 105-33, the Balanced Budget Act of 1997; jointly to the Committees on Ways and Means and Energy and Commerce.

3232. A letter from the Under Secretary of Commerce for Oceans and Atmosphere, National Oceanographic Partnership Program, transmitting an annual report from the National Oceanographic Partnership Program (NOPP) for 2005, pursuant to Public Law 104-201; jointly to the Committees on Armed Services, Resources, and Science.

3233. A letter from the Executive Office of the President, transmitting an interim report on the National Symthetic Drugs Action Plan; jointly to the Committees on Government Reform, the Judiciary, and Energy and Commerce.

3234. A letter from the Chairman, Federal Election Commission, transmitting the Commission's FY 2006 budget request, pursuant to 2 U.S.C. 437d(d)(1); jointly to the Committees on House Administration, Appropriations, and Government Reform.

3235. A letter from the Chairman, Federal Election Commission, transmitting 16 recommendations for legislative action, pursuant to 2 U.S.C. 438(a)(9); jointly to the Committees on House Administration, the Judiciary, Ways and Means, and Government Reform.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMAS: Committee on Ways and Means. H.R. 3045. A bill to implement the Dominican Republic-Central America-United States Free Trade Agreement (Rept. 109–182). Referred to the Committee of the Whole House on the State of the Union.

Mr. BISHOP of Utah: Committee on Rules. House Resolution 379. Resolution providing for consideration of the bill (H.R. 525) to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees (Rept. 109–183). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 380. Resolution providing for consideration of the bill (H.R. 22) to reform the postal laws of the United States (Rept. 109–184). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BOEHLERT:

H.R. 3413. A bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage, and for other purposes; to the Committee on Education and the Workforce.

By Mr. GARY G. MILLER of California:

H.R. 3414. A bill to suspend temporarily the duty on certain refracting and reflecting telescopes; to the Committee on Ways and Means.

By Mr. BAIRD:

H.R. 3415. A bill to suspend temporarily the duty on mixture of magnesium peroxide and magnesium oxide containing 35 percent magnesium peroxide; to the Committee on Ways and Means.

By Mr. WELLER:

H.R. 3416. A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements; to the Committee on Ways and Means, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. GINNY BROWN-WAITE of Florida (for herself, Ms. Hooley, Mr. Bartlett of Maryland, Mr. Platts, Mr. Burton of Indiana, and Mr. Snyder):

H.R. 3417. A bill to amend title 10, United States Code, to increase the maximum amount of education loans that may be repaid on behalf of officers in the Selected Reserve who possess professional qualifications, or are enrolled in programs of education leading to professional qualifications, in health professions that are needed critically to meet wartime combat medical skill shortages; to the Committee on Armed Services.

By Mr. EDWARDS:

H.R. 3418. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Central Texas Water Recycling and Reuse Project, and for other purposes; to the Committee on Resources.

By Mr. GIBBONS:

H.R. 3419. A bill to direct the Secretary of the Interior to dispose of certain public lands that are subject to mining operations in Pershing County, Nevada, to support sustainable development opportunities for the community in which the mining operations occur through privatization of the lands allowing for productive post-mining land use that provides for economic development opportunities and local government revenues, and for other purposes; to the Committee on Resources.

By Mr. LEACH (for himself, Ms. Slaughter, Mr. Brown of Ohio, Mrs. Maloney, Mr. Honda, Mr. McDermott, Mr. Lynch, Mr. Larson of Connecticut, Ms. Jackson-Lee of Texas, Ms. Woolsey, Mr. Weiner, Mr. Hinchey, Ms. Eddie Bernice Johnson of Texas, Mr. Olver, Mr. Rangel, Mr. Lantos, Mrs. McCarthy, Mrs. Davis of California, Mr. Serrano, Mr. Sherman, Ms. Schakowsky, Mr. Frank of Massachusetts, Mr. Grijalva, Mr. McGovern, Mr. Moore of Kansas, Mr. McNulty, Mr. Berman, Ms. DeLauro, Mr. Shays, Mrs. Capps, Mr. Pallone, Mr. Lewis of Georgia, Ms. Lee, Mr. Payne, Mr. Nadler, Mrs. Napolitano, Mr. Owens, Mr. Conyers, Mrs. Tauscher, Mr. Andrews, Mr. Filner, Mr. Gutierrez, Mr. Wynn, Mr. Holt, Mr. Neal of Massachusetts, Ms. Baldwin, Mr. Meeks of New York, Mr. Ackerman, Mr. Van Hollen, and Mr. Kucinich):

H.R. 3420. A bill to save taxpayers money, reduce the deficit, cut corporate welfare, protect communities from wildfires, encourage Federal land management agency reform and accountability, and protect and restore America's natural heritage by eliminating the fiscally wasteful and ecologically destructive commercial logging program on Federal public lands, restoring native biodiversity in our Federal public forests, and facilitating the economic recovery and diversification of communities affected by the Federal logging program; to the Committee on Resources, and in addition to the Committees on Agriculture, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Kansas:

H.R. 3421. A bill to reauthorize the United States Grain Standards Act, to facilitate the official inspection at export port locations of grain required or authorized to be inspected under such Act, and for other purposes; to the Committee on Agriculture.

By Mr. NEUGEBAUER:

H.R. 3422. A bill to amend the United States Housing Act of 1937 to exempt small public housing agencies from the requirement of preparing an annual public housing agency plan; to the Committee on Financial Services.

By Mr. PITTS (for himself, Ms. Eshoo, Mrs. Bono, Mr. Whitfield, Mr. Upton, Mr. Pickering, Mr. Ferguson, Mr. Norwood, Mr. Strickland, and Mr. Davis of Florida):

H.R. 3423. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees; to the Committee on Energy and Commerce.

By Mr. SESSIONS:

H.R. 3424. A bill to amend title 18, United States Code, with respect to interfering with the operation of an aircraft; to the Committee on the Judiciary.

By Mr. TANCREDO:

H.R. 3425. A bill to amend title 38, United States Code, to require mandatory HIV testing of potential sources in the event of possible occupational exposure to HIV in a Department of Veterans Affairs medical facility; to the Committee on Veterans' Affairs.

By Mr. SENSENBRENNER (for himself, Mr. Hoyer, Mr. Owens, Mr. Ramstad, Mr. Hyde, Mr. Coble, Mr. Smith of Texas, Ms. Ros-Lehtinen, Mr. Conyers, Mr. Langevin, Ms. Pryce of Ohio, and Mr. Reynolds):

H. Res. 378. A resolution recognizing and honoring the 15th anniversary of the signing of the Americans with Disabilities Act of 1990; to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce, Transportation and Infrastructure, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLUMENAUER (for himself, Mr. Oberstar, Mr. Strickland, Mr. Ruppersberger, Mr. Moran of Virginia, Mr. Nadler, Mr. Marshall, Mr. Bachus, Mr. Petri, Mr. Ryan of Ohio, Mr. Snyder, Ms. Lee, Mr. Kildee, Mr. Crowley, Ms. Baldwin, Mr. Van Hollen, Ms. Eddie Bernice Johnson of Texas, Mr. Udall of New Mexico, Mr. McDermott, Mr. Markey, Mr. Doggett, Mr. McCaul of Texas, Mr. Hastings of Florida, Mr. Manzullo, Mr. Issa, Mr. Tom Davis of Virginia, Mr. Higgins, and Mrs. Maloney):

H. Res. 381. A resolution congratulating Lance Armstrong on his exceptional career upon his victory in the 2005 Tour de France and retiring from professional cycling; to the Committee on Government Reform.

By Mrs. CAPPS (for herself and Mr. Nadler):

H. Res. 382. A resolution expressing the sense of the House of Representatives with respect to the enforcement of restraining orders; to the Committee on the Judiciary.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

31. The SPEAKER presented a memorial of the Legislature of the State of California, relative to Senate Joint Resolution No. 1 relative to the Lemoore Military Operations Area (MOA) Initiative; to the Committee on Armed Services.

32. Also, a memorial of the Legislature of the State of Maine, relative to H.P.1157 Joint Resolution memorializing Congress to continue funding for the Community Development Block Grant program; to the Committee on Financial Services.

33. Also, a memorial of the Legislature of the State of California, relative to Senate Joint Resolution 7 relative to Equal Pay Day; to the Committee on Education and the Workforce.

34. Also, a memorial of the Legislature of the State of Nevada, relative to Assembly Joint Resolution No. 14, urging the Nevada Congressional Delegation to introduce and to support federal legislation mandating the reporting of results of all clinical trials and the collection and analyis of the data by the appropriate federal agencies; to the Committee on Energy and Commerce.

35. Also, a memorial of the Legislature of the State of Michigan, relative to House Resolution No. 75 memorializing the Congress of the United States and the United States Department of Health and Human Services to move forward with the creation of a national cord blood stem cell bank; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. Price of Georgia, Mr. Rogers of Michigan, Mr. Renzi, Mr. Pitts, Mr. Dreier, Mr. Shimkus, Mr. Porter, Ms. Hart, Mr. Hayes, Mr. Shays, Mr. Dent, Mr. Tiberi, Mr. Gary G. Miller of California, Mr. Westmoreland, Mr. Saxton, Mr. Latham, Mr. Taylor of North Carolina, Mr. Sam Johnson of Texas, Mr. Gillmor, Ms. Ginny Brown-Waite of Florida, Mr. Gerlach, Mr. Hulshof, Mr. Akin, Mr. Tom Davis of Virginia, Mr. Royce, Mr. Boustany, Mrs. Northup, Mrs. Blackburn, Mr. Kuhl of New York, Mr. Sessions, Mr. Turner, Mr. Kennedy of Minnesota, Mr. Ney, Mrs. Biggert, Mr. Barrett of South Carolina, Mr. Pence, Mr. Otter, Mr. Cunningham, Mr. Taylor of Mississippi, Mr. Nussle, Mr. Hastings of Washington, Mr. Everett, Mr. Gutknecht, Mr. Simpson, Mr. Kline, Mrs. Capito, and Mr. LaHood.

H.R. 23: Mr. Camp and Mr. Tancredo.

H.R. 95: Ms. Herseth.

H.R. 97: Mr. Garrett of New Jersey.

H.R. 98: Ms. Harris and Mr. Garrett of New Jersey.

H.R. 176: Ms. Velázquez.

H.R. 269: Mr. Ehlers and Mr. Rogers of Michigan.

H.R. 303: Mr. Terry.

H.R. 408: Mr. Gibbons.

H.R. 515: Mr. Ruppersberger and Mr. Cleaver.

H.R. 543: Mr. Baker.

H.R. 557: Mr. Calvert and Ms. Ginny Brown-Waite of Florida.

H.R. 560: Mr. Watt.

H.R. 581: Mr. Thompson of California and Mr. Pallone.

H.R. 602: Mr. Emanuel, Mr. Tancredo, and Mr. Kucinich.

H.R. 687: Ms. Ginny Brown-Waite of Florida.

H.R. 713: Mr. Weldon of Pennsylvania.

H.R. 745: Mr. BOUSTANY.

H.R. 764: Ms. CARSON.

H.R. 783: Mr. OLVER and Mr. PETERSON of Minnesota.

H.R. 801: Mr. LANTOS.

H.R. 827: Mr. CANTOR.

H.R. 839: Ms. LEE, Mr. STARK, and Mr. BLUMENAUER.

H.R. 896: Mrs. NAPOLITANO, Mr. MICHAUD, Mr. HASTINGS of Florida, Ms. HARRIS, Mr. FOLEY, Mr. LANTOS, and Mr. JACKSON of Illinois.

H.R. 995: Mr. RYAN of Ohio.

H.R. 997: Mr. POMBO and Mr. REGULA.

H.R. 1002: Mr. SMITH of Washington.

H.R. 1070: Mr. OTTER.

H.R. 1079: Mr. WESTMORELAND, Mr. GOODE, Mr. GUTKNECHT, and Mr. GOHMERT.

H.R. 1120: Mr. FOLEY and Mr. GRIJALVA.

H.R. 1175: Mr. ANDREWS.

H.R. 1188: Mr. MICHAUD, Mr. ALLEN, and Mr. GENE GREEN of Texas.

H.R. 1219: Mr. INGLIS of South Carolina.

H.R. 1240: Mr. PRICE of North Carolina.

H.R. 1242: Ms. SCHAKOWSKY.

H.R. 1245: Mr. BASS and Mr. INSLEE.

H.R. 1259: Ms. WASSERMAN SCHULTZ, Mr. GRIJALVA, Mr. ACKERMAN, Mr. CROWLEY, Mr. SERRANO, Mr. EMANUEL, Mr. RUPPERSBERGER, Mr. BARROW, Mr. RYAN of Ohio, Mr. ROSS, Mr. MORAN of Virginia, Mr. NEAL of Massachusetts, Mr. ROGERS of Alabama, Mr. McGOVERN, and Mrs. MILLER of Michigan.

H.R. 1298: Mr. RAHALL, Mrs. BONO, and Mrs. JO ANN DAVIS of Virginia.

H.R. 1329: Mr. RANGEL and Mr. VAN HOLLEN.

H.R. 1366: Mr. RYAN of Ohio.

H.R. 1409: Mr. BERMAN and Mr. BISHOP of Georgia.

H.R. 1421: Mr. BOOZMAN.

H.R. 1502: Mr. RANGEL.

H.R. 1510: Mr. KLINE.

H.R. 1566: Mr. COOPER.

H.R. 1588: Mr. BERMAN and Mr. BOYD.

H.R. 1602: Mr. REICHERT and Mr. RYAN of Ohio.

H.R. 1636: Mr. FILNER.

H.R. 1652: Mr. MEEKS of New York, Mr. BECERRA, and Mr. MENENDEZ.

H.R. 1688: Mr. ROTHMAN.

H.R. 1770: Mr. GARY G. MILLER of California.

H.R. 1898: Mr. CARDIN.

H.R. 1912: Mr. McCAUL of Texas.

H.R. 1951: Mr. HOLT and Mr. HERGER.

H.R. 2047: Mr. GRIJALVA.

H.R. 2052: Mr. HOYER.

H.R. 2053: Mr. HOYER.

H.R. 2076: Mr. KUHL of New York and Mr. WOLF.

H.R. 2090: Mr. CASE.

H.R. 2206: Ms. McCOLLUM of Minnesota and Mr. ETHERIDGE.

H.R. 2229: Mr. FRANKS of Arizona.

H.R. 2238: Mr. BERRY.

H.R. 2325: Mr. FATTAH.

H.R. 2331: Mr. TIERNEY.

H.R. 2335: Mr. TERRY.

H.R. 2498: Mr. JONES of North Carolina and Mr. CAMP.

H.R. 2534: Mr. PAUL and Mr. RADANOVICH.

H.R. 2646: Mr. OSBORNE.

H.R. 2680: Mr. ROSS and Ms. DeLAURO.

H.R. 2730: Mr. HIGGINS, Mr. WEXLER, and Ms. SCHWARTZ of Pennsylvania.

H.R. 2794: Mr. LINDER, Mr. VISCLOSKY, Mr. McINTYRE, Mr. GREEN of Wisconsin, Mr. PRICE of Georgia, Mr. GONZALEZ, Ms. ZOE LOFGREN of California, Mr. BUTTERFIELD, Mr. NORWOOD, Mr. HOLDEN, and Mr. GINGREY.

H.R. 2803: Mr. KLINE, Mr. ROGERS of Kentucky, Mr. HAYWORTH, Mr. MILLER of North Carolina, Mr. CLEAVER, Mr. SWEENEY, and Mr. KOLBE.

H.R. 2830: Mr. PRICE of Georgia.

H.R. 2874: Mr. McGOVERN and Mr. RYAN of Ohio.

H.R. 2961: Mr. McINTYRE and Mr. SANDERS.

H.R. 2962: Mr. DeFAZIO, Mr. FOLEY, Mr. FRANK of Massachusetts, Mr. HEFLEY, and Mr. PASTOR.

H.R. 2963: Mr. GRIJALVA, Mr. McINTYRE, and Mr. HOLT.

H.R. 3037: Ms. BALDWIN.

H.R. 3095: Mr. GARY G. MILLER of California.

H.R. 3128: Mr. ROTHMAN, Mr. HONDA, and Mr. MORAN of Virginia.

H.R. 3132: Mr. SHAW, Ms. HART, Mr. GOODE, Mr. LATHAM, Mr. GARY G. MILLER of California, Ms. PRYCE of Ohio, Mr. GENE GREEN of Texas, Mr. OSBORNE, Mr. WOLF, and Mr. REICHERT.

H.R. 3135: Mr. PAUL, Mr. FOLEY, Mr. MANZULLO, and Mr. GOODE.

H.R. 3144: Mr. McCAUL of Texas.

H.R. 3146: Mr. WEXLER, Mr. THOMPSON of Mississippi, Mr. ROTHMAN, and Mr. WILSON of South Carolina.

H.R. 3150: Mr. BACHUS.

H.R. 3162: Mr. RUPPERSBERGER.

H.R. 3195: Mr. PETERSON of Minnesota.

H.R. 3205: Mrs. DRAKE, Mr. GENE GREEN of Texas, Mr. EMANUEL, and Mr. PICKERING.

H.R. 3252: Ms. ZOE LOFGREN of California, Ms. HART, Mr. BISHOP of Utah, Mr. OWENS, and Mr. CUMMINGS.

H.R. 3263: Mr. SMITH of Washington, Mr. GOODE, Mr. PASTOR, Mr. BROWN of Ohio, Mr. GENE GREEN of Texas, Mr. GRAVES, Mr. McDERMOTT, Ms. DeLAURO, Mr. FARR, Mr. DeFAZIO, Mr. UDALL of New Mexico, and Mr. DOGGETT.

H.R. 3267: Mr. LEWIS of Georgia.

H.R. 3323: Mr. WALDEN of Oregon, Mr. EMANUEL, Mr. HOLDEN, Mrs. McCARTHY, Ms. JACKSON-LEE of Texas, Mr. WAMP, Mr. LARSEN of Washington, Mr. RYUN of Kansas, Mr. MORAN of Virginia, Mr. BLUNT, Mr. MEEHAN, Mr. JENKINS, Mr. BROWN of Ohio, Mr. DAVIS of Florida, and Mr. OWENS.

H.R. 3361: Mr. McCOTTER, Mrs. MALONEY, Mr. SOUDER, Mr. McGOVERN, and Mr. ROGERS of Michigan.

H.R. 3381: Mr. LEVIN.

H.R. 3406: Mr. ENGEL.

H.J. Res. 59: Mr. FARR.

H. Con. Res. 59: Mrs. McCARTHY, Mr. CROWLEY, and Mr. LEVIN.

H. Con. Res. 85: Mr. ROTHMAN.

H. Con. Res. 181: Mr. GERLACH, Mr. JONES of North Carolina, and Mr. GARRETT of New Jersey.

H. Con. Res. 195: Mr. MARSHALL, Mr. COSTA, Mr. BARROW, Mr. DOYLE, and Mr. CAPUANO.

H. Res. 17: Mr. HAYWORTH, Mr. HALL, Mr. CANNON, Mr. BUYER, and Mr. GALLEGLY.

H. Res. 97: Mr. McCAUL of Texas.

H. Res. 180: Mr. MICHAUD.

H. Res. 357: Mr. HAYWORTH, Mr. GARRETT of New Jersey, and Mr. BISHOP of Georgia.

H. Res. 360: Ms. BORDALLO, Mr. SCHWARZ of Michigan, Mr. SESSIONS, Mr. HALL, Mr. FRANKS of Arizona, Mr. WEXLER, and Mr. BACHUS.

H. Res. 363: Mr. SANDERS and Mr. GUTIERREZ.

H. Res. 368: Mr. PALLONE, Mr. WAXMAN, Mr. SOUDER, Mr. SALAZAR, Mr. TOWNS, Mr. DAVIS of Kentucky, Mr. HOLT, Ms. SCHAKOWSKY, Mr. BERMAN, Mr. ROGERS of Michigan, and Mr. McGOVERN.

H. Res. 371: Mr. BOUSTANY, Mr. BURTON of Indiana, and Mrs. DRAKE.

H. Res. 374: Mr. SERRANO, Mr. MARIO DIAZ-BALART of Florida, Mr. JINDAL, Mr. BEAUPREZ, Mr. SCHWARZ of Michigan, Mr. SODREL, Mr. FEENEY, and Mr. PETRI.

H. Res. 375: Mr. SANDERS and Mrs. JONES of Ohio.

H. Res. 376: Mr. PITTS.

SENATE—*Monday, July 25, 2005*

The Senate met at 1:01 p.m. and was called to order by the Honorable LAMAR ALEXANDER, a Senator from the State of Tennessee.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, who hears and answers prayers, teach us to pray. We confess that we don't know how to pray as we ought. Our desires are deep and our language too shallow. Lord, look beyond our words and see our hearts and souls. Hear our thoughts as we wait patiently for Your providence.

Inspire our lawmakers today with Your presence. As they labor for liberty, help them to find their highest joy in Your purpose and will.

Bless the staff members who provide the wind for the wings of our legislators. Surround these often unsung heroes and heroines with Your peace.

We pray in Your wonderful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LAMAR ALEXANDER led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 25, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LAMAR ALEXANDER, a Senator from the State of Tennessee, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. ALEXANDER thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

In my capacity as a Senator from Tennessee, I suggest the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNIZING THE 15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. Res. 207, the Americans with Disabilities Act resolution, which the clerk will report.

The legislative clerk read as follows:

> A resolution (S. Res. 207) recognizing and honoring the 15th anniversary of the enactment of the Americans with Disabilities Act of 1990.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 30 minutes of debate equally divided between the majority leader and the Senator from Iowa or their designees.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent that Senators KENNEDY, HATCH, REID, CLINTON, MCCAIN, DEWINE, JEFFORDS, MIKULSKI, LAUTENBERG, DOLE, DURBIN, LEVIN, LIEBERMAN, BOXER, REED, CHAFEE, SMITH, COLLINS, STABENOW, OBAMA, AKAKA, SALAZAR, DAYTON, BINGAMAN, WYDEN, BIDEN, ISAKSON, FEINGOLD, JOHNSON, NELSON of Florida, BROWNBACK, BURR, SNOWE, and PRYOR be added as cosponsors of the resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, tomorrow, July 26, marks the 15th anniversary of the signing of the Americans with Disabilities Act. Observances and celebrations are being held and will be held all across the country. In fact, I attended three in Iowa over the weekend. There will be a big celebration tonight at the Kennedy Center where I look forward to introducing former President George Bush, the signer of the Americans with Disabilities Act, who will give the keynote address.

On this 15th anniversary, we celebrate one of the great landmark civil rights laws of the 20th century, a long overdue emancipation proclamation for people with disabilities. We also celebrate the men and women from all across America whose daily acts of heroism and protest and persistence and courage moved this law forward to passage 15 years ago.

In 1964, this country passed a civil rights bill. After much struggle, after the freedom riders and the marches in places such as Selma, AL, that are burned in our memories, we passed the Civil Rights Act of 1964 which closed a long, disgraceful chapter of segregation and discrimination, lack of equality of opportunity for Americans just based on race, mostly, sex, creed, and national origin.

I can remember coming home on leave from the military some time after that. I was with my brother Frank who had been totally deaf since early childhood. I had seen how he had been discriminated against all of his lifetime. I remember we were talking about different things, and he mentioned the civil rights bill. He thought it was all well and good. But then he asked the question: What about us? I didn't really know what he was talking about.

I said: Are you talking about us, me?

He said: What about us deaf people? We are discriminated against every day in terms of where we can work, can go, how we get news, how we go to school.

I began to think about it as I finished my career in the military and through law school and coming here to Congress. I thought, as I watched the struggle of people with disabilities to proclaim their involvement, that they should also be covered by the Civil Rights Act. So there were some minor steps taken. We had section 504 of the Rehab Act in 1973 before I got here. Then after coming to the House in 1974, we had the Education of Handicapped Children Act, 94–142, which my good friend, now Senator JEFFORDS, then Congressman JEFFORDS, was very much involved in getting passed in the House at that time. It later became known as IDEA, the Individuals with Disabilities Education Act. That is how it is known today.

Then there began a long struggle by people with disabilities to gain their full participation in our society.

This started in the late 1970s and early 1980s. Then when I came to the Senate in 1984, 1985, it had been picking up steam and momentum. Various drafts of bills have been presented about disability and this and that.

Finally, it fell to me as chairman of the Disability Policy Subcommittee at that time to pull together the final draft. Here I will pay my great respect and admiration to former Senator Lowell Weicker of Connecticut, who led the charge before I got here to change the law to provide for an overarching law to cover people with disabilities in our country. But then Senator KENNEDY asked me to join his committee and take over the chairmanship of the disability subcommittee, which I did, with the great help of wonderful staff, including Bobby Silverstein and others. We were able to get the words on paper, put it together. It was a pretty long struggle.

It was not a foregone conclusion that we could ever pass it. But there were acts of heroism. I can remember when people with disabilities started coming to Washington to protest. Sometimes they would plug the corridors in the Dirksen Office Building, and the police would have to clear them out. Many got arrested. I remember a man named Dwayne French, who came from Alaska to demonstrate, protest, and demand equal rights under the law. He got arrested and thrown into jail.

I tend to think the one thing that really crystalized what we were trying to do in terms of full participation, accessibility, of nondiscrimination and breaking down barriers—the one event was when Bob Kofka and the group ADAP rolled their wheelchairs up to the Capitol steps, and there were about between 50 and 75 people. I don't know the exact number. They got out of their wheelchairs and crawled up the steps of the Capitol; they crawled up the steps. That hit the evening news, all the newspapers, and the news magazines, and then we heard from the American public that this should not be allowed to happen, that people with disabilities ought to have accessibility; they ought to be able to participate in all aspects of our American life. And then we hammered out the bill and got it passed in the Senate and the House.

As I said, on July 26, 1990, in a wonderful ceremony, the biggest gathering for the signing of a bill in our Nation's history, people gathered on the lawn of the White House for the signing of the Americans with Disabilities Act by President George Bush. It was a great and joyous occasion.

For all these years, after 1964, we thought we had torn down the walls of segregation. But there was a group of Americans for whom segregation was a daily occurrence, even after the Civil Rights Act, for whom daily discrimination was a fact of life, for whom equal opportunity was just some words on paper. There was a group of Americans for whom access to the American dream was basically closed because of their lack of participation in economic opportunity and accessibility. These were Americans with disabilities.

I often put it this way: On July 25, 1990, if you were a person of color, say, and you went down to apply for a job for which you were qualified and the prospective employer looked at you and said, I am not hiring African Americans, or Black people, or probably, in the contextual framework of that time, I am not hiring colored people, if he said that to you, you could have gone right down to the courthouse. The doors were open there, and you could have filed suit for discrimination based on the Civil Rights Act of 1964. If, however, on July 25, 1990, you were a person with a disability and you went to a prospective employer for a job for which you were qualified—say you rode a wheelchair in there and the employer looked at you and said, We don't hire cripples, get out of here, and you rolled your wheelchair down to the same courthouse door. The doors were locked; they were closed. You had no cause of action. It was not illegal to discriminate on the basis of disability on July 25, 1990. On July 26, after President Bush signed it into law, the courthouse doors were opened. No longer would it be legal to discriminate on the basis of disability in our society.

So for the last 15 years, we have seen what I call a quiet revolution taking place in America. Look around you. You see the curb cuts, ramps, widened doors, elevators that are accessible, and people with disabilities can get on and off buses. I was in Iowa this weekend and went to an ATM machine to get some money, and the ATM machine is a talking one with brail so that a blind person can use the ATM machine. So we now see people with seeing-eye dogs going into restaurants to have a meal. Fifteen years ago, a restaurant could say, Get that dog out of here, we don't allow it. Now they have to allow it.

Now we see people with disabilities working jobs, traveling, enjoying life, going to movies. Yesterday, I went to a Cedar Rapids Colonels baseball game. It was disability day. They have a new baseball stadium there; it is 4 years old. It is one of the most accessible stadiums I have ever seen in my life. All kinds of people with disabilities can come there and enjoy baseball games. That would not have been true before. The old diamond had one place set aside down on the first base line with people walking in front of them all the time. Now they are up high, and they have great seats in this stadium. So we see this all around us.

For those of us who are able-bodied, we kind of take it for granted. It is not a big deal out there that you have curb cuts or access to buildings. I walked into a hotel downtown a week or so ago, where the National Commission on Independent Living, NCIL, was having their national meeting. Four or five people with disabilities coming into the Hyatt pushed a button at the door, and they could get their wheelchairs in and out. We don't even think about that. So it is a quiet revolution.

My nephew, who is an architect, told me a few years ago that now we are designing buildings the way they should be designed—fully accessible to all. We also have closed captioning on television for the deaf and hard of hearing. We can pick up our remote for the TV and punch the mute and see the words come up, and we take it for granted. But it has transformed lives in America. It has made us a better, richer, more fair society. Now the American family is much more complete than it was before.

So on this, the 15th anniversary, I say thank you to the disabled community of America for their long years of struggle and protest, for the hardships they went through just to make sure they were treated equally in our society. I always point out that in the ADA, there is not one nickel given to a person with a disability. It is not any kind of giveaway program. All it does is break down the barriers. People with disabilities now can apply their God-given talents and their abilities and contribute to our society. So it is quite a step forward for America. We have a lot to be proud of and a lot to be thankful for. But I must say that we are not totally to where we wanted to be.

We had four goals when we passed the ADA. One was economic self-sufficiency. Fifteen years later, over 60 percent of Americans with disabilities are still unemployed, without a job. That is still a national disgrace. So I hope we use this occasion of this 15th anniversary, yes, to look at the great strides we have made and how far we have come but also to recommit ourselves to make the ADA really complete. We have to do more in terms of job training, personal assistance services, and accessibility so that people with disabilities can have more jobs. Sixty percent unemployment is not right. So I hope we will redouble our commitment to getting this next step passed.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senator from Vermont be given 10 minutes to make his statement at this point.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, tomorrow marks a milestone for the Americans with Disabilities Act, ADA. July 26 is the 15th anniversary of the ADA's enactment into law.

The ADA is one of the most significant initiatives to become law during my 30 years in the Congress.

As a Member of the House I was an original cosponsor the first time the ADA bill was introduced in 1988.

Although ADA did not pass during that Congress, action on the ADA legislation would not have to wait much longer.

Under the extraordinary citizen leadership of the late Justin Dart, former

Representative Tony Coehlo, Representative STENY HOYER, former Senate Majority Leader Bob Dole, my colleague Senator TOM HARKIN, and then President George H.W. Bush, the ADA became law in 1990.

Another important factor that led to the passage of the ADA was the staunch commitment of many diverse organizations.

The ADA is an excellent illustration as to how bipartisanship, combined with the outstanding efforts of our Nation's citizenry, can lead to a landmark change that can positively impact people's lives for centuries to come.

The ADA has literally opened doors that were closed prior to 1990, which has reaped great benefits for all of us.

In 1990, the largest Vermont employment agency successfully placed 505 disabled individuals with employers. As of last year, that successful placement rate had increased almost threefold.

Individual and economic empowerment is the ongoing legacy of the ADA.

Although many great transformations have occurred since ADA's birth 15 years ago, there is room for improvement.

The ADA needs to be protected and its spirit of inclusion and opportunity should be extended.

I thank Senator HARKIN for bringing the ADA birthday resolution to the full Senate. I am proud to join him in wishing the ADA a very happy birthday.

Mr. President, I hope we have others come to speak who are as excited as I am.

Mr. SMITH. Mr. President, in Oregon it is estimated that there are 433,000 people living with disabilities, and I am pleased to be here today to represent them by recognizing and honoring the 15th anniversary of the Americans with Disabilities Act.

The Americans with Disabilities Act will turn 15 years old tomorrow. This act stands as one of the most successful civil rights laws in our history. This law has opened the doors of schools, polling places, and countless other public facilities to our Nation's disabled population. The law is and will continue to be the platform for millions of Americans to realize our Nation's goals of equality of opportunity, economic self-sufficiency, full participation, and independent living.

Fifteen years ago it was often a dream for the 54 million Americans with disabilities to participate in our Nation's daily life. However, the ADA helped these people by removing barriers in employment, transportation, public services, telecommunications, and public accommodations. The act stands as a tribute to the hard work of all of the individuals who brought light to the plight of the disabled before and after this legislation was passed.

For years, people with disabilities were viewed as people in need of help rather than contributors to our country. The passage of the ADA finally moved us to change our attitudes and open doors for people with disabilities.

In Oregon one of the people who has been truly touched by this act is Vail B. Horton. Vail is the founder and CEO of a company called Keen Mobility. Using his disability as motivation, Vail created his company, Keen Mobility, which develops, produces, and distributes innovative, functional and attractive assistive devices that empower individuals by enhancing mobility, bringing greater independence and providing new opportunities.

Vail is also a board member for Providence Child Center for the Medically Fragile Children Foundation and Board member for YMCA of Columbia-Willamette. I have personally recognized him as an Oregon health care hero. As founder and CEO of Keen Mobility, Vail built the company from inception into a team of 16, with three product lines focused on safety and mobility for the disability community.

Vail is a true hero and I am happy to say that the 250,000 families with members who have a disability in Oregon, like his, can see the many signs of our progress. However, we must continue our ongoing efforts to see that persons with disabilities are allowed to be active in our society. Whether they are friends, neighbors or family, persons with disabilities are no longer considered second class citizens. Every day persons with disabilities are demonstrating their abilities and making real contributions. People with disabilities are no longer excluded, and because of that America is a stronger country.

Tomorrow we should all be reminded that equal opportunity is not a privilege, but a fundamental right of every American.

I hope my colleagues will join me in support of this resolution.

Mr. KERRY. Mr. President, 15 years ago a Democratic Congress and a Republican President passed the Americans with Disabilities Act, a critical step in our journey toward civil rights for all.

The ADA represented Washington at its best—both parties coming together, ignoring the special interests, and passing groundbreaking legislation to help people in dire need. Differences were set aside as we united in common respect for all Americans, regardless of physical, cognitive, or emotional abilities. We made a strong statement of our collective belief that in America, all citizens have the right to look at the future with infinite possibility. And I think we can all agree the ADA has been a remarkable success.

On this anniversary, I think it is appropriate to recognize those leaders who took the momentum from decades of struggle that had only led to small legislative advances, and turned it into one of the crowning achievements in civil rights law. My distinguished colleagues Senators HARKIN and KENNEDY, my former colleague Senator Dole and former President Bush, and organizations like DREDF, CCD, NICL and ADAPT, among others, showed such incredible leadership. And we would not have gotten anywhere if the members of the disabilities community had not set all disparate opinions aside to speak with one voice.

Fifteen years after passage of the ADA, we find that the challenge of high unemployment, poverty, poor housing, and limited educational opportunities still plagues people with disabilities in America. If should not be this way. I hope that all of us, who 15 years ago believed that to exclude persons with disabilities from our schools, restaurants, or job force was un-American, are reminded as we celebrate this anniversary that there is still much work left to be done.

Today, we must go beyond congratulating all the pioneers in this movement for this extraordinarily special anniversary. We must also reaffirm that the Congress stands ready to be the leading force in protecting and strengthening this law—never undermining it. Let us all commit to redoubling our efforts to serve this important community and this crucial cause.

Mr. AKAKA. Mr. President, I join my colleagues in commemorating the 15th anniversary of the Americans with Disabilities Act. I thank my friend from Iowa, Senator HARKIN, for sponsoring a resolution recounting the history and accomplishments under this landmark act for countless individuals in the United States. I am pleased to be a cosponsor of this resolution.

The enactment of the Americans with Disabilities Act, ADA, on July 26, 1990, was a milestone and continues to serve the more than 54 million individuals with disabilities in our country today. These individuals are now able to better participate in society thanks to the removal of barriers in areas such as employment, transportation, public services, telecommunications, and public accommodations under the ADA. Prior to the passage of the act, it was much more common for disabled Americans to encounter prejudice, discrimination, and physical exclusion in their everyday lives. The Americans with Disabilities Act marks the culmination of a civil rights movement that keeps faith with the spirit of our forefathers, who believed in the unalienable rights of all individuals.

Under the ADA, my home State has become a leader in providing new and updated facilities for individuals with disabilities. An estimated 148,000 people in Hawaii are living with a disability, and an estimated 22,000 people have difficulty performing self-care activities, such as dressing, bathing, or mobility inside the home according to the 2003 American Community Survey.

Since the passage of the ADA, Hawaii has modified more than 5,000 curb ramps and built 3,000 new curb ramps for better accessibility throughout the State. No one should be denied access to buses, sidewalks, or parks, and I am pleased to say that Hawaii is one of the leaders in ensuring that everyone has an equal opportunity to participate in society. By next year, Hawaii's public sector will be almost 100-percent accessible and, as of today, 70 percent of the private sector has addressed or is addressing the needs of the disabled, according to a nationally recognized ADA consultant.

I join the more than 40 million disabled Americans who have been helped by the ADA in saying mahalo to those who championed this historic piece of legislation. In particular, the tireless efforts of Justin Dart, Jr. His courage and dedication as a disability rights advocate is exemplary in protecting the civil rights of disabled Americans. Mr. Dart has inspired future generations of disabled Americans to reach their full potential as active and engaged members of society.

The work of my fellow Senators HARKIN and KENNEDY in the Senate, as well as Representative HOYER in the House, must also be recognized in addition to everyone else who pushed for this legislation. It was my great privilege to vote in favor of the conference report when it passed in the Senate on July 13, 1990. Our collaborative work in Congress to push the ADA through to passage showed a strong commitment to civil rights and equality. Millions of Americans are forever grateful for the chance they now have to live a better life.

Mr. LAUTENBERG. Mr. President, I rise to commemorate the 15th anniversary of the Americans with Disabilities Act. I am proud to be a cosponsor of this landmark legislation which guarantees equal opportunity for people with disabilities in employment, transportation, public services, telecommunications, and public accommodations.

Over the past 15 years, the ADA has provided opportunity and access for the 54 million Americans with disabilities. The passage of ADA resulted from a long struggle by Americans with disabilities to bring an end to their inferior status and unequal protection under law. Prior to passage of this landmark civil rights legislation, these Americans routinely faced prejudice, discrimination, and exclusion—not to mention physical barriers in their everyday lives. Now these Americans have an opportunity to participate more fully in our national life.

We recognize, however, our work is not finished. We still need to do more for people with disabilities. In addition to removing the physical barriers, we must also change attitudes. People with disabilities—like all people—have unique abilities, talents, and aptitudes. And America is better, fairer, and richer when we make full use of those gifts.

As we celebrate this historic accomplishment, I encourage all Americans to work towards increased recognition and understanding of the manner in which the physical and social environment can pose discriminatory barriers to people with disabilities.

Ms. LANDRIEU. Mr. President, I rise today to commemorate the 15th anniversary of the Americans with Disabilities Act. On this day in 1990, President George H.W. Bush signed this monumental piece of legislation into law guaranteeing equal opportunity for people with disabilities in public accommodations, commercial facilities, employment, transportation, State and local government services, and telecommunications.

One out of every five Americans today suffers from a disability. In the national workforce, there are currently 4 million men and 3½ million women with disabilities employed. We have made noteworthy strides in granting equal rights to those with disabilities. However, we still have tremendous work to do to decrease the 70 percent unemployment rate for people with significant disabilities.

In my own State of Louisiana, 710,000 people over the age of 5 were reported to have a disability. This means that 14.8 percent of the population in Louisiana suffers from some form of disability.

There are thousands of stories that capture the significance of this measure to people around this country, but I want to highlight just one. Shirley Adams is a constituent of mine, and she typifies the impact that the ADA can have on a person's life.

Shirley's road to inclusion into her community was long and filled with obstacles. She is a woman with many labels—profound mental retardation, visual impairment, a history of seizures, a rare bone ailment, and nonverbal. However, with great determination and courage, Shirley has established a life full of meaning surrounded by people who love and care for her. She would have it no other way.

At age 3, Shirley moved to Pinecrest Developmental Center in central Louisiana. She received care while living at Pinecrest, but she never learned to take care of herself. In 1997, at age 31, Shirley received an MR/DD waiver which enabled her to move from Pinecrest into her own apartment in the New Orleans area where she continues to receive 24-hour support.

Shirley is now able to attend church where she has made lifelong friends. In addition, she volunteers at another church where she assists staff in passing out lunches to children enrolled in vacation Bible study, sending mail out to parishioners, and welcoming people to the services each Sunday. She helps her neighborhood association by watering the flowers to the entrance to her apartment complex on a regular basis.

Living on her own has enabled Shirley to travel, which is something that she was unable to do while living in an institution. She loves to vacation in Biloxi and on the beaches of Florida. She is constantly looking for new places to go and for new adventures. If Shirley has it her way, she will continue to soak up the Sun on the gulf coast and explore new frontiers for years to come.

In sum, Shirley is known and loved by hundreds in her community now. She has a sense of belonging and security that she has never experienced before. Her life is full of people who care for her, and she continues to make wonderful progress in living in her own home to this day. Shirley Adams is clearly an inspiration to anyone who wants to explore their surroundings and lead a very happy life surrounded by loved ones in their community.

Shirley and thousands of others in Louisiana now live a full and complete life. The ADA gives people with disabilities such as Shirley a vehicle to request and secure the accommodations they need for both physical and programmatic access to life in Louisiana.

In 1990, when the ADA was passed, Louisiana spent nothing on home and community-based services for people with disabilities such as Shirley. In 2003 alone, Louisiana spent $157,447,900. These services, inspired by the spirit of equality established by the ADA, allow thousands of Louisiana's citizens with disabilities the opportunity to live their lives as contributing, participating members of our society.

In addition, there are now 3,170 aging or elderly individuals receiving home and community-based services that allow them to remain in their own homes.

The ADA impacts the daily lives of my constituents living with disabilities and for that reason I want to applaud the honorable work being done due to the enactment of this legislation while not losing sight of the fact that we must work harder to help all disabled persons have equal civil rights and the job opportunities they deserve.

Mr. KYL. Mr. President, I express support for the Senate resolution honoring the 15th anniversary of the Americans with Disabilities Act. This piece of legislation is a celebration of the uniquely American notion that all of our citizens can contribute to society if we provide them with the tools and opportunities they need. Since the law was enacted in 1990, some 54 million disabled Americans have had better opportunities for employment and education. Our public spaces and transportation systems have been improved to ensure access to everyone. The Americans with Disabilities Act gives all people the opportunity to enjoy what American society has to offer, and it has changed public attitudes. The perception of helplessness and dependency has been largely replaced by a recognition that, with the aid of appropriate accommodations, disabled Americans can participate fully in all fields of civic life.

In commending all those involved in the passage of this legislation, we should take time to single out then Senate Majority leader Bob Dole. Senator Dole's sacrifice for his country and service in the Congress prove that disability need not be debilitating.

I admire the courage and perseverance of the millions of Americans who live with disabilities every day. This resolution celebrates not only the passage of the ADA, but also the positive contributions that all Americans make to our society.

Mr. HATCH. Mr. President, I rise, in support of S. Res. 207, the Americans with Disabilities Act resolution commemorating the 15th anniversary of the signing of the law.

As one of the original authors of the Americans with Disabilities, ADA, I am a proud cosponsor of this important resolution. I am pleased that the Senate took the time today to remember the passage of landmark legislation which changed the lives of disabled individuals across the country. I am also pleased to stand with my colleague, Senator HARKIN, who did so much to advance this legislation in 1990, and indeed, to nurture its implementation ever since.

When this legislation was being debated on the Senate floor back in 1990, I told my colleagues that I believed that the Americans with Disabilities Act would be good for all America. And 15 years later, I feel the same way.

The Americans with Disabilities Act has done so much for the disabled community throughout our country—due to this law, the lives of disabled individuals have improved dramatically.

When Congress passed the Americans with Disabilities Act in 1990, we knew that this bill would make a difference. As a result of the passage of this bill, valuable resources were dedicated to improving the lives of the disabled through employment, in public accommodations, in transportation, and in communications services.

I credit the passage of this legislation to the millions of disabled Americans, all of whom benefit from the ADA. It was their dedication, determination and courage that made the difference. They took the time to educate their members of Congress about why the Americans With Disabilities Act was necessary. And they made a convincing case to many of us. That dedication is why we are celebrating the 15th anniversary of the passage of this law today.

In Utah, I have a disabilities advisory committee that keeps me abreast of all issues of interest to the disability community. I must pay great tribute to the members of this committee as well, for it is their insights that have helped me to reach a better understanding of the partnership our Government must undertake to promote initiatives benefiting the disabled.

I am pleased to be a supporter of the resolution before the Senate today and urge colleagues to support the passage of this resolution.

Mr. DURBIN. Mr. President, earlier this month, America celebrated the 41st anniversary of the Civil Rights Act of 1964. Next month, we will celebrate the 40th anniversary of the Voting Rights Act, one of the most important civil rights victories in our Nation's history. Those are two of the most important achievements in civil rights in our Nation since the ratification of the Bill of Rights. Today, I want to reflect for a few minutes on another critically important achievement in civil rights: the enactment 15 years ago this week of the Americans with Disabilities Act.

I recently saw a young man wearing a T-shirt. In large letters on the front of his shirt were the words: "The ADA . . ." On the back, the shirt read, ". . . boldly going where everyone else has already been." I think that young man's T-shirt sums up the ADA pretty well.

The Americans with Disabilities Act does not grant people with disabilities any special status or position. To the contrary, it simply removes certain barriers that for too long had made it difficult—if not impossible—for people with disabilities to make the most of their God-given skills and abilities, and to participate fully in their communities and in the workplace.

Before the ADA, if you needed a haircut, if you needed to see a doctor, if you just wanted to meet a friend for a cup of coffee, you probably had to rely on family, friends, or a social service agency. Very few transit systems in this country had buses or trains that were accessible to people using wheelchairs. Today, thanks to the ADA, that has changed. If you need to go somewhere, you can go to a corner, catch a bus, and be on your way.

Let me tell you another story about the difference the ADA has made. Ann Ford lives near my hometown, Springfield, IL. She is a grandmother now. She had polio as a child. She uses a motorized scooter now, but for many years, Ann walked with crutches. As anyone who has ever used crutches knows, they can wear you out pretty quickly.

Before the ADA, when Ann Ford needed to go to the grocery store, she would first make a very careful list, then plot out her shopping as efficiently as possible so that she could buy what she needed in 20 minutes and be back home before she ran out of energy.

Shortly after the ADA was enacted, the manager of the grocery store where she shopped pointed out a new electric-powered scooter the store had purchased, and asked Ann if she would like to use it. Well, Ann Ford shopped for an hour and half that day. She went up and down every aisle in that store. She said later she had no idea how many things you could buy in a grocery store.

By removing physical barriers, the ADA is helping to reduce some of the isolation and prejudice that people with disabilities too often have to battle. It provides people with disabilities a degree of autonomy and dignity that everyone deserves. That is progress, and that is worth celebrating.

But we still have a long way to go. The physical barriers are disappearing, but there are other, subtler barriers that continue to prevent far too many Americans with disabilities from participating fully in their communities and in the workplace.

As Senator HARKIN noted, the unemployment rate for people with disabilities is still 60 to 70 percent—the same place it was a decade ago. That has to change. Most people with disabilities want to work, and have to work. ADA mandates access but we can't legislate attitudes. And it is the lingering prejudice or ignorance about disabilities that contributes to this stubbornly high unemployment rate.

Congress can mandate access. With the stroke of his pan, the President can outlaw overt acts of discrimination. But the next step in this civil rights struggle—integrating people with disabilities into our workplaces—is a step we must choose.

Failure to make the greatest possible use of the skills and talents of people with disabilities hurts them. It hurts their families. It hurts all of us. Think for a moment. Where would America be today had we not had Franklin Delano Roosevelt to help pull us through the Great Depression? Dorothea Lange, the great photojournalist, walked with a limp as a result of childhood polio. How much less we might know about our own national history had she not captured it on film for us? How much poorer would the world be without the brilliant insights of Stephen Hawking? How much poorer we would all be artistically and emotionally if we had never heard Ray Charles sing "America the Beautiful?"

We need to tear down the subtler barriers that prevent far too many people with disabilities from participating fully in our economy. Not just because it is the right thing to do, but because it is the smart thing to do.

I want to make one final point. I mentioned that the Americans with Disabilities Act is part of a tradition of important civil rights achievements. But there is one fundamental way in which the ADA differs from some of those other milestone laws.

The Civil Rights Act was enacted primarily to combat legal, institutionalized racism against African Americans. Title IX of the education amendments of 1972 was passed to prevent discrimination against women and girls in education. Those laws and others protect people from discrimination based on certain fundamental, unchangeable characteristics. If you are not born black, you are not going to become black. But any of us can become disabled—in an instant.

Today, you may think the ADA is for other people and other families, but you may think differently by the time we celebrate the 16th anniversary of the ADA a year from now. In fact, one in three 20-year-olds today will become disabled before the reach retirement age.

This past year, I have had the privilege of getting to know an extraordinary American who became disabled doing her job. Her name is Tammy Duckworth. She is major in the U.S. Army National Guard. Her job was piloting a Black Hawk helicopter in Iraq. Last November, just before Thanksgiving, her Black Hawk was shot down by a rocket-propelled grenade and she lost both of her legs. Although now a double amputee, she is determined to both walk and fly helicopters again.

Thanks to advances in medicine, we are able to save more people who—15 years ago—would not have survived a car crash, or bone cancer, or even military combat. Thank goodness for that.

As we celebrate the 15th anniversary of the Americans with Disabilities Act, I hope we will commit ourselves as a Nation to work to close the gap between our medical abilities, and our mental attitudes. Let us agree that men and women like Tammy Duckworth, who suffered permanent disabilities, will not be forced to fight in this country for basic rights and gainful employment that is worthy of their skills and talents. Let us commit to work across party lines—as Congress did when it passed the Americans with Disabilities Act 15 years ago—to fulfill not just the letter but the spirit of this important law.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. McCONNELL. Mr. President, I welcome everyone back for the remaining time of this work period. This will be the last week before the August recess, we expect.

It will be a busy week. Today we begin with a resolution regarding the anniversary of the ADA, the Americans with Disabilities Act, which Senator HARKIN was just discussing. We will be voting on the adoption of that resolution at 5:30 p.m. today.

Also, we resume debate on the Defense authorization bill. As a reminder, a cloture motion was filed on the Defense bill, and under the consent agreement all first-degree amendments should be filed at the desk no later than 2 p.m. today.

Tomorrow we will have a very busy morning. Under the agreement reached last week, we have a series of votes lined up for Tuesday morning. There could be as many as five votes starting early tomorrow morning, and Senators should adjust their schedules to be on or close to the floor tomorrow morning.

Having said that, this will certainly, as I indicated earlier, be a busy week as we consider the Defense authorization bill, the gun manufacturers liability bill, as well as a number of conference reports that may become available during the week. We certainly hope they will become available. With the cooperation of all Senators, we can finish our work in a timely way and adjourn at the end of the week.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WARNER. Mr. President, will the Chair advise the Senate as to the pending business?

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1042, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1042) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Frist modified amendment No. 1342, to support certain youth organizations, including the Boy Scouts of America and Girl Scouts of America.

Inhofe amendment No. 1311, to protect the economic and energy security of the United States.

Inhofe-Collins amendment No. 1312, to express the sense of Congress that the President should take immediate steps to establish a plan to implement the recommendations of the 2004 Report to Congress of the United States-China Economic and Security Review Commission.

Inhofe-Kyl amendment No. 1313, to require an annual report on the use of United States funds with respect to the activities and management of the International Committee of the Red Cross.

Lautenberg amendment No. 1351, to stop corporations from financing terrorism.

Ensign amendment No. 1374, to require a report on the use of riot control agents.

Ensign amendment No. 1375, to require a report on the costs incurred by the Department of Defense in implementing or supporting resolutions of the United Nations Security Council.

Collins amendment No. 1377 (to amendment No. 1351), to ensure that certain persons do not evade or avoid the prohibition imposed under the International Emergency Economic Powers Act.

Durbin amendment No. 1379, to require certain dietary supplement manufacturers to report certain serious adverse events.

Hutchison-Nelson of Florida amendment No. 1357, to express the sense of the Senate with regard to manned space flight.

Thune amendment No. 1389, to postpone the 2005 round of defense base closure and realignment.

Kennedy amendment No. 1415, to transfer funds authorized to be appropriated to the Department of Energy for the National Nuclear Security Administration for weapons activities and available for the robust nuclear earth penetrator to the Army National Guard, Washington, District of Columbia, chapter.

Allard-McConnell amendment No. 1418, to require life cycle cost estimates for the destruction of lethal chemical munitions under the Assembled Chemical Weapons Alternatives program.

Allard-Salazar amendment No. 1419, to authorize a program to provide health, medical, and life insurance benefits to workers at the Rocky Flats Environmental Technology Site, Colorado, who would otherwise fail to qualify for such benefits because of an early physical completion date.

Dorgan amendment No. 1426, to express the sense of the Senate on the declassification and release to the public of certain portions of the Report of the Joint Inquiry into the Terrorist Attacks of September 11, 2001, and to urge the President to release information regarding sources of foreign support for the hijackers involved in the terrorist attacks of September 11, 2001.

Dorgan amendment No. 1429, to establish a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism.

Salazar amendment No. 1421, to rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation.

Salazar amendment No. 1422, to provide that certain local educational agencies shall be eligible to receive a fiscal year 2005 payment under section 8002 or 8003 of the Elementary and Secondary Education Act of 1965.

Salazar-Reed amendment No. 1423, to provide for Department of Defense support of certain Paralympic sporting events.

Mr. WARNER. Mr. President, I am very pleased the Senate has turned to this important legislation. It was first brought up Wednesday night with activity on Thursday and again on Friday. I thank all those who participated.

I am reminded that at 2 o'clock today, all first-degree amendments need to be filed in view of the pending cloture motion. This is a motion which the distinguished leader, Mr. FRIST, and I will discuss, together with others. It ripens tomorrow morning. So as a protection, I ask Senators to consider their own interests in the context that it could be ripened, but that decision has not yet been made.

At this time, even though the distinguished ranking member is not with me, there is a matter by the Senator from Maine about which I hope she will find the opportunity at this time to address the Senate. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

AMENDMENTS NOS. 1489, 1490, AND 1491, EN BLOC

Ms. COLLINS. Mr. President, I thank the distinguished chairman of the committee for his courtesy. I ask that the pending amendment be set aside, and on behalf of the Senator from South Dakota, Mr. THUNE, I call up three amendments that are at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report the amendments en bloc.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. THUNE, proposes amendments numbers 1489, 1490, and 1491, en bloc.

The amendments are as follows:

AMENDMENT NO. 1489

(Purpose: To postpone the 2005 round of defense base closure and realignment)

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended—

(1) by adding at the end the following:

"SEC. 2915. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

"(a) IN GENERAL.—Notwithstanding any other provision of this part, the round of defense base closure and realignment otherwise scheduled to occur under this part in 2005 by reasons of sections 2912, 2913, and 2914 shall occur instead in the year following the year in which the last of the actions described in subsection (b) occurs (in this section referred to as the 'postponed closure round year').

"(b) ACTIONS REQUIRED BEFORE BASE CLOSURE ROUND.—(1) The actions referred to in subsection (a) are the following actions:

"(A) The complete analysis, consideration, and, where appropriate, implementation by the Secretary of Defense of the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States.

"(B) The return from deployment in the Iraq theater of operations of substantially all (as determined by the Secretary of Defense) major combat units and assets of the Armed Forces.

"(C) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of the report on the quadrennial defense review required to be submitted in 2006 by the Secretary of Defense under section 118(d) of title 10, United States Code.

"(D) The complete development and implementation by the Secretary of Defense and the Secretary of Homeland Security of the National Maritime Security Strategy.

"(E) The complete development and implementation by the Secretary of Defense of the Homeland Defense and Civil Support directive.

"(F) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of a report submitted by the Secretary of Defense that assesses military installation needs taking into account—

"(i) relevant factors identified through the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States;

"(ii) the return of the major combat units and assets described in subparagraph (B);

"(iii) relevant factors identified in the report on the 2005 quadrennial defense review;

"(iv) the National Maritime Security Strategy; and

"(v) the Homeland Defense and Civil Support directive.

"(2) The report required under subparagraph (F) of paragraph (1) shall be submitted not later than one year after the occurrence of the last action described in subparagraphs (A) through (E) of such paragraph.

"(c) ADMINISTRATION.—For purposes of sections 2912, 2913, and 2914, each date in a year that is specified in such sections shall be deemed to be the same date in the postponed closure round year, and each reference to a fiscal year in such sections shall be deemed to be a reference to the fiscal year that is the number of years after the original fiscal year that is equal to the number of years that the postponed closure round year is after 2005."; and

(2) in section 2904(b)—

(A) in the heading, by striking "CONGRESSIONAL DISAPPROVAL" and inserting "CONGRESSIONAL ACTION";

(B) in paragraph (1)—

(i) in subparagraph (A), by striking "the date on which the President transmits such report" and inserting "the date by which the President is required to transmit such report"; and

(ii) in subparagraph (B), by striking "such report is transmitted" and inserting "such report is required to be transmitted";

(C) by redesignating paragraph (2) as paragraph (3);

(D) by inserting after paragraph (1) the following new paragraph:

"(2) The Secretary may not carry out any closure or realignment recommended by the Commission in a report transmitted from the President pursuant to section 2903(e) if a recommendation for such closure or realignment is specified as disapproved by Congress in a joint resolution partially disapproving the recommendations of the Commission that is enacted before the earlier of—

"(A) the end of the 45-day period beginning on the date by which the President is required to transmit such report; or

"(B) the adjournment of Congress sine die for the session during which such report is required to be transmitted."; and

(E) in paragraph (3), as redsignated by subparagraph (C), by striking "paragraph (1)" and inserting "paragraphs (1) and (2)".

AMENDMENT NO. 1490

(Purpose: To require the Secretary of the Air Force to develop and implement a national space radar system capable of employing at least two frequencies)

At the end of subtitle B of title IX, add the following:

SEC. 912. NATIONAL SPACE RADAR SYSTEM.

The Secretary of the Air Force shall proceed with the development and implementation of a national space radar system that employs at least two frequencies.

AMENDMENT NO. 1491

(Purpose: To prevent retaliation against a member of the Armed Forces for providing testimony about the military value of a military installation)

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. TESTIMONY BY MEMBERS OF THE ARMED FORCES IN CONNECTION WITH THE 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Defense should permit any member of the Armed Forces to provide to the Defense Base Closure and Realignment Commission testimony on the military value of a military installation inside the United States for purposes of the consideration by the Commission of the Secretary's recommendations for the 2005 round of defense base closure and realignment under section 2914(d) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(b) PROTECTION AGAINST RETALIATION.—No member of the Armed Forces may be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because such member provided or caused to be provided testimony under subsection (a).

Ms. COLLINS. Mr. President, I ask unanimous consent that the amendments now be set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. COLLINS. I thank the Chair.

Mr. WARNER. Mr. President, before my distinguished colleague leaves the floor, she had the courtesy, as she always does, to show me the amendments. One of them relates to BRAC. The distinguished Senator from South Dakota offered a BRAC amendment the other night. I glanced at this one. It seems to be similar in form, but I have not had a chance to examine it.

The purpose of my colloquy with the Senator would be to encourage Senators who are concerned about the important issues on BRAC to take note that we had an extensive colloquy between myself and the distinguished Senator from South Dakota, with the Senator from Michigan, the ranking member joining in, the other evening on the subject. I hope that other Senators who may be cosponsors or otherwise interested in this issue will find the opportunity to examine the original amendment and this amendment and that we hopefully today can have a continuation of this important debate on the issues relating to BRAC which are of great concern to a number of colleagues.

Ms. COLLINS. Mr. President, I would accept the comments of the distinguished chairman of the committee. This is a very important issue to many of us. I understand the chairman and the ranking member did debate this issue at some length last week. I am sure the chairman is correct in saying we would all benefit from reading that colloquy as we prepare to debate these issues further and ultimately cast our votes.

Mr. WARNER. I thank my distinguished colleague. I do bring to the attention of colleagues that today is a good opportunity for debate such that we can have a vote on it as quickly as the proposers and others think it is appropriate.

Ms. COLLINS. Mr. President, I yield the floor.

Mr. WARNER. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DEMINT). Without objection, it is so ordered.

AMENDMENT NO. 1492

Mr. REED. Mr. President, I call up an amendment that Senator LEVIN has offered, which is at the desk.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for Mr. LEVIN, for himself, and Mr. REED proposes an amendment numbered 1492.

Mr. REED. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make available, with an offset, an additional $50,000,000 for Operation and Maintenance for Cooperative Threat Reduction)

At the end of subtitle C of title II, add the following:

SEC. 330. ADDITIONAL AMOUNT FOR COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) INCREASED AMOUNT FOR OPERATION AND MAINTENANCE, COOPERATIVE THREAT REDUCTION PROGRAMS.—The amount authorized to be appropriated by section 301(19) for the Cooperative Threat Reduction programs is hereby increased by $50,000,000.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, is hereby reduced by $50,000,000, with the amount of the reduction to be allocated as follows:

(1) The amount available in Program Element 0603882C for long lead procurement of Ground-Based Interceptors is hereby reduced by $30,000,000.

(2) The amount available for initial construction of associated silos is hereby reduced by $20,000,000.

Mr. REED. Mr. President, this amendment was offered by Senator LEVIN and myself would do several very critical and important things. First, the amendment would increase funding for the Cooperative Threat Reduction Program by $50 million. The offset would be twofold: $30 million would be taken from the long lead procurement of ground-based interceptors as part of the National Missile Defense Program and another $20 million would be taken from the funding for initial construction for silos to house these interceptors.

Essentially what Senator LEVIN is doing with this provision is to recognize the fact that a more immediate threat to the United States rests with literally thousands of locations where nuclear material might be housed from the breakup of the old Soviet Union, and other locations that need attention with respect to the reduction of these materials. I believe the greatest threat we face in this country is the fact that—hopefully not, but the situation where a terrorist might gain control of these materials, bring them into this country and use them with devastating effect.

So this amendment recognizes the most immediate threat comes from these materials and therefore is putting additional resources from the National Missile Defense Program, modest changes, to approach this major effort with respect to cooperative threat reduction.

The funds would come from our ground-based midcourse defense system. The interceptors and silos where the offsets occur are now currently being deployed at Fort Greely, AK, and Vandenberg Air Force Base in California. Because of recent developments, we have an opportunity to address the critical issue of loose nukes by transferring these funds. I would argue this is a most worthy cause. The offset will not affect the missile defense system at all. In fact, as we understand it, in the last several months the missile defense system has been reevaluating itself, looking at whether the technical issues are challenging, in fact, and have not conducted tests as they thought they could over the last several months. So I think now is the opportune time to put more resources in cooperative threat reduction.

We are all aware, as I have mentioned before, that the greatest threat to us today is the possibility that terrorists will acquire nuclear weapons or nuclear material and use it with devastating effect against us. Of course, one country with enormous amounts of this nuclear material is Russia.

It is estimated that Russia has approximately 16,000 nuclear weapons stored at between 150 and 210 sites. While that is a significant reduction from the 40,000 weapons at the end of the Cold War, it is still a huge number of weapons and also a large number of storage sites.

Indeed, there is some imprecision about where all the sites might be. Of course, we have also heard reports of potential sites for, if not nuclear material, other dangerous material in former components of the Soviet Union, the newly independent states. So this is a challenging issue we have to face.

Only about 25 percent of the total number of weapons sites have received any upgrades in the past five years. Many of them still lack adequate security and safeguards. At the rate planned for in the fiscal year 2006 budget request, it would be around 2011 or 2012 before the work at only a portion of the sites would be completed to bring them up to levels of security and safety that we would feel confident this nuclear material would not be stolen, misplaced or somehow find itself in the world community.

The Defense Department only expected work to be scheduled on one or two sites in fiscal year 2006 so they budgeted approximately $60 million in the process. But then in February, when President Bush and President Putin met at the summit in Bratislava, Slovakia, the two agreed on a way to address security upgrades at 15 key nuclear weapons sites. With this agreement, we have the opportunity to accomplish in 2 years what we thought would take 10.

The issue, of course, is funding. The total cost of these upgrades is approximately $350 million. With this amendment, we are adding $50 million to this project, which is not the total needed but will allow for a good start. Again, this is a huge breakthrough that occurred after the President's budget submission. It is a major opportunity we simply must take advantage of.

As I have indicated before, the proposal of Senator LEVIN is to move this $50 million into cooperative threat reduction from the National Missile Defense Program. I think it is useful to look at this program to indicate where these transfers are possible, available, and even desirable.

When President Bush first took office in 2001, he made missile defense one of his highest priorities. In May 2000, President Bush said America must build effective missile defense based on the best available options at the earliest possible date. Missile defense must be designed to protect all 50 States, our friends, allies, and deployed forces overseas from missile attacks by rogue nations or accidental launches. President Bush's first major action was to significantly increase funding for missile defense.

Since fiscal year 2002, approximately $45 billion, including fiscal year 2006 requests, has been provided for missile defense. That is $45 billion and here we are talking about a transfer of $50 million from that huge program. This amount is half of what has been spent on missile defense since President Reagan launched the Strategic Defense

Initiative in 1984. We have seen a huge acceleration of funding with respect to missile defense. Another aspect of President Bush's plan for missile defense was that the systems would be developed and acquired under an approach called spiral development. As the Congressional Research Service succinctly summarizes: A major consequence of the administration's proposed evolutionary acquisition strategy is that the Missile Defense Program would not feature the familiar phases and milestones of the traditional DOD acquisition system. Another consequence is the Missile Defense Agency cannot provide Congress with a description of its final missile defense architecture, the capabilities on any near or longer term system, the specific dates by which most elements of the emerging architecture are to be tested and deployed, or an estimate of the eventual costs of the Missile Defense Program.

So President Bush's plan was to spend an enormous amount of money in a short period of time with little plan and no traditional checks and balances with respect to traditional procurement programs.

This program has, in fact, come under self-generated pressures. Tests that were proposed to be conducted over the last several months have been postponed and cancelled. There is a hard relook at the technology. There is potential here, but certainly there is not the kind of progress that would justify the robust spending to date and certainly not indicate that they need an additional $50 million to keep doing what they are doing.

In the past, we have looked very carefully at this program of national defense. Like so many others, I believe if we can produce—and I think we can ultimately—a workable system to protect this country, protect its allies, our troops in the field, we have to do that, but we have to do it with deliberate speed, and I would emphasize deliberate speed, not all-out haste, which generally means waste.

I believe we should pursue this system, but I also believe we should take the time to determine that the technology, which is extraordinarily complex, is mature and effective. So beginning in 2002, I offered amendments which I felt would improve the Missile Defense Program. In the fiscal year 2003 bill, I introduced an amendment requiring a report on flight testing of the ground-based midcourse defense, or the GMD, system. In fiscal year 2004, I offered an amendment which would direct that the Missile Defense Agency provide information on procurement, performance criteria, and operational test plans for ballistic missile defense programs. In fiscal year 2005, I introduced an amendment requiring operationally realistic testing and independent evaluation of the ballistic missile defense system.

All of these amendments were modified by the majority. Then they were passed. Indeed, it is unclear if they were not modified whether they would have passed.

Furthermore, when the Missile Defense Agency met these requirements, in many instances details and quality of reporting were lacking. For the most part, the Missile Defense Agency has been doing what it wants to do with very little detailed supervision by the Congress and it has led to a situation now where the program is being seriously looked at. We certainly have not made the kind of technological breakthrough which was anticipated. One thing is certain, we have spent a great deal of money in this pursuit.

Now, where we are today, interceptor tests are the critical tests which involve a real missile defense interceptor hitting a real target missile. These tests are the only means to truly assess whether a missile defense system has the chance of working against a real enemy missile. There is nothing elaborate or sensational in this proposition. In order to see if a system works, one has to take it out and use it. One missile has to be fired against another missile and knock down the intruding missile. If that is done with enough frequency and enough confidence, then the system is ready to go.

The first intercept flight test of the system was conducted in December 2002 and it failed. Six days after that test failure, President Bush announced the United States would deploy the missile defense system. Usually such announcements are reserved for success, not failure. In effect, it is almost like looking at a new, expensive jet fighter prototype going down the way, malfunctioning and then turning around and saying let us buy a lot of them, let us put them in the sky. That is not what most people believe is the appropriate criteria for being operational.

Over the next 2 years, seven other planned tests were cancelled. Yet, in September 2004, the system was declared nearly operational, with six interceptors at Fort Greely, AK, and two interceptors at Vandenberg Air Force Base. Three months later, in December 2004, the Missile Defense Agency then conducted the only second integrated flight test on a multibillion system. It too failed, and the system was now described as operational in the near future.

On February 14, there was another integrated flight test and it too failed. After these three consecutive failures, Lieutenant General Obering, director of the Missile Defense Agency, established an independent review team to examine test failures and recommend steps for improving the test program. The team made some very interesting observations.

First, I believe they confirmed suspicions that there was a rush to deployment, a rush not justified by the technology, its maturity, and by the operational techniques that were necessary to deploy it, but simply to get it deployed. The team report states:

> There were several issues that led to the flight test failures of the Integrated Flight Tests . . . With the focus on rapid deployment of the Ground-based Midcourse Defense system, there was not always adequate opportunity to fully ground test the system prior to each flight attempt. Again, skipping over critical steps to rush to a deployment. The team also found:
>
> Schedule has been the key challenge that drives daily decision making and planning in the program.

Not the technological maturity of the system, not technical issues, but schedule was driving the technology, not the other way around.

The independent review team also took issue with the spiral development and lack of testing. Again, in their words:

> Due to the lack of application of a few well-known verification specification and standards by the GMD program, failure evidence suggests that some problems might have been during the launch. The team feels that considerable opportunity exists to improve the confidence in the reliability of hardware and software by adopting industry best practices that exist as specification and standards.

In effect saying, we have to have requirements, we have to have standards, we have to have specifications, we have to be able to measure this program and its components before we rush to deploy it, much of it echoing comments made on this floor by myself and many others.

The team report further states:

> There are not enough ground tests available to verify/validate system operational performance and reliability. The Joint Program office should consider redirecting some production assets for ground tests to gain a higher confidence in the GMD system performance.

The GMD review team would again recommend, in their words:

> The Ground-based Midcourse Defense Program enter a new phase focused on Performance and Reliability Verification, in which Missile Defense Agencies make tests and mission success the primary objective. The new phase should validate the technical baseline and should be event driven rather than schedule driven.

In effect, build on success, don't build based on schedule.

> General Obering also requested Rear Admiral Kate Paige to direct a Mission Readiness Task Force to study the review team's recommendations and put the program on a path to flight test and management success.
>
> The Mission readiness task force, under the Admiral, made the following recommendation: Four interceptors previously planned for near-term operational deployment will be diverted to serve as ground test missiles. There will be a significant increase in ground testing of all systems, components, and processes before resuming flight testing. Contractors will be held accountable for their performance. The first flight test will not be an intercept test and the first

intercept test will not take place for more than a year.

Let me commend General Obering and the Missile Defense Agency for implementing these recommendations. I believe they will go a long way toward improving the missile defense system, an objective we all share. However, I note these recommendations sound very familiar and one could only contemplate how much effort and money would have been saved if we had approached the system this way from the beginning—not rushing to failure, but building for success.

There are presently six ground-based interceptors in silos at Fort Greely and two in silos at Vandenberg Air Force base. The administration also requested, and the Congress has already approved, most of the funding for these 30 interceptors. As I have noted, there has yet to be a successful flight test of these interceptors, so we are already buying an additional 30 interceptors when we do not know how to make the first 6 work. I think a responsible approach is to slow the allocation of funds for the procurement of these interceptors until they are proven operational and to use that funding for more pressing needs. This amendment does that.

The President's budget request seeks long-lead funding for 10 operational interceptors and 8 flight test interceptors, 18 missiles in all. However, the actual production rate capacity for the interceptors is 1 per month, or 12 per year. That means the Defense Department is seeking funds for more missiles than they can build in 1 year. There is no need to pay for more interceptors than can be built in 1 year.

Instead, we can provide 1 year's worth of funding for 1 year's worth of missiles—12 instead of 18. This amendment will not cause a break in the production line.

I also note the House Armed Services Committee, in its fiscal year 2006 Defense authorization bill, reduced the long-lead funding for five of the operational interceptors. The administration has not indicated that the proposed reduction would cause any serious problems for the program.

I also want to state that the President's budget request includes $53 million in long-lead funding for eight test missiles. It is essential to produce missiles for testing. This amendment would not reduce that funding for the test missiles at all. We realize we are in the test phase. The problem becomes we are attempting to buy operational missiles before we are sure the test missiles will really work. That, I think, is at the heart of much of the criticism.

Our missile defense systems are robustly funded in this bill with about $7 billion. What this amendment does is take money that cannot even be spent this year and allocate it to a new opportunity to prevent loose nukes, which is truly an imminent threat, an existential threat to this country. This amendment, which enhances security by funding one program without causing any harm to another program, is a win-win situation, and I urge my colleagues to support this amendment.

We are trying to exploit a diplomatic breakthrough that was engineered by President Bush in his meeting with President Putin that allows the expansion, rapidly, of inspection and securing of sites in the former Soviet Union and Russia. We are taking a truly modest amount of money, given about $6 or $7 billion for overall missile defense, and using that to try to prevent the proliferation of nuclear weapons and nuclear materials across the globe, which is the most serious threat that we face as a nation.

Mr. WARNER. Mr. President, if I might ask my distinguished colleague a question or two. We are all good, strong supporters of the CTR program. But I am informed that you are taking $50 million from the missiles. I will address that question momentarily. But I think the Senate should know this—and I ask if I am in error, if the Senator would correct me, if not now, perhaps one of your staff members, in due course, could assist. The Senate should know there is $500 million of unspent 2005 money in the CTR program. The amendment would take this program, which as you point out has some test problems, and to give it the body blow this amendment would render, for $50 million will virtually cause a very severe perturbation in the production line. The Senator is familiar with how the production lines work. There are estimates of cost up to as much as $270 million to restart the line at some point in the future. But with $500 million for 2005 unexpended in CTR, I hope, if colleagues look at this amendment fairly and practically, maybe judge it on the merits—the use of these funds, to me, is not a justification for supporting the amendment.

Mr. REED. I thank the Chairman for the question. My understanding is that the production cycle for the system, these interceptors, is 12 per year. Yet the budget is asking for more than that. So I don't think taking $50 million—as I understand the amendment, $30 million taken from long-lead, ground-based interceptors—taking $30 million away I do not think would upset the production line schedule. There is no intent to do that, and I think the effect would not be to do that also.

With respect to your point, which I think is well taken, about the buildup in funds in the comprehensive threat reduction, some of that—we will check more dutifully—but some of that to my knowledge is the result of the inability to agree on a way to deal with some of these sites. We hope that difficulty has been substantially reduced by President Bush and President Putin's discussion in Bratislava. Now that they have agreed on a framework, they can start applying this money.

Also, again, I think this money would be well spent, would not disrupt the production of the missile systems, and just the sheer scale—this is $50 million total, $30 million from the ground-based interceptors, $20 million for initial construction of silos and housing for the interceptors—again, this is truly long-lead procurement. We have, in my view, and I believe that of Senator LEVIN, much more of a problem in the site in Russia that contains the nuclear materials.

We have all heard the horror stories of people being able to walk in, walk around, and walk out of these sites without anybody interfering with them—no electronic equipment or sensors that would detect or report their presence to anyone's attention. So our view—my view, speaking for myself—is that this money could be much better spent, without disrupting the missile defense program, by applying it to comprehensive threat reduction.

Frankly, $500 million is an impressive amount of money that has not yet been spent, but we all recognize, if any of this material made its way outside these sites and got into the hands of irresponsible people, it would be serious.

Mr. WARNER. I agree with the Senator's premise but I wouldn't want Senators to believe that, if I am correct, the shortage of money is in CTR. I am informed there is, in the bank, $500 million of 2005 unexpended funds. Does the Senator want to address that now?

Mr. REED. I could say, Mr. President, we will try to determine this, but unexpended does not mean that it is not committed. Some of these funds could in fact be committed to specific sites already so that money can't be spent again elsewhere. We will try to get a number on that.

But the scale of the problem, the number of sites—it is in the order, just within Russia, of 200 sites.

Mr. WARNER. I am a big supporter of CTR. I happened to be in the room on the day CTR was born—by Sam Nunn. I will never forget it. I have followed the program. I have been a supporter. I think there is quite a bit of funding in this budget for CTR right now. I point out, if the Senator is persuaded by the fact that CTR needs the money more than the missile program—and I will argue the point strenuously that is not the case—there is quite a bit of money. We are way into the 2005 cycle. As a matter of fact, September is on the horizon.

So I hope the Senator could carefully research that point, come back, and if I am in error, I would certainly like to hear his views.

I point out the current bill is consistent with the President's program that allocated $50 million toward this next tranche of the long-lead, cumulative money for ground-based interceptors. If you take $30 million out of the $50 million. I assure you, that does considerable disruption to the production line.

Then I point out the amount available for construction of associated silos, reduced by $20 million. I wonder if you might take the chance to check on the fact that the President's budget in this bill only allocates $13.5 million to the initial construction of the associated silos, and therefore your $20 million is considerably in excess of the $13.5 million.

Mr. REED. Mr. President, my information indicates the fiscal year 2006 budget for expansion, there is $20.682 million. I will ask my staff to coordinate with your staff.

Mr. WARNER. We will have our staffs check those figures. I thank the Senator.

Mr. President, I would like to vigorously oppose this amendment for the following reasons. The impact of the amendment would be, first and foremost, to send a message that we are not supporting, as a nation, wholeheartedly the ballistic missile defense capabilities to defend ourselves. It is clear North Korea has capabilities. This program was engendered in large measure, and accelerated in large measure because of the threat posed by North Korea.

I noted here recently that Japan is now building its missile defense system. So it is not that the United States alone, in the world of nations, considers it a threat; other nations consider the North Korean capabilities a threat. It is correct we have had these test bans, but the failures that more or less have been in the mechanical phase—somehow the missile is adjusted in its launch pad as opposed to the actual failure of the missile itself. And then I will address this question of the break in production which could result—assuming the program is restarted in its full measure—maybe up to $270 million is one estimate I have been given to restart it.

Again, I agree with the sponsors of the amendment that the Cooperative Threat Reduction Program is an important national security issue for the defense of our homeland against the growing threats. But asking us to choose between missile protection and CTR is a false choice. We need both. This bill funds the President's requested amount fully for both programs.

The bill before the Senate authorizes the requested amount of $415.5 million for CTR programs within the Department of Defense and $1.6 billion for other nonproliferation efforts in the Department of Energy. There is a very strong recognition in this bill before the Senate, the authorization bill, of the importance of CTR. There is no current need for extra CTR funds. That is our basic proposition. They have in the bank very substantial amounts from 2005. They are unexpended. Whether they have been committed, I will have that checked. With a backlog that large and only roughly 70 days left in the fiscal year—that is an awful lot of money if someone is going to try to commit it and expend it in that period of time.

The President's budget for missile defense, on the other hand, has already taken a considerable amount of cuts. Due to last-minute decisions made at the Department of Defense as the fiscal year 2006 budget was being finalized, the missile defense budget request was reduced by $1 billion in 2006 and $5 billion overall between 2006 and 2011.

The sponsors of this amendment argue we should not provide long-lead funding for the GBI missiles 31 to 40 because of test failures. I am mindful of the recent difficulties encountered by the GMD system test program, but it is my view and that of the Department—and, indeed, independent authorities have looked at this problem—that these difficulties do not represent serious technological hurdles by the GMD program. Indeed, such problems are to be expected during the R&D and development phase of complicated weapons systems.

To get at the root cause of the testing problems, the Director of the Missile Defense Agency, to his great credit, commissioned the Independent Review Team, called the IRT, to examine the recent GMD test failures. The IRT found, one, that no fundamental GMD system design flaws are related to the recent test failures. Moreover, this independent panel found no evidence that major modifications of the current system hardware or software will be required. In other words, it is unlikely that future testing will find some major fault in the system that will require costly retrofit to the already fielded and those in production line of the GBIs.

For those of my colleagues concerned about testing, I point out that this bill before you contains a provision—developed in a bipartisan fashion during the committee's markup—which requires the Missile Defense Agency, the service operational test agencies, and the Director of Operational Test and Evaluation to plan and conduct tests that demonstrate the operational capability of the ballistic missile defense system. The bill also reallocates $100 million from longer-term development efforts to GMD testing, consistent with the recommendations of the Independent Review Team.

The current and growing threat posed to our country by long-range ballistic missiles argues for proceeding without delay with the Department's approach of concurrent testing and fielding of ballistic missile defense capabilities for the homeland.

Some of my colleagues suggest that because the current system is not fully proven, we should not procure additional missile interceptors. To this I would respond that General Cartwright, Commander of U.S. Strategic Command—the senior military official charged with advising the Secretary of Defense and the President on missile defense matters—has testified, with respect to the current GMD system, that "in an emergency, we are in fact in the position that we are confident that we can operate and employ it."

In addition, the Pentagon's chief independent weapons tester, the Director for Operational Test and Evaluation, noted in his most recent Annual Report to Congress that "the test bed architecture is now in place and should have some limited capability to defend against a threat missile from North Korea."

In my view, it is a good thing that we have some capability—albeit limited—to defend the homeland against long-range missiles. For as General Cartwright testified before the Senate Armed Services Committee in April, "we have a realistic threat here; we have an imperative."

General Cartwright is referring to CIA and DIA estimates that the North Korean Taepo-Dong 2 ballistic missile is capable of reaching the United States with a nuclear warhead—and that North Korea could resume flight testing of the Taepo-Dong 2 at any time. The Defense Intelligence Agency also estimates that Iran will have the capability to develop an intercontinental ballistic missile, ICBM, by 2015.

We simply can't wait until the threat is upon us to deploy missile defenses; we can't wait until the GMD system is fully and completely tested before we start providing some measure of protection against this threat. It is our responsibility to field what capabilities currently exist, even while we continue to test and improve the system. By continuing to field missile defenses today, we send a message to potential adversaries that we will not be deterred or coerced by their possession of long-range ballistic missiles.

In summary, I ask my colleagues to reject the amendment offered by Senator LEVIN. This amendment would needlessly delay the fielding of a ballistic missile defense capability to protect the homeland. As the Commander of STRATCOM warns, the threat is real. We must continue on the current path of fielding available capabilities—even while testing continues to improve the system over time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President I express my gratitude to the distinguished chairman and other members of the Senate Committee on Armed Services for the work they do. The chairman has worked long and hard to try to bring this bill to the Senate floor and do things in the best interest of our country, and others have worked with him. I appreciate that.

Mr. HATCH. Mr. President, I rise today as an ardent supporter of the F/A–22 Raptor. I am pleased that the Armed Services Committee has agreed to authorize appropriations for 24 F/A–22 Raptors. However, I am deeply troubled that the Department of Defense has made the decision to only purchase this extraordinary aircraft through fiscal year 2008, in effect, limiting the number of Raptors to 180. This is far below the 381 aircraft that the Air Force has repeatedly stated are required for that service to meet its responsibilities as outlined in the National Defense Strategy.

Over the past year and half, I have made two trips, to be briefed on the capabilities of this extraordinary aircraft. The first was to Tyndall Air Force Base, FL, where our pilots are learning to fly the Raptor and second to Langley Air Force, VA, where the first operational F/A–22 units will be based. As a result of these meetings and discussions with the pilots who are training to fly the aircraft and the ground personnel who are learning to maintain the Raptor, I have come to conclusion that purchasing sufficient numbers of Raptors is absolutely vital to our national security.

Over the past 30 years, the United States has been able to maintain air superiority in every conflict largely due to the F–15C. However, with the great advancements in technology over the past several years, the F–15 has struggled to keep pace. For example, the F–15 is not a stealth aircraft and its computer systems are based on obsolete technology. My colleagues should remember that the F–15 first flew in the early 1970s. During the ensuing years, nations have been consistently developing new aircraft and missile systems to defeat this fighter.

Realizing that the F–15 would need a replacement, the Air Force developed the F/A–22 Raptor. The result is a truly remarkable aircraft.

The F/A–22 has greater stealth capabilities than the F–117 Nighthawk. This is a powerful attribute when one remembers that it was the Nighthawk's stealth characteristics that enabled that aircraft to penetrate the integrated air defenses of Baghdad during the first night of the 1991 gulf war.

The Raptor is also equipped with super-cruise engines. These engines do not need to go to after-burner in order to achieve supersonic flight. This provides the F/A–22 with a strategic advantage by enabling supersonic speeds to be maintained for a far greater length of time. By comparison, all other fighters require their engines and these are foreign fighters, as well—to go to after-burner to achieve supersonic speeds. This consumes a tremendous amount of fuel and greatly limits an aircraft's range.

The F/A–22 is also the most maneuverable fighter flying today. This is of particular importance when encountering newer Russian-made aircraft which boast a highly impressive maneuver capability.

Yet a further advantage resides in the F/A–22's radar and avionics. When entering hostile airspace, one F/A–22 can energize its radar system, enabling it to detect and engage enemy fighters far before an enemy's system effective range.

However, one of the most important capabilities of the Raptor is often the most misunderstood. Many critics of the program state that, since much of the design work for this aircraft was performed during the Cold War, it does not meet the requirements of the future. I believe that this criticism is misplaced. The F/A–22 is more than just a fighter, it is also a bomber. In its existing configuration it is able to carry two 1,000 pound GPS-guided JDAM bombs and the aircraft will also be able to carry the Small Diameter Bomb. In 2008, the F/A–22's radar system will be enhanced with a "lookdown" mode enabling the Raptor to independently hunt for targets on the ground.

All of these capabilities are necessary to fight what is quickly emerging as "the" threat of the future—the anti-access integrated air defense system. Integrated air defenses include both surface to air missiles and fighters deployed in such a fashion as to leverage the strengths of both systems. Such a system could pose a very real possibility of denying U.S. aircraft access to strategically important regions during future conflicts.

It should also be noted that—for a comparably cheap price—an adversary can purchase the Russian SA–20 surface-to-air missile. This system has an effective range of approximately 120 nautical miles and can engage targets at greater then 100,000 feet, much higher then the service ceiling of any existing American fighter or bomber. The Russians have also developed a family of highly maneuverable fighters, the Su–30 and 35s, which have been sold to such nations as China. Of further import, 59 other nations have fourth generation fighters.

It has also been widely reported in the aviation media that the F–15C, our current air superiority fighter, is not as maneuverable as newer Russian aircraft, especially the Su–35. However, the F/A–22 is designed to defeat an integrated air defense system. By utilizing its stealth capability, the F/A–22 can penetrate an enemy's airspace undetected and, when modified, independently hunt for mobile surface-to-air missile systems. Once detected, the F/A–22 would then be able to drop bombs on those targets. Some, correctly state that the B–2 bomber and the F–117 could handle these assignments. However, the F/A–22 offers the additional capability of being able to engage an enemy's air superiority fighters such as the widely proficient Su–35. Therefore, the Raptor will be able to defeat, almost simultaneously, two very different threats that until now have been handled by two different types of aircraft.

I should like point out that these potential threats are not just future concerns, but they are here today. For example, last year the Air Force conducted an exercise called Cope India, as part of our effort to strengthen relations with India. The Indian Air Force has a number of Su-30 MKKs, an aircraft which is very similar to a version of aircraft sold in large quantities to the People's Republic of China. During this exercise, it has been widely reported in the aviation and defense media that the Indian Air Force's Su-30s won a number of engagements when training against our Air Force's F–15s.

So let me be clear on this point: a developing nation's air force was able to defeat the F–15. This was a stunning event and one that requires our immediate attention.

Despite the obvious advantages, and now necessity, of this aircraft, the Department of Defense has made the decision to purchase only 180 F/A–22s.

Some argue that the cost of this aircraft is too high.

In response, the supporters of the F/A–22 devised a new procurement strategy called "Buy to Budget." This strategy capped the total cost for the procurement of the aircraft and forced the Air Force and the Raptor's primary contractor, Lockheed Martin, to cut the cost of plane. These efforts have so far been successful, and two years ago an additional F/A–22 was procured solely based upon savings.

I am also pleased to state that recent articles in the media report that the "fly-away" price for an F/A–22 is now approximately $130 million, down from $185 million an aircraft. Officials of the manufacturer are quoted as saying that each new lot of Raptors costs on average 13 percent less than its predecessor. The manufacturer also believes that this price can be further brought down to the $110 million range. Now, of course, this is still a lot of money. However, when compared to similar aircraft such as the nonstealth Eurofighter, which costs approximately $110 million an aircraft, coupled with the estimated cost, as high as $90 million, for a new F–15, one easily concludes that the F/A–22 is much better deal than its critics contend.

I wish to reiterate a point that is deeply troubling. I have always listened very closely when our servicemembers have outlined their equipment requirements based upon the national security goals that our Government has outlined. As I have studied this issue, I have been struck by the unanimous opinion of all the members of the Air Force to whom I have spoken.

What is their expert opinion? That if the Air Force is to succeed in the tasks outlined in our National Defense Strategy that they require additional F/A-22 aircraft.

I should also add that this is not just the opinion of those stationed here in Washington but the opinion of the pilots and ground crew in the field such as those of Tyndall Air Force Base and Langley Air Force Base. They were truly excited about the F/A-22 Raptor's potential.

They understand that this aircraft will ensure American dominance of the skies for the next half century.

These young men and women stand ready to sacrifice so much for us, we owe them the best that our country has to offer. Therefore, I respectfully urge my friends in the Department of Defense to rethink their plans for this aircraft and provide our warfighters sufficient numbers of this remarkable fighter/bomber.

I ask that the pending amendment be set aside so I can call up another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1516

Mr. HATCH. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. INHOFE, Mr. BENNETT, and Mr. CHAMBLISS, proposes an amendment numbered 1516.

Mr. HATCH. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate regarding the investment of funds as called for in the Depot Maintenance Strategy and Master Plan of the Air Force)

On page 66, after line 22, insert the following:

SEC. 330. SENSE OF THE SENATE REGARDING DEPOT MAINTENANCE.

(a) FINDINGS.—The Senate finds that—

(1) the Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements;

(2) since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the service has made great progress toward modernizing all 3 of its Depots, in order to maintain their status as "world class" maintenance repair and overhaul operations;

(3) one of the indispensable components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate $150,000,000 a year over 6 years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of our Nation's 3 Air Force depots; and

(4) the funds expended to date have ensured that transformation projects, such as the initial implementation of "Lean" and "Six Sigma" production techniques, have achieved great success in reducing the time necessary to perform depot maintenance on aircraft.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting its commitment to invest $150,000,000 a year over 6 years, since fiscal year 2004, in the Nation's 3 Air Force Depots; and

(2) the Air Force should continue to fully fund its commitment of $150,000,000 a year through fiscal year 2009 in investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

Mr. HATCH. Today I rise to propose an amendment that is cosponsored by fellow members of the Senate Air Force Depot Caucus, specifically Senators INHOFE, BENNETT and CHAMBLISS. Before I proceed to discuss the merits of my amendment, I thank publicly my colleagues, and their staffs, of the depot caucus, not only for their assistance in supporting this amendment, but for the tireless work that we have all performed over the past several years to modernize and recapitalize our Nation's Air Force Depots.

Why is that important? Why do we need our Air Force Depots? Simply put, today the United States boasts the most formidable military that the world has ever known. However, history has shown, that a technologically superior force can be defeated if the weapons systems being utilized by that force cannot be maintained or repaired in a timely fashion.

Mindful of this lesson, the Department of Defense and Congress have created an infrastructure designed to meet the unique sustainment challenges faced by a nation that harnesses the advantages of technology on the battlefield. It bears remembering that one of our Nation's primary means of maintaining this advantage is through the integrated sustainment support provided by the Air Force's depots. This is true for the maintenance of tactical aircraft, such as the F-16 and A-10, which is performed in my home State of Utah at Hill Air Force Base. Tactical aircraft require this level of maintenance due to the stress caused by supersonic flight and high-g turns. Our tanker and airlift fleets also require this level of service due to corrosion and metal fatigue.

Equally impressive, this support is accomplished while simultaneously providing supply chain management for millions of components and pieces of equipment. However, what makes our depots truly vital to national security is their ability to provide immediate support during periods of conflict or urgent need. In fact, no one matches our Nation's depots in meeting the critical "surge" requirements of our Nation.

Unfortunately, during the 1990s, our Nation did not make the necessary investments in our depots to build and procure technologically advanced facilities and equipment technologies. Therefore, the depots were not meeting their full potential. Congress and the Air Force identified this problem and, I am proud to say, worked together to find a solution. That solution was the Air Force Depot Maintenance Strategy and Master Plan. This strategy reaffirmed our Nation's commitment to the "essential requirement for the Air Force to maintain a ready and controlled source of organic technical competence to ensure an effective and timely response to national defense contingencies and emergency requirements."

But more than just a piece of paper articulating lofty goals, this strategy committed the Air Force to allocating $150 million a year for 6 years in order to achieve the objectives of maintaining the depots status as "world class" maintenance repair and overhaul operations.

One of the most clear examples of how this money has been constructively allocated can be found in the success of the initial implementation of revolutionary lean production techniques at our Nation's depots. Lean manufacturing principles, first developed by the Toyota Corporation, aim to eliminate waste in every area of production. In practice, workers are no longer just responsible for a specific section of production. Workers are challenged to develop new skills and trades so they are responsible for more portions of the production process.

The results have been outstanding. Workflow days, the days it takes to provide maintenance to a part or system, are down. At Hill Air Force Base, the C-130 and F-16 aircraft maintenance lines have achieved and sustained 100-percent on-time delivery rates, a large extent due to the efficiencies created by lean techniques. When you tour our depots, you can sense the excitement and renewed pride the workers have, in part, because of the lean processes and the new tools and infrastructure provided by the funds allocated by the Depot Strategy which make lean possible. This has truly been a successful investment.

Another example of how the funds allocated under the Depot Strategy are assisting the war fighter while providing value to the taxpayer can be found in a project in this year's Defense authorization bill. Hill Air Force Base is home to one of only two Carnegie Mellon-rated capable maturity model level 5 software centers in the Department of Defense. A level 5 designation facility indicates that the facility is in the top 2 percent of all software development centers. In addition, Hill's Software Engineering Division affords the Air Force a $40-per-hour labor rate savings over its major industry competitors.

For these reasons, the Air Force decided to increase the amount of work performed by the division by 176,000 direct product standard hours. However, the existing building is full and unable to support the increase in personnel necessary to accomplish this new workload. The funding allocated under the Depot Maintenance Strategy provides the solution, and this bill authorizes appropriations to build a new extension to the facility. Not too bad when it has been determined that this project will pay for itself in 8.75 years.

We are only halfway through the 6-year investment plan as called for by the Depot Maintenance Strategy. I rise with my colleagues to say to the Air Force: Well done. But I must add—and this is the essential point of my amendment—the Air Force must keep going. The depots have made enormous progress in even further efficiently supporting the war fighter, which now is more important than ever. However, if we are to support our war fighters in the manner in which they deserve, this investment must continue. The first steps have been made. Completing the full 6 years of Depot Strategy modernization funding is an essential component to ensure we will always provide the best to the men and women who risk so much to keep us free.

Mr. President, I also desire at this time to thank three individuals who have been steadfast supporters of the Depot Maintenance Strategy.

First, I must recognize retiring Assistant Secretary of the Air Force Nelson Gibbs, who is one of the authors of Depot Strategy. We would not be where we are today without his support and guidance. I wish him well in his well-deserved retirement. I also wish to thank the implementers of the Strategy, GEN Lester Lyles, the former commander of Air Force Materiel Command and its present commander, and my good friend, GEN Gregory Martin. You will not find two finer officers who have ever served. To them I say: Thank you for your leadership and guidance in modernizing our infrastructure so we can most efficiently and effectively support the war fighter. I thank them.

I thank my colleagues, all of whom support this as well.

Mr. President, I yield the floor to my colleague.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I will first make a comment or two.

Mr. WARNER. Mr. President, may the manager of the bill address the Senate for a moment?

The PRESIDING OFFICER. Will the Senator from Oklahoma yield?

Mr. WARNER. Mr. President, the way we run is the managers usually try to get recognition.

What we would now like to do, Mr. President, is to have the Senator from Oklahoma address his amendments—for what period of time?

Mr. INHOFE. Mr. Chairman, I would like to have a few minutes to respond to some of the substance of the two subjects discussed by the Senator from Utah. Then I would like to describe the amendments I have offered. It will probably take me 20 minutes.

Mr. WARNER. I thank the Senator from Oklahoma.

The Senator from Florida desires recognition, so I would ask the Senator from Florida if he could give a rough estimate of the time he would like following the Senator from Oklahoma.

Fifteen minutes, Mr. President, I ask unanimous consent that the Senator from Oklahoma now be recognized for a period not to exceed 20 minutes, to be followed by the Senator from Florida.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. WARNER. Could we act on the UC request, Mr. President?

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, let me say I was listening intently while the senior Senator from Utah talked about the F/A–22. I would like to add one thing that perhaps he assumes everyone is aware of, but I keep finding people are not aware of it, and that is the Chief of the Air Force now, General Jumper, not too long ago, I think 1997, made a very courageous observation. He called to the attention of the American people that the Russians were making—at that time he was referring to the Su-30, a strike vehicle, that it was actually better than anything we had in our inventory, our F–15 or F–16.

I think a lot of people assumed automatically that when we go onto the battlefield America has the very best of equipment. That is not true. It is kind of scary when you think about a strike vehicle that is out there that has greater capability than our very best and the fact that the American people expect the United States to have the best of everything.

I have talked on this floor many times about the fact that our artillery piece is not as good as one that is made in five different countries. The old Paladin technology is World War II technology. That is something we are going to correct with our future combat system.

But I commend the Senator from Utah for his comments about the F/A–22. When we get the joint strike fighter and the F/A–22, we will be back in a position where we will be sending our young people out there with the best of equipment. We need to get there as rapidly as possible.

I also want to make a comment about the depot funding plan amendment that is offered by Senator HATCH. It supports the important and vital work being performed by our aircraft depot facilities.

Since the Bush administration came into office, we have seen a renewed interest in the Air Force's depots. To kind of fill us in where we are right now with that, I can remember when the last Secretary of the Air Force came in, his first trip was to Tinker Air Force Base to see how creative they were, to kind of personally examine the kind of work they were doing. He recognized we have to handle the problem that has been there for many, many years; that is, we need to have an in-house capability for depot maintenance on core issues.

The problem has always been: How do you define the core issue? The core issue is not an easy thing to describe and define. But until it is properly defined, we have been using the ratio of 50-50; in other words, to have the in-house capability to handle 50 percent of the functions in the case of a war so we would not be held hostage to a single source contractor.

The key to this overall reinvigoration has been the Air Force's Depot Maintenance Strategy and Master Plan that will ensure America's air and space assets are ready to rapidly respond to any national security threat. Because of this plan we have begun a restoration and modernization of our Air Force's three depot facilities located in Oklahoma, Utah, and Georgia, which will ensure the United States is able to maintain world-class aircraft repair and overall facilities.

If we are to realize the end result of this Maintenance Strategy and Master Plan, it is incumbent upon Congress to fulfill the Air Force's commitment for allocating $150 million a year, over a 6-year period, for recapitalizing, investing, and procuring advanced facilities, equipment, and operation. This funding began in fiscal year 2004, and significant in-roads have already been made.

In one year alone, with this funding support, the Air Mobility Command reported that the rate of aircraft grounded due to parts issues decreased by 37.6 percent. It bettered its flying hour goal by 922,000 hours. The rate of aircraft incidents due to parts issues decreased by 23.4 percent. Logistics response time increased by 20.4 percent. And the level of spare parts in stock improved by 5.5

percent. Such improvements are an indication of the impact of this funding, and this was only a single 1-year period.

We have spoken frequently in this body about the advanced age and challenges of some of our most critical low-density, high-demand aircraft, such as the C-130 tactical airlifter, and the KC-135 refueling tanker. The average age of the C-130 E and H models flying today is 40 years. The average age of the KC-135 E and R models flying today is 44 years. We went through some arduous times, several years ago—about 15 years ago—getting the C-17 on line. It was a recognition that we have to modernize this fleet. I am very thankful we have increased the numbers as the years have gone by. No one would have ever believed, prior to Bosnia, Kosovo, Afghanistan, and Iraq, the need we would have on these heavy-lift vehicles.

We could go on and on, but the point we want to make is, if we are going to keep our aging fleet of aircraft flying, we must not only maintain them but we must also modify them and give them the latest technology, avionics and things, so we will provide our young people with the same advantage that some of our prospective opponents would have.

At our Air Force depots today, we require engineers and fabrication technicians to solve ever-challenging design and structural problems due to aircraft stress and fatigue that were never anticipated when the aircraft were manufactured. But because of age, we are seeing such flaws. The civilian aviation industry recapitalizes, buying new aircraft when their planes are no longer feasible to fly. Unfortunately, our Air Force does not have such a luxury. The effort the Air Force has started with the Depot Maintenance Strategy and Master Plan must be sustained, and Congress must provide the necessary resources.

In light of this, I applaud the sense of the Senate being offered by Senator HATCH. This has been a problem we have seen coming. We know it is there. We have been able to now give our depots some of the same resources, some of the same modernization. They have, on a competitive basis, proven they can do a very good job.

AMENDMENT NO. 1313

Mr. INHOFE. Mr. President, I have two amendments I have already filed. The second amendment is going to require a new number. The two I am going to be discussing are the ICRC amendment. I have several cosponsors of the amendment, including Senator KYL. I ask unanimous consent that Senator ENZI be added as a cosponsor to amendment No. 1313.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. The other amendment has a new number. We have talked about it before. It is the U.S.-China Commission amendment. It is now No. 1476. It is my intention to make a few comments about these two and then to ask for the yeas and nays. We would like to get to a vote on these amendments by tonight.

First, the amendment concerning the ICRC. I simply want to clarify some people's thinking that the ICRC is not the American Red Cross. This is the International Committee on the Red Cross. It has no relationship to the American Red Cross.

My first concern is for American troops. The ICRC has been around since 1863 and has been there for American soldiers, sailors, airmen, and marines throughout two world wars. I thank them for that work. Likewise and moreover, I thank all Americans for military service to America. I did have occasion to be in the U.S. Army. It was the best thing that ever happened in my life. In my continuing preeminent concern for American troops, however, I am compelled to note some concerns and pose some questions about a drift in focus of the ICRC away from its core principles in its mission statement. Indeed, I fear the ICRC may be harming the morale of our American troops by unjustified allegations that detainees and prisoners are not being properly treated.

For example, an ICRC official visited Camp Bucca, a theater internment facility for enemy prisoners that is, as of January 2005, being operated by the 18th Military Police Brigade and Task Force 134, near Umm Qasr in southern Iraq. As of late January 2005, the facility had a holding capacity of 6,000 prisoners but only held 5,000. These prisoners were being supervised by 1,200 Army MPs and Air Force airmen. According to the Wall Street Journal, citing a Defense Department source, the ICRC official told U.S. authorities:

> You people are no better than and no different than the Nazi concentration camp guards.

I ask unanimous consent that this entire article be printed in the RECORD at the conclusion of my remarks about the ICRC.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

The Senate Armed Services Committee has now held 13 hearings on the topic of prisoner treatment.

Sometimes we get bogged down in all the detail and we forget about the overall picture, the big picture. And I'm shocked when I found, only last Tuesday, from the Pentagon's report, that after 3 years and 24,000 interrogations, there were only three acts of violation of the approved interrogation techniques authorized by Field Manual 3452 and DOD guidelines.

The small infractions found were found by our own government, corrected and now reported. In all the cases no further incidents occurred. We have nothing to be ashamed of. What other country attacked as we were would exercise the same degree of self-criticism and restraint. Again, keep in mind, 24,000 interrogations, and they only found three. And they were found by us, not somebody else snooping around.

Most, if not all, of these incidents are at least a year old. I am very impressed with the way the military, the FBI, and other agencies conducted themselves. The report shows me that an incredible amount of restraint and discipline was present at Gitmo.

Having heard a lot about the Field Manual 3452, I asked, "Are the DOD guidelines, as currently published in that manual, appropriate to allow interrogators to get valuable information, intelligence information, while not crossing the line from interrogation to abuse?" The answer from Gen. Bantz J. Craddock, Commander of U.S. Southern Command was, "I think, because that manual was written for enemy prisoners of war, we have a translation problem, in that enemy prisoners are to be treated in accordance with the Geneva Conventions—that doesn't apply. That's why the recommendation was made and I affirmed it. We need a further look here on this new phenomenon of enemy combatants. It's different, and we're trying to use, I think, a manual that was written for one reason in another environment."

Lt. Gen. Randall M. Schmidt, the senior investigating officer said, "Sir, I agree. It's critical that we come to grips with not hanging on a Cold War relic of Field Manual 3452, which addressed an entirely different population. If we are, in fact, going to get intelligence to stay ahead of this type of threat, we need to understand what else we can do and still stay in our lane of humane treatment."

Brig. Gen. John T. Furlow, the investigating officer, stated, "Sir, in echoing that, F.M. 3452 was originally written in 1987, further updated and refined in 1992, which is dealing with the Geneva question as well as an ordered battle enemy, not the enemy that we're facing currently. I'm aware that Fort Huachuca's currently in a rewrite of the next 3452, and it's in a draft form right now."

It is clear that our military has humane treatment placed at the forefront of their concerns.

At the same time I want to ask: What other country would freely discuss interrogation techniques used against high-value intelligence detainees during a time of war when suicide bombers are killing our fellow citizens?

That was disturbing to me. The last of the many hearings we had was one where they were describing in detail our interrogation techniques, knowing full well that the terrorists are watching on live TV and training their people on how to handle those. I think it is something on which we have gone far enough. That is another subject we will be discussing in a few minutes.

In the past 15 years, the United States has provided more than $1.5 billion in funding to the ICRC. I ask for some accountability for the use of this money and a modicum of oversight. For example, I think it is fair to ask: How is our money being spent? What are the activities of the ICRC to determine the status of American POWs MIAs, unaccounted for since World War II? What were the efforts of the ICRC to assist America's POWs held in captivity during the Korean war, the Vietnam war, and other subsequent conflicts? Has the ICRC exceeded its mandate, violated established practices or principles, or engaged in advocacy work that exceeds the ICRC's mandate as provided under the Geneva Convention? That essentially is what this amendment does.

At this point I will read the very last paragraph of the Wall Street Journal article. It says:

> We are trying to understand how a representative of an organization pledged to neutrality and the honest investigation of detainee practices could compare American soldiers to Nazi SS. And considering the timing and content of several ICRC confidentiality breaches concerning the U.S. war on terror, it's fair to ask if similar views aren't held by a substantial number in the organization.
>
> The world needs a truly neutral humanitarian body of the sort the ICRC is supposed to be. But the Camp Bucca incident—in addition to leaked Gitmo and Abu Ghraib reports—is evidence it isn't currently up to the task.

EXHIBIT 1

[From the Wall Street Journal, May 23, 2005]

AS BAD AS THE NAZIS?

The International Committee of the Red Cross is granted a privileged status to inspect the conditions of prisoners of war and other detainees in return for confidentiality. But in recent years it has demonstrated a habit of selective media leaks damaging to American purposes. This is the backdrop for two recent incidents that make us think the U.S. should reconsider the ICRC's role.

The first concerns a story we heard first from a U.S. source that an ICRC representative visiting America's largest detention facility in Iraq last month had compared the U.S. to Nazi Germany. According to a Defense Department source citing internal Pentagon documents, the ICRC team leader told U.S. authorities at Camp Bucca: "You people are no better than and no different than the Nazi concentration camp guards." She was upset about not being granted immediate access shortly after a prison riot, when U.S. commanders may have been thinking of her own safety, among other considerations.

A second, senior Defense Department source we asked about the episode confirmed that the quote above is accurate. And a third, very well-placed American source we contacted separately told us that some kind of reference was made by the Red Cross representative "to either Nazis or the Third Reich"—which understandably offended the American soldiers present.

The world needs a truly neutral humanitarian body of the sort the ICRC is supposed to be. But the Camp Bucca incident—in addition to the leaked Gitmo and Abu Ghraib reports—is evidence it isn't currently up to the task.

Mr. INHOFE. Mr. President, I have been informed I will be asking for the yeas and nays for two different amendments. I will do that after explaining the second amendment.

I know the Senator from Florida, under UC, now has 15 minutes. My time is about to expire. I would ask unanimous consent that at the conclusion of the remarks of the Senator from Florida, I be recognized to present what was amendment 1312 and now is No. 1476. And at the conclusion, I will be asking for the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. I ask unanimous consent to be recognized following the Senator from Oklahoma.

Mr. INHOFE. I ask unanimous consent that I be recognized for 15 minutes, followed by the Senator from North Dakota.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I want to speak on the Defense bill to point out a major national asset with regard to our military preparation. What I am about to say actually involves some subterranean negotiations that are going on outside of the light of day on another bill, on the Energy conference bill, but it relates directly to what we are doing here. I want to point it out.

One of the great national assets we have is off the coast of Florida called restricted airspace. As you can see, off the northeast coast of Florida from Cape Canaveral north all the way to Savannah, GA is a considerable bit of restricted airspace. You will also notice on this map of the peninsula of Florida and the Gulf of Mexico that almost the entire area of the Gulf of Mexico off of the State of Florida is restricted airspace. It is not any puzzle to understand when the Atlantic fleet, U.S. Navy training, was shut down on the island of Vieques off of Puerto Rico, that most of that training came here to northwest Florida. Not only because of the major military facilities at Pensacola, Whiting, Eglin Air Force Base, Tindale Air Force Base, where, by the way, we have been talking about the FA-22, the training for the pilots is at Tindale Air Force Base right here. The training for the pilots for all branches of Government for the new F-135, the joint fighter, is done at Eglin Air Force Base. Why? Because we have the restricted airspace in which that training can occur and where land, sea, and air exercises can be coordinated. That is a major national asset.

Alas, people, certain interests, want to come out here and drill for oil in the eastern Gulf of Mexico. You can't be conducting these military maneuvers, this training that is so essential to our mission in the Department of Defense, you can't be doing that if you have to worry about oil rigs on the surface of the Gulf of Mexico below. That is the same right over here on the east coast, a battle I had to wage 15, 20 years ago when it was proposed to drill from Cape Hatteras, NC all the way south to Fort Pierce, FL. Ultimately, we won that battle with the recognition by the DOD and NASA that you can't have oil rigs where you are dropping the solid rocket boosters from the space shuttle and where we are dropping the first stages of the expendable booster rockets coming out of the Cape Canaveral Air Force station.

We took on this fight a month or so ago when the Energy bill was here and we won this fight, thanks to the agreement of the chairman and the ranking member of the Energy Committee that they would not support any amendments that would allow drilling out here in the eastern gulf.

Speaking of that, just so you can see how dramatic it is that the eastern gulf does not have this drilling, I want you to look at this particular map of the gulf coast—Texas, Louisiana, Mississippi, Alabama, Florida. You will notice the drilling, as represented by the green, is where the oil is. The geology shows that there is no drilling in the eastern gulf. There is no oil there. But there is another reason there are not rigs there, besides the dry holes they came up with, and it is all of that area is restricted air space. Now, all well and good.

Mr. President, we have just intercepted an e-mail from the White House, and it is an e-mail sent to energy conference conferees—something that has some significance to the occupant of the chair. Attached is the administration's proposal. The proposal would allow for new leasing activities in the eastern gulf. They define it in Louisiana waters as defined by the use of seaward lateral boundaries. They go on in this White House e-mail to say:

> Interior and the Office of Management and Budget have signed off on this language.

Well, let's sound the alarms because here is what they plan to do. We went through this drill a couple months ago when the Energy bill was here. Why? We got the chairman of the Energy Committee and the ranking member to agree to oppose these amendments—this is in the CONGRESSIONAL RECORD—because this line, which is the Florida-Alabama line, beyond which there is no leasing in any of the waters of the gulf, well, suddenly, they are going to draw the line of the State of Louisiana, which is over here, to be a line that comes out here and goes into the eastern Gulf of Mexico, under the fiction that that line would be the waters of Louisiana and, thus, giving a pretext to invade the waters off of Florida, including the waters underneath the restricted airspace, to allow oil and gas drilling.

The administration is pushing a proposal in the conference between the House and the Senate that does not have such a provision in either bill. To the contrary. The House took a position against drilling in the eastern gulf, and the Senate did likewise in the agreement of the chairman and the ranking member.

So I want to alert the Senate. I hope this is not going to be the case because we are down to a week before everybody wants to go home for the August recess and do all of their town hall meetings, and so forth. I know there is the interest in passing an energy conference bill, if they reach agreement. Clearly, I don't want to slow up the energy conference bill if they reach agreement. But, of course, if the representations and the agreements that were made in good faith are broken—in fact, that were made on the floor of the Senate and are part of the CONGRESSIONAL RECORD—if those agreements are broken, this Senator from Florida will have no choice.

This would represent a reversal of administration policy because this administration has pledged to uphold the moratorium on the Outer Continental Shelf from drilling until the year 2012. Although a portion right there is not included within the moratorium, nevertheless, the line they have drawn clearly includes other portions of the moratorium. It is a reversal of administration policy.

It would also give this area, called lease-sale 181, to the State of Louisiana. If lease-sale 181 is part of the State of Louisiana, off of the coast of Florida, then why did the administration negotiate in 2001 to cut back lease-sale 181 from 6 million acres to a million and a half acres, so it would not go over the Florida-Alabama line? There are all kinds of inconsistencies here. It is purely—call it what it is; it is an intent to drill for oil and gas off of the coast of Florida.

I can tell you that 18 million people in Florida don't want oil rigs off their shores. In the first place, the geology shows, along with many dry holes, that there is not much oil and gas. In the second place, we have an extraordinary $50 billion a year tourism industry that depends on what? It depends on what is depicted in this picture. This other picture is not what we want. This is a photograph from a month and a half ago when we had the Energy bill on this floor of 100 pelicans that were killed as a result of an oil spill off of Louisiana—that is a recent photograph—and another 400 were severely damaged. We don't want that. We want the other.

The third reason is one I had explained at the outset. This is what we want for the defense of our country. We want to continue to do our training. We want all of that training that has come from Puerto Rico to go unhampered off of the coast of Florida, where land, sea, and air military exercises can be coordinated without the threat of interference from oil rigs below.

The fourth reason is the coast of Florida has something besides our natural beauty and beaches. It has some of the most pristine and ecologically sensitive estuaries, rivers, and bays that come into the gulf. That is a very important place to keep so that the balance of nature can occur with the oceans.

For all of these reasons, I wanted to share with the Senate that I hope I don't have to be out here later this week making these speeches again because I took it at face value and in good faith that the representations that were made here were going to stick. If they do not, then the Senator from Florida will have to judge accordingly.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

AMENDMENT NO. 1313

Mr. INHOFE. Mr. President, so we can get procedurally back where we should be, I ask unanimous consent that the current amendment be set aside for the consideration of amendment No. 1313.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, before the Senator brings up this matter—and he has the floor—I wonder if I can clarify this among my colleagues, to try to accommodate others. We have Senator DORGAN to be recognized under the previous unanimous consent. I understand 10 minutes would be sufficient there.

Mr. REED. Fifteen minutes, I believe.

Mr. WARNER. We are anxious to get going, but we will do 15 minutes. I see the Senator from Colorado here. I know the Senator from Arizona and the Senator from South Carolina called within the hour. They need time. Can the Senator advise me as to what his desires might be?

Mr. ALLARD. Mr. President, I think 10 minutes would be fine. I was going to make an argument on an amendment that will be presented. I don't know where it is before us. I do have a couple of amendments I would like to propose. I think for the debate on those two amendments and a floor statement, I probably need 10 minutes.

Mr. WARNER. If the Senator from Colorado could be recognized following Senator DORGAN, I would like to reserve an hour for myself and Senator MCCAIN and Senator LINDSEY GRAHAM.

Mr. REED. Senator LEVIN will need some time, also.

Mr. WARNER. He will certainly get that time. I ask unanimous consent for that.

The PRESIDING OFFICER. Is there objection?

Mr. REED. Would the Senator restate the UC?

Mr. WARNER. I ask unanimous consent that the Senator from Oklahoma continue for about 10 minutes; Senator DORGAN for 15 minutes; the Senator from Colorado for 10 minutes; and 1 hour equally divided between Senators WARNER, MCCAIN, and GRAHAM.

The PRESIDING OFFICER. Is there objection?

Mr. REED. Reserving the right to object, I just want to protect the ability for Senator LEVIN to have time.

Mr. WARNER. He can be recognized following the hour of three of us.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I ask for the yeas and nays on amendment No. 1313.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1476

Mr. INHOFE. Mr. President, I ask that amendment No. 1313 be set aside for the consideration of amendment No. 1476, which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 1476.

Mr. INHOFE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of Congress that the President should take immediate steps to establish a plan to implement the recommendations of the 2004 Report to Congress of the United States-China Economic and Security Review Commission)

At the end of title XII, insert the following:

SEC. 1205. THE UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION.

(a) FINDINGS.—Congress finds the following:

(1) The 2004 Report to Congress of the United States-China Economic and Security Review Commission states that—

(A) China's State-Owned Enterprises (SOEs) lack adequate disclosure standards, which creates the potential for United States investors to unwittingly contribute to enterprises that are involved in activities harmful to United States security interests;

(B) United States influence and vital long-term interests in Asia are being challenged by China's robust regional economic engagement and diplomacy;

(C) the assistance of China and North Korea to global ballistic missile proliferation is extensive and ongoing;

(D) China's transfers of technology and components for weapons of mass destruction (WMD) and their delivery systems to countries of concern, including countries that support acts of international terrorism, has helped create a new tier of countries with the capability to produce WMD and ballistic missiles;

(E) the removal of the European Union arms embargo against China that is currently under consideration in the European Union would accelerate weapons modernization and dramatically enhance Chinese military capabilities;

(F) China's recent actions toward Taiwan call into question China's commitments to a peaceful resolution;

(G) China is developing a leading-edge military with the objective of intimidating Taiwan and deterring United States involvement in the Strait, and China's qualitative and quantitative military advancements have already resulted in a dramatic shift in the cross-Strait military balance toward China; and

(H) China's growing energy needs are driving China into bilateral arrangements that undermine multilateral efforts to stabilize oil supplies and prices, and in some cases may involve dangerous weapons transfers.

(2) On March 14, 2005, the National People's Congress approved a law that would authorize the use of force if Taiwan formally declares independence.

(b) SENSE OF CONGRESS.—

(1) PLAN.—The President is strongly urged to take immediate steps to establish a plan to implement the recommendations contained in the 2004 Report to Congress of the United States-China Economic and Security Review Commission in order to correct the negative implications that a number of current trends in United States-China relations have for United States long-term economic and national security interests.

(2) CONTENTS.—Such a plan should contain the following:

(A) Actions to address China's policy of undervaluing its currency, including—

(i) encouraging China to provide for a substantial upward revaluation of the Chinese yuan against the United States dollar;

(ii) allowing the yuan to float against a trade-weighted basket of currencies; and

(iii) concurrently encouraging United States trading partners with similar interests to join in these efforts.

(B) Actions to make better use of the World Trade Organization (WTO) dispute settlement mechanism and applicable United States trade laws to redress China's unfair trade practices, including China's exchange rate manipulation, denial of trading and distribution rights, lack of intellectual property rights protection, objectionable labor standards, subsidization of exports, and forced technology transfers as a condition of doing business. The United States Trade Representative should consult with our trading partners regarding any trade dispute with China.

(C) Actions to encourage United States diplomatic efforts to identify and pursue initiatives to revitalize United States engagement with China's Asian neighbors. The initiatives should have a regional focus and complement bilateral efforts. The Asia-Pacific Economic Cooperation forum (APEC) offers a ready mechanism for pursuit of such initiatives.

(D) Actions by the administration to hold China accountable for proliferation of prohibited technologies and to secure China's agreement to renew efforts to curtail North Korea's commercial export of ballistic missiles.

(E) Actions by the Secretaries of State and Energy to consult with the International Energy Agency with the objective of upgrading the current loose experience-sharing arrangement, whereby China engages in some limited exchanges with the organization, to a more structured arrangement whereby China would be obligated to develop a meaningful strategic oil reserve, and coordinate release of stocks in supply-disruption crises or speculator-driven price spikes.

(F) Actions by the administration to develop a coordinated, comprehensive national policy and strategy designed to meet China's challenge to maintaining United States scientific and technological leadership and competitiveness in the same way the administration is presently required to develop and publish a national security strategy.

(G) Actions to review laws and regulations governing the Committee on Foreign Investment in the United States (CFIUS), including exploring whether the definition of national security should include the potential impact on national economic security as a criterion to be reviewed, and whether the chairmanship of CFIUS should be transferred from the Secretary of the Treasury to a more appropriate executive branch agency.

(H) Actions by the President and the Secretaries of State and Defense to press strongly their European Union counterparts to maintain the EU arms embargo on China.

(I) Actions by the administration to discourage foreign defense contractors from selling sensitive military use technology or weapons systems to China. The administration should provide a comprehensive annual report to the appropriate committees of Congress on the nature and scope of foreign military sales to China, particularly sales by Russia and Israel.

(J) Any additional actions outlined in the 2004 Report to Congress of the United States-China Economic and Security Review Commission that affect the economic or national security of the United States.

Mr. INHOFE. Mr. President, this amendment is similar to one that I am not going to offer that was previously going to be offered, No. 1312. There have been several changes made, so a new number is assigned to it.

Mr. President, in October 2000, Congress established the United States-China Security Economic Review Commission to act as a bipartisan authority on how our relationship with China affects our economy, China's military and weapons proliferation, and our influence in Asia.

For the past 5 years, the Commission has been holding hearings and issuing annual reports to evaluate "the national security implications of the bilateral trade and economic relationship with the United States and the People's Republic of China." Their job is to provide us in Congress with the necessary information to make decisions about the complex situation. However, I fear their reports have gone largely unnoticed.

This has been very disturbing. I have had occasion to give four rather lengthy speeches concerning the recommendations. I will not be redundant, and I certainly will not take the time I took previously, but it is something that is very significant. This was a bipartisan commission, made up of Democrats and Republicans, some Members of Congress, and some former Members of Congress. They came out with recommendations over a period of years.

I found the recommendations of the Commission's 2004 report—this is the most recent approach—objective, necessary, and urgent, and I am offering an amendment to express our support for these viable steps.

This amendment expresses the sense of the Senate that China should, first, reevaluate its manipulated currency level and allow it to float against other currencies. In the Treasury Department's recent report to Congress, China's monetary policies are described as "highly distortionary and pose a risk to China's economy, its trading partners, and global economic growth."

Second, the appropriate steps ought to be taken through the World Trade Organization to hold China accountable for its dubious trade practices. Major problem issues, such as intellectual property rights, have yet to be addressed.

Third, the United States should revitalize engagement in the Asian region, broaden our interaction with organizations such as ASEAN, which is the Association of Southeast Asian Nations. Our lack of influence has been demonstrated by the Shanghai Cooperation Organization recently demanding that we set a troop pullout deadline in Afghanistan. This clearly shows we do not have much influence there.

Fourth, the administration ought to hold China accountable for proliferating prohibited technologies. Chinese companies, such as NORINCO, have been sanctioned frequently and yet the Chinese Government refuses to enforce their own nonproliferation agreements.

Fifth, the U.N. should monitor nuclear, biological, and chemical treaties and either enforce these agreements or report them to the Security Council. The United States-China Commission has found that China has undercut the U.N. in many areas, undermining what pressures we have tried to apply on problematic states, such as Sudan and Zimbabwe.

Sixth, the administration ought to review the effectiveness of the one-China policy in relation to Taiwan to reflect the dynamic nature of the situation. The Defense Department's annual report to Congress, released 2 days ago, states that China's military "sustained buildup affects the status quo in the Taiwan Strait." We have been watching this for a number of years. We have also been watching the growth and enhancement of China's conventional military capability. We have known about their nuclear capability for some time. Now we see, as the Senator from Utah was mentioning a few minutes ago, that countries are buying these superior strike vehicles from Russia, such as the SU-30s. China, in one purchase, I understand, bought some 240. One has to stop and think about this. It puts them in the position to have better strike vehicles than we do. Of course, we have seen the buildup, the effect on their relationship in the Taiwan Strait.

Seventh, various energy agencies should encourage China to develop its strategic oil reserve in order to avoid a disastrous economic crisis if oil availability becomes unstable. We have to understand that we have a serious problem in this country with the fact that we are relying upon foreign countries for some 65 percent of the oil we import. We are now starting to compete with China which has that great problem, too.

As one travels around and looks at countries such as Iran, Sudan, Nigeria, and other countries where they are establishing relationships—we have seen what they are doing in Venezuela right now—we have to recognize they are going to be our chief competition in becoming self-sufficient in our ability to fight a war without dependency upon foreign countries.

Eighth, the Committee on Foreign Investment in the United States, called CFIUS, should include national economic security as a criterion for evaluation and the chairmanship to be transferred to a more appropriate chair allowing for increased security precautions.

Right now CFIUS has actually reviewed some 1,500 cases of purchases by foreign countries, and they have only questioned 24. They relented on those and only stopped one. That is 1 out of 1,500. There is something wrong. We see some things that are going on right now, such as Unocal, that have received a lot of publicity. This is a very strong recommendation. In fact, I have a separate resolution that covers just this issue and this alone. It will recommend that the chairmanship be changed from the Secretary of Treasury to the Secretary of Defense.

Ninth, the administration should continue its pressure on the EU to maintain its arms embargo on China. The recent Defense Department report states the EU would not have the capability to monitor and enforce any limits if the arms embargo is lifted.

Tenth, penalties should be placed on foreign contractors who sell sensitive military use technology or weapons system to China from benefiting from U.S. defense-related research development in production programs. What is going on is sales are taking place to China on technology that has been subsidized by the United States. In other words, we are putting ourselves in a situation where our national security would be impaired by our own research for which we have paid.

Eleventh, the administration should also provide a report to Congress on the scope of foreign military sales to China.

Finally, Congress should support the recommendations of the Commission's 2004 report to Congress. Unless our relationship with China is backed up with strong action, they will never take us seriously. We will certainly see more violations of proliferation treaties. It is happening over and over. We are looking at it right now. They continue to manipulate regional global trade through currency undervaluation and other unhealthy practices. They will develop unreliable oil sources and energy alliances with countries that threaten international stability. They will continue to escalate the situation over Taiwan, raising the stakes in a game neither country can win.

In today's world, we see how the unpaid bills of the past come back to haunt us in full. Ignoring these problems is unacceptable.

The United States-China Commission was created to give us in Congress a clear picture about what is going on. They have done their job. It is time for us to do our job.

I repeat, this is a commission that has been working now for 4 years. It is a bipartisan commission. These are specific recommendations. This amendment is a sense of the Senate to follow these recommendations.

This is amendment No. 1476.

AMENDMENT NO. 1312 WITHDRAWN

Mr. INHOFE. Mr. President, I withdraw amendment No. 1312.

The PRESIDING OFFICER. Without objection, amendment No. 1312 is withdrawn.

AMENDMENT NO. 1476

Mr. INHOFE. We are considering amendment No. 1476. I ask for the yeas and nays on amendment No. 1476.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. INHOFE. I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, am I now recognized for 15 minutes?

The PRESIDING OFFICER. Yes.

Mr. DORGAN. Mr. President, my colleague has sought to have the yeas and nays on his amendment. Let me do the same. I have two amendments pending. Should there be cloture invoked on this underlying bill, as my colleague from Oklahoma has suggested, I would like my amendments to be considered prior to cloture. I have an amendment No. 1429, which is offered. I ask for the yeas and nays on both of my amendments. Then I will speak on the amendments ever so briefly.

I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 1426 AND 1429

Mr. DORGAN. Mr. President, I ask that we consider amendment 1429. I previously filed that amendment.

The PRESIDING OFFICER. The Senator has a right to make that the regular order. The amendment is now pending.

Mr. DORGAN. Mr. President, I ask for the yeas and nays on amendment No. 1429.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DORGAN. I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent that we consider amendment No. 1426, which I previously filed.

The PRESIDING OFFICER. The Senator can make that the regular order. The amendment is now pending.

Mr. DORGAN. Mr. President, I ask for the yeas and nays on amendment No. 1426.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DORGAN. Mr. President, I will briefly describe amendment No. 1426. I thank my colleagues for their cooperation. That amendment one that I described at some length on Friday. It has to do with the joint inquiry of the two Intelligence Committees into the terrorist attacks of September 11, 2001. It has to do with the 28 pages in this joint inquiry that have been redacted and classified as top secret. The American people should see these 28 pages. The chairman and the ranking member of the Intelligence Committee at the time said they believe the American people should see these 28 pages. The Government of Saudi Arabia said the American people deserve to see these 28 pages. This book went to the White House for publication. The White House redacted it and classified it as top secret.

I have read the 28 pages. My colleagues have had an opportunity to read them. My former colleague from Florida, who was chairman of the Senate Intelligence Committee, described the question of whether the hijackers on 9/11—and 15 of the 19 were Saudi citizens—whether the hijackers received support from foreign interests and, if so, what kind of support, which foreign interests. The American people have a right to see this.

I hope the Senate will finally vote on asking the President to declassify these pages and give the American people the right to understand what is in those 28 pages.

Again, the chairman of the Intelligence Committee and the ranking member, a Republican and a Democrat, believed at the time those 28 pages should not have been classified.

I will now turn to amendment No. 1429. It deals with waste, fraud, and abuse in contracting in Iraq, and it deals especially with Halliburton, but not exclusively with Halliburton. I have offered this amendment previously as well.

It is unbelievable to me the billions and billions of dollars being spent. A substantial portion of it is being wasted. We know that, and yet no one seems to care or do much about it.

Let me show some charts, if I may. This is a chart of someone who testified before a policy committee hearing I held. This fellow—you cannot see his face—this fellow in the blue striped shirt testified. He was in Iraq when this picture was taken. This is Saran-wrapped bundles of 100-dollar bills, some millions of dollars in 100-dollar bills. He said in this particular area they often played football with these Saran-wrapped bundles of 100-dollar bills.

What was he doing with bundles of 100-dollar bills? The area where this cash was stored, subcontractors in Iraq were told: Bring a bag because we pay in cash; bring a bag. Show up here and want to get paid for whatever you are doing? Bring a bag because we pay in cash.

Let me talk for a moment about the five hearings we held. We heard about cash transactions that were unrecorded, $9 billion that was unaccounted for. "Uncle Sam Looks into Meal Bills: Halliburton Refunds $27 Million as Result." A company that was a Saudi subcontractor doing business through Halliburton billed the Government for 42,000 meals a day, but they only served 14,000 meals to our troops. Let me say that again. They were charging the Government for 42,000 meals served every day to our troops; they were only serving 14,000 meals.

This was not the first time Halliburton has been questioned about this. This was in February 2004.

Also in February 2004, "Halliburton Faces Criminal Investigation."

They focus on efforts to solicit bids that transport fuel to Baghdad. Prices Halliburton charged for that work were substantially higher than the cost of trucking in fuel from Turkey. Pentagon launches criminal investigation for possible fraud.

"Ex-Halliburton Workers Allege Rampant Waste." Said one employee: They did not control costs at all. Their motto was do not worry about costs. It is cost plus.

Henry Bunting—who testified, incidentally, before one of our Policy Committee hearings—said that they spent $7,500 a month to rent ordinary vehicles, cars and trucks, when the vehicles could have been rented for less than $2,000 a month through the Internet. He also held up some towels. He said they had purchased monogrammed towels for $7.50—these are hand towels for the troops that should have cost $2.50. Why $7.50? Because Halliburton wanted their logo on the towels.

Now it is May. In February, they talked about overcharging 42,000 meals when they only served 14,000 meals. Now it is May of last year, 4 months later, and the Pentagon says: We are suspending $159 million in meal charges to Halliburton for feeding soldiers because the fact is they were charging for meals they were not serving.

They are still engaged in the same contract, still cheating, and nobody does a thing about it.

"Millions in U.S. Property Lost." Halliburton lost $18.6 million in Government property in Iraq. Auditors could not account for 6,975 items on the ledgers of Halliburton's unit.

"Halliburton is Unable to Prove $1.8 Billion in Work, Pentagon Says." This has gone on and on. Has Congress done a thing about it, any oversight hearings? None. Nobody seems to care much.

Let me read from a hearing we held in the Policy Committee, a hearing we held because the oversight committees do not hold these hearings. Let me read what the top civilian in the Corps of Engineers, who is engaged in these contracts and approves these contracts, said. This is a woman named Bunnatine Greenhouse. She rose to the highest level in the Corps of Engineers for civilian employees, and now she is losing her job because she was honest. Here is what she said: I can unequivocally state that the abuse related to contracts awarded to Halliburton represents the most blatant and improper contract abuse I have witnessed during the course of my professional career.

This courageous lady comes forward to testify to say these things, and now her career pays a price for it because we do not want to upset the good old boy network around here. They want to give a sweetheart deal to a company, suspend the rules, and give a sweetheart deal. They cheat you, cheat you again and again, do not worry about it. Do a little investigation down at the Pentagon, but don't anybody in Congress call attention to it. It would be uncomfortable and embarrassing to somebody.

In 1941, Harry Truman, the Senator from Missouri, served in this Chamber. He was a flinty, tough independent. A member of his own party was in the White House, Franklin Delano Roosevelt. A Democrat in the Senate took on the task of identifying the waste, abuse, and fraud that was occurring in spending on our defense. They held hearing after hearing, and they unearthed a massive amount of fraud, waste, and abuse. I am sure that was uncomfortable for the Democrat in the White House, Franklin Delano Roosevelt, because a Democrat Senator was leading the fight. He did it through the Truman Committee that took a hard look at this kind of fraud and abuse.

My amendment would reestablish a Truman-type committee, with Members of both parties on it. When we are shoving tens of billions of dollars out the door to companies such as Halliburton in sole-source contracts, somebody has to watch the cash register.

We had a fellow named Rory testify recently at the Policy Committee. Again, we are holding hearings only because there are not aggressive oversight hearings held in the rest of the Congress because the majority party worries it would embarrass somebody. So Rory comes to testify. He is running a food service unit for Halliburton in Iraq and he says: We are getting food that is in some cases over a year expired on the date stamp for the food. What do they do? They are told: Feed it to the troops.

We get food that comes in on a convoy that has been attacked. What do they do? The supervisors say go into those trucks and remove the shrapnel and remove the bullets and save the bullets as souvenirs for the Halliburton supervisors and feed the food to the troops.

Yes, this fellow ran one of those agencies. Here is what he said: When I was an employee for Halliburton and they were doing this sort of thing, we were told if a Government auditor comes around, do not dare talk to the Government auditor. If you do, one of two things will happen: You will either be sent to a fire zone in Iraq, one under attack, one with significantly more danger than where you work now, or you will be fired summarily. Do not talk to Government auditors.

The question is: When will someone care enough to begin to take a hard look at the money we are spending? Nearly $200 billion has gone out of here, all of it emergency funding, none of it paid for. A substantial portion of that goes to contractors and much of it sole-source contractors, no-bid and cost-plus contracts. The American taxpayers, in my judgment, are paying the price for very substantial abuse and very substantial waste and fraud.

The moment someone comes to the Senate floor and mentions the word "Halliburton," they say: You are attacking the Vice President. I am not. The Vice President used to run Halliburton Corporation. He does not and has not since the year 2000. None of the examples I have cited have happened prior to that time, they have happened since that time. This is not the Vice President's corporation. It is not on his watch as CEO of Halliburton. But these are sweetheart contracts, sole-source contracts.

Fifty thousand pounds of nails are ordered to the country of Iraq, and they are the wrong size. So if one wants some nails, they are laying on the ground somewhere there in the sand, just another piece of waste. Seventy-five hundred dollars to rent a vehicle for a month. Buy new trucks for $85,000, get a flat tire, leave them by the roadside to be trashed. Buy new trucks for $85,000 and have a fuel pump plugged, leave them by the roadside to be trashed and looted. All of that comes from testimony from people who used to work for Halliburton. They have come before our Policy Committee and told these stories that describe outrageous amounts of waste, fraud, and abuse. The question is: Why does no one in this Congress seem to care? My hope is that this Congress would agree to create a Truman-type committee, a committee of Republicans and Democrats that would take a hardnosed, flinty look at how money is being spent.

How much time remains?

The PRESIDING OFFICER. One minute.

Mr. DORGAN. Mr. President, some of my colleagues have said they would like a vote on their amendments prior to cloture. My hope is that we will not have a cloture vote, by the way. I think the best Defense authorization bills that we have had in the Congress have been those that have been debated on the Senate floor for a week or two where we have had a substantial opportunity to think through and debate significant and difficult issues. So I would hope we will not have a cloture vote tomorrow. If in fact we do, I will join my colleague from Oklahoma and others who suggest that I would like a vote prior to cloture because his amendments and mine would fall postcloture. That is one of the dilemmas of cloture.

Clearly, my amendment deals with something that is very important, that attends to the money we are spending on defense and the money we are going to authorize to be spent on defense, but because of the way it is written and the subject, it will fall postcloture. For that reason, I hope we will not invoke cloture tomorrow.

I thank my colleagues for the time and hope they will seriously consider both amendments I have described today.

Mr. WARNER. I thank our colleague. It will be given careful consideration. It relates to an important subject matter.

I understand the Senator from Colorado has about 10 minutes, followed by Senators MCCAIN, GRAHAM, and WARNER for 1 hour.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. I thank the chairman for yielding me 10 minutes.

There are three amendments that I have offered and I would like to ask for their consideration, and then I wish to make some comments relating to one of them and then finally some comments on the Levin missile defense amendment offered earlier today.

AMENDMENT NO. 1419

I ask unanimous consent that we set aside the pending amendment, and I ask for the consideration of amendment No. 1419.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLARD. I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1383

Mr. ALLARD. Mr. President, I would ask unanimous consent to lay aside that amendment, and I ask for the consideration of amendment No. 1383. That amendment has been previously filed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD] proposes an amendment numbered 1383.

Mr. ALLARD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To establish a program for the management of post-project completion retirement benefits for employees at Department of Energy project completion sites)

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. MANAGEMENT OF POST-PROJECT COMPLETION RETIREMENT BENEFITS FOR EMPLOYEES AT DEPARTMENT OF ENERGY PROJECT COMPLETION SITES.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Energy shall carry out a program under which the Secretary shall use competitive procedures to enter into an agreement with a contractor for the plan sponsorship and program management of post-project completion retirement benefits for eligible employees at each Department of Energy project completion site.

(2) REQUIREMENT OF NO REDUCTION IN TOTAL VALUE OF RETIREMENT BENEFITS.—The total value of post-project completion retirement benefits provided to eligible employees at a Department of Energy project completion site may not be reduced under the program required under paragraph (1) without the specific authorization of Congress.

(b) AGREEMENT FOR BENEFITS MANAGEMENT.—

(1) IN GENERAL.—The Secretary of Energy shall, in accordance with procurement rules and regulations applicable to the Department of Energy, enter into the agreement described in subsection (a) not later than 90 days after the date of the physical completion date for the Department of Energy project completion site covered by the agreement.

(2) TERMS OF AGREEMENT.—The agreement under this section shall—

(A) provide for the plan sponsorship and program management of post-project completion retirement benefits;

(B) fully describe the post-project completion retirement benefits to be provided to employees at the Department of Energy project completion site; and

(C) require that the Secretary reimburse the contractor for the costs of plan sponsorship and program management of post-project completion retirement benefits.

(3) RENEWAL OF AGREEMENT.—The agreement shall be subject to renewal every 5 years until all the benefit obligations have been met.

(c) REPORT.—

(1) IN GENERAL.—Not later than 30 days after signing of the agreement described in subsection (a), the Secretary of Energy shall submit to the congressional defense committees a report on the program established under such subsection.

(2) CONTENTS.—The report submitted under paragraph (1) shall describe—

(A) the costs of plan sponsorship and program management of post-project completion retirement benefits;

(B) the funding profile in the Department of Energy's future year budget for the plan sponsorship and program management of post-project completion retirement benefits under the agreement entered into under subsection (b);

(C) the amount of unfunded accrued liability for eligible workers at the Department of Energy project completion site; and

(D) the justification for awarding the agreement entered into under subsection (b) to the selected contractor.

(d) DEFINITIONS.—In this section:

(1) PHYSICAL COMPLETION DATE.—The term "physical completion date" means—

(A) the date of physical completion or achievement of a similar milestone defined by or calculated in accordance with the terms of the completion project contract; or

(B) if the completion project contract specifies no such date, the date declared by the site contractor and accepted by the Department of Energy that the site contractor has completed all services required by the project completion contract other than close-out tasks and any other tasks excluded from the contract.

(2) DEPARTMENT OF ENERGY PROJECT COMPLETION SITE.—The term "Department of Energy project completion site" means a site, or a project within a site, in the Department of Energy's nuclear weapons complex that has been designated by the Secretary of Energy for closure or completion without any identified successor contractor.

(3) POST-PROJECT COMPLETION RETIREMENT BENEFITS.—The term "post-project completion retirement benefits" means those benefits provided to eligible employees at a Department of Energy project completion site as of the physical completion date through collective bargaining agreements, projects, or contracts for work scope, including pension, health care, life insurance benefits, and other applicable welfare benefits.

(4) ELIGIBLE EMPLOYEES.—The term "eligible employees" includes—

(A) any employee who—

(i) was employed by the Department of energy or by contract or first or second tier subcontract to perform cleanup, security, or administrative duties or responsibilities at a Department of Energy project completion site; and

(ii) has met applicable eligibility requirements for post-project completion retirement benefits as of the physical completion date; and

(B) any eligible dependant of such an employee, as defined in the post-project completion retirement benefits plan documents.

(5) UNFUNDED ACCRUED LIABILITY.—The term "unfunded accrued liability" means, with respect to eligible employees, the accrued liability, as determined in accordance with an actuarial cost method, that exceeds the present value of the assets of a pension plan and the aggregate projected life-cycle health care costs.

(6) PLAN SPONSORSHIP AND PROGRAM MANAGEMENT OF POST-PROJECT COMPLETION RETIREMENT BENEFITS.—The term "plan sponsorship and program management of post-project completion retirement benefits" means those duties and responsibilities that are necessary to execute, and are consistent with, the terms and legal responsibilities of the instrument under which the post-project completion retirement benefits are provided to employees at a Department of Energy project completion site.

AMENDMENT NO. 1506

Mr. ALLARD. Mr. President, I ask unanimous consent to lay that amendment aside, and I ask for the consideration of amendment No. 1506.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for himself and Mr. SALAZAR, proposes an amendment No. 1506.

Mr. ALLARD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To authorize the Secretary of Energy to purchase certain essential mineral rights and resolve natural resources damage liability claims)

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. ROCKY FLATS ENVIRONMENTAL TECHNOLOGY SITE.

(a) DEFINITIONS.—In this section:

(1) ESSENTIAL MINERAL RIGHT.—The term "essential mineral right" means a right to mine sand and gravel at Rocky Flats, as depicted on the map.

(2) FAIR MARKET VALUE.—The term "fair market value" means the value of an essential mineral right, as determined by an appraisal performed by an independent, certified mineral appraiser under the Uniform Standards of Professional Appraisal Practice.

(3) MAP.—The term "map" means the map entitled "Rocky Flats National Wildlife Refuge", dated July 25, 2005, and available for inspection in appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

(4) NATURAL RESOURCE DAMAGE LIABILITY CLAIM.—The term "natural resource damage liability claim" means a natural resource damage liability claim under subsections (a)(4)(C) and (f) of section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) arising from hazardous substances releases at or from Rocky Flats that, as of the date of enactment of this Act, are identified in the administrative record for Rocky Flats required by the National Oil and Hazardous Substances Pollution Contingency Plan prepared under section 105 of that Act (42 U.S.C. 9605).

(5) ROCKY FLATS.—The term "Rocky Flats" means the Department of Energy facility in the State of Colorado known as the "Rocky Flats Environmental Technology Site".

(6) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(7) TRUSTEES.—The term "Trustees" means the Federal and State officials designated as trustees under section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)).

(b) PURCHASE OF ESSENTIAL MINERAL RIGHTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, such amounts authorized to be appropriated under subsection (c) shall be available to the Secretary to purchase essential mineral rights at Rocky Flats.

(2) CONDITIONS.—The Secretary shall not purchase an essential mineral right under paragraph (1) unless—

(A) the owner of the essential mineral right is a willing seller; and

(B) the Secretary purchases the essential mineral right for an amount that does not exceed fair market value.

(3) LIMITATION.—Only those funds authorized to be appropriated under subsection (c) shall be available for the Secretary to purchase essential mineral rights under paragraph (1).

(4) RELEASE FROM LIABILITY.—Notwithstanding any other law, any natural resource damage liability claim shall be considered to be satisfied by—

(A) the purchase by the Secretary of essential mineral rights under paragraph (1) for consideration in an amount equal to $10,000,000;

(B) the payment by the Secretary to the Trustees of $10,000,000; or

(C) the purchase by the Secretary of any portion of the mineral rights under paragraph (1) for—

(i) consideration in an amount less than $10,000,000; and

(ii) a payment by the Secretary to the Trustees of an amount equal to the difference between—

(I) $10,000,000; and

(II) the amount paid under clause (i).

(5) USE OF FUNDS.—

(A) IN GENERAL.—Any amounts received under paragraph (4) shall be used by the Trustees for the purposes described in section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1)), including—

(i) the purchase of additional mineral rights at Rocky Flats; and

(ii) the development of habitat restoration projects at Rocky Flats.

(B) CONDITION.—Any expenditure of funds under this paragraph shall be made jointly by the Trustees.

(C) ADDITIONAL FUNDS.—The Trustees may use the funds received under paragraph (4) in conjunction with other private and public funds.

(6) EXEMPTION FROM NATIONAL ENVIRONMENTAL POLICY ACT.—Any purchases of mineral rights under this subsection shall be exempt from the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(7) ROCKY FLATS NATIONAL WILDLIFE REFUGE.—

(A) TRANSFER OF MANAGEMENT RESPONSIBILITIES.—The Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107–107) is amended—

(i) in section 3175—

(I) by striking subsections (b) and (f); and

(II) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(ii) in section 3176(a)(1), by striking "section 3175(d)" and inserting "section 3175(c)".

(B) BOUNDARIES.—Section 3177 of the Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107–107) is amended by striking subsection (c) and inserting the following:

"(c) COMPOSITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the refuge shall consist of land within the boundaries of Rocky Flats, as depicted on the map—

"(A) entitled 'Rocky Flats National Wildlife Refuge';

"(B) dated July 25, 2005; and

"(C) available for inspection in the appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

"(2) EXCLUSIONS.—The refuge does not include—

"(A) any land retained by the Department of Energy for response actions under section 3175(c);

"(B) any land depicted on the map described in paragraph (1) that is subject to 1 or more essential mineral rights described in section 3114(a) of the National Defense Authorization Act for Fiscal Year 2006 over which the Secretary shall retain jurisdiction of the surface estate until the essential mineral rights—

"(i) are purchased under subsection (b) of that Act; or

"(ii) are mined and reclaimed by the mineral rights holders in accordance with requirements established by the State of Colorado; and

"(C) the land depicted on the map described in paragraph (1) on which essential mineral rights are being actively mined as of the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 until—

"(i) the essential mineral rights are purchased; or

"(ii) the surface estate is reclaimed by the mineral rights holder in accordance with requirements established by the State of Colorado.

"(3) ACQUISITION OF ADDITIONAL LAND.—Notwithstanding paragraph (2), upon the purchase of the mineral rights or reclamation of the land depicted on the map described in paragraph (1), the Secretary shall—

"(A) transfer the land to the Secretary of the Interior for inclusion in the refuge; and

"(B) the Secretary of the Interior shall—

"(i) accept the transfer of the land; and

"(ii) manage the land as part of the refuge.".

(c) FUNDING.—Of the amounts authorized to be appropriated to the Secretary for the Rocky Flats Environmental Technology Site for fiscal year 2006, $10,000,000 shall be made available to the Secretary for the purposes described in subsection (b).

Mr. ALLARD. Mr. President, No. 1506 deals with the mineral rights at Rocky Flats. This basically will provide for the Secretary to purchase these mineral rights. There is money that has been provided for this in previous legislation and that is pending. This allows for the transfer of those mineral rights on Rocky Flats. It is based on the owner of the mineral rights being willing to sell.

In 2001, I successfully inserted a provision in the National Defense authorization bill that authorized the creation of the Rocky Flats National Wildlife Refuge. Under this legislation, the Department of Energy was required to transfer most of the Rocky Flats Environmental Technology Site to the Department of Interior for the purposes of creating a wildlife refuge to preserve Colorado's rare Front Range habitat.

Earlier, 2 months ago, the Departments of Energy and Interior signed a memorandum of understanding that stipulated how and when the Department of Energy would transfer the management of most of the Rocky Flats Environmental Technology Site to the Department of Interior. However, this memorandum of understanding was incomplete. It completely deferred the issue of the disruptive surface mining of privately owned mineral rights that is occurring on the site until later this year. This deferral did not meet the legislation requirement under the Rocky Flats National Wildlife Refuge Act and represented a critical impediment to the closure of Rocky Flats.

The Department of Interior contended that surface mining such as that now occurring at Rocky Flats is fundamentally contrary to its refuge management goals, and makes the achievement of refuge purposes on those lands impossible.

To better understand this issue, I requested that the Department of Energy hire an independent contractor to conduct an appraisal on the value of the mineral rights. The independent contractor determined the owners and provided a preliminary cost estimate as to the fair market value of those mineral rights containing sand and gravel.

After the appraisal was completed, my staff personally contacted each mineral rights owner. I wanted to see if they would be interested in selling if they were offered money for the fair market value of the mineral rights. I also reassured them that the owners would not be forced to sell if they didn't want to.

Shortly thereafter, it was brought to my attention that the purchase of mineral rights could be included as part of a comprehensive natural resource damage settlement. I am pleased to announce that the State of Colorado, my colleague from Colorado, Senator SALAZAR, and I have worked out legislation providing for such an arrangement. I am confidant that this arrangement will be acceptable to the Department of Energy and the Department of Interior.

Under the amendment I am introducing today, the Secretary of Energy will be required to purchase essential mineral rights necessary to transition Rocky Flats to a national wildlife refuge.

The Secretary can only purchase these mineral rights once the following conditions are met: (1) The owner of the minieral right is a willing seller; (2) the Secretary purchases the mineral right at fair market value; and (3) the Trustees for Rocky Flats release the Department from its natural resource damage liabilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, CERCLA.

Also included in this legislation is a provision that states that if the owner of the mineral right refuses to sell, the Secretary of Energy may satisfy the Department's natural resource liability obligation by paying the trustees of the site an amount equal to the fair market value of the mineral right owned by the unwilling seller.

I believe this amendment makes too much sense for us to pass up. We have winners, winners, and winners. It is certainly a win for the State of Colorado—the State mechanism that would provide more dollars for Colorado than most likely would have been gained through the normal natural resources damages settlement process. The owners of the mineral rights win because they now have an opportunity to sell their mineral rights at fair market value, a possibility that never existed before. The Department of Energy wins because it is able to pay off its natural resource damage liabilities that would have arisen under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. The Department of Interior wins because this legislation would remove the last impediment to the memorandum of understanding between Interior and the Department of Energy so that Interior can move forward with creating a wildlife refuge at Rocky Flats. Most importantly, the people of Colorado win because now they will be able to enjoy the pristine beauty and splendor of the Rocky Mountain's Front Range through the Rocky Flats National Wildlife Refuge. Hundreds of acres of rare xeric tallgrass prairie will be preserved. The natural wildlife in the refuge will be protected.

As I said, this is a win-win proposal. Everyone gains. I urge my colleagues to support my amendment.

AMENDMENT NO. 1492

I rise in opposition to the Levin missile defense amendment. This amendment eliminates $30 million—there has been $50 million requested for long-lead funding for ground-based interceptor missiles 31–40 and $20 million for associated silo construction. The $50 million would be used to plus-up the Cooperative Threat Reduction Program which is already fully funded at $415.5 million, with an additional $1.6 billion for DOE nonproliferation programs.

The CTR currently has $500 million in unobligated funds for 2005. So I would hope we could keep these provisions in the current authorization bill.

DOD already directed a $1 billion reduction in MDA funding in fiscal year 2006 and $5 billion in 2006 through 2011. To add upon that an additional reduction in long-term funding puts this program in jeopardy. We need to have those long-term plans in place, funded, because they are very important to the security of this Nation.

This amendment would unnecessarily delay the fielding of ground-based interceptors in 2009 and 2010. We simply cannot afford such a delay because the threat is "real and imminent," as General Cartwright has testified. The CIA and DIA assess North Korea as ready to flight test an ICBM that can reach the United States, and Iran may have such a capability in 2015, according to the DIA.

A production break, by the way, would cost $270 million to restart, so there is a cost in delaying these funds.

Despite recent test failures, the technology is mature enough to proceed with fielding even though we continue to test and improve reliability.

STRATCOM, the Director of Operational Tests and Evaluation, and the Independent Review Team agree that the ground-based midcourse defense test bed has some limited capability. The Independent Review Team also found no fundamental design flaws with the GMD system, and that we need to concentrate on manufacturing quality control.

I happen to be in favor of more operational testing. The MDA is pursuing a prudent approach by delaying further testing until reliability issues are addressed. Four flight tests were scheduled for 2006, starting in October and ending with an intercept next September. Also, the SASC adopted the Nelson amendment that directs increasing cooperation between independent testing agencies and MDA, and calls for more operationally realistic testing that will be evaluated by the Director of Operational Test and Evaluation.

I have been out to visit the southern parts of the test bed. I am convinced our technology is there. I am convinced the threat is real. As a result, I think we need to move forward and we need to move forward in a long-term way so the manufacturers who provide the missiles and technology for the program have some reliable source of revenue as we move forward. We should not interrupt the program. The agencies that are responsible for administering the program need to have that funding there so they can continue to plan in the future for the defense of this country.

There is an emerging threat. There is a threat that continues to emerge, I would say, from North Korea. I think we have to be concerned about Iran.

I have always been a strong proponent of missile defense. I think this particular amendment that Senator

LEVIN has introduced tends to make it difficult for us to meet our long-range goals, to protect the borders of this country, and protect the American people from some type of missile attack. In today's environment, it is important that we have that insurance for the future of America.

I wanted to make the comments on the Levin amendment because I think it is ill-advised in light of the state of the world today.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. ALLARD. Mr. President, I yield the remainder of my time to the chairman.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, under the unanimous consent requirement, Senator McCAIN, Senator GRAHAM, and I are now recognized for an hour. I ask our distinguished colleague from Arizona—I would like to amend that to allow Senator SALAZAR to go for 2 minutes. I request that unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado is recognized.

AMENDMENT NO. 1506

Mr. SALAZAR. Mr. President, I thank my friend from Arizona, also my friend from Virginia, and my friend from Rhode Island for agreeing to let me speak for a couple of minutes on this amendment.

The amendment both Senator ALLARD and I are proposing, amendment No. 1506, is very important as we move forward with the Department of Energy complex. We have created a great model for the rest of our country as to how we clean up the remnants of the Cold War. How we do this in an appropriate fashion to bring the cleanup of Rocky Flats to completion is a very important part of our Nation's efforts to clean up these facilities.

Amendment No. 1506 is a great step in the right direction because it will help us bring to conclusion, in a final form, the cleanup at Rocky Flats. I commend my colleague from Colorado, Senator ALLARD, for his leadership on this effort over the years. I also commend him and both of our staffs for having worked out the issues with the Department of Energy and Department of Interior over the weekend.

I also want to inform my colleagues that I have had a hold on four nominees who had been passed out of the committee, out of the Energy Committee. I am lifting the holds on Jill Sigal, David Hill, James Rispoli, and Thomas Weimer so that they can move forward and hopefully be confirmed by the Senate before we get into the August recess.

I yield the remainder of my time.

Mr. WARNER. Mr. President, we now turn to the three Senators. I would like to take 1 minute to address both Colorado Senators.

I followed with interest your amendments. I do hope we now have on the record a clear statement of support by the Secretary of Energy. Am I correct in that?

Mr. ALLARD. As I have discussed with the Chairman's staff—I assume you are talking about the amendment on the mineral rights.

Mr. WARNER. Yes.

Mr. ALLARD. That provision is before the OMB, so I cannot publicly state their position until we get a decision back from OMB.

Mr. WARNER. I thank the Senator.

Now, Mr. President, we would like to commence the 1 hour. I yield the floor so Senator McCAIN can gain recognition. But I would want to say this is a subject that is enormously important. I commend Senator McCAIN and Senator GRAHAM. It merits the full attention and hopefully the support of the Senate. These are issues that go far beyond just the question of detention. It goes to the perception of the great Nation of which we are privileged to be citizens, the United States of America, as it relates to how we treat those people who come into our custody in the course of defending freedom, on battle fields, and elsewhere in the world. I have such great respect for Senator McCAIN.

I yield the floor.

AMENDMENT NO. 1557, AS MODIFIED

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent that I be allowed to modify my amendment No. 1557, which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask the pending amendment be set aside, and I call up amendment No. 1557, which is at the desk. I ask the clerk continue the reading of the amendment because it is short and important.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for himself, Mr. WARNER, Mr. GRAHAM, and Ms. COLLINS, proposes an amendment numbered 1557, as modified:

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) LIMITATION ON INTERROGATION TECHNIQUES.—

(1) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(2) APPLICABILITY.—Paragraph (1) shall not apply to with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

Mr. McCAIN. Mr. President, I asked that amendment be read because there may be various interpretations of what this amendment is and what it means. What it means to the sponsors—and I am grateful to my friend, Senator WARNER, the distinguished chairman of the committee, and Senator GRAHAM and others, including Senator COLLINS and others who have supported this. Basically, it says the U.S. Army Field Manual on Intelligence Interrogation shall be the document that governs interrogation of prisoners who are under Department of Defense custody.

Some of us may like to see this expanded to treatment of prisoners who are under custody of different agencies of Government. This applies to the Department of Defense.

Before I proceed further, I ask my friend from Virginia—as he knows, we have two amendments. One is this one which we have just read, and the other one concerning cruel and inhumane treatment, which we are sort of still working on. Is it the desire of the Chairman we take up both amendments at this time?

Mr. WARNER. Mr. President, I suggest we take up the other one—you and I have discussed it—as soon as the other one is completed because I am a cosponsor on the one that is now pending.

Mr. McCAIN. I thank the distinguished chairman. For the information of my colleagues, the second amendment, which would be before the Senate for consideration at a different time, basically says that cruel and inhumane treatment will not be inflicted upon any prisoner, and we would adhere to the Geneva Conventions as well as other international agreements concerning the treatment of prisoners.

But on this issue it says this amendment would prohibit cruel and inhumane and degrading treatment of prisoners in the detention of the U.S. Government, and it is basically fairly straightforward and simple, as I read.

The Army Field Manual and its various editions have served America well, through wars against both regular and irregular foes. The manual embodies the values Americans have embraced for generations while preserving the ability of our interrogators to extract critical intelligence from ruthless foes. Never has this been more important than today in the midst of the war on terror.

I think we all agree to fight terrorism we must obtain intelligence.

But we have to ensure that it is reliable and acquired in a way that is humane. To do otherwise not only offends our national morals but undermines our efforts to protect the Nation's security.

Abuse of prisoners harms—harms, not helps—us in the war on terror because inevitably these abuses become public. When they do, the cruel actions of a few darken the reputation of our honorable country in the eyes of millions. Mistreatment of our prisoners also endangers U.S. servicemembers who might be captured by the enemy—if not in this war, then in the next.

I want to emphasize to some of my friends who say that we should do anything that is necessary to extract intelligence, No. 1, torture doesn't work; No. 2, if extraneous or extraordinary actions have to be taken—and there may be cases, and we will get into this in the next amendment, where someone has information that it is believed poses an immediate threat to the United States—then I would suppose that it would be entirely appropriate, under law, that the President of the United States could make that judgment and take whatever actions are necessary. In the meantime, the Army Field Manual authorizes interrogation techniques that are proven effective in extracting lifesaving information from the most hardened prisoners. It also recognizes that torture and cruel treatment are ineffective methods because they induce prisoners to say what their interrogators want to hear, even if it is not true.

It is consistent with our laws and, most importantly, our values. Our values are different from those of our enemies. When colleagues or others may come on this floor and say: Well, they do it, others do it, al-Qaida does it, other nations in the world do it, what differentiates us, the United States of America, from other countries is the fact that we do not. We do not abuse human rights. We do not do it. I would argue the pictures, terrible pictures from Abu Ghraib, harmed us—not only in the Arab world, which is an area of great concern but it also harmed us dramatically amongst friendly nations, the Europeans, many of our allies.

Of course, they were appalled. Of course, we were all appalled. As we go through this later on, there were interesting exchanges between the civilian general counsel in the Pentagon and the military judge advocate general's—members of the judge advocate general, who were deeply concerned about regulations that were proposed for adoption, and exhibited very serious and fundamental concerns. For a short period of time, unfortunately, those objections by the uniform lawyers in the Pentagon were overruled, and we went through a period of time—thank God only a few months—where interrogation techniques were allowed which were then repealed, I am happy to say.

Our friends in London and elsewhere find themselves confronting the same evil that we do. Preserving the common values we hold dear is more important than ever. We fight not just to preserve our lives and liberties but our morals, and we will never allow the terrorists to take those from us. In this war that we must win—that we will win—we should never fight evil with evil.

As I said, the amendment I am offering would establish the Army Field Manual as the standard for interrogation of all detainees held in Department of Defense custody. The manual has been developed by the executive branch for its own uses, with a new edition written to take into account the needs of the war on terror for the new classified annexes due to be issued soon.

The advantage of setting a standard for interrogation based on the field manual is to cut down on the significant level of confusion that still exists with respect to which interrogation techniques are allowed. Two weeks ago, the Committee on Armed Services held hearings, under the chairmanship of Senator LINDSEY GRAHAM, with a slew of high-level Defense Department officials from regional .commanders to judge advocate generals from the various branches to the Department's deputy general counsel.

A chief topic of discussion was what specific interrogation techniques are permitted, in what environment, with which DOD detainees, by whom and when. The answers included a whole lot of confusion. We got a bunch of contradictory answers. Several: I would have to take a look at that. A few: Let me get back to you.

Let's think about that for a second. If at the highest level of the Pentagon they do not know what exact techniques are allowed and what aren't, what is going on in the prisons? What is going on with the soldiers, the sergeant, the corporal, those who are supposed to do the actual interrogations? What we are trying to do is make sure there are clear and exact standards set for interrogation of prisoners which have held for other wars and are now being updated to take into consideration the kind of war that we are in.

Confusion results in the kind of messes that once again could give America a black eye around the world. We need a clear, simple, and consistent standard. We will have it in the Army Field Manual on interrogation. That is not my opinion but that of many more distinguished military legal minds than mine.

I received a letter recently from a group of people, 11 former high-ranking military officers, including RADM John Hutson and RADM Don Guter, who each served as the Navy's top JAG, and Claudia Kennedy, who was Deputy Chief of Staff for Army Intelligence. These and other distinguished officers believe that the abuses took place in part because our soldiers received ambiguous instructions which, in some cases, authorized treatment that went beyond what the Field Manual allows and that had the Manual been followed across the board we could have avoided the prisoner abuse scandal.

I am not sure we could have, Mr. President, but wouldn't any of us have done whatever we could to have prevented that?

I ask unanimous consent this letter, dated July 22, 2005, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JULY 22, 2005.

DEAR SENATOR MCCAIN: We strongly support your proposed amendments to the Defense Department Authorization bill concerning detainee policy, including requiring all interrogations of detainees in DOD custody to conform to the U.S. Army's Field Manual on Intelligence Interrogation (FM 34–52), and prohibiting the use of torture and cruel, inhuman and degrading treatment by any U.S. government agency.

The abuse of prisoners hurts America's cause in the war on terror, endangers U.S. service members who might be captured by the enemy, and is anathema to the values Americans have held dear for generations. For many years, those values have been embodied in the Army Field Manual. The Manual applies the wisdom and experience gained by military interrogators in conflicts against both regular and irregular foes. It authorizes techniques that have proven effective in extracting life-saving information from the most hardened enemy prisoners. It also recognizes that torture and cruel treatment are ineffective methods, because they induce prisoners to say what their interrogators want to hear, even if it is not true, while bringing discredit upon the United States.

It is now apparent that the abuse of prisoners in Abu Ghraib, Guantanamo and elsewhere took place in part because our men and women in uniform were given ambiguous instructions, which in some cases authorized treatment that went beyond what was allowed by the Army Field Manual. Administration officials confused matters further by declaring that U.S. personnel are not bound by longstanding prohibitions of cruel treatment when interrogating non-U.S. citizens on foreign soil. As a result, we suddenly had one set of rules for interrogating prisoners of war, and another for "enemy combatants;" one set for Guantanamo, and another for Iraq; one set for our military, and another for the CIA. Our service members were denied clear guidance, and left to take the blame when things went wrong. They deserve better than that.

The United States should have one standard for interrogating enemy prisoners that is effective, lawful, and humane. Fortunately, America already has the gold standard in the Army Field Manual. Had the Manual been followed across the board, we would have been spared the pain of the prisoner abuse scandal. It should be followed consistently from now on. And when agencies other than DOD detain and interrogate prisoners, there should be no legal loopholes permitting cruel or degrading treatment.

The amendments proposed by Senator McCain would achieve these goals while preserving our nation's ability to fight the war on terror. They reflect the experience and highest traditions of the United States military. We urge the Congress to support this effort.

General Joseph Hoar (Ret. USMC).

Lieutenant General Robert G. Gard, Jr. (Ret. USA).

Lieutenant General Claudia J. Kennedy (Ret. USA).

Major General Melvyn Montano (Ret. USAF Nat. Guard).

Rear Admiral Don Guter (Ret. USN).

Rear Admiral John D. Hutson (Ret. USN).

Brigadier General David M. Brahms (Ret. USMC).

Brigadier General James Cullen (Ret. USA).

Brigadier General Evelyn P. Foote (Ret. USA).

Brigadier General David R. Irvine (Ret. USA).

Brigadier General Richard O'Meara (Ret. USA).

Ambassador Douglas "Pete" Peterson.

Former Vietnam POW Commander Frederick C. Baldock (Ret. USN).

Former Vietnam POW Commander Phillip N. Butler (Ret. USN).

General Joseph Hoar (Ret. USMC)—General Hoar served as Commander-in-Chief, U.S. Central Command. After the first Gulf War, General Hoar led the effort to enforce the naval embargo in the Red Sea and the Persian Gulf, and to enforce the no-fly zone in the south of Iraq. He oversaw the humanitarian and peacekeeping operations in Kenya and Somalia and also supported operations in Rwanda, and the evacuation of U.S. civilians from Yemen during the 1994 civil war. He was the Deputy for Operations for the Marine Corps during the Gulf War and served as General Norman Schwarzkopf's Chief of Staff at Central Command. General Hoar currently runs a consulting business in California.

Lt. General Robert G. Gard, Jr. (Ret. USA)—General Gard is a retired Lieutenant General who served in the United States Army; his military assignments included combat service in Korea and Vietnam. He is currently a consultant on international security and president emeritus of the Monterey Institute for International Studies.

Lieutenant General Claudia J. Kennedy (Ret. USA)—General Kennedy is the first and only woman to achieve the rank of three-star general in the United States Army. Kennedy served as Deputy Chief of Staff for Army Intelligence, Commander of the U.S. Army Recruiting Command, and as Commander of the 703d military intelligence brigade in Kunia, Hawaii.

Major General Melvyn Montano (Ret. USAF Nat. Guard)—General Montano was the adjutant general in charge of the National Guard in New Mexico from 1994 to 1999. He served in Vietnam and was the first Hispanic Air National Guard officer appointed as an adjutant general in the country.

Rear Admiral Don Guter (Ret. USN)—Admiral Guter served as the Navy's Judge Advocate General from 2000 to 2002. Admiral Guter is currently CEO of Vinson Hall Corporation/Executive Director of the Navy Marine Coast Guard Residence Foundation in McLean, Virginia.

Rear Admiral John D. Hutson (Ret. USN)—Admiral John D. Hutson served as the Navy's Judge Advocate General from 1997 to 2000. Admiral Hutson now serves as President and Dean of the Franklin Pierce Law Center in Concord, New Hampshire.

Brigadier General David M. Brahms (Ret. USMC)—General Brahms served in the Marine Corps from 1963-1988. He served as the Marine Corps' senior legal adviser from 1983 until his retirement in 1988. General Brahms currently practices law in Carlsbad, California and sits on the board of directors of the Judge Advocates Association.

Brigadier General James Cullen (Ret. USA)—General Cullen is a retired Brigadier General in the United States Army Reserve Judge Advocate General's Corps and last served as the Chief Judge (IMA) of the U.S. Army Court of Criminal Appeals. He currently practices law in New York City.

Brigadier General Evelyn P. Foote (Ret. USA)—General Foote was Commanding General of Fort Belvoir in 1989. She was recalled to active duty in 1996 to serve as Vice Chair of the Secretary of the Army's Senior Review Panel on Sexual Harassment. She is President of the Alliance for National Defense, a non-profit organization.

Brigadier General David R. Irvine (Ret. USA)—General Irvine is a retired Army Reserve strategic intelligence officer and taught prisoner interrogation and military law for 18 years with the Sixth Army Intelligence School. He last served as Deputy Commander for the 96th Regional Readiness Command, and currently practices law in Salt Lake City, Utah.

Brigadier General Richard O'Meara (Ret. USA)—Brigadier General Richard O'Meara is a combat decorated veteran who fought in Vietnam before earning his law degree and joining the Army's Judge Advocate General Corps. He retired from the Army Reserves in 2002 and now teaches courses on Human Rights and History at Kean University and at Monmouth University.

Ambassador Douglas "Pete" Peterson—Ambassador Peterson served as the ambassador to the Socialist Republic of Vietnam until 2001. Prior to his diplomatic posting, Ambassador Peterson served three terms as a member of the United States House of Representatives, representing the Second Congressional District of Florida. He served 26 years in the United States Air Force having served in worldwide assignments as a fighter pilot and commander. He is a distinguished combat veteran of the Vietnam War and was incarcerated as a POW during that conflict for more than six years. He completed his military service in 1981 and has extensive experience in the private sector.

Commander Frederick C. Baldock (Ret. USN)—Commander Baldock was a Navy pilot and is a combat veteran of the Vietnam War. His plane was shot down over North Vietnam in 1966, and he spent seven years in captivity as a POW.

Commander Phillip N. Butler (Ret. USN)—Commander Butler was a Navy pilot and is a combat veteran of the Vietnam War. His plane was shot down over North Vietnam in 1965, and he spent nearly eight years in captivity as a POW.

Mr. McCAIN. I read from the letter:

We strongly support your proposed amendments to the Defense Department Authorization bill concerning detainee policy, including requiring all interrogations of detainees in DOD custody to conform to the U.S. Army's Field Manual on Intelligence Interrogation (FM 34-52), and prohibiting the use of torture and cruel, inhuman and degrading treatment by any U.S. government agency.

It is now apparent that the abuse of prisoners in Abu Ghraib, Guantanamo and elsewhere took place in part because our men and women in uniform were given ambiguous instructions, which in some cases authorized treatment that went beyond what was allowed by the Army Field Manual. Administration officials confused matters further by declaring that U.S. personnel are not bound by longstanding prohibitions of cruel treatment when interrogating non-U.S. citizens on foreign soil. As a result, we suddenly had one set of rules for interrogating prisoners of war, and another for "enemy combatants;" one set for Guantanamo, and another for Iraq; one set for our military, and another for the CIA. Our service members were denied clear guidance, and left to take the blame when things went wrong. They deserve better than that.

The United States should have one standard for interrogating enemy prisoners that is effective, lawful, and humane. Fortunately, America already has the gold standard in the Army Field Manual. Had the Manual been followed across the board, we would have been spared the pain of the prisoner abuse scandal. It should be followed consistently from now on. And when agencies other than DOD detain and interrogate prisoners, there should be no legal loopholes permitting cruel or degrading treatment.

This is signed by GEN Joseph Hoar, LTG Robert Gard, LTG Claudia Kennedy, MG Melvyn Montano, RADM Don Guter, RADM John Hutson, BG David Brahms, BG James Cullen, BG Evelyn Foote, BG David Irvine, BG Richard O'Meara, et cetera, and all of these people, including General Hoar, served as Commander in Chief United States Central Command. These are very credible people. If we had chosen, we could have gotten many more signatories to this amendment.

We are Americans. We hold ourselves to humane standards of treatment no matter how terribly evil or awful they may be. To do otherwise undermines our security, and it also undermines our greatness as a nation. We are not simply any other country. We stand for a lot more than that in the world: a moral mission, one of freedom and democracy and human rights at home and abroad.

We are better than the terrorists, and we will win because we are better than they are. The enemy we fight has no respect for human life or human rights. They don't deserve our sympathy. But this is not about who they are—it is not about who they are. It is about who we are. These are values that distinguish us from our enemies.

President Bush understands that the war on terror is ultimately a battle of ideas, a battle we will win by spreading and standing firmly for the values of decency, democracy, and the rule of law. I stand with him in this commitment. By applying to ourselves the basic standards we rightly preach to others, I believe we will only increase our effectiveness as the world's ultimate champion of liberty.

I thank Senator WARNER and Senator GRAHAM and others who have shown an interest. Senator WARNER has had a series of hearings for a long period of time. I believe we can do a great service for the military and for the country if we adopt this simple two-paragraph amendment that basically says that prisoners will be treated according to the Army Field Manual, which, by the way, is the tradition of treatment of prisoners for many wars.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I commend Senator McCAIN. I have been privileged to know him ever since I was Secretary of Navy in the closing years of the war in Vietnam. I know no military family that has served our Nation with greater distinction than the McCain family. This is a subject about which my dear friend has knowledge that none of us possess. I have absolute confidence they are doing the right thing.

The two of us do have some technical differences of opinion. His amendment is predicated on the Army Field Manual which he mentioned is being revised. The current Army Field Manual basically dealt with State-sponsored conflict. I have every reason to believe that the follow-on manual, in due course, presumably in both classified and unclassified form, will be completed.

AMENDMENT NO. 1566

There is another approach here. I ask unanimous consent, if it is agreeable, to set the McCain amendment aside temporarily and ask amendment 1566 be brought up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. And in no way do I wish it to substitute for Senator McCAIN's amendment. This is a complicated subject.

Essentially, my amendment simply says it will be the Secretary of Defense that will establish uniform standards and procedures for two separable subjects, detention and interrogation.

While I have not had a chance to go through in detail the Army's Field Manual, I am not sure there is the emphasis placed on the detention rule in such a manner as equivalent to the detention and regulation that will be and is on the interrogation. Those responsible for detention are often quite different than those responsible for interrogation. If there is any mistreatment in the course of the detention, depending on the timing between such treatment and the follow-on interrogation, it seems to me we have a problem.

Therefore, my amendment entrusts to the Secretary of Defense the task to put together basically all of the objectives as enunciated by my distinguished friend from Arizona.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia, [Mr. WARNER], proposes an amendment numbered 1566.

Mr. WARNER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for uniform standards and procedures for the interrogation of persons under the detention of the Department of Defense)

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS AND PROCEDURES FOR TREATMENT OF PERSONS UNDER DETENTION BY THE DEPARTMENT OF DEFENSE.

(a) UNIFORM STANDARDS AND PROCEDURES REQUIRED.—The Secretary of Defense shall establish uniform standards and procedures for the detention and interrogation of persons in the custody or under the control of the Department of Defense.

(b) CONSISTENCY WITH LAW AND TREATY OBLIGATIONS.—The standards and procedures established under subsection (a) shall be consistent with United States law and international treaty obligations.

(c) APPLICABILITY.—

(1) IN GENERAL.—The standards and procedures established under subsection (a) shall apply to all detention and interrogation activities involving persons in the custody or under the control of the Department of Defense, and to such activities conducted within facilities controlled by the Department of Defense, regardless of whether such activities are conducted by Department of Defense personnel, Department of Defense contractor personnel, or personnel or contractor personnel of any other department, agency, or element of the United States Government.

(2) EXCEPTION.—The standards and procedures established under subsection (a) shall not apply with respect to any person in the custody or under the control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(d) CONSTRUCTION.—Nothing in this section shall affect such rights, if any, under the Constitution of the United States of any person in the custody or under the control of the Department of Defense.

(e) NOTICE TO CONGRESS OF REVISION.—Not later than 60 days before issuing any revision to the standards and procedures established under subsection (a), the Secretary of Defense shall notify, in writing, the congressional defense committees of such revision.

(f) DEADLINE.—The standards and procedures required by subsection (a) shall be established not later than 60 days after the date of the enactment of this Act.

Mr. WARNER. There are considerable parallels between the two amendments, with the exception that the subject should be adjusted to the Secretary of Defense. He may well designate the Army Field Manual as his work product, but then I would need, under the amendment, the assurance that equal emphasis is put on the detention phase as well as the interrogation phase.

Recent history has shown we must have uniform standards for detention and interrogation across the Department of Defense. We cannot have different standards for different theaters.

Soldiers, as Senator McCAIN pointed out, have to be trained and well understand the rules and regulations as they relate to both detention and interrogation. That is the goal of the McCain amendment. I wholeheartedly support it. It is best to entrust the entire subject to the Secretary of Defense and hold him accountable, as opposed to the designation of the specific document which is in the process of being changed.

AMENDMENT NO. 1557, AS MODIFIED

Mr. President, I ask unanimous consent that the Senate return to consideration of the McCain amendment.

The PRESIDING OFFICER (Mr. BURR). Without objection, it is so ordered.

Mr. WARNER. Mr. President, seeing our other colleague, Senator GRAHAM, I yield the floor. But I also see Senator McCAIN.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 1566

Mr. McCAIN. Mr. President, I have a brief comment on the chairman's amendment. Leaving it in the hands of the Secretary of Defense is what caused the huge amount of problems we have today.

I have here—in fact, thanks to the tenacity of the Senator from South Carolina—finally, after a year and a half, 2 years, the memoranda that were submitted by the uniformed JAGS when the rules for the treatment of prisoners were set up the first time, I say to my friend from Virginia. They all objected to it. They were overruled by the Secretary of Defense and the general counsel.

So now, if I understand it, the amendment of my dear friend from Virginia is going to return that to the Secretary of Defense. I urge him to read these memoranda which we finally got thanks to, again, the Senator from South Carolina: treating OEF detainees inconsistently with the Conventions; arguably lowers the bar for the treatment of U.S. POWs in future conflicts, even when nations agree with the President's status determination. Many would view the more extreme interrogation techniques as violative of international law, other treaties, or customary international law; perhaps violative of their own domestic law. This puts the interrogators and the chain of command at risk of criminal accusations abroad, either in foreign domestic courts or international fora, to include the ICC.

I remind my colleagues, these are the memoranda that were sent to comment on the Secretary of Defense guidelines for interrogations of prisoners, which were overruled. And then, a couple months later, they were rescinded.

So in all due respect, my friend from Virginia has a degree of confidence in the Secretary of Defense which, frankly, is not validated by what took place and many argue is one of the reasons why we had Abu Ghraib.

So I thank my colleague and yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, if I could reply to my good friend, you are absolutely right. And I know that chapter as you do and have studied it. But under the law, the Secretary of Defense is still the head of the Department, and as such I suppose he can alter the field manual of the Army and make it less in the present form and in the revised form in due course. But I think it is important we have a clear chain of authority and accountability. I look up the chain, and there are the laws established by the Secretary of Defense as opposed to those who might be involved in drawing up the Army Field Manual. I presume the Secretary of the Army is at the top of that pyramid.

But that is the reason I put in this amendment. I say to my good friend from Arizona, I hope we can sort this out before final passage and possibly amend it. I will withdraw mine because I want you to take the lead in every respect on this important amendment.

If I might add, I say to my friend from Arizona, there is another important amendment you needed to get completed.

Mr. McCAIN. Mr. President, I thought my colleague wanted me to wait on the additional amendment.

Mr. WARNER. Well, whatever.

Mr. McCAIN. But I will be glad to proceed. Why don't we let the Senator from South Carolina talk, and then maybe, if it is all right, I will offer the other amendment.

Mr. WARNER. Fine.

Mr. LEVIN. Mr. President, will the Senator yield for a question?

Mr. McCAIN. I am glad to yield.

Mr. LEVIN. Mr. President, I have a unanimous consent request. I ask unanimous consent that I be added as a cosponsor to amendment No. 1557, which is the field manual amendment to which they have been referring.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, if I could be recognized just for 1 minute to comment on this amendment, and then I will yield the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Michigan.

Mr. LEVIN. Mr. President, first of all, I congratulate Senator McCAIN. I do not think there is anybody in this body who speaks with greater authority on the subject matter he has spoken to in this amendment. I commend him for the distinction he is making. It is a critical distinction. In addition to the fact that the field manual is there for everybody to see and has historic meaning, the difference between the McCain amendment and the one which was offered by the Senator from Virginia—another difference—is that the field manual is a public document. You can read what is in the field manual. The Secretary of Defense memoranda too often have been classified "unavailable." We have been spending sometimes months and years trying to just find out what is in those memoranda.

So there is a very important difference between these two amendments in a number of regards. I very much believe that the first amendment, amendment No. 1557, is the way which is most consistent with our values. It makes it very clear, in public, what the authorities are and what the standards and criteria are. The contrast between that and something amorphous, which gives the Secretary of Defense a power he already has anyway, which is to issue regulations but to do so in secret and in a classified way, leads to more vagueness, more uncertainty, more conflict, more inability of Congress to perform oversight.

So I commend the Senator from Arizona for this amendment. I believe the differences between these two amendments are significant.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I accept my good friend's critique, but I do point out, as the Army Field Manual is under revision, there will be both a classified and unclassified portion of that manual.

Mr. LEVIN. Mr. President, if I could just comment briefly on that, at least with the unclassified portion, we have access to it, unlike the documents that are issued by the Secretary of Defense memoranda. They are classified, but they are also, too often, unavailable to Congress. They just use one excuse after another not to make those memoranda available to Congress. So there may be a classified version of the field manual, but at least Congress has access to that unclassified version.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I am well aware of the efforts of my good friend from Michigan to get documents from the Department of Defense and his modest success and some lack of success.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield to the distinguished Senator from South Carolina such time as he deems necessary.

Could the Chair advise us as to the amount of time remaining under the hour that I requested?

The PRESIDING OFFICER. The Senator from South Carolina has 20 minutes.

Mr. WARNER. That is the full time?

The PRESIDING OFFICER. The Senator from Virginia has 13 minutes. The Senator from Arizona has 3 minutes remaining.

Mr. WARNER. Well, we will allocate the time among the three of us in an equitable way.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 1557, AS MODIFIED

Mr. GRAHAM. Mr. President, I rise in support of Senator McCAIN's amendment. The point that Senator WARNER is making, I fully understand. But I think we are at a crossroads in the war on terror. Guantanamo Bay has great potential to make us safer as a nation. But one of the problems we have experienced in this war is a problem of image. It is a new kind of enemy with a lot of nuances. But one thing we cannot do as a nation is forget who we are, what got us here for 200-something years. We can fight this enemy aggressively, no-holds-barred, go after them, and not lose who we are.

Senator McCAIN is addressing one of the problems we have found crop up in different areas of the world when it comes to noncitizen foreign terrorists, and that is how you interrogate and stay within the boundaries of who you are as a people and not getting your own people in trouble by cutting corners.

So the reason I am supporting his amendment—and we are not just saying: Secretary of Defense, come up with a solution here—is because, after a lot of thought and study, it is clear to me that the Army Field Manual gives you everything you need to aggressively interrogate and seek good intelligence from foreign noncitizen terrorists held at GTMO and any other place under DOD control.

Mr. President, I would like to submit for the Record several memos that have just been recently declassified. They were requested on October 7 of last year by myself, Senator LEVIN, and Senator McCAIN. The first one is a 27 February 2003 memo from BG Kevin M. Sandkuhler, U.S. Marine Corps, Staff Judge Advocate to CMC. The next one is from MG Thomas J. Romig, U.S. Army, the Judge Advocate General, dated 3 March 2003. The next is from MG Jack L. Rives, Deputy Judge Advocate General of the U.S. Air Force, dated 6 February 2003. The next is from RADM Michael F. Lohr, Judge Advocate General, U.S. Navy, dated 6 February 2003. The next is Rear Admiral Lohr, dated 13 March 2002. And the final memo is from Major General Rives, Deputy Judge Advocate General, U.S. Air Force, dated 5 February 2003. I ask unanimous consent those memorandums be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
HEADQUARTERS U.S. MARINE CORPS,
Washington, DC, February 27, 2003.

Memorandum for General Counsel of the Air Force

Subject: Working Group Recommendations on Detainee Interrogations

1. In addition to comments we submitted 5 February, we concur with the recommendations submitted by the Navy (TJAG RADM

Lohr), the Air Force (TJAG MGen Rives), and the Joint Staff Legal Counsel's Office. Their recommendations dealt with policy considerations, contention with the OLC opinion, and foreign interpretations of GC IV (Civilians) and customary international law, respectively.

2. The common thread among our recommendations is concern for servicemembers. OLC does not represent the services; thus, understandably, concern for servicemembers is not reflected in their opinion. Notably, their opinion is silent on the UCMJ and foreign views of international law.

3. We nonetheless recommend that the Working Group product accurately portray the services' concerns that the authorization of aggressive counter-resistance techniques by servicemembers will adversely impact the following:

a. Treatment of U.S. Servicemembers by Captors and compliance with International Law.

b. Criminal and Civil Liability of DOD Military and Civilian Personnel in Domestic, Foreign, and International Forums.

c. U.S. and International Public Support and Respect of U.S. Armed Forces.

d. Pride, Discipline, and Self-Respect within the U.S. Armed Forces.

e. Human Intelligence Exploitation and Surrender of Foreign Enemy Forces, and Cooperation and Support of Friendly Nations.

KEVIN M. SANDKUHLER,
Brigadier General, USMC, Staff Judge Advocate to CMC.

[SECRET/NOFORN] DECLASSIFIED

Comments on Draft Working Group Report on Detainee Interrogations

1. Change p. 54, fifth paragraph, to read as follows (new language italic):

([S/NF]U) Choice of interrogation techniques involves a risk benefit analysis in each case, bounded by the limits of DOD policy and law. When assessing whether to use exceptional interrogation techniques, consideration should be given to the possible adverse effects on U.S. Armed Forces culture and self-image *which suffered during the Vietnam conflict and at other times due to perceived law of war violations. DOD policy indoctrinated in the DOD Law of War Program in 1979 and subsequent service regulations, greatly restored the culture and self-image of U.S. Armed Forces by establishing high benchmarks of compliance with the principles and spirit of the law of war and humane treatment of all persons in U.S. Armed Forces custody.* In addition, consideration should be given to whether implementation of such techniques is likely to result in adverse impacts for DOD personnel who are *captured or detained* [become POWs,] including possible perceptions by other nations that the United States is lowering standards related to the treatment of prisoners *and other detainees*, generally.

2. Add to p. 68, a paragraph after the seventh paragraph that reads:

(U) Comprehensive protection is lacking for DOD personnel who may be tried by other nations and/or international bodies for violations of international law, such as violations of the Geneva or Hague Conventions, the Additional Protocols, the Torture Convention, the Rome Statute of the ICC, or the Customary International Law of Human Rights. This risk has the potential to impact future operations and overseas travel of such personnel, both on and off duty.

DEPARTMENT OF THE ARMY, OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, DC, March 3, 2003.

MEMORANDUM FOR GENERAL COUNSEL OF THE DEPARTMENT OF THE AIR FORCE

Subject: Draft Report and Recommendations of the Working Group to Access the Legal, Policy and Operational Issues Related to Interrogation of Detainees Held by the U.S. Armed Forces in the War on Terrorism (U)

1. (U) The purpose of this memorandum is to advise the Department of Defense (DOD) General Counsel of a number of serious concerns regarding the draft Report and Recommendations of the Working Group to Access the Legal, Policy and Operational Issues Related to Interrogation of Detainees Held by the U.S. Armed Forces in the War on Terrorism (Final Report). These concerns center around the potential Department of Defense (DOD) sanctioning of detainee interrogation techniques that may appear to violate international law, domestic law, or both.

2. (U) The Office of Legal Counsel (OLC), Department of Justice (DOJ), provided DOD with its analysis of international and domestic law as it relates to the interrogation of detainees held by the United States Government. This analysis was incorporated into the subject draft Report and forms, almost exclusively, the legal framework for the Report's Conclusions, Recommendations, and PowerPoint spreadsheet analysis of the interrogation techniques in issue. I am concerned with several pivotal aspects of the OLC opinion.

3. (U) While the OLC analysis speaks to a number of defenses that could be raised on behalf of those who engage in interrogation techniques later perceived to be illegal, the "bottom line" defense proffered by OLC is an exceptionally broad concept of "necessity." This defense is based upon the premise that any existing federal statutory provision or international obligation is unconstitutional per se, where it otherwise prohibits conduct viewed by the President, acting in his capacity as Commander-in-Chief, as essential to his capacity to wage war. I question whether this theory would ultimately prevail in either the U.S. courts or in any international forum. If such a defense is not available, soldiers ordered to use otherwise illegal techniques run a substantial risk of criminal prosecution or personal liability arising from a civil lawsuit.

4. (U) The OLC opinion states further that customary international law cannot bind the U.S. Executive Branch as it is not part of the federal law. As such, any presidential decision made in the context of the ongoing war on terrorism constitutes a "controlling" Executive act; one that immediately and automatically displaces any contrary provision of customary international law. This view runs contrary to the historic position taken by the United States Government concerning such laws and, in our opinion, could adversely impact DOD interests worldwide. On the one hand, such a policy will open us to international criticism that the "U.S. is a law unto itself." On the other, implementation of questionable techniques will very likely establish a new baseline for acceptable practice in this area, putting our service personnel at far greater risk and vitiating many of the POW/detainee safeguards the U.S. has worked hard to establish over the past five decades.

5. (U) I recommend that the aggressive counter-resistance interrogation techniques under consideration be vetted with the Army intelligence community before a final decision on their use is made. Some of these techniques do not comport with Army doctrine as set forth in Field Manual (FM) 34-52 Intelligence Interrogation, and may be of questionable practical value in obtaining reliable information from those being interrogated.

THOMAS J. ROMIG,
Major General, U.S. Army,
The Judge Advocate General.

DEPARTMENT OF THE AIR FORCE, OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, DC, February 6, 2003.

MEMORANDUM FOR SAF/GC

From: AF/JA

Subject: Comments on Draft Report and Recommendations of the Working Group to Assess the Legal, Policy and Operational Issues Relating to Interrogation of Detainees Held by the U.S. Armed Forces in the War on Terrorism (U)

1. (U) Please note that while I accept that the Department of Justice, Office of Legal Counsel (DoJ/OLC), speaks for the Executive Branch and that its legal opinions in this matter are to be followed, I continue to maintain that DoJ/OLC's opinions on several of the Working Group's issues are contentious. Others may disagree with various portions of the DoJ/OLC analysis. I believe we should recognize this fact and therefore urge that certain factors should be prominently provided to the DoD/GC before he makes a final recommendation to the Secretary of Defense. I recommend the following specific modifications to the draft report dated 4 February 2003:

a. Page 2, add the following sentence to the end of paragraph 2:

It should be noted that several of the legal opinions expressed herein are likely to be viewed as contentious outside the Executive Branch, both domestically and internationally.

b. Page 54, change fourth full paragraph to read as follows:

(U) Choice of interrogation techniques involves a risk benefit analysis in each case, bounded by the limits of DOD policy and law. When assessing whether to use exceptional interrogation techniques, consideration should be given to the possible adverse effects on U.S. Armed Forces culture and self-image, *which suffered during the Vietnam conflict and at other times due to perceived law of armed conflict violations. DoD policy, indoctrined in the DoD Law of War Program in 1979 and subsequent service regulations, greatly restored the culture and self-image of U.S. Armed Forces by establishing high benchmarks of compliance with the principles and spirit of the law of war, and humane treatment of all persons in U.S. Armed Forces custody. U.S. Armed Forces are continuously trained to take the legal and moral "high-road" in the conduct of our military operations regardless of how others may operate. While the detainees' status as unlawful belligerents may not entitle them to protections of the Geneva Conventions, that is a legal distinction that may be lost on the members of the armed forces. Approving exceptional interrogation techniques may be seen as giving official approval and legal sanction to the application of interrogation techniques that U.S. Armed Forces have heretofore been trained are unlawful.* In addition, consideration should be given to whether implementation of such techniques is likely to result in adverse impacts for DoD personnel who become POWs, including possible perceptions by other nations that the United States is lowering standards related to the treatment of prisoners, generally.

Alternatively, change the last paragraph on page 68, to read as follows:

(U) The cultural and self-image of the U.S. Armed Forces suffered during the Vietnam conflict and at other times due to perceived law of armed conflict violations. DoD policy, indoctrinated in the DoD Law of War Program in 1979 and subsequent service regulations, greatly restored the culture and self-image of U.S. Armed Forces. U.S. Armed Forces are continuously trained to take the legal and moral "high-road" in the conduct of our military operations regardless of how others may operate. While the detainees' status as unlawful belligerents may not entitle them to protections of the Geneva Conventions, that is a legal distinction that may be lost on the members of the armed forces. Approving exceptional interrogation techniques may be seen as giving official approval and legal sanction to the application of interrogation techniques that U.S. Armed Forces have heretofore been trained are unlawful. General use of exceptional techniques (generally, having substantially greater risk than those currently, routinely used by U.S. Armed Forces interrogators), even though lawful, may create uncertainty among interrogators regarding the appropriate limits of interrogations, and may adversely affect the cultural self-image of the U.S. armed forces.

c. Page 68, add the following new paragraphs after the sixth full paragraph:

(U) Several of the exceptional techniques, on their face, amount to violations of domestic criminal law and the UCMJ (e.g., assault). Applying exceptional techniques places interrogators and the chain of command at risk of criminal accusations domestically. Although one or more of the aforementioned defenses to these accusations may apply, it is impossible to be certain that any of these defenses will be successful as the judiciary may interpret the applicable law differently from the interpretation provided herein.

(U) Other nations are likely to view the exceptional interrogation techniques as violative of international law and perhaps violative of their own domestic law. This places interrogators and the chain of command at risk of criminal accusations abroad, either in foreign domestic courts or in international fora, to include the ICC.

d. Page 68, add the following new paragraphs after the eighth full paragraph:

(U) Employment of exceptional interrogation techniques may have a negative effect on the treatment of U.S. POWs. Other nations may disagree with the President's status determination regarding Operation ENDURING FREEDOM (OEF) detainees, concluding that the detainees are POWs entitled to all of the protections of the Geneva Conventions. Treating OEF detainees inconsistently with the Conventions arguably "lowers the bar" for the treatment of U.S. POWs in future conflicts. Even where nations agree with the President's status determination, many may view the exceptional techniques as violative of other law.

2. (U) Should any information concerning the exceptional techniques become public, it is likely to be exaggerated/distorted in both the U.S. and international media. This could have a negative impact on international, and perhaps even domestic, support for the war on terrorism. It could likewise have a negative impact on public perception of the U.S. military in general.

JACK L. RIVES,
Major General, USAF,
Deputy Judge Advocate General.

DEPARTMENT OF THE NAVY, OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, DC, February 6, 2003.

Subj: Working Group recommendations relating to interrogation of detainees.

1. Earlier today I provided to you a number of suggested changes, additions, and deletions to the subject document.

2. I would like to further recommend that the document make very clear to decision-makers that its legal conclusions are limited to arguably unique circumstances of this group of detainees, i.e., unlawful combatants held "outside" the United States. Because of these unique circumstances, the U.S. Torture Statute, the Constitution, the Geneva Conventions and customary international law do not apply, thereby affording policy latitude that likely does not exist in almost any other circumstance. (The UCMJ, however, does apply to U.S. personnel conducting the interrogations.)

3. Given this unique set of circumstances, I believe policy considerations continue to loom very large. Should service personnel be conducting the interrogations? How will this affect their treatment when incarcerated abroad and our ability to call others to account for their treatment? More broadly, while we may have found a unique situation in GTMO where the protections of the Geneva Conventions, U.S. statutes, and even the Constitution do not apply, will the American people find we have missed the forest for the trees by condoning practices that, while technically legal, are inconsistent with our most fundamental values? How would such perceptions affect our ability to prosecute the Global War on Terrorism?

4. I accept the premise that this group of detainees is different, and that lawyers should identify legal distinctions where they exist. It must be conceded, however, that we are preparing to treat these detainees very differently than we treat any other group, and differently than we permit our own people to be treated either at home or abroad. At a minimum, I recommend that decision-makers be made fully aware of the very narrow set of circumstances—factually and legally—upon which the policy rests. Moreover, I recommend that we consider asking decision-makers directly: is this the "right thing" for U.S. military personnel?

MICHAEL F. LOHR,
Rear Admiral, JAGC, U.S. Navy,
Judge Advocaate General.

DEPARTMENT OF THE NAVY, OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, DC, March 13, 2002.

MEMORANDUM FOR THE AIR FORCE GENERAL COUNSEL

Subject: Comments on the 6 March 2003 Detainee Interrogation Working Group Report

1. My comments on subject report are provided below. These comments incorporate and augment those submitted by my action officer earlier this week. New comments are highlighted within the previously submitted text.

1. (U) Page 2, second paragraph: Add new penultimate sentence to read, "In addition this paper incorporates significant portions of work product provided by the Office of Legal Counsel, United States Department of Justice." In the last sentence change "by a Department . . ." to "by the Department . . ." Finally, add new footnote to reference the OLC opinion to read "Memorandum dated March xx, 2003., Re: xxxxxxxxxx.

Rationale: this WG paper contains large segments of DOJ work product, rather than being "informed" by DOJ. We believe the OLC opinion should be incorporated by reference into the WG report.

2. (U) Page 24, second paragraph, last sentence: delete.

Rationale: this sentence is not true. There are domestic limits on the President's power to interrogate prisoners. One of them is Congress's advice and consent to the US ratification to the Geneva Conventions that limit the interrogation of POWs. The willingness of the Executive, and of the Legislative Branch, to enforce those restrictions is a different matter.

3. (U) Page 24, footnote 20: delete or rewrite to read, "This is the stated view of the Department of Justice."

Rationale: Mr. Yoo clearly stated that he believes the viability of these defenses is greatly enhanced by advance Presidential direction in the matter. He specifically recommended obtaining such direction in writing.

4. (U) Page 26, first full paragraph, first sentence: delete.

Rationale: this statement is too broad. The similar language used at the end of the following paragraph is more accurate.

5. (U) Page 29, second paragraph, fifth sentence: Rewrite sentence to read, "A leading scholarly commentator . . ." and later in the sentence change ". . . section 2340 would be justified under . . ." to ". . . section 2340 should be justified under . . ."

Rationale: There is only one article written by one person cited. Also the quoted language from the commentator indicates his view that torture should be permissible, not a statement that international law allows such.

6. (U) Page 29, second paragraph, last sentence: delete.

Rationale: this conclusion is far too broad but the general principle can be inferred from the discussion.

7. (U) Page 31, para d, third sentence and penultimate sentences: delete.

Rationale: This analogy is inapt. There is nothing in law enforcement that would authorize the use of torture or excessive force against persons for intelligence gathering.

8. (U) Page 41, second paragraph, penultimate sentence: delete.

Rationale: it is not clear what the meaning of the sentence is.

9. (U) Page 59, second paragraph: it is unclear if SECDEF must approve exceptional techniques on a case-by-case basis, or just approve their use generally.

10. (U) Page 63, footnote 86. The text of this footnote does not correspond to its citation in the paper. It appears that the current text of footnote 86 belongs as part of the discussion of API in the paragraph above, or as part of the text of footnotes 83 or 84. Footnote 86 should detail the rationale for the Justice Department determination that GCIV does not apply.

11. (U) Page 67, technique 26: Add last sentence to read, "Members of the armed forces will not threaten the detainee with the possible results of the transfer, but will instead limit the threat to the fact of transfer to allow the detainee to form their own conclusions about such a move."

Rationale: threatening the detainee with death or injury (by the transfer) may be considered torture under international law.

12. (U) Page 72, second paragraph: in the last sentence replace "protections of the Geneva Conventions" with "protections of the third Geneva Convention."

Rationale: clarity

13. (U) Page 72, second paragraph: add new last sentence to read: "Under international law, the protections of the fourth Geneva Convention may apply to the detainees."

Rationale: this view is shared by Chairman's Legal and all the services.

14. (U) Page 72, third paragraph: at the beginning add, "In those cases where the President has made a controlling executive decision or action . . ."

Rationale: this is the standard by which the President may "override" CIL.

15. (U) Page 73, sixth paragraph: Add new last sentence to read, "Presidential written directive to engage in these techniques will enhance the successful assertion of the potential defenses discussed in this paper."

Rationale: much of the analysis in this paper is premised on the authority of the President as delegated/directed, in writing, to SECDEF and beyond. This point needs to be made prominently.

16. (U) Matrix Annex, Technique 33: delete.

Rationale: It is not clear what the intent of this technique is. If it loses its effectiveness after the first or second use, it appears to be little more than a gratuitous assault. Other methods are equally useful in getting/maintaining the attention of the detainee. It also has the potential to be applied differently by different individuals.

17. (U) Page 75, first paragraph, in the discussion re technique 36: Rewrite 3rd to last and penultimate sentences to read, "The working group believes use of technique 36 would constitute torture under international and U.S. law and, accordingly, should not be utilized. In the event SECDEF decides to authorize this technique, the working group believes armed forces personnel should not participate as interrogators as they are subject to UCMJ jurisdiction at all times."

This is a correct statement of the positions of the services party to the working group, who all believe this technique constitutes torture under both domestic and international law.

18. Thank you for the opportunity to comment. My action officer in this matter is CDR Steve Gallotta.

MICHAEL F. LOHR,
Rear Admiral, JAGC, U.S. Navy,
Judge Advocate General.

DEPARTMENT OF THE AIR FORCE, OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, DC, February 5, 2003.

MEMORANDUM FOR SAF/GC

From: AF/JA

Subject: Final Report and Recommendations of the Working Group to Assess the Legal, Policy and Operational Issues Relating to Interrogation of Detainees Held by the U.S. Armed Forces in the War on Terrorism (U)

1. (U) In drafting the subject report and recommendations, the legal opinions of the Department of Justice, Office of Legal Counsel (DoJ/OLC), were relied on almost exclusively. Although the opinions of DoJ/OLC are to be given a great deal of weight within the Executive Branch, their positions on several of the Working Group's issues are contentious. As our discussion demonstrate, others within and outside the Executive Branch are likely to disagree. The report and recommendations caveat that it only applies to "strategic interrogations" of "unlawful combatants" at locations outside the United States. Although worded to permit maximum flexibility and legal interpretation, I believe other factors need to be provided to the DoD/GC before he makes a final recommendation to the Secretary of Defense.

2. (U) Several of the more extreme interrogation techniques, on their face, amount to violations of domestic criminal law and the UCMJ (e.g., assault). Applying the more extreme techniques during the interrogation of detainees places the interrogators and the chain of command at risk of criminal accusations domestically. Although a wide range of defenses to these accusations theoretically apply, it is impossible to be certain that any defense will be successful at trial; our domestic courts may well disagree with DoJ/OLC's interpretation of the law. Further, while the current administration is not likely to pursue prosecution, it is impossible to predict how future administrations will view the use of such techniques.

3. (U) Additionally, other nations are unlikely to agree with DoJ/OLC's interpretation of the law in some instances. Other nations may disagree with the President's status determination regarding the Operation ENDURING FREEDOM (OEF) detainees; they may conclude that the detainees are POWs entitled to all of the protections of the Geneva Conventions. Treating OEF detainees inconsistently with the Conventions arguably "lowers the bar" for the treatment of U.S. POWs in future conflicts. Even where nations agree with the President's status determination, many would view the more extreme interrogation techniques as violative of other international law (other treaties or customary international law) and perhaps violative of their own domestic law. This puts the interrogators and the chain of command at risk of criminal accusations abroad, either in foreign domestic courts or in international fora, to include the ICC.

4. (U) Should any information regarding the use of the more extreme interrogation techniques become public, it is likely to be exaggerated/distorted in both the U.S. and international media. This could have a negative impact on international, and perhaps even domestic, support for the war on terrorism. Moreover, it could have a negative impact on public perception of the U.S. military in general.

5. (U) Finally, the use of the more extreme interrogation techniques simply is not how the U.S. armed forces have operated in recent history. We have taken the legal and moral "high-road" in the conduct of our military operations regardless of how others may operate. Our forces are trained in this legal and moral mindset beginning the day they enter active duty. It should be noted that law of armed conflict and code of conduct training have been mandated by Congress and emphasized since the Viet Nam conflict when our POWs were subjected to torture by their captors. We need to consider the overall impact of approving extreme interrogation techniques as giving official approval and legal sanction to the application of interrogation techniques that U.S. forces have consistently been trained are unlawful.

JACK L. RIVES,
Major General, USAF,
Deputy Judge Advocate General.

Mr. GRAHAM. Now, over time, we are going to learn more about what these memos tell us, but basically these memos are telling us that the proposed interrogation techniques dealing with the war on terror, suggested by the Department of Justice, sent over to Department of Defense, were such a deviation from the normal way of doing business that it would get our own people in trouble. It was such a deviation from the normal way of doing business that we would lose the moral high ground in fighting the war on terror.

General Rives sums up:

> Finally, the use of the more extreme interrogation techniques simply is not how the U.S. armed forces have operated in recent history. We have taken the legal and moral "high-road" in the conduct of our military operations regardless of how others may operate. Our forces are trained in this legal and moral mindset beginning the day they enter active duty. It should be noted that [the] law of armed conflict and code of conduct training have been mandated by Congress and emphasized since the Viet Nam conflict when our POWs were subjected to torture by their captors. We need to consider the overall impact of approving extreme interrogation techniques as giving official approval and legal sanction to the application of interrogation techniques that U.S. forces have consistently been trained are unlawful.

He talks about a slippery slope that we are about to embark on that will result in some of our own people being subject to being court-martialed because the Uniform Code of Military Justice has many provisions dictating how you will treat someone who is in your custody as a detainee. And they were trying to tell the Department of Justice and the Department of Defense civilian lawyers: Do not go down this road. You are going to bite off more problems than it is worth.

Admiral Lohr says that some of the techniques would violate the torture statute. I will read in more detail later what these memos are telling us the rules of the road are. But these are not from the ACLU. These are not from people who are soft on terrorism, who want to coddle foreign terrorists. These are all professional military lawyers who have dedicated their lives, with 20-plus year careers, to serving the men and women in uniform and protecting their Nation. They were giving a warning shot across the bow of the policymakers that there are certain corners you cannot afford to cut because you will wind up meeting yourself.

What Senator MCCAIN is trying to do is build upon their advice by putting in place an interrogation technique that this country can be proud of, that we all will understand, and that can be implemented to make us safer without having a black eye throughout the world.

I asked the question—when I went to GTMO with the chairman about a week or 2 ago—to all the interrogators there: Is there anything lacking in the Army Field Manual that would inhibit your ability to get good intelligence? And they said no. I asked: Could you live with the Army Field Manual as your guide and do your job? They said yes.

The reason the Army Field Manual is a good source is because it has been part of who we are for years. People are trained on it. What was happening is, the Department of Justice, understandably, after September 11, wanted to come up with the most aggressive techniques possible to deal with foreign terrorists. But the JAGS are telling us you cannot look at this one event in isolation. You have to understand what we have been standing for for 60 years and what the law actually says. The DOJ's interpretation of the torture statute from a lawyer's point of view was absurd. And the JAGS were telling the policymakers: If you go down this road, you are going to get your own people in trouble. You are on a slippery slope. You are going to lose the moral high ground. This was 2003. And they were absolutely right.

To Secretary Rumsfeld's credit, when he heard about the working group having problems with the DOJ's suggested interpretations of "interrogation," he reconvened and the techniques changed. But as Senator MCCAIN has said very well, we need to bring certainty to this process of interrogating foreign terrorists to make sure we can get good, reliable information. We can do it in a way that people understand, our troops will not get in trouble, and we can show the world we are truly a rule-of-law nation.

There is nothing inconsistent with interrogating people to get good information to protect our country and using the Army Field Manual. What has got us in trouble is when we try to make it up as we go, when we forget who we are, when we will not listen to people who have worn the uniform, who are in uniform, telling us: Do not go down this road, our people are trained to do it one way, you are confusing the heck out of them.

What have we learned in the last 2 years? If you know what the rules are about interrogating anybody, come tell me because I can't figure it out. I have spent 20 years as an Air Force lawyer myself. There is much confusion, and confusion in war is dangerous. Anyone who misunderstands what we are doing here in terms of our view of terrorists is playing politics. No one supporting this amendment wants a foreign noncitizen terrorist not to be aggressively detained, prosecuted, if appropriate, and interrogated to make our country safer. We can prosecute, we can detain, and we can interrogate aggressively, but we have to have rules that our people can understand and don't deviate from who we are as a Nation. That is why I am supporting this amendment.

Everyone who works at GTMO dealing with the 500 foreign noncitizen terrorist suspects, enemy combatants, has told me, because I asked the question, if you use the Army Field Manual, we have everything within that manual we need to do the job right. If you use the Army Field Manual, we will be back in a good place with the law. We will be back in a place where our people can understand what is going on. We will again capture the moral high ground which is the ultimate way to win this war.

There is no downside to this. The upside is huge. We are able to get good information, not get our people in trouble, and have a better image in the world. That is why I am supporting this amendment.

I have included these memos for the record. It would serve every Senator well to spend 5 or 10 minutes reading through them because these people were telling us in 2003, if you go down this road, the road we chose initially, you are going to get everybody involved in trouble. That is exactly what happened.

I yield the floor.

AMENDMENT NO. 1556, AS MODIFIED

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I have amendment No. 1556 at the desk. I ask unanimous consent for its modification.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. MCCAIN. Mr. President, is it the desire that I call up 1556 at this time?

Mr. WARNER. Yes, Mr. President, I suggest that we have amended the present one which is referred to as the Army Field Manual, and I am a cosponsor on that. Now there is a second amendment. I submitted to the Senator a suggestion, I believe that is——

Mr. MCCAIN. It is modified.

Mr. WARNER. Let's bring that up now and have that pending.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the amendment No. 1556 be considered at this time.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Reserving the right to object, I know the discussion has been going on about the field manual issue. Is the Senator now going to that amendment or are we leaving that amendment? I would like to at least make a few remarks about that subject.

Mr. WARNER. Mr. President, the field manual amendment has been laid aside for the moment. This goes to a second amendment which is——

Mr. SESSIONS. Was there a unanimous consent request made for that?

The PRESIDING OFFICER. The Chair heard a unanimous consent request to move to a new amendment.

Mr. WARNER. That is correct.

The PRESIDING OFFICER. And the Chair asked if there was objection. Did the Senator from Alabama object?

Mr. SESSIONS. I object at this point because I don't understand what we are doing. I want to be able to speak on the amendment dealing with the field manual.

Mr. WARNER. I believe the Senator has just come on the floor. We have been on this now for about 45 minutes covering the parameter of the issues that would be brought up. I respect his desire to speak. We will try to accommodate you at any point. I would urge that we allow the Senator from Arizona to perfect this amendment and then in due course he will speak to it. I will speak to it, and we will lay it aside. And we will find the time for the distinguished Senator from Alabama to speak.

Mr. SESSIONS. Well, everybody has spoken for it. Nobody has spoken against it.

Mr. MCCAIN. Could I ask, maybe we could take a maximum of 5 minutes, 3 or 4 minutes on this amendment, for which I had unanimous consent, and then go back to allow the Senator from Alabama to speak.

Mr. WARNER. That is correct.

Mr. SESSIONS. That would be fine. If I could have 10 minutes, if I could share a few thoughts on the previous amendment in the next 10 minutes, I would be happy.

Mr. WARNER. We definitely will make that happen. But I want to inquire of the Senator from South Carolina, you also have a third amendment. I am not sure of the status. You have it at the desk. You have spoken to it.

Mr. GRAHAM. I would like at this time to submit it to the desk if I may.

Mr. MCCAIN. I ask unanimous consent that I be allowed to propose this amendment, the Senator from Alabama be allowed to speak for 10 minutes, the amendment be set aside, and the Senator from South Carolina be allowed to propose his amendment.

Mr. WARNER. Mr. President, I think that is a very orderly manner in which to accommodate. Then the Senator from Alabama—let's get the time remaining and I will yield some of my time to the Senator from Alabama.

The PRESIDING OFFICER. The motion on the floor right now is to call up, as I understand it, amendment No. 1556 by the Senator from Arizona as modified.

Mr. MCCAIN. As modified.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Ms. STABENOW. Reserving the right to object, I don't intend to object. I understand we are working out some amendments. I also have an amendment I would like to offer. I wanted to raise, as the agreement is being put together, that I have the opportunity to do that.

Mr. WARNER. Mr. President, I will assure you, working with the distinguished Senator from Michigan, we will arrange—he has time immediately following the 1 hour being divided between three Senators and now a fourth. I want to make sure we have the time remaining to satisfy the needs of the Senator from Alabama. We now are proceeding on the second McCain amendment.

The PRESIDING OFFICER. Is there objection to reporting amendment No. 1556 by the Senator from Arizona?

Mr. McCAIN. As modified.

The PRESIDING OFFICER. As modified. Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 1556, as modified.

The amendment is as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) PRESIDENTIAL WAIVER.—(1) The President may waive the prohibition in subsection (a), on a case-by-case basis, if the President—

(A) determines that the waiver is required for a military or national security necessity; and

(B) submits the appropriate committees of Congress timely notice of the exercise of the waiver.

(2) The authority of the President under paragraph (1) may not be delegated.

(c) CONSTRUCTION.—Nothing in this section shall not be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(d) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(e) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate; and

(B) the Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) The term "cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

Mr. WARNER. Mr. President, we would like to have the Senator from Arizona take such time as he desires to explain this. I wish to be added as a cosponsor to this amendment. Then we will yield the floor to the Senator from Alabama to speak for up to 10 minutes on the subjects of these three amendments. Then the balance of the time will be accorded to the Senator from South Carolina to bring forth his amendment.

The PRESIDING OFFICER. The Chair will notify the Senators that the Chair is still working under the original previous order of an hour equally divided, 20 minutes to the Senator from South Carolina, 20 minutes to the Senator from Virginia, and 20 minutes to the Senator from Arizona.

Mr. WARNER. That is correct. Would the Chair advise of the three Senators in the original order, what is the time remaining for each.

The PRESIDING OFFICER. The Senator from Arizona has 2 minutes remaining. The Senator from Virginia has 9 minutes remaining.

Mr. WARNER. I can't hear the Chair.

The PRESIDING OFFICER. The Senator from Virginia has 9 minutes remaining. The Senator from South Carolina has 2 minutes—10 minutes remaining.

Mr. WARNER. I yield from my 9 minutes such time as the Senator from Arizona may need.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, with all due respect to the chairman, I don't think that is going to quite work because the Senator from Alabama needs 10 minutes. And if you are using your 9 and I only have 2, that doesn't get it done. I ask unanimous consent that I have 3 minutes to discuss my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. That is an additional 3 minutes. I ask unanimous consent that following that, the Senator from Alabama be recognized for 10 minutes in addition to the unanimous consent agreement, and then the Senator from South Carolina be allowed to propose his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask for the yeas and nays on this amendment and the previous amendment, No. 1557.

The PRESIDING OFFICER. Is there objection to the request to ask for the yeas and nays on two amendments at this time?

Without objection, it is in order to so request.

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent that Senator WARNER, Senator LINDSEY GRAHAM, and Senator COLLINS be added as cosponsors. I believe we are still scheduled for a vote at 5:30.

Mr. President, this amendment would prohibit cruel, inhuman, and degrading treatment of persons in the detention of the U.S. Government. The amendment doesn't sound like anything new. That is because it isn't. The prohibition has been a longstanding principle in both law and policy in the United States. The Universal Declaration of Human Rights adopted in 1948 states simply that: No one shall be subject to torture or cruel, inhuman, or degrading treatment or punishment. The International Covenant on Civil and Political Rights, to which the U.S. is a signatory, is the same. The Binding Convention Against Torture, negotiated by the Reagan administration, ratified by the Senate, prohibits cruel, inhuman, and degrading treatment. On last year's DOD authorization bill, the Senate passed a bipartisan amendment reaffirming that no detainee in U.S. custody can be subject to torture or cruel treatment as the U.S. has long defined these terms. All of this seems to be common sense and in accordance with longstanding American values.

I will be glad to explain that amendment more if anyone wants. In the meantime, I know the Senator from Alabama is waiting.

I yield back the remainder of my time on this amendment. I ask unanimous consent we return at this time to amendment No. 1557, according to the previous unanimous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alabama is recognized for 10 minutes.

Mr. WARNER. If the Senator will withhold, I want to endorse the McCain amendment. Essentially what he is doing is codifying what is policy now. I think it is of such importance that it would require this bill to do so.

I yield the floor.

AMENDMENT NO. 1557

The PRESIDING OFFICER. The Senator from Alabama is recognized for 10 minutes.

Mr. SESSIONS. Mr. President, I will share a little bit of the history of what has happened, as I recall it. I am sorry, I just got back from Alabama and was not able to participate earlier in the debate. We have had maybe 29 hearings involving prisoner abuse. That is a lot of hearings. I serve on the Judiciary and Armed Services Committees. Probably 20 of those have been in those 2 committees of which I have been a member and tried to participate as much as I could in each one of them. I remember that the U.S. military announced they had problems in Abu Ghraib with prisoner abuse. They indicated they were conducting an investigation of it. Members of the Senate, like dogs that chase a car down the road, sometimes I thought they thought they were making the car go because they were chasing it.

The military commenced, on its own accord, an investigation that has culminated in the conviction of a number of people who have gone to jail for rather substantial periods of time for violating the policies of the Department of Defense and the laws of war on those prisoners in Abu Ghraib. It took place on a midnight shift and was not justified. It was beyond the law, and they have been punished for it. That has been morphed into allegations about what happened at Guantanamo.

We apprehended 17,000 prisoners in Afghanistan and Iraq. We brought 700 to Guantanamo. There are only 500 left. Some of those are the worst of the worst. Allegations were made that they were being abused. A thorough investigation has been conducted of that. Once again, we had a committee hearing to rehear the report. General Schmidt said there were 24,000 investigations. He found three areas in which he felt things had gone awry at Guantanamo. All happened right quickly after 9/11, not going on now, because I was there at Guantanamo Friday a week ago and they absolutely assured us, Senator GRAHAM and others who were with us, Chairman WARNER, that nothing like that is going on today.

But what were the three complaints? Mr. Khatani, the 20th hijacker, he found, had been abused cumulatively, three different things happened. He was interrogated for 20 hours. He was made to listen to loud music. And at certain times he had been put in shackles. The general found that was not torture under the definition of torture. It was not inhuman. But together, they violated the standards the U.S. military adheres to, and he felt that was in error.

One individual was screaming loudly repeatedly and would not stop. Someone said he should be stopped. They found some duct tape, and Americans, I guess, are good with that. They put it around his mouth. He took it off, and they did it again. He took it off, and they did it again. So they put it all the way around his head. He felt that was an abuse. A woman interviewer-interrogator, perhaps losing her temper, or whatever, issued a threat to one of the prisoners and their family. There were 3 out of 24,000 matters in Guantanamo.

So, first, I reject the idea that this Defense Department and our Army and our military is out of control, is confused about what their powers and duties and responsibilities are. I reject that. I don't believe that is accurate.

Now, the field manual is good. We had a number of witnesses before the committee. In one of the many hearings, General Taguba and several others, when asked, or they just volunteered that the current rules of interrogation under the field manual aren't appropriately applicable to all the kinds of new threats we face today and the kind of prisoners we deal with today. These prisoners today are not under the Geneva Conventions and aren't prisoners of war. They are unlawful combatants. They sneak into countries. They don't wear a uniform. They don't carry their arms openly. They make bombs. They direct them not at military targets but at men, women, and children who are going about their peaceful business. So it is indisputable that the Geneva Conventions don't apply to them.

We have a statute in this country that prohibits torture of anybody in our control, and that statute stands firm and clear, and that is certainly a basis for a criminal prosecution for anybody who goes too far in interrogating witnesses.

Now, you are limited in what you can do when you interrogate a prisoner of war. We are told to give only name, rank, and serial number, and others have similar instructions from their countries. You are limited as to how much you can interrogate them and how much you can expect them to say. These people are not prisoners of war. They are terrorists, unlawful combatants, determined to savage the peaceful people of Spain and their railroad, the people of London, or the people of New York City. Thank God that because we have been aggressive and been after them and obtained intelligence from interviews and interrogation and techniques within the rules of warfare, we have been able to prevent another attack on this country—Lord be praised—for almost 4 years now. It can happen again at any time.

I am proud of what our men and women are doing. I was at one of the committee hearings when a young lieutenant commander in the Navy testified that the prosecutor blocked him from interviewing a witness. He told him what to do. He told him he could only plead guilty.

I said: Sir, you are a lieutenant commander in the U.S. Navy—I was in a JAG officer slot. Unlike Senator GRAHAM, I was not trained at the JAG officer school. But I had some training in it and taught the laws of warfare to our soldiers in the Army Reserve. At any rate, this guy said he was ordered by the prosecutor.

I said: I never heard of a defense counsel saying a prosecutor could order them around.

He said: Well, he told me I could not see the prisoner.

I said: You could not see the prisoner?

He said: Except at limited times.

It was out of this that he came up with this bizarre allegation that he was somehow defending the terrorist. He was given a letter, and he said he could only represent him to plead guilty. The letter that appointed him to defend the guy said he was to represent him in all categories. I was disappointed in the quality of his complaints. I don't think they held up to be nearly what he was saying publicly. Whatever got into people's craw about how these matters were handled is a bit out of whack.

Let's say this: The field manual is the manual that controls our handling of a lot of things in the Army, including interrogation. But the President of the United States is Commander in Chief of the military, and these kinds of prisoners, as the witnesses told us in committee, were not contemplated when the field manual was written. Different techniques could be legitimate against them that would not be legitimate against lawful combatants—the kinds of people we have seen so many times in the history of warfare. It is a weird thing. We should not treat them inhumanely. It is an order of the President that we cannot. We cannot torture them. We have a criminal statute that defines that and says you cannot do it. You can go to jail if you do.

I ask unanimous consent for 2 more minutes.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Mr. President, reserving the right to object, I wonder if we can line up some time at this point. I will not object, but after he is recognized, I believe then the majority has additional time for another amendment going up to what time?

Mr. WARNER. We are operating under an original 1-hour agreement that was modified to give 10 minutes to the Senator from Alabama. I think under the original 1 hour the Senator from Virginia has time and the Senator from South Carolina has time. Would I be correct?

The PRESIDING OFFICER. The Senator is correct. The Senator from Virginia has 9 minutes remaining. The Senator from South Carolina has 10 minutes remaining. We still show the Senator from Arizona, Mr. MCCAIN, with 2 minutes remaining.

The Chair also notifies Senators that under the previous order, at 5 o'clock, the Senate is to go to 30 minutes of debate on the Americans with Disabilities resolution.

Mr. WARNER. Mr. President, that is followed by a vote, is my understanding.

The PRESIDING OFFICER. Yes, it is scheduled for 5:30.

Mr. LEVIN. Mr. President, I ask unanimous consent that immediately following the completion of those three time periods on the Republican side, I be allocated 10 minutes on this side, which I will provide equally between the junior Senator from Michigan, the Senator from Washington, and myself, so that four amendments can be introduced and laid aside.

Mr. WARNER. Reserving the right to object, and I do not wish to object, it seems to me that reality dictates that in 6 minutes we will go on the ADA; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. In effect, the Senator from South Carolina, unless he wants to take the 6 minutes and put his amendment in, we would have to come back to it at the conclusion of the ADA. Would that be acceptable?

Mr. GRAHAM. I don't want to stop Senator SESSIONS from finishing. I can come back.

The PRESIDING OFFICER. The unanimous consent request right now is 2 additional minutes for the Senator from Alabama.

Mr. LEVIN. Reserving the right to object, we have not had any time prior to the ADA matter, and it was intended that we have some time. There is a prepared UC that would perhaps assist us, which has been handed to us. I wonder if the manager will read this.

Mr. WARNER. Mr. President, I ask unanimous consent that notwithstanding the previous order, the Senate resume consideration of S. 207 at 5:15 today, with 15 minutes to debate under the control of Senator HARKIN. I further ask that following the use or yielding back of the time, the Senate proceed to a rollcall vote on the resolution as under the previous order.

Mr. LEVIN. Reserving the right to object. I ask that that be modified to allow 10 minutes between 5:15 and 5:30 to be granted to this side for the introduction of those amendments. They will be introduced, with a minute on each, and then set aside.

Mr. WARNER. Mr. President, I believe that will accommodate our distinguished colleague from South Carolina to introduce his amendment beginning now, concluding at 5:10, at which time the Chair will recognize the junior Senator from Michigan for a period not to exceed 5 minutes.

Mr. LEVIN. No.

Mr. SESSIONS. Mr. President, can we include my 2 minutes?

Mr. LEVIN. The junior Senator from Michigan, 2 minutes; the Senator from Washington, 2 minutes; and me for 1 minute.

The PRESIDING OFFICER. Does the Senator modify the unanimous consent request?

Mr. WARNER. I do so to accommodate Senator LEVIN. We have 2 minutes now for the Senator from Alabama to complete his remarks before the Chair recognizes the Senator from South Carolina; is that correct?

The PRESIDING OFFICER. Is there objection to the request by the Senator from Alabama?

Mr. LEVIN. Reserving the right to object, does that include the UC which the Senator from Virginia read?

The PRESIDING OFFICER. The separate unanimous consent request of the Senator from Virginia would incorporate that. There is one request for 2 additional minutes for the Senator from Alabama; 9 minutes for the Senator from Virginia—

Mr. LEVIN. Reserving the right to object, the Democratic leader is going to want 2 minutes prior to the vote on leadership time, or prior to 5:15. You all figure it out.

Mr. WARNER. We certainly want to accommodate the Democratic leader. The Senator from South Carolina indicated that perhaps he would like to take up his amendment following the vote, giving him then such time as he requires, and giving the Senator from Michigan such time as he may require. So perhaps let us allocate the remaining time between now and 5:15 between the Senator from Alabama, the two colleagues on that side, and the distinguished Democratic leader.

Mr. GRAHAM. That is acceptable to me.

Mr. WARNER. Mr. President, following the completion of the rollcall vote, I ask unanimous consent that the Senator from South Carolina be recognized.

The PRESIDING OFFICER. If the Chair understands the now-modified unanimous consent request, it is a request that the Senator from Alabama be recognized for 2 additional minutes, the time between that and 5:15 would be the Senator from Michigan, and at 5:15, under the previous order, the Senate would consider the Americans with Disabilities resolution, followed by a vote at 5:30, followed by the Senator from South Carolina being recognized to offer his amendment.

Mr. WARNER. Mr. President, that is correct.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. Reserving the right to object, I would like to be able to state some general areas of agreement and disagreement concerning Senator SESSIONS' statement. Is that possible when I introduce my amendment?

Mr. LEVIN. I wonder if the Senator will yield. We need only 7½ minutes before 5:15. I wonder if the chairman will agree to this: After Senator SESSIONS, go to the Senator from South Carolina for 5 minutes, and then come to me.

Mr. WARNER. That is acceptable.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama is recognized for 2 minutes.

Mr. SESSIONS. Mr. President, I will try to conclude and sum this up.

This country was attacked by a very dangerous group of people. I certainly respect my colleagues' concern and commitment that our prisoners be treated humanely and consistent with the rules of war. I have also said that the rules of the Geneva Conventions do not apply to these unlawful combatants. The field manual is an Army Department of Defense document that sets the rules for our conduct. But the DOD can alter that.

As I understand what this amendment would do, it would make the field manual, with regard to the section involving interrogation and intelligence, the equivalent of law; that before the Army or Department of Defense could make any changes in those field manuals, somebody would have to offer legislation in the House and the Senate, which would be subject to a filibuster and maybe we could fix it and maybe we could not. It becomes force of law. I think that is a mistake.

Finally, alterations in procedure by which these prisoners or detainees were handled was done with review by the Department of Justice. We had Attorney General Gonzales, when he was White House counsel and Attorney General, testify about how it came about and all the legal research that went into it. We had the Department of Defense leadership discuss this. They reviewed it. The generals reviewed the heightened techniques personally, individually, and carefully on a case-by-case basis, and they recommended this general at Guantanamo, Miller, be disciplined because these combination of events exceeded what was proper. It was overruled later, but that is how seriously they take this.

I don't think this is the way to fix this situation. Some prisoners need to be handled differently than others. We should not bind by law what the field manual states.

The PRESIDING OFFICER. The Senator's time has expired. Under the unanimous consent agreement, the Senator from South Carolina is recognized.

Mr. GRAHAM. Mr. President, I would like to build on what Senator SESSIONS said. If this amendment did the things suggested, I would support it. One, the Army Field Manual is being revised, as we speak, with two groups in mind—lawful combatants and unlawful combatants. The amendment says that the Army Field Manual be the guide in whatever form it is in. It does not lock in this version. They are going to have a version part of it classified so our enemy does not have a chance to prepare for interrogation techniques that deal with lawful combatants and unlawful combatants.

The reason we are doing that is because what the JAGs told us over 2 years ago. The common thread among our recommendations is concern for servicemembers.

If we put people on the line in this war in terror, we want to give them everything they need as far as equipment. If we put people on the line in terms of handling detainees, we want to give them everything they need, the tools to get good information, but what we do not want to do is put our own people at risk.

We are trying to armor all our vehicles. What we are trying to do with the people who are holding these terrorists and interrogating them is not getting them in trouble. The Office of Legal Counsel, on 27 February 2003, from a Marine general, not exactly the ACLU, said:

> The common thread among our recommendations is concern for our service members. The Office of Legal Counsel does not represent the services, thus understandably concern for service members does not

reflect in their opinion. Notably, their opinion is violent on the foreign views of international law.

This is what the judge advocate general of the Army said:

> I recommend the aggressive counterresistant interrogation techniques under consideration be vetted with the Army intelligence community before a final decision on their use is made. Some of these techniques do not comport with Army doctrine as set forth in the Field Manual, FM 34-52, intelligence interrogation, and may be of questionable practical value in obtaining reliable information of those being interrogated.

What we are trying to do is have a guide our troops can understand with two parts—one for lawful combatants and one for unlawful enemy combatants. We will know what the rules of the road will be. We are putting congressional approval on those rules.

We have had the White House, Congress, and eventually the courts saying you can aggressively interrogate prisoners not covered by the Geneva Conventions. We have been all over the board for the last couple of years. We are trying to bring it together in symmetry where the military can write the rules. They know better than I do. I am not saying I am an expert on interrogations. They are going to write the rules the way they need to be written, and Congress is going to say you are good to go.

These JAGs were telling us you have confused concepts, so we are trying to do away with that confusion to make it stronger, not weaker, to make us better at gathering intelligence and avoid the problems we have had in the last 2 years.

I think it is a very smart thing to do. I look forward to trying to help change it if it needs to be changed, but nobody is locking the military into a set of rules that does not allow them to aggressively get what they need to make us safe. We are trying to provide the military and all those in charge of detainees clear guidance so they will have the flexibility they need and we will not get our people in trouble. That is what we have been working on for 2 years. We are at a point where we can actually accomplish something that will be good for this country, good for the military, and help win this war on terror. Part of this war is about image.

Mr. SESSIONS. Will the Senator yield?

Mr. GRAHAM. Yes, I yield.

Mr. SESSIONS. It did say "not authorized in the field manual." But the Senator from South Carolina interprets that to mean that the military could amend it at any point in time.

Mr. GRAHAM. Absolutely.

Mr. SESSIONS. I think that is more acceptable, but even then the policies in the field manual should reflect the executive branch, it seems to me, being able to use extraordinary events and extraordinary circumstances.

Mr. GRAHAM. And it will be. There will be a section that is specific for unlawful enemy combatants. That is not a traditional way to deal with them versus POWs.

Mr. SESSIONS. I thank the Senator.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan has the time remaining up to 5:15 p.m. under his control.

Mr. LEVIN. Mr. President, I yield 3 minutes to my colleague from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 1435

(Purpose: To ensure that future funding for health care for veterans takes into account changes in population and inflation)

Ms. STABENOW. Mr. President, I thank my friend and distinguished colleague. I ask unanimous consent to set aside the pending amendment, and I call up amendment No. 1435.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Michigan [Ms. STABENOW], for herself, Mr. JOHNSON, Mr. AKAKA, Mrs. MURRAY, Mr. DAYTON, Mr. NELSON of Florida, Mr. LAUTENBERG, Mr. SALAZAR, Mrs. LINCOLN, and Mr. CORZINE, proposes an amendment numbered 1345.

Ms. STABENOW. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of July 23, 2005 under "Text of Amendments.")

Ms. STABENOW. Mr. President, today's soldiers are tomorrow's veterans, and America has made a promise to these brave men and women to provide them with the care they need and deserve. Senator JOHNSON and I and others are offering an amendment today to provide full funding for VA health care to ensure that the VA has the resources necessary to provide quality care in a timely manner to our Nation's sick and disabled veterans.

The Stabenow-Johnson amendment provides guaranteed funding for America's veterans from two sources. First, the legislation provides an annual discretionary amount that would be locked in for future years at the 2005 funding levels and, second, in the future, the VA would receive a sum of mandatory funding that would be adjusted year to year based on the changes in demand from the VA health care system and the rate of health care inflation.

This is about whether we are going to fully support our brave men and women who are fighting today and have fought in the past and will fight tomorrow, whether we are going to continue to debate year to year whether there is adequate funding for veterans health care or whether we will make a statement in this bill that part of national defense is making sure that when our men and women come home and put on the veteran's cap, they will, in fact, be assured that the health care they need will be there, not dependent on the Appropriations Committee entirely, not dependent on what happens year to year, but knowing there is a full commitment that we have made to them for veterans health care.

I will speak further at a later time. I understand there are other colleagues who wish to speak on other amendments. I simply ask colleagues to support this very important commitment, keeping our promises to our veterans, starting with the fact that we say very loudly and clearly that veterans health care, in the full amount needed, will be available to each and every one of our brave veterans.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield 3 minutes to the Senator from Washington.

AMENDMENT NO. 1348

Mrs. MURRAY. Mr. President, I ask unanimous consent to lay the pending amendment aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I come to the floor this afternoon to call up two amendments, and in the event cloture is invoked on the underlying bill, I will ask for the yeas and nays on both amendments.

First, I ask unanimous consent to call up amendment No. 1348 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Washington [Mrs. MURRAY] proposes an amendment numbered 1348.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the assistance to local educational agencies with significant enrollment changes in military dependent students due to force structure changes, troop relocations, creation of new units, and realignment under BRAC)

Strike section 582 of the bill and insert the following:

SEC. 582. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES WITH SIGNIFICANT ENROLLMENT CHANGES IN MILITARY DEPENDENT STUDENTS DUE TO FORCE STRUCTURE CHANGES, TROOP RELOCATIONS, CREATION OF NEW UNITS, AND REALIGNMENT UNDER BRAC.

(a) AVAILABILITY OF ASSISTANCE.—To assist communities making adjustments resulting from changes in the size or location of the Armed Forces, the Secretary of Defense shall make payments to eligible local educational agencies that, during the period between the end of the school year preceding the fiscal year for which the payments are authorized and the beginning of the school year immediately preceding that school year, had (as determined by the Secretary of Defense in consultation with the Secretary of Education) an overall increase or reduction of—

(1) not less than 5 percent in the average daily attendance of military dependent students enrolled in the schools served by the eligible local educational agencies; or

(2) not less than 250 military dependent students enrolled in the schools served by the eligible local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 2006, and June 30 of each of the next 2 fiscal years, the Secretary of Defense shall notify each eligible local educational agency for such fiscal year—

(1) that the local educational agency is eligible for assistance under this section; and

(2) of the amount of the assistance for which the eligible local educational agency qualifies, as determined under subsection (c).

(c) AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—The Secretary of Defense shall, in consultation with the Secretary of Education, make assistance available to eligible local educational agencies for a fiscal year on a pro rata basis, as described in paragraph (2).

(2) PRO RATA DISTRIBUTION.—

(A) IN GENERAL.—The amount of the assistance provided under this section to an eligible local educational agency for a fiscal year shall be equal to the product obtained by multiplying—

(i) the per-student rate determined under subparagraph (B) for such fiscal year; by

(ii) the overall increase or reduction in the number of military dependent students in the schools served by the eligible local educational agency, as determined under subsection (a).

(B) PER-STUDENT RATE.—For purposes of subparagraph (A), the per-student rate for a fiscal year shall be equal to the dollar amount obtained by dividing—

(i) the amount of funds available for such fiscal year to provide assistance under this section; by

(ii) the sum of the overall increases and reductions, as determined under subparagraph (A)(ii), for all eligible local educational agencies for that fiscal year.

(d) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse assistance made available under this section for a fiscal year, not later than 30 days after the date on which the Secretary of Defense notified the eligible local educational agencies under subsection (b) for the fiscal year.

(e) CONSULTATION.—The Secretary of Defense shall carry out this section in consultation with the Secretary of Education.

(f) REPORTS.—

(1) REPORTS REQUIRED.—Not later than May 1 of each of the years 2007, 2008, and 2009, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the assistance provided under this section during the fiscal year preceding the date of such report.

(2) ELEMENT OF REPORT.—Each report described in paragraph (1) shall include an assessment and description of the current compliance of each eligible local educational agency with the requirements of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(g) FUNDING.—Of the amount authorized to be appropriated to the Department of Defense for fiscal years 2006, 2007, and 2008 for operation and maintenance for Defense-wide activities, $15,000,000 shall be available for each such fiscal year only for the purpose of providing assistance to eligible local educational agencies under this section.

(h) TERMINATION.—The authority of the Secretary of Defense to provide financial assistance under this section shall expire on September 30, 2008.

(i) DEFINITIONS.—In this section:

(1) BASE CLOSURE PROCESS.—The term "base closure process" means the 2005 base closure and realignment process authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or any base closure and realignment process conducted after the date of the enactment of this Act under section 2687 of title 10, United States Code, or any other similar law enacted after that date.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term "eligible local educational agency" means, for a fiscal year, a local educational agency—

(A)(i) for which not less than 20 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools served by the local educational agency during the preceding school year were military dependent students that were counted under section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)); or

(ii) that would have met the requirements of clause (i) except for the reduction in military dependent students in the schools served by the local educational agency; and

(B) for which the required overall increase or reduction in the number of military dependent students enrolled in schools served by the local educational agency, as described in subsection (a), occurred as a result of—

(i) the global rebasing plan of the Department of Defense;

(ii) the official creation or activation of 1 or more new military units;

(iii) the realignment of forces as a result of the base closure process; or

(iv) a change in the number of required housing units on a military installation, due to the military housing privatization initiative of the Department of Defense undertaken under the alternative authority for the acquisition and improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code.

(3) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given the term in section 8013 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713).

(4) MILITARY DEPENDENT STUDENT.—The term "military dependent student" means—

(A) an elementary school or secondary school student who is a dependent of a member of the Armed Forces; or

(B) an elementary school or secondary school student who is a dependent of a civilian employee of the Department of Defense.

Mrs. MURRAY. Mr. President, I ask unanimous consent to add Senator KENNEDY as a cosponsor of that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. I ask for the yeas and nays on amendment No. 1348.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1349

Mrs. MURRAY. Mr. President, I ask unanimous consent to lay the pending amendment aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I ask unanimous consent to call up amendment No. 1349 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY] proposes an amendment numbered 1349.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To facilitate the availability of child care for the children of members of the Armed Forces on active duty in connection with Operation Enduring Freedom or Operation Iraqi Freedom and to assist school districts serving large numbers or percentages of military dependent children affected by the war in Iraq or Afghanistan, or by other Department of Defense personnel decisions)

At the end of subtitle E of title VI, add the following:

SEC. 653. CHILD CARE FOR CHILDREN OF MEMBERS OF ARMED FORCES ON ACTIVE DUTY FOR OPERATION ENDURING FREEDOM OR OPERATION IRAQI FREEDOM.

(a) CHILD CARE FOR CHILDREN WITHOUT ACCESS TO MILITARY CHILD CARE.—

(1) IN GENERAL.—In any case where the children of a covered member of the Armed Forces are geographically dispersed and do not have practical access to a military child development center, the Secretary of Defense may, to the extent funds are available for such purpose, provide such funds as are necessary permit the member's family to secure access for such children to State licensed child care and development programs and activities in the private sector that are similar in scope and quality to the child care and development programs and activities the Secretary would otherwise provide access to under subchapter II of chapter 88 of title 10, United States Code, and other applicable provisions of law.

(2) PROVISION OF FUNDS.—Funds may be provided under paragraph (1) in accordance with the provisions of section 1798 of title 10, United States Code, or by such other mechanism as the Secretary considers appropriate.

(3) PRIORITIES FOR ALLOCATION OF FUNDS IN CERTAIN CIRCUMSTANCES.—The Secretary shall prescribe in regulations priorities for the allocation of funds for the provision of access to child care under paragraph (1) in circumstances where funds are inadequate to provide all children described in that paragraph with access to child care as described in that paragraph.

(b) PRESERVATION OF SERVICES AND PROGRAMS.—The Secretary shall provide for the attendance and participation of children in military child development centers and child care and development programs and activities under subsection (a) in a manner that preserves the scope and quality of child care and development programs and activities otherwise provided by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Defense $25,000,000 to carry out this section for fiscal year 2006.

(d) DEFINITIONS.—In this section:

(1) The term "covered members of the Armed Forces" means members of the Armed Forces on active duty, including members of the Reserves who are called or ordered to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, for Operation Enduring Freedom or Operation Iraqi Freedom.

(2) The term "military child development center" has the meaning given such term in section 1800(1) of title 10, United States Code.

SEC. 654. EMERGENCY FUNDING FOR LOCAL EDUCATIONAL AGENCIES ENROLLING MILITARY DEPENDENT CHILDREN.

(a) SHORT TITLE.—This section may be cited as the "Help for Military Children Affected by War Act of 2005".

(b) GRANTS AUTHORIZED.—The Secretary of Defense is authorized to award grants to eligible local educational agencies for the additional education, counseling, and other needs of military dependent children who are affected by war or dramatic military decisions.

(c) DEFINITIONS.—In this section:

(1) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term "eligible local educational agency" means a local educational agency that—

(A) had a number of military dependent children in average daily attendance in the schools served by the local educational agency during the school year preceding the school year for which the determination is made, that—

(i) equaled or exceeded 20 percent of the number of all children in average daily attendance in the schools served by such agency during the preceding school year; or

(ii) was 1,000 or more,

whichever is less; and

(B) is designated by the Secretary of Defense as impacted by—

(i) Operation Iraqi Freedom;

(ii) Operation Enduring Freedom;

(iii) the global rebasing plan of the Department of Defense;

(iv) the realignment of forces as a result of the base closure process;

(v) the official creation or activation of 1 or more new military units; or

(vi) a change in the number of required housing units on a military installation, due to the Military Housing Privatization Initiative of the Department of Defense.

(2) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) MILITARY DEPENDENT CHILD.—The term "military dependent child" means a child described in subparagraph (B) or (D)(i) of section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)).

(d) USE OF FUNDS.—Grant funds provided under this section shall be used for—

(1) tutoring, after-school, and dropout prevention activities for military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B);

(2) professional development of teachers, principals, and counselors on the needs of military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B);

(3) counseling and other comprehensive support services for military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B), including the hiring of a military-school liaison; and

(4) other basic educational activities associated with an increase in military dependent children.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Defense such sums as may be necessary to carry out this section for fiscal year 2006 and each of the 2 succeeding fiscal years.

(2) SPECIAL RULE.—Funds appropriated under paragraph (1) are in addition to any funds made available to local educational agencies under section 582, 583 or 584 of this Act or section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703).

Mrs. MURRAY. Mr. President, I ask for the yeas and nays on amendment No. 1349.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mrs. MURRAY. Mr. President, I thank my colleagues for their consideration. I will come to the floor later to discuss both of these amendments, but essentially they deal with the children of our Guard and Reserve. I think all of us understand the impacts to families across our country. Our members from home have been called up for Guard and Reserve duty.

The first amendment I offered will help schools handle the sudden changes in student enrollment and help schools handle base closures, deployment, and force realignments. And the second amendment will make sure our military students get the counseling and support they need. Our Guard and Reserve families are spread across our States, not necessarily close to a base, and the schools are impacted across this country. When they are impacted, our children are impacted.

Both of these amendments will help all of our students in our schools make sure they reach the goals we all desire. I will be here again later to talk about both of these amendments. I thank the managers for their consideration in allowing me to call them up at this time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1494

(Purpose: To establish a national commission on policies and practices on the treatment of detainees since September 11, 2001)

Mr. LEVIN. I call up amendment 1494, cosponsored by Senators KENNEDY, ROCKEFELLER, and REED of Rhode Island.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. KENNEDY, Mr. ROCKEFELLER, and Mr. REED, proposes an amendment numbered 1494.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. LEVIN. Mr. President, this amendment would establish an independent commission on the treatment of detainees in Afghanistan, Iraq, Guantanamo, and elsewhere. U.S. policies, and too often practices, in the treatment of detainees have veered off the course which was established by decades of U.S. leadership in international humanitarian law and has been a champion of the Geneva Conventions on the treatment of prisoners of war and other detainees.

Our troops serve honorably and courageously across the globe. Their honor is besmirched when some of those who are captured are abused. Our troops' future security is jeopardized when people we detain are not treated as we rightfully insist others treat our troops when they are captured.

The amendment we are proposing today would help reaffirm the values we cherish as Americans. It would protect our troops should they be captured. It is going to be argued that there have been dozens of inquiries and hundreds of interviews and thousands of pages provided to Congress, but the fact is that huge gaps and omissions remain.

First, we do not know the role of the CIA and other parts of the intelligence community in the mistreatment of detainees or what policies apply to these intelligence personnel.

Second, we do not know what the policies and practices of the United States are regarding the rendition of detainees to other countries where they may be interrogated using techniques that would not be permitted at U.S. detention facilities.

Third, we have insufficient information on the role of contractors in U.S. detention and intelligence operations.

Fourth, the detention and interrogation of detainees by special operations forces need close examination.

Fifth, we are still missing key documents, including legal documents, from the Office of Legal Counsel.

Sixth, there are just too many significant questions which have been left unanswered.

I hope we can appoint an independent commission on the treatment of these detainees, on policies involved, patterned after the 9/11 Commission. We owe it to our military personnel who might someday be in enemy custody to demonstrate our commitment to the humane treatment of detainees, to strengthen our standing, to object and to take appropriate action against anyone who would mistreat an American prisoner of war.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wonder if I might bring to the attention of the Senate that we now have 215 amendments offered on this bill: 27 amendments have been proposed and are pending, a number desiring to have rollcall votes. I know of five rollcall votes that I think are ready to go. I ask the Senator, might we advise our leaders that we can continue tonight with rollcall votes and hopefully that can be facilitated.

Mr. LEVIN. I would have to check with our leadership on that. In terms of continuing tonight, I surely would be happy to do that, but let me check with our leaders.

Mr. WARNER. I thank my distinguished colleague because it is important that we keep momentum going forward on this bill.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I mentioned to Senator WARNER I would be saying this. He suggested the possibility of votes tonight. My response to him privately, and now publicly, is we would be happy to try to see if we could work out additional amendments that are pending where we could agree on rollcall votes tonight. I will work with Senator WARNER to see if those amendments can be identified mutually during this rollcall vote.

HONORING 15TH ANNIVERSARY OF AMERICANS WITH DISABILITIES ACT

The PRESIDING OFFICER. Under the previous order, the hour of 5:15 having arrived, there will be 15 minutes for debate on the Americans with Disabilities resolution. The Senator from Iowa will control 15 minutes.

The Senator is recognized.

Mr. HARKIN. I thank the Chair.

Mr. President, in remarks on the floor this morning I spoke about the remarkable progress that we have made since the Americans with Disabilities Act became law 15 years ago tomorrow. Today, the physical impact of ADA's quiet revolution is all around us. Sidewalks are equipped with curb cuts allowing access for people using wheelchairs. New buildings are outfitted in countless ways with ramps, wide doors, and large bathroom stalls to accommodate people with disabilities. Many banks have talking ATMs to assist individuals who are blind. Service animals are welcome in restaurants and shops, and on and on.

For those of us who are able-bodied, these changes are all but invisible. For a person with a disability, they are transforming and liberating. So are provisions in the ADA outlawing discrimination against qualified individuals with disabilities in the workplace, and requiring employers to provide reasonable accommodations.

The ADA is about designing our policies and also our physical environment so that America can benefit from the contributions of all of our citizens. The ADA is about rejecting the false dichotomy between disabled and abled. It is about recognizing that people with disabilities, like all people, have unique abilities, talents, and aptitudes and that our country, that our America, is better, fairer and richer when we make full use of those gifts.

Last week, in anticipation of this 15th anniversary, I asked people from all across America to send stories about how their lives are different today thanks to the Americans with Disabilities Act. I wanted to find out what the ADA means to people in their everyday lives.

I want to recite some of those.

Before I do, I ask unanimous consent that Senators CANTWELL and VOINOVICH be added as original cosponsors of S. Res. 207.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. One young woman whose name is Cheri Blauwet wrote me and said:

> I am a paraplegic as the result of a farming accident when I was 15 months old. I am now 25 years old and am currently a medical student at Stanford University in addition to being a wheelchair racer on the United States Paralympic Team. My ultimate goal is to become a physician and to work internationally to provide sport and physical activity opportunities to my peers with disabilities.

She continued:

> I was 10 years old when the ADA was passed in 1990. Although I didn't know it at that time, my realization of my own talents and capacities would be shaped on this fateful day. As I grew into adulthood, I attended a public university and had an accessible dorm room and classrooms that were wheel chair friendly. I received financial assistance from the state Vocational Rehabilitation program. I was able to apply for jobs, scholarships, and schools and to know I would be viewed without discrimination. My ability to easily take buses, trains, and airplanes led me to domestic and global travel for the purposes of building my sports and medical careers. I knew that something as simple as a set of stairs would not stop me from achieving my life goals.

A woman from Chicago who uses a wheelchair and works for the Federal Reserve wrote the following:

> I am part of the first generation of Americans with disabilities to grow up with the ADA in effect, and as a result, it never crossed my mind that going to college, studying abroad, or working in a big city would be impossible for me. I knew these goals would be challenging—as they would be for anyone. But I also knew they were possible, in part, because of the ADA. The law laid the groundwork to make this country more accessible for everyone, and it gave me the access I need to do the things I'm capable of doing. For example, I need accessible transportation to go to work so I can afford my apartment. My apartment is located near a city bus line, and all of the buses have lifts to accommodate my wheelchair. ADA helped to make these necessities available to me and others with disabilities, giving us more opportunities than ever before to be active members of the community. It's hard for me to imagine what my life would be like without the ADA and without the accessibility I take advantage of every day.

An individual from Laramie, WY, wrote:

> The ADA has made a tremendous impact in my life. The ability to go into a store to shop, or to travel, and to find a place to stay have been the largest differences I've experienced. Now, when I find a place of business that I can't get into or get around in because of my wheelchair, it's the exception rather than the rule. In 1990, in Wyoming, the number of businesses I couldn't get into, or get around in, far outnumbered the number of businesses that were accessible. That has changed. Many have added ramps, doorbells, or simply rearranged displays to make wider aisles.

An individual with a spinal cord injury from St. Paul, MN, wrote:

> I'm 32. Growing up, I was never sure whether I would be employed. Thanks to the ADA, I received accommodations to enable me to earn a B.A. and a J.D. I passed the bar in 1998, thanks to accommodations received under the ADA. One of my first jobs was clerking for a district court judge. Under the ADA, the court provided me with assistive technology to enable me to write judicial opinions and orders. The ADA has made a tremendous difference in my life, both personally and professionally. The ADA has enabled me to participate in every facet of daily life, including the mundane things like going to a movie or staying at a hotel. I can't imagine what my life would be like if this law had not passed.

A woman who has an 11-year-old son with a disability wrote:

> I am thankful for the ADA each time we pull into a handicapped parking space, hit the automatic door to the building, and can move around due to widened doorways. Each time we go into a movie theater and don't have to sit on the very front row. Each time we go to a theme park show where we don't have to sit in the very back row.

Those are just a few of the many letters. I ask unanimous consent that the remainder of the letters I have be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A woman with multiple disabilities wrote: "Without the ADA, I would either be on welfare or Social Security, unable to support myself. Thanks to the ADA, I am a tax-paying citizen helping to support others, living in my own little home which I bought myself, paying for my own car, bills and medicine. The ADA has helped me to secure meaningful employment. In the 70's and 80's, when I was hard of hearing with hearing aids, I had a very difficult time finding and holding jobs because I was not able to hear on the phone, and most often misunderstood verbal instruction. I could often only find jobs paying the minimum wage. Now, though, thanks to the ADA, I am happily employed with an employer who recognizes me for my abilities, not my limits.''

A German woman with a disability wrote the following: "Although I am not an American with a disability but a German with a disability, the ADA had an impact on my life. The United States is one of my favorite countries for traveling. Why? I am a wheelchair user and I enjoy having no problems finding an accessible hotel. I don't have any trouble finding accessible restrooms, and I never have any problems visiting museums, parks, attractions and public buildings. There are many more parking spaces for the disabled than in Europe. And if I book my flight at an American airline, there will be no stupid questions—I am just a passenger who uses a wheelchair. No big deal! I try to travel to US at least once a year, because of the ADA. It means seamless travel to me.''

And one final story. A man from Minnesota with a spinal cord injury wrote the following: "Six years ago, my spine was severed in a car accident. In that one afternoon I went from being a positive and productive husband, father, and worker in the U.S. to spending months at the Mayo Hospitals. Before that time I didn't know or think much about the ADA. Since my accident I have remained a positive husband not just the right to be independent and have a job, but the wherewithal to be independent and hold a job.

Mr. HARKIN. Mr. President, shortly we are going to have a vote on a resolution commending the 15th anniversary of the Americans with Disabilities Act and all it has achieved for our society. It truly has opened the doors and torn down the walls of segregation and discrimination and the denial of equal opportunity for people with disabilities.

As I said this morning, after the Civil Rights Act of 1964 passed, we thought we had done a great thing, and indeed we had. But for a large group of Americans with disabilities, the Civil Rights Act of 1964 left them out because they still faced segregation on a daily basis. They faced discrimination on a daily basis; they faced inequality of opportunity on a daily basis. So the Americans with Disabilities Act, signed into law on July 26, 1990, finally accorded to Americans with disabilities every right that every American ought to have. That is the right to live independently, the right to have equality of opportunity, the right to have economic self-sufficiency, and the right to be accorded full participation in our society. Those are the four goals of the Americans with Disabilities Act, and now we see the evidence all around us.

On July 26, 1990, when he signed the Americans with Disabilities Act into law, President George Herbert Walker Bush spoke with great eloquence, and I will never forget his final words before taking up his pen.

He said, "Let the shameful wall of exclusion finally come tumbling down.''

Today, that wall has indeed fallen. We must continue this progress. We must go forward and not backward.

As I said this morning, we have come a long way in making sure people with disabilities are able to participate in American society. We see people in restaurants, traveling, in theaters and sports arenas, people with jobs, people going to school, people becoming lawyers and doctors and everything else, regardless of their disability, and it is a wonderful thing for our country. It has made us a better, richer, and fairer country.

We only have one other thing that we have to do. We have to make sure people with disabilities have personal attendant services so they can go to work. Right now, 15 years after the Americans with Disabilities Act, over 60 percent of people with disabilities are unemployed, no job. Many of them can have a job if they just have some personal attendant services to help them get going in the morning or help them at night, maybe help them on their job. As taxpayers we know this will cost us less money than institutionalizing people, and it will make their lives and our lives better.

One final thought. As chairman of the Disability Policy Subcommittee, I brought the Americans with Disabilities Act to the floor in 1990. Right after it was passed, I spoke in sign language from this desk down here about what this would mean for people like my brother Frank who was deaf. So I will close my remarks today by using another sign. I will not speak at all in sign language, but I would like to close by saying that there is a wonderful sign—see, sign language is very expressive. There is a wonderful sign in sign language for "America." I am going to teach it right now to Senators who are watching. The sign for "America" in sign language is where one puts all of their fingers together like this, intertwined, and makes a circle. That is the sign for America, all of the fingers intertwined, one family in a closed circle. It is a beautiful sign. It really expresses volumes about America.

Fifteen years ago, not all of those fingers were there. People with disabilities were not part of that family. Now they are. So our family in America is more complete, the circle is more complete because of the Americans with Disabilities Act. For centuries they were excluded. People were excluded from our family. Now they are a part of our family, and it has made us a better, fairer, and richer country.

So I hope all Senators will give a strong vote of approval to this resolution: one, to recognize the advances that we have made; second, to recommit ourselves to make sure that we will not go backward but that we will continue forward to even break down more barriers, to make sure even more inclusive, to make sure that every single person with a disability is a member of that American family.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to a vote on S. Res. 207. The question is on agreeing to the resolution.

Mr. LEVIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant Journal clerk called the roll.

Mr. McCONNELL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Mississippi (Mr. COCHRAN), the Senator from Idaho (Mr. CRAIG), the Senator from Tennessee (Mr. FRIST), the Senator from Arizona (Mr. KYL), the Senator from Florida (Mr. MARTINEZ), and the Senator from Pennsylvania (Mr. SANTORUM).

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER), are necessarily absent.

The PRESIDING OFFICER (Mr. CORNYN). Is there any Senator in the Chamber desiring to vote?

The result was announced—yeas 87, nays 0, as follows:

[Rollcall Vote No. 201 Leg.]

YEAS—87

Akaka
Alexander
Allard
Allen
Baucus
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Clinton
Coburn
Coleman
Collins
Conrad
Cornyn
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Salazar
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—13

Bayh
Bennett
Biden
Chambliss
Cochran
Corzine
Craig
Frist
Kennedy
Kyl
Martinez
Rockefeller
Santorum

The resolution (S. Res. 207) was agreed to.

The PRESIDING OFFICER. Under the previous order, the preamble is agreed to and the motion to reconsider is laid upon the table.

The resolution, with its preamble, reads as follows:

S. RES. 207

Whereas July 26, 2005, marks the 15th anniversary of the enactment of the Americans with Disabilities Act of 1990;

Whereas prior to the passage of the Americans with Disabilities Act, it was commonplace for individuals with disabilities to experience discrimination in all aspects of their everyday lives—in employment, housing, public accommodations, education, transportation, communication, recreation, voting, and access to public services;

Whereas prior to the passage of the Americans with Disabilities Act, individuals with disabilities often were the subject of stereotypes and prejudices that did not reflect their abilities, talents, and eagerness to fully contribute to our society and economy;

Whereas the dedicated efforts of disability rights advocates, such as Justin Dart, Jr. and others too numerous to mention, served to awaken Congress and the American people to the discrimination and prejudice faced by individuals with disabilities;

Whereas Congress worked in a bipartisan manner to craft legislation making such discrimination illegal and opening doors of opportunity to individuals with disabilities;

Whereas Congress passed the Americans with Disabilities Act and President George Herbert Walker Bush signed the Act into law on July 26, 1990;

Whereas the Americans with Disabilities Act pledged to fulfill the Nation's goals of equality of opportunity, economic self-sufficiency, full participation, and independent living for individuals with disabilities;

Whereas the Americans with Disabilities Act prohibited employers from discriminating against qualified individuals with disabilities, required that State and local governmental entities accommodate qualified individuals with disabilities, encouraged places of public accommodation to take reasonable steps to make their goods and services accessible to individuals with disabilities, and required that new trains and buses be accessible;

Whereas since 1990, the Americans with Disabilities Act has played an historic role in allowing some 54,000,000 Americans with disabilities to participate more fully in our national life by removing barriers in employment, transportation, public services, telecommunications, and public accommodations;

Whereas accommodations such as curb cuts, ramps, accessible trains and buses, accessible stadiums, accessible telecommunications, and accessible Web sites have become commonplace since passage of the Americans with Disabilities Act, benefitting not only individuals with disabilities but all Americans; and

Whereas the Americans with Disabilities Act is our Nation's landmark civil rights legislation for people with disabilities: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors the 15th anniversary of the enactment of the Americans with Disabilities Act of 1990;

(2) salutes all people whose efforts contributed to the enactment of such Act; and

(3) encourages all Americans to celebrate the advance of freedom and the opening of opportunity made possible by the enactment of such Act.

The PRESIDING OFFICER. The Senator from Virginia.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006—Continued

Mr. WARNER. Mr. President, my understanding is that the Senate now returns to the Defense authorization bill. Is that the pending business?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Texas.

AMENDMENT NO. 1477

Mrs. HUTCHISON. Mr. President, I call up amendment No. 1477 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 1477.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make oral and maxillofacial surgeons eligible for special pay for Reserve health professionals in critically short wartime specialties)

At the end of subtitle B of title VI, add the following:

SEC. 624. ELIGIBILITY OF ORAL AND MAXILLOFACIAL SURGEONS FOR SPECIAL PAY FOR RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.

(a) IN GENERAL.—Section 302g(b) of title 37, United States Code, is amended by inserting ", including oral and maxillorfacial surgery," after "in a health profession".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005.

Mrs. HUTCHISON. Mr. President, this is a very simple amendment, and it is going to add one more category to those who will be able to receive special incentive pay for signing up to come in to serve our military in the medical field. This field is oral surgery. Those who are deployed in Iraq and Afghanistan and other military theaters have critical needs for oral surgery. Complex facial trauma comes with battlefield injuries.

In addition to being on the ground in mobile surgical hospital units, oral surgeons are serving on every aircraft carrier to provide essential facial reconstruction and trauma care. These surgeons are indispensable military personnel who provide a unique and necessary role in caring for our troops. Unfortunately, this valuable role is being threatened by an ever-widening compensation gap between military and civilian pay and the unlimited practice opportunities that oral surgeons have in the civilian market. With a historical retention rate of 85 percent, a loss of 15 percent, recent statistics predict the current retention rate for oral surgeons is closer to only 75 percent. Even more concerning, many of our military's oral surgeons are senior officers who could retire at any time. In fact, if all oral surgeons eligible for retirement were to retire next year, we could have a 50-percent reduction in this force.

As a means to recruit and retain essential specialties vital to maintaining the military's readiness, the military offers a variety of special pay programs to supplement a specialist's base pay and to help close the military-civilian pay gap. One such special pay program is known as incentive special pay. Available to medical personnel, incentive special pay is a yearly bonus that is designed to bring the salaries of military specialists into closer line with civilian specialists. Although it doesn't get there, it does help. Applied at different levels based on medical specialties, wartime role, and retention, incentive special pay ranges from now between $12,000 for pediatrics to $36,000 for trauma surgery specialists. Ear, nose, and throat specialists, the most comparable medical personnel to oral surgeons, are eligible for incentive special pay around $30,000.

Although oral surgeons stand the same facial trauma watches as ear, nose, and throat specialists and provide the same critical head and neck trauma care as ENTs, they are not eligible for incentive special pay. Often serving as the only head and neck specialist on aircraft carriers and smaller hospitals, our oral and maxillofacial surgeons are providing essential services for our troops in combat, services we cannot afford to lose.

Today, I ask my colleagues to join me in recognizing the important and necessary role that oral surgeons are providing our military by making these surgeons eligible for incentive special pay. We can't allow the pay disparity between military and civilian oral surgeons to become so substantial that these necessary specialists retire from the service or resign their commissions to be in private practice. I urge my colleagues to join me in allowing oral surgeons in uniform who are providing critical trauma services for our troops in the war on terror to be eligible for incentive special pay just as many other medical specialties are.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I know the Senator from Wyoming desires to address the Senate.

I yield the floor.

AMENDMENT NO. 1342

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise in support of amendment No. 1342, the Support Our Scouts Act offered by my distinguished colleague from Tennessee, Senator FRIST. The amendment was intended to be simple and straightforward in its purpose to ensure the

Department of Defense can continue to support youth organizations, including the Boy Scouts of America, without fear of frivolous lawsuits. The dollars that are being spent on litigation ought to be spent on programs for youth. Every time we see a group such as the Boy Scouts that will teach character and take care of community, we ought to do everything we can to promote it.

Last Saturday, over 40,000 Boy Scouts from around the Nation and the world met at Fort A.P. Hill in Virginia for the National Boy Scout Jamboree. This event provides a unique opportunity for the military and civilian communities to help our young men gain a greater understanding of patriotism, comradeship, and confidence.

Since the first jamboree was held at the base of the Washington Monument in 1937, more than 600,000 Scouts and leaders have participated in the national event. I attended the Jamboree at Valley Forge in 1957. Boy Scouts has been a part of my education. I am an Eagle Scout. I am pleased to say my son was in Scouts. He is an Eagle Scout. Boy Scouts is an education. It is an education of possibilities for careers. I can think of no substitution for the 6 million boys in Scouts and the millions who have preceded them. There are dozens on both sides of the aisle who have been Boy Scouts. I say it is part of my education because each of the merit badges that is earned is an education. I tell school kids, as I go across my State and the country, that even though at times I took courses or merit badges or programs that I didn't see where I would have any use for them. I later wished I had paid more attention at the time I was doing it.

I always liked the merit badge pamphlet on my desk called entrepreneurship. It is the hardest merit badge in Boy Scouts. It is also one of the most important ones. I do believe that small business is the future of our country. Scouts promote small business through the entrepreneurship merit badge. Why would it be the toughest to get? Not only do you have to figure out a product or a service, not only do you have to do a business plan, not only do you have to find financing, the toughest requirement is the final requirement, and that is that you actually have to start the business.

I could go on and on through the list of merit badges required in order to get an eagle badge. There are millions of boys in this country who are doing that and will be doing that. They do need places to meet. They are being discriminated against. They are being told they cannot use military facilities even for their national jamboree. That is a tradition. These jamborees become a great American tradition for our young people, and Fort A.P. Hill has been made the permanent site of the gatherings. But now the courts are trying to say that this is unconstitutional. It isn't just military facilities, it is Federal facilities.

A couple of years ago, we had an opportunity to debate this on the Senate floor. It had to do with the Smithsonian. Some Boy Scouts requested that they be able to get their Eagle Scout Court of Honor at the National Zoo. They were denied. Why? The determination by the legal staff of the Smithsonian that Scouts discriminate because of their support for and encouragement for the spiritual life of their members. Specifically, they embrace the concept that the universe was created by a supreme being, although we surely point out Scouts do not endorse or require a single belief or any particular faith's God. The mere fact they ask you to believe in and try to foster a relationship with a supreme being who created the universe was enough to disqualify them.

I read that portion of the letter twice. I had just visited the National Archives and read the original document signed by our Founding Fathers. It is a good thing they weren't asked to sign the Declaration of Independence at the National Zoo.

This happens in schools across the country. Other requests have been denied. They were also told they were not relevant to the National Zoo. That is a kind of fascinating experiment in words. I did look to see what other sorts of things have been done there and found that they had a Washington Singers musical concert and the Washington premiers for both the Lion King and Batman. Clearly, relevance was not a determining factor in those decisions, but it was in the Boy Scouts decision.

The Boy Scouts of America has done some particular things in conservation that are important, in conservation tied in with the zoo. In fact, the founder of the National Zoo was Dr. William Hornaday. He is one of the people who was involved in some of the special conservation movements and has one of the conservation badges of Scouts named for him.

If the situations did not arise, this amendment would not come up. But they do. In 2001, I worked with Senator Helms to pass a similar amendment requiring that the Boy Scouts be treated fairly, as any other organization, in their efforts to hold meetings on public school grounds. This amendment clarified the difference between support and discrimination. It has been successful in preventing future unnecessary lawsuits. The Frist amendment is similar to the Helms amendment and will help prevent future confusion.

Again and again, the Scouts have had to use the courts to assure they were not discriminated against. I am pretty sure everyone in America recognizes that if you have to use the courts to get your rights to use school buildings, military bases, or other facilities, it costs money. It costs time. This amendment eliminates that cost and eliminates that time to allow all nationally recognized youth organizations to have the same rights.

The legal system is very important, but it has some interesting repercussions. Our system of lawsuits, which sometimes is called the legal lottery of the country, allows people who think they have been harmed to try to point out who harmed them and get money for doing that. It has had some difficulties through the Boy Scouts. I remember when my son was in Scouts, their annual fundraiser was selling Christmas trees. One of the requirements when we were selling Christmas trees was that the boys selling the trees at the lot had to be accompanied by two adults not from the same family. I didn't understand why we needed all of this adult supervision. It seemed as if one adult helping out on the lot would be sufficient. The answer was, they have been sued because if there is only one adult there and that adult is accused of abusing boys, they get sued.

So two adults provides some assurance that they won't get sued. The interesting thing is, it was just me and my son. We still had to have another adult in order to keep the Boy Scouts from being sued. They run into some other difficulties with car caravans.

So the legal system of this country has put them in the position where they are doing some of the things that they are doing. The legal system of this country has caused some of the discrimination that is done. It is something we need to correct.

This discussion of the Frist amendment is timely. U.S. District Judge Blanche Manning recently ruled that the Pentagon could no longer spend Government money to ready Fort A.P. Hill for the National Boy Scouts Jamboree. The Frist amendment would ensure that our free speech protections would also apply to the Boy Scouts of America.

The Boy Scouts of America is one of the oldest and largest youth organizations in the United States and the world today. The organization teaches its members to do their duty to God, to love their country, and to serve their fellow citizens. The Boy Scouts of America has formed the minds and hearts of millions of Americans and prepared these boys and young men for the challenges they are sure to face the rest of their lives. It is an essential part of America.

I urge my colleagues to join me in defending the Boy Scouts from constitutional discrimination by supporting the Frist amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, before my distinguished colleague leaves the floor, I regret to say that I just got a call from the Department of Defense in which I was advised that at the jamboree being held just a short distance down 95 in Virginia, a power line collapsed, and at the moment there is one deceased and five critically injured and an assortment of other problems associated with this.

So I am delighted that you gave that speech. I am a cosponsor of the bill. I support it. I was a Scout myself, and I got a lot out of it. I think we ought to close this set of remarks out by offering our prayers and hearts and minds to this tragic accident that occurred an hour or so ago. I thank my colleague.

Mr. ENZI. I thank the Senator.

Mr. WARNER. Mr. President, we are still on the bill and speakers are coming to the Senate floor.

At this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, parliamentary inquiry: What is the pending business? Are we now on an amendment?

The PRESIDING OFFICER. We are on amendment No. 1477.

Mr. LOTT. Further parliamentary inquiry: Are we in a position where we can discuss any amendment that has been offered and has been set aside? For instance, amendment No. 1389 by Senator THUNE?

The PRESIDING OFFICER. It is in order to discuss any amendment at this time.

Mr. WARNER. Mr. President, the Senator is free to go. He spoke with me. It is an important element before the Senate. The general subject is BRAC.

AMENDMENT NO. 1389

Mr. LOTT. Mr. President, I thank the chairman, Mr. WARNER, the Senator from Virginia. I wanted to begin by congratulating him and Senator LEVIN for the bill they have produced from the Senate Armed Services Committee. I, frankly, had my doubts that we were going to be able to get the bill up at this time in a way that would have momentum and would get through to passage. I think they have succeeded in doing that. The atmosphere is such that I believe we will pass the Defense authorization bill.

As the Senator from Virginia knows, I always made a window for him, when I had the opportunity to make that call. Sometimes it took 2 weeks. Sometimes we put it up against a recess. Sometimes we put it together with Defense appropriations. But it is of a high priority, and I would be delighted if I could see us pass this bill in an orderly fashion this week.

Mr. WARNER. Mr. President, I thank the distinguished leader. The Senator forgot the one time it was 5 weeks, but we got there.

Mr. LOTT. We did. I think the atmosphere is different now. The Senator understands and the American people understand that we are at war, and terrorism is a very serious threat. We cannot expect homeland security and our law enforcement agencies to do the job alone. This is broader than that. We have to have a defense that is prepared to do the job at home and overseas. Certainly, we have called on our National Guard and Reserve to fill in, and they are doing a wonderful job. We have to provide the additional authorization necessary to get the funds so our men and women can continue to do the fine job they have done.

I thank the Senator for his cooperation on amendments that have been accepted and the language in the bill. I served on the Armed Services Committee for a few years—I believe 6½ years. I enjoyed it very much. I always had a real interest in this area. I am happy to be on the Intelligence Committee now. I am obviously interested in shipbuilding because of what it means to not only my hometown and my State but to our country, the Navy, and a lot of other issues you have addressed for our military.

I am worried about what we are having to expend and how we are having to expend things now because we have certain demands in Afghanistan and Iraq for the Army and the Marines. I am concerned that in 5 or 10 years, we will need to have a military that can address new and emerging threats. I think that is part of what this bill is about—to try to begin to address some of those issues. I look forward to working with the Senator.

I rise in support of Senator THUNE's amendment No. 1389, which would defer Congress's consideration of closure and realignment recommendations that the President will forward to the Congress this coming fall. This is not a new position for me. I have always been opposed to the Base Realignment and Closure Commission process. I generally don't like commissions. I have spoken against them on a number of subjects on the Senate floor. I probably will again before the week is out. I think that is what we were hired to do. That is our job.

I get nervous sometimes that from Social Security, to tax policy, to detainees policy, to intelligence, we basically say: Well, we cannot do the job, so let a commission give us advice here. A commission can do it for us. Our attitude is see no evil, hear no evil, speak no evil, save us. But doing that difficult work is our job.

Up until recent years, we did our job and it worked. After World War II and Korea, certainly as the chairman knows, we closed bases in his State and mine. I can take you around Mississippi and show you those bases that were closed. How was it done? The Pentagon assessed their needs, recognized the fact that we were not on war footing, and we had to begin to close some of those airbases in Greenwood, MS, and in Mobile, AL, and make difficult recommendations, and Congress considered it and dealt with it. We did our job. Now we are in the fifth BRAC round, or something like that. I have opposed every one of them.

One day, I was walking up to the floor of the House of Representatives and this young Congressman from Texas named Dick Armey came up to me as a member of the Rules Committee and said, "I got this idea and I want you to talk to me about how I get it through the Rules Committee." He would remember this. I told him, "I don't agree with what you are trying to do, and I am absolutely going to vote against it. But if I were you, this is how I would do it." He did it, and it led to this BRAC process. Congressman Dick Armey from Texas went on to be majority leader.

I voted against BRAC every time. Some people say: Wait a minute, you are just protecting your own bases; you are troubled because of bases in your own State. Not true. Not a single base has been closed in my State in these rounds. Contrary to popular opinion, we don't have a whole lot of bases. We have been through every round, and we have been fortunate. The commissions have decided not to go forward with closing those bases. So it is not that I have a grudge or that I am angry at anybody. I don't like the process. No. 1.

No. 2, this amendment doesn't kill the process. It allows the Commission to finish their independent and important work and forward the recommendations to the President.

The amendment permits the President to submit a set of recommendations to the Congress. At that point, the Congress would hold the President's recommendations in abeyance, pending completion of several requirements that are critical to achieving a fully informed interagency perspective of our basing requirements.

Here is my problem with BRAC this time. I don't like the process, No. 1. No. 2, I think the timing could not be worse. At a time when we are in war in Iraq and, of course, have been and are still exposed in Afghanistan, a war on terror, with communities all over America having to cope with Reserve and Guard units from all of our States there on extended tours in Iraq, Afghanistan, or in the region, it has had an impact on communities. They are already stressed, and they are asking themselves. What next? Now you are going to come in and close my Air Guard unit or this hospital or you are going to do this or that. The timing could not be worse. That is the second problem.

Next is I think this particular process, the way it is set up by the Pentagon, is a lot less reassuring and messier and more unreliable than the previous BRAC rounds have been. They have made significant mistakes. At a time, also, when we are looking at overseas alignment, talking about reformation, I have serious questions about some of the Pentagon's reformation plans.

So in instance after instance, I think we are making a mistake here. It is going to have huge negative ramifications, and I think we are going to wake up later and find out, wait a minute here, we didn't evaluate the impact of the reduction of military medical services and what it means in the local communities. The local communities may not be able to absorb that additional service. Who is going to serve these military men and women? Or, wait a minute, you mean we are bringing that heavy unit back from Europe? Where are we going to put them? Where are the spouses going to live? What are the quality of life facilities? In some instances, they won't be there. This BRAC, in my opinion, is set up to be worse than all the previous rounds.

Senator THUNE has done a very thoughtful job. He has allowed the process to go forward to a point where he will then put it on hold until some very important things are done.

The conditions that have to be met:

First, complete analysis and implementation of recommendations from the Overseas Basing Commission. We have been talking about this, and we are planning on doing it. We are going to have realignment of where our units are based in Europe. We are going to bring some units home, perhaps some heavy units. We are going to have to bring them somewhere. We need to know what that is and where we are going to put them.

Second, submission of the Quadrennial Defense Review by the DOD to the Congress, and that will be completed before very long—I think this coming winter. Why don't we wait until we see what the needs and the plans are for the future? It would not cause an inordinate delay for that in itself.

The next condition is that we complete deployment and implementation by the Department of Defense and Department of Homeland Security of the national maritime security strategy and the homeland defense and civil support directive. It would have to be held until we get a submission of a report by the DOD to Congress to assess military installation needs in view of the Overseas Basing Commission, returning troops, QDR, national maritime strategy, and the homeland defense and civil support directive.

And return of substantially all troops from Iraq. We need to weigh the impact of what is going on in Iraq, when they will be coming home, and where they are going.

So those are the factors that would have to be considered before the Congress could actually act on the present recommendations.

When the Department of Defense released its BRAC recommendations last May, it was very evident that many of the recommendations were flawed and developed in a vacuum. Their recommendations did not consider the impact on other agencies, such as the Department of Homeland Security or the Veterans' Administration.

The Department of Defense did not even involve the Governors of States that would be affected by recommendations concerning Air National Guard units. The Air Guard is under the Governors. I don't know how they missed that turf. More than one counsel has advised the BRAC Commission that they cannot willy-nilly go in there and say they are shutting down this Air Guard unit. The Governor is going to have some say in that.

I, along with many of my Senate colleagues, was also alarmed that DOD used transformational options in lieu of military value as the framework for many of the recommendations. Even distinguished Chairman WARNER noted in his testimony before the BRAC Commission, "A number of the Department's recommendations" deviate substantially from the BRAC legislative requirements in three important areas.

> First, certain recommendations were justified by factors and priorities other than the selection criteria in violation of section 2914(f) [of the base closure law];
>
> Two, certain recommendations were based on data that was not certified as required by section 2903 [of the BRAC law];
>
> Three, certain recommendations did not contain accurate assessments of the costs and savings to be incurred by the Department of Defense and other Federal agencies as required by section 2913(e) [of the BRAC law].

The experience in my own State of Mississippi in looking at the installations was similar to what the great State of Virginia obviously observed and experienced: that DOD recommendations were not based in fact and analysis was faulty. For example, for Keesler Hospital at Keesler Air Force Base, the cost for admitting patients was underestimated by over $2,000 per patient. A math error decreased the military value by 20 percent, and the Department of Defense ignored the fact that local VA facilities and community hospitals have no—none—no excess capability.

Where are these military men and women going to go? It is a problem, it is a big problem for the local community and, more importantly, for the military men and women who deserve quality health care.

Let me get even more simply to the statement of what happened. In one military value critical category, for some reason they gave this category almost a zero rating. When they actually went back at our urging, they said that obviously a mistake was made, and that should have been an 11 military value points instead of a zero. It moved that installation up 44 places. Little error? Big error.

There is a lot more embedded in this than we have been able to dig out even yet. Regarding the Navy Personnel Center at Stennis Space Center, DOD mistakenly assumed that the building was a commercially leased property with no security perimeter. It is not. The personnel center is on a secure compound owned and operated by NASA and is the model of interagency cooperation. Just a little detail there. We have this huge buffer zone. It is a totally secure facility, and they missed that little point.

For Pascagoula Naval Station, DOD proposed to abandon a naval presence for 35 percent of our Nation's coastline, leaving unprotected over 30 percent of this Nation's gas and oil reserves, 60 percent of our trade sealanes, and 14 of America's largest 23 ports. But just 3 weeks ago, the Department of Defense issued a new policy stating that defense of the homeland is their new No. 1 priority.

DOD's proposal to the BRAC Commission would mean we would not have a single naval port between the east coast of Florida at Mayport, FL, to San Diego. It is all sitting there, a vast gulf with all kinds of sealanes and potential threats and future dangerous areas. But DoD says no presence at all is ok; that causes me a great deal of concern.

Even if DOD's work had been perfect, we should not be closing bases at home if we are engaged in armed conflict overseas. It is not fair to the families of our service men and women who have to endure the uncertainty of where they will live and where their children will go to school.

Closing bases right now is also detrimental to our war-fighting ability. The Overseas Basing Commission has already noted that ". . . to launch major realignments of bases and unit configurations at a time when we are in the midst of two major conflicts takes us to the edge of our capabilities."

The Overseas Basing Commission also expressed concern that the domestic BRAC is disconnected from the proposed closure of overseas bases, and DOD's budget is woefully inadequate to implement necessary changes. These are some of the Commission's recommendations:

> . . . adequate strategic sealift, airlift, and prepositioned equipment and stocks do not exist . . .

And—

> budgetary plans for mobility assets are inadequate to meet projected lift demand—

When forces return from overseas.

> We [intend to] reposition tens of thousands of family members to localities that have not been given adequate time or budget to prepare for their proper reception . . .

> . . . DOD estimates the implementation of [global basing changes] to be between $9 billion and $12 billion with only about $4 billion currently budgeted in fiscal years 2006 through 2011.

If it was just up to me, I would vote to kill this process right now. I have never liked it. I must admit, I have fought it three times in the Senate and was almost able to kill it one of those times. It is an abrogation of Congress's responsibility to oversee basing and, if necessary, to close excess bases.

DOD insisted on doing its BRAC assessment in a vacuum. We tried to follow what was going on. We could not get the answers. But we, the Congress, are obligated to the American people to take a larger perspective.

Commissioner Principi and the entire BRAC Commission are doing a good job. They are doing honorable work right now to try to fix some of the fundamental flaws in DOD's set of recommendations. I want to make it clear, it is not that I don't have confidence in the chairman and the Commission. I do. I think they are a good quality group. But even the Commission can only do so much. The Commission is bound by a set of legal constraints that did not anticipate DOD recommendations would deviate from the laws so substantially.

So if we are not willing to stop this flawed process in its tracks, let's do the next best thing. Senator THUNE's amendment is a workable compromise. It gives breathing room to take a larger view to consider our basing requirements in a global fashion and across all affected agencies. The distinguished Senators from Virginia and Michigan have both said that we do need to close unneeded bases. I agree with that. I am not unrealistic. I know different times call for different things. I know we have some duplication and overlapping, and we can have more efficiencies and we can consolidate.

I do know we are trying to change our forces to deal with where the challenges may be, where our forces are more light, more mobile, and prepositioned. The problem is that many of the recommendations of the BRAC undermine the construct of lighter and more mobile and prepositioned. They do not mesh with what we are saying we should do here, and what we are saying we do should do in reformation does not fit with making our troops lighter and more mobile and prepositioned. Let's not ride a flawed process into oblivion. I urge my colleagues to support Senator THUNE's amendment so that we, the Congress, can make an informed decision when we are asked to vote on the merits of closing domestic bases. I think we will feel better about it.

I realize perhaps the die is cast. I tried last year with an amendment to defer it for a couple of years. We got, I think, 44 votes or close to that. A couple votes who were absent, and we got close. In retrospect, that was the key vote. The opposition was effective, and they won the day. And we have moved forward. I don't think we can turn back that clock, but I do think we can take a pause. We can take some time to see if certain things are considered before we actually pull this trigger and make some changes that we may regret.

Mr. WARNER. Mr. President, if my distinguished leader would enter into a little discussion with me, the Thune amendment, to which he has referred in his remarks, apparently has been modified in a way that I wish to advise the Senate on this modification, as I read it. It is extraordinary.

The concept of BRAC only works if the President decides on the block of closures and sends it to the Congress to vote it up or down en bloc.

As I read this and I just read it for the first time a few minutes ago I draw your attention to the page I handed the Senator from Mississippi. It says as follows:

In the heading by striking "congressional disapproval" and inserting "congressional action." In subparagraph A, by striking "the date on which the President transmits such report" and inserting "the date by which the President is required to transmit such report," and subparagraph B, by striking "such report is transmitted" and inserting "such report as required"—all this gets down to the following: that the Secretary may not carry out any closure or realignment—that is any of the number on the whole list, any of them:

> The Secretary may not carry out any closure or realignment recommended by the Commission report transmitted by the President pursuant to section 2903 if a recommendation for such closure or realignment is specified as discussed by Congress in a joint resolution partially disapproving the recommendations of the Commission that is enacted before the earlier of. . . .

It seems to me, as I read this, Congress can now go in and cherry-pick base after base and pass a resolution to take it out.

Mr. LOTT. Mr. President, if the Senator would allow me to ask, is this a modification of the Thune amendment? Is this the Thune amendment? This sounds similar to an amendment I heard discussed earlier as maybe one that was being suggested or considered by Senator COLLINS. It is not clear to me.

Mr. WARNER. If I may inquire at the desk, was there not a modification put in by Senator COLLINS this morning, three amendments, and among them

The PRESIDING OFFICER. The Senator from Maine called up three amendments on behalf of the Senator from South Dakota, Mr. THUNE. None of the amendments have been modified.

Mr. LOTT. That is an important point, I say to the Senator from Virginia. That is not my understanding of the Thune amendment. If a modification along these lines were added to the Thune amendment, I would have some reservations about that. I want to take a look at it.

Mr. WARNER. Let me point out, I say to my distinguished former leader, that the original Thune amendment that was offered, I think, Thursday or Friday night and was the subject of a detailed colloquy between myself and the distinguished Senator from South Dakota, is still at the desk, and then this amendment that I read to you is the final paragraph in an amendment which is identical in every way to the one we discussed—Senator THUNE and myself—on Thursday night.

With the exception of the last paragraph in that amendment, it has been changed to read the same as this one.

Mr. LOTT. Mr. President, I say to the distinguished chairman of the committee, I would want to take a good look at the different amendments that might be pending. I want to be sure I understood any modification or change to Senator THUNE's amendment. The Thune amendment, as I understand it and as I described it in my remarks, is an approach which I think is good. I think what the chairman is saying about the idea that Congress would start cherry-picking at this point from this list, I have my sincere reservations about that. That would be a messy thing to do without proper consideration. I would have a lot of reservations about it. I would want to hear what the sponsors have to say. My predisposition is to be very hesitant about that.

Mr. WARNER. Mr. President, I thank my distinguished leader. I cannot remember how many years he was in the House and how many years he has been in the Senate, but I have only been here 27.

Mr. LOTT. So long my memory has faded to the point I can't remember.

Mr. WARNER. If he had something such as this on the roll, he would have a challenge——

Mr. LOTT. I think, if we should start to cherry-pick from this list or any list at this time, it would not be very wise.

Mr. WARNER. Give them the benefit of the doubt to find out, but this is at the desk right now. This is the moving target on this BRAC. I am strongly in favor of the current BRAC law being implemented as it is written in the law, not deviating in any way. I cannot accept the delay, I say to my distinguished leader, because there are too many communities burdened by all the expenses of lobbyists, and so forth, and the uncertainty that would throw onto the business community not knowing, with the Thune amendment, for maybe another 2 years whether they are going to stay open.

Mr. LOTT. I certainly agree with that argument. I have a problem with why these communities and States have had to spend a lot of money on it. I thought that is what we were for.

Having said that, if you gave a lot of them a choice—have your base closed or delay it for 2 years—I think I know what the answer would be: Give me 2 more years to deal with the demands of this kind of choice.

There have been instances where these closures have taken place and the communities have done pretty well. The old Brookley Air Force Base in Mobile, AL—talking about a State other then my own—recently won a competition to assemble airbus airplanes there. I think they are making pretty good use of it.

Mr. WARNER. Mr. President, I am familiar with that.

These communities could not begin to attract new business, could not get new capital. They would become almost stagnated not knowing which way that decision would go. I thank my distinguished leader for his participation in this debate.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Virginia.

Mr. WARNER. Mr. President, if I might advise the Senate, there was a UC in place whereby the Senator from South Carolina was to be recognized for the purpose of bringing an amendment to the attention of the Senate. He has been patiently waiting some period of time. I would like to consult with the distinguished Senator from Michigan. I would like to give the Senator from South Carolina the opportunity to proceed, but I would like to be aware of what the needs of the Senator from Michigan are in regards to his side.

Mr. LEVIN. I thank my good friend from Virginia. I think Senator GRAHAM was actually part of a UC.

Mr. WARNER. It is a part of the RECORD.

Mr. LEVIN. Right. So he has the right to go next.

I would ask, if it is convenient for the Senator from Florida, that after Senator GRAHAM, I will ask unanimous consent that the Senator from Florida be recognized to introduce his amendment at that time. I wonder if we could find out from Senator GRAHAM about how long he expects to be.

Mr. GRAHAM. Less than 10 minutes.

Mr. WARNER. Mr. President, might I suggest that we take 15, and I would like to have 5 of those minutes.

Mr. GRAHAM. Fifteen minutes, and the Senator from Virginia can have 5; yes, sir.

Mr. LEVIN. Then I would make inquiry also from my friend from Virginia. I understand that the Republican TV monitor has already indicated no votes tonight. Is that correct?

Mr. WARNER. I am not aware of that. I have been on the floor. I know that we checked with the Senator's side and there was some doubt as to whether there could be votes.

Mr. LEVIN. If we could work out votes, we were willing to do that, but I think it is becoming clear that is not going to happen.

Mr. WARNER. In fairness to our colleagues, let us clear that up in the course of the debate on the amendment of the Senator from South Carolina.

Might I ask from the Senator from Florida how much time he would like?

Mr. LEVIN. The Senator from Florida would need about how much time?

Mr. NELSON of Florida. At the Senator's great pleasure, 10 minutes.

Mr. LEVIN. Whatever the Senator needs is fine. Then I would be offering two amendments, if that is agreeable with the Senator from Virginia.

Mr. WARNER. Absolutely.

Mr. LEVIN. I will be introducing them immediately following the Senator from Florida.

The PRESIDING OFFICER. The Senator from South Carolina is recognized under the previous order.

Mr. WARNER. Mr. President, I think we had modified the previous order with a new UC whereby the Senator from South Carolina gets 15 minutes, 5 minutes under the control of the Senator from Virginia, and 10 under his control, followed by the Senator from Florida for 10 minutes. Am I not correct?

The PRESIDING OFFICER. The Chair would note that is correct.

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 1505, AS MODIFIED

Mr. GRAHAM. I ask unanimous consent at this time to set aside the pending amendment and call up amendment No. 1505 and send it to the desk with a modification.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for himself, and Mr. MCCAIN, proposes an amendment numbered 1505, as modified.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. AUTHORITY TO UTILIZE COMBATANT STATUS REVIEW TRIBUNALS AND ANNUAL REVIEW BOARD TO DETERMINE STATUS OF DETAINEES AT GUANTANAMO BAY, CUBA.

(a) AUTHORITY.—The President is authorized to utilize the Combatant Status Review Tribunals and a noticed Annual Review Board, and the procedures thereof as specified in subsection (b), currently in operation at Guantanamo Bay, Cuba, in order to determine the status of the detainees held at Guantanamo Bay, including whether any such detainee is a lawful enemy combatant or an unlawful enemy combatant.

(b) PROCEDURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the procedures specified in this subsection are those that were in effect in the Department of Defense for the conduct of the Combatant Status Review Tribunal and the Annual Review Board on July 1, 2005.

(2) EXCEPTION.—The exceptions provided in this paragraph for the procedures specified in paragraph (1) are as follows:

(A) To the extent practicable, the Combatant Status Review Tribunal shall determine, by a preponderance of the evidence, whether statements derived from persons held in foreign custody were obtained without undue coercion.

(B) The Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advise and consent of the Senate.

(3) MODIFICATION OF PROCEDURES.—The President may modify the procedures and requirements set forth under paragraphs (1) and (2). Any modification of such procedures or requirements may not go into effect until 30 days after the date on which the President notifies the congressional defense committees of the modification.

(c) DEFINITIONS.—In this section:

(1) The term "lawful enemy combatant" means person engaging in war or other armed conflict against the United States or its allies on behalf of a state party to the Geneva Convention Relative to the Treatment of Prisoners of War, dated August 12, 1949, who meets the criteria of a prisoner of war under Article 4 of that Convention.

(2) The term "unlawful enemy combatant", with respect to noncitizens of the United States, means a person (other than a person described in paragraph (1)) engaging in war, other armed conflict, or hostile acts against the United States or its allies, or knowingly supporting others so engaged, regardless of location.

Mr. GRAHAM. Very quickly, I appreciate the patience of the Senator from Florida and Chairman WARNER.

Mr. President, this amendment deals with the concept called unlawful enemy combatant, a concept being used to detain about 500 people at Guantanamo Bay who have been captured throughout the world, many of them on battlefields. It is a concept that goes back to World War II where the Supreme Court, during World War II, coined the phrase "enemy combatant" to deal with some German saboteurs who were caught coming into America in civilian clothes, with a plan to disrupt American life in the war operations.

These individuals—I think there were seven of them—were tried by military tribunals. A couple of them were put to death. Some were given lengthy prison sentences. Then the Court recognized the concept of enemy combatant.

Fast forward 60 years. What do we find? We find ourselves in a war with a group of people who are not part of a state or a nation. They do not wear uniforms. They are terrorists. They hide among civilians. They cheat. They do anything one can imagine to have their way. They do not abide by any international regimes.

When we capture these people, we have made a decision as a nation to house them at Guantanamo Bay, a place run by the military. It has three functions: To interrogate foreign terrorists to get good information to make sure that we are safer as a nation. Senator McCAIN has an amendment to standardize the interrogation techniques. I think the country would be well served to have everything dealing with unlawful and lawful combatants in separate categories.

We want the Geneva Conventions to apply to people who are under it. We do not want the Geneva Conventions to apply to terrorists. We want to do it right. We want our troops to not be confused. Senator McCAIN has an amendment that would basically allow the Army Field Manual to be the one source of law to deal with both categories, which would be a great benefit to the military and the country at large, in my opinion.

I have an amendment that gets Congress involved for the first time. In a general way, the Congress authorized the President to go to war after 9/11. A lot has happened since then, some good, some bad. I think it is now time for the Congress to weigh in on the issues that affect this Nation in the war on terror. My amendment allows Congress to define "unlawful enemy combatant" in a very flexible way similar to what is being used at Guantanamo Bay now. It incorporates the procedures that are used to classify and review enemy combatant status.

The way it works now, if the military or appropriate authority sends someone to Guantanamo Bay, the first thing that happens is there is a review process where a determination will be made as to whether that person fits the definition of "unlawful enemy combatant." We are codifying that procedure. We are accepting most of it. We are tweaking the definition in line with Supreme Court cases that have reviewed this whole subject matter.

That is another point I would like to make. There are about five cases in Federal court now dealing with issues like enemy combatant status, military commissions to try noncitizen foreign terrorists. The Government has won on most of these cases. But enemy combatant status needs to be defined, in my opinion, by the Congress working in conjunction with the administration because courts will defer to a statute much quicker than it will defer to anything else.

In one of these opinions, Justice Scalia has been telling us that Congress has been AWOL. Congress needs to get involved. So this amendment allows the procedures in place at Guantanamo Bay to make the initial determination, if one is an enemy combatant, to be authorized to be utilized by the President. Every year, a review is made of each person's case. Every year the Government has to come and show that the enemy combatant status is still justified, that the person who is being detained is not dangerous to us or our allies, or they no longer have any intelligence capability or intelligence value. At that point, they can be released. Two hundred and something have been released. What we are trying to do with this amendment is to get Congress involved in that process so that the courts will understand that Congress agrees with the concept of unlawful enemy combatant and that the review process in place is a good process. I have made two changes.

One, I have addressed the issue of using statements that are derived from foreign interrogations. I do not think anybody in this country wants our Nation to be using evidence that may be tainted by torture or undue coercion. So I have a provision in there that says if a statement or information is used that comes from a foreign detention or a foreign interrogation, we have to simply prove, where practical, that it is reliable, that it is not as a result of coercion. The courts will appreciate that, and I think the American public would appreciate that.

Second, we have a provision that the releasing authority, the person who decides if someone can be released, should be confirmed by the Senate. Under Secretary England performs that function right now, but I think it would be a good relationship to have the Senate involved in picking that person who has the ultimate authority to determine to let these people go because 12 of them have gone back to the fight. Some people who have been released have gone back to the war. Some people who have been picked have probably been misidentified.

We are trying to get a procedure that the courts will accept, that will be good for the country, that will keep terrorists off the battlefield, that would withstand legal scrutiny and live up to the ideals of who we are.

If Congress will get involved and legitimize unlawful enemy combatant status, it will pay great dividends to the operation at Guantanamo Bay because we will have the administration and the Congress on the same sheet of music and the courts will soon follow.

My goal is to strengthen Guantanamo Bay, make sure that abuses in the past never occur again, have standardization of interrogation techniques so our troops will not get in trouble so that we can get good, reliable information. The military commissions are on track to be approved by the Supreme Court. We need a place to try these terrorists for their crimes. If they are not being tried, they need to be kept off the battlefield. Enemy combatant status does that. We need due process rights. We are a nation of laws. This amendment incorporates the due process that already exists with some improvement.

If we will do these things, Guantanamo Bay will be more effective in the future. It will be a forward-looking, reform-type process. We will not be captured by the mistakes of the past, and we will be a safer nation.

I appreciate Senator WARNER's support and leadership on this issue. We are trying in concert to make sure that we are stronger as a nation, not weaker. We learn from our problems. We clean up some of the problems we have had in the past and Congress finally gets involved. I think the courts will appreciate that. I know the American public will.

With that, I will yield to Senator WARNER.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, this is another very important step forward, drawing on the very profound remarks made earlier today by our distinguished colleague from Arizona. The three of us have worked together.

I want to clarify one aspect because when I looked at the Senator's earlier draft, it appeared to me that a military judge being given to an unlawful combatant appearing before an administrative review board would give that individual more due process than accorded a lawful combatant, a POW. My understanding is the Senator's modification now embraces that concern, and I want to make that clear to our colleagues.

Mr. GRAHAM. That is correct.

Mr. WARNER. Why does the Senator not state it in his own words?

Mr. GRAHAM. That is a very good point. Under the procedure in place now, a military representative is provided to the enemy combatant initially. When the determination is made whether someone is an enemy combatant, our own rules provide a military representative. In an annual review, a military representative is given to the enemy combatant to make their case that they are no longer a danger. What I wanted to do at the annual review is make that person a military lawyer because the potential of keeping these people there for a long period of time is great because unlike other wars dealing with traditional POWs, there is nobody to sign surrender documents.

I can understand the Senator's concerns. We can deal with that issue later. So we will go back to the old way of doing business. The lawyer requirement will be taken out and we will go back to the procedures that are in place now.

Right now, every unlawful enemy combatant has a military representative to help them make their case about their status. We will not make that person a military judge advocate. I think it would help us in court, but I do not believe it is that important. It will pass muster with the courts in its current form, so that has been changed.

Mr. WARNER. Clearly, the unlawful has no advantages over, as we might say, the lawful. They are on equal status, so to speak?

Mr. GRAHAM. The Geneva Convention would govern how we treat the lawful combatant. That is something we all understand and have been working with for 60 years. The unlawful enemy combatant can now be detained for an indeterminate period of time, once that determination has been made, with an annual review required to see if they should be kept based on danger to our country that the person presents, and any intelligence data that they present.

So this legitimizes what the courts have been telling us to do. The courts have said that an unlawful enemy combatant status determination is an appropriate legal concept as long as the person is given notice and the right to challenge. So what we are doing in this statute is taking the court's directive and we are giving them notice and we are giving them a right to challenge. A lawful combatant already has that under the Geneva Conventions.

Mr. WARNER. Mr. President, I thank my colleague. I ask that I now be a cosponsor, with that modification.

Mr. GRAHAM. The Senator has made my day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, the three of us, together with others who have talked with us, I think, have made a very valuable contribution because all eyes are on America as to how we conduct these difficult situations.

Tomorrow we will have an opportunity to further go into this question about the use of the Army manual. My concern over that is that the current manual, in my judgment, does not quite strike the balance between detention and interrogation. I am hopeful that we can draw from the Department of Defense, as best we can, what the modification of the Army manual would be.

If I can be assured that is going to be balanced and take into consideration the need to address this unlawful category of these individuals who are not acting on behalf of a State-sponsored conflict—am I not correct?

Mr. GRAHAM. I say to the chairman, he is absolutely correct. It is a very simple concept we are trying to achieve. There are two problems, there are two groups of people we worry about for two different reasons. One group I worry about is the Americans in charge of these detainees because we have all kinds of laws that we have adopted, for 60 years, directing our people in how to treat folks who are captured—whether they are lawful or unlawful. We have had policy statements and directives that are at best inconsistent, that are all over the board, floating out there in legal cyberspace. We are trying to put into one document, the Army Field Manual, the rules of the road for both groups, lawful combatants and unlawful combatants.

We are not writing the field manual, we are not telling the experts what to put in the manual, how to write it, we are saying, for the sake of our own troops, you have one document you can go to now. And we are saying to the world we are going to standardize our techniques. We are not going to have inconsistent messages. The JAG memos we were talking about a while ago that were 2 years old now are telling us if you get too far afield from what we have been doing for 60 years, you are going to get yourself in trouble. So the Army Field Manual will be one-stop shopping for all those responsible for detainees in both categories, and it will standardize procedures that will allow us to get good information, be aggressive, without losing who we are as a people. That is why we need this, in my opinion.

Mr. WARNER. Mr. President, I do need to make certain that this modification will treat the subject of how a person is detained with equal specificity as to how they are to be interrogated.

As you know from your experience of 20 years in the JAG—as a matter of fact, you and I went to Guantanamo a week or so ago. It is important that detention be conducted in a way that it doesn't somehow influence how the interrogation might go. I will not draw the picture here as to what could be done.

Mr. GRAHAM. Absolutely.

Mr. WARNER. I yield the floor.

Mr. DURBIN. Will the Senator yield for a question?

Mr. GRAHAM. Absolutely.

Mr. DURBIN. I ask the Senator from South Carolina, the amendments which you have offered and were cosponsoring with Senator McCain, Senator Warner, and others, do they make it clear that the policy of the United States is not to engage in cruel, inhuman, and degrading treatment of any prisoner in our control?

Mr. GRAHAM. It becomes a statute—

Mr. WARNER. Mr. President, I can answer that. If you look at the second McCain amendment, basically that amendment is directed at that question. That is my understanding.

Mr. GRAHAM. That is absolutely right. It uses the terms the Senator has just uttered and makes it a statutory prohibition to engage in that conduct. It takes what the President said, we are going to treat people humanely, gets the Congress involved, and we are putting parameters around what we do with foreign terrorists, noncitizens. We can interrogate them, but we are not going to change who we are as a people, and the interrogators tell us that the Army Field Manual—as we were down there a week ago—gives them all the tools they need to aggressively pursue the interrogations. You really don't get things out of torture. They do not believe it is good practice, to begin with, so you are absolutely right. There will be a prohibition in law as well as rhetoric.

Mr. DURBIN. I ask unanimous consent for 2 additional minutes for the Senator from South Carolina or Virginia—whoever wants the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I thank the Senator from Florida for his patience, too.

If I can ask either Senator—both served in the military, and the Senator from South Carolina in the Judge Advocate General Corps—it strikes me this is an important thing for our troops, to give them clarity, in terms of policy. I would ask the Senator from South Carolina if, in his visits to Guantanamo or visits with other military personnel, he has found that sentiment.

Mr. GRAHAM. This is absolutely giving clarity. What had been confusing will now be clear, and it will be protection for the troops who are having to administer the detainees, in terms of interrogation. That is what Senator Warner said, in terms of detention.

The Marine Corps Judge Advocate, who was part of a review process 2 years ago, said the one thing he thought policymakers were missing, or misunderstood, was the effect on our own troops. Under the Uniform Code of Military Justice, it is a crime to abuse a detainee. So you are creating a new model for interrogation, and you may be getting your own people in trouble if you don't understand how the law exists already.

We are trying to reconcile those concepts: let the military tell us what they need and not put our own people at jeopardy. This will help GTMO in two regards: Get better, more reliable information that will not give us a black eye and help the troops understand what their duties are.

Mr. DURBIN. I say in closing to the Senator from South Carolina, I thank him for his leadership, along with Senators Warner and McCain. I know better than most in this Chamber this is a very delicate issue, and I think they have handed it in a positive way, with clarity along the lines we are drawing, so we protect America and protect our troops and give them clear guidance in terms of conduct that is acceptable and up to American's standard of value. I thank the Senator for his leadership.

Mr. LEVIN. Will the Senator yield for an additional question? And I ask unanimous consent that I be allowed to proceed for 3 minutes with the Senator from South Carolina, if the Senator from Florida will be so gracious.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Michigan.

Mr. LEVIN. I also commend the Senators who are involved in these proposals. These are extremely important proposals. I hope that they would not be nongermane if, indeed, cloture is invoked tomorrow.

By the way, I wonder if I could ask the Chair whether or not the pending amendment would be germane, if cloture is invoked?

The PRESIDING OFFICER. The Chair would note there is not sufficient information at this time to make that determination.

Mr. LEVIN. I thank the Chair.

Mr. WARNER. Will the Senator allow me to address the Senate on a separate matter for 1 minute? On the subject of cloture, my leader, Senator FRIST, and I will confer in the morning and then confer with the Democratic leader himself. At the moment, it is not a matter of absolute certainty, even though it ripens, as to whether the leader will wish to pursue it.

Also, we would like to advise all Senators there will be no more votes tonight, if you concur in that?

Mr. LEVIN. I have no objection.

Mr. WARNER. The assistant Democratic leader is here.

Mr. LEVIN. If I can go back and make inquiry of my good friend from South Carolina. I think he has focused, along with the cosponsors, on something which is critically important, and that is reliance on the Army manual so everybody knows the roadmap, as he puts it.

Is it the Senator's understanding of the Army manual that abusive and degrading treatment would be prohibited?

Mr. GRAHAM. It is not only my understanding, it is also part of the Uniform Code of Military Justice. There is a specific section that makes it a crime to abuse a detainee or a prisoner.

Mr. LEVIN. The reason this comes up is those words have now been utilized by a witness, by somebody who has made investigation. So I want to be as precise as I can, in my question, about whether it would be the belief of the Senator from South Carolina that abusive and degrading treatment would be a violation of the manual?

Mr. GRAHAM. It is my understanding that the Army Field Manual, as written—and it is being revised—rejects that concept in interrogation of abusive and degrading behavior. I am not an expert on the terms of it. But the whole point of these amendments also is to make sure that we have standardized interrogation techniques that get good information without having to be abusive and degrading. But you can be forceful. You can be stressful. You can be psychologically and physically stressful under the Army Field Manual without crossing the line that we are all concerned about.

That is exactly what we did. We had confusing messages—if I may continue for a second—to our troops. We had a DOJ memo that was a basic departure from the way we have lived as a nation for 60 years. Understandably, after 9/11 we wanted to be aggressive. But the JAGs in question told us: Don't go down this road too far because we have trained people for 60 years to do it one way. It works that way. And you are going to confuse our own troops.

Lo and behold, that's exactly what happened. So we are trying to get it back to where we have been.

We fought World War II. Hitler—a pretty bad guy—using these concepts. We can fight these terrorists using these concepts.

My goal, and I am sure it is your goal, is to kill them if we have to, capture them, interrogate them, detain them and prosecute them and do all that without giving up who we are as a nation.

We can do that. This is a step in that direction.

Mr. LEVIN. Again, I commend my friend from South Carolina. I am glad we have the reassurance that he would consider at least abusive and degrading treatment to be inhumane treatment within the meaning of those words. I thank him, and I yield the floor.

AMENDMENT NO. 762

The PRESIDING OFFICER. Time has expired. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I want to talk about widows and orphans. I call up amendment No. 762, which is filed at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for himself and Mr. HAGEL, Mr. CORZINE, Mr. NELSON of Nebraska, Mr. SMITH, Ms. CANTWELL, Mr. DAYTON, Mr. KERRY, Ms. LANDRIEU, Ms. MIKULSKI, Mrs. MURRAY, Ms. STABENOW, Mrs. BOXER, Mr. PRYOR, Mr. DURBIN, Mr. JEFFORDS, Mr. JOHNSON and Mr. SALAZAR proposes an amendment numbered 762.

Mr. NELSON of Florida. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan)

At the end of subtitle D of title VI, add the following:

SEC. 642. REPEAL OF REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REPEAL.—Subchapter II of chapter 73 of title 10, United States Code is amended—

(1) in section 1450(c)(1), by inserting after "to whom section 1448 of this title applies" the following: "(except in the case of a death as described in subsection (d) or (f) of such section)"; and

(2) in section 1451(c)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(4) as paragraphs (2) and (3), respectively.

(b) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person for any period before the effective date provided under subsection (e) by reason of the amendments made by subsection (a).

(c) PROHIBITION ON RECOUPMENT OF CERTAIN AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPIENTS.—A surviving spouse who is or has been in receipt of an annuity under the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, that is in effect before the effective date provided under subsection (e) and that is adjusted by reason of the amendments made by subsection (a) and who has received a refund of retired pay under section 1450(e) of title 10, United States Code, shall not be required to repay such refund to the United States.

(d) RECONSIDERATION OF OPTIONAL ANNUITY.—Section 1448(d)(2) of title 10, United States Code, is amended by adding at the end the following new sentences: "The surviving spouse, however, may elect to terminate an annuity under this subparagraph in accordance with regulations prescribed by the Secretary concerned. Upon such an election, payment of an annuity to dependent children under this subparagraph shall terminate effective on the first day of the first month that begins after the date on which the Secretary concerned receives notice of the election, and, beginning on that day, an annuity shall be paid to the surviving spouse under paragraph (1) instead.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted.

SEC. 643. EFFECTIVE DATE FOR PAID-UP COVERAGE UNDER SURVIVOR BENEFIT PLAN.

Section 1452(j) of title 10, United States Code, is amended by striking "October 1, 2008" and inserting "October 1, 2005".

Mr. NELSON of Florida. Mr. President, it is an honor for me, on behalf of some folks who have not been treated with fairness and equity, to rise on the floor of the Senate to try to obtain it for them. There will be attempts to strip this amendment from the bill. But I offer it tonight, whether or not cloture is invoked on the overall bill, with the hope that we are going to get an up-or-down vote. It is important that widows and orphans in this country, whose husbands and fathers died as a result of their military service, can know where the Senators stand on this important issue. It is an honor for me to offer this amendment, and it is going to correct two important inequities faced by our military widows and our military retirees.

There is an unfair and painful offset of the Defense Department's Survivors Benefits Plan, offset against the Veterans Affairs Dependency and Indemnity Compensation. What is Survivors Benefit Plan? When servicemembers die on active duty, their survivors receive a benefit to recognize their sacrifice. You also have 100-percent disabled military retirees who actually go out and purchase this survivors benefit so their loved ones will have this when they have passed on. Yet that survivor benefit is today being taken away unfairly from our military widows and orphans. Fixing that is what my amendment is all about.

If you go back into the Good Book, you will find that one of the main things that we are admonished is to look out for the widows and orphans. With our Nation now in a violent struggle with brutal and vicious enemies, and Americans being lost every day, we simply must not forget that the families left behind by those courageous men and women, those families, bear tremendous pain. Their survivors' lives are forever altered. Their future is left unclear. They have made the ultimate sacrifice and our Nation expects us to honor that sacrifice.

It reminds me of President Lincoln, who during the midst of the Civil War, said:

> As God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan.

The immortal words of President Lincoln.

Since the beginning of this session we have considered and adopted increased death gratuity benefits for the survivors of our troops lost in this present war. But the survivors of those killed in action are entitled to automatic enrollment in the survivors benefit plan. That is a change we made in the law, but it is not complete.

We now see the pain caused. At the same time a widow or a widower is enrolled in the Survivor Benefit Plan, and in many cases paid for it, another set of laws under the Department of Veterans Affairs says they are also entitled to dependency and indemnity compensation. However, under current law one offsets the other—they can't get both.

Widows instantly recognize the injustice of this offset. It deeply wounds their sense of the value of their sacrifice. It is wrong, the way we treat these families. This offset is no less painful for the survivors of our 100-percent disabled military retirees because it is a purchased plan, yet they cannot get what they have purchased because it is offset by Dependency and Indemnity Compensation.

Survivors of service members killed on active duty are entitled, in law, to automatic enrollment in the Survivor Benefit Plan, and 100-percent disabled military retirees can purchase the survivors benefit plan. Survivors stand to lose most or even all of the benefits under that plan because they are offset by a second benefit to which they are also entitled, Dependency and Indemnity Compensation.

That is not right. I have 22 cosponsors of this amendment. They are from both sides of the Senate. This amendment is going to remedy these inequities. It is going to honor our commitments to military retirees and servicemembers who are killed in the line of duty, and their surviving widows and dependent children.

We have sergeants and corporals losing their lives. Their base pay determines the benefits for their surviving spouse. The base pay of a corporal isn't very much, and their survivors are supposed to live off even less; yet, in fact, in another part of the law, they are due something as the widow of a veteran, and we are saying under the current law: You cannot get both benefits you are entitled to.

Is this what we want to do for these young families who lost a loved one in Iraq or elsewhere? Will the Nation not stand tall to support them? This is not what the law intended. We ought to change it.

Mr. DURBIN. Will the Senator yield?

Mr. NELSON of Florida. I yield.

Mr. DURBIN. I ask unanimous consent to be added as a cosponsor to Senator NELSON's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask the Senator from Florida—to make sure I understand exactly what he is saying—here is a person in service to our country who was killed in combat. If that soldier had basically bought an insurance policy on his life, then the amount of money his family would receive from our Government is going to be reduced by the amount he would have received from that insurance policy? Is that, in shorthand, the way to describe the current law?

Mr. NELSON of Florida. Let me tweak it a little bit for the Senator, and I thank the Senator for the compassion coming out of his heart and expressed on his face as he asks this question. This Senator from Illinois is right on.

In the first place, in current law the soldier does not actually have to make an affirmative purchase. Under current law we enroll the survivors of any service member who is killed in the Survivors Benefit Plan. However, for a private, a corporal, a sergeant, that is not a lot because of their base pay.

Mr. DURBIN. I might ask the Senator from Florida, through the Chair, so the benefit the soldier receives depends on rank and salary?

Mr. NELSON of Florida. Under the Survivors Benefit Plan it does. However, there is another part of the law that says survivors shall receive a second benefit, Dependency and Indemnity Compensation, to attempt in one small way to make those survivors whole for all the sacrifice their loved one has given.

But, no, because of a problem with the current law, they cannot get both. One offsets the other, the long and short of which is that a young widow of a private or corporal or sergeant can't make it with what the U.S. Government is going to give her unless we rectify this inequity in the law.

Mr. DURBIN. Does the Senator have remaining time?

The PRESIDING OFFICER. The Senator's time is expired.

Mr. DURBIN. I ask unanimous consent the Senator from Florida be recognized for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I ask the Senator from Florida this specific question. We are about to consider whether we are going to shut down debate on this bill. It is called cloture. It closes down the debate on the bill, limits the amendments to the bill. As to the Senator's amendment, which protects these widows and surviving children of a soldier killed in combat, once we have closed down debate and limited amendments, would we still be able to vote on the Nelson amendment?

Mr. NELSON of Florida. The Senator asked a good question.

I ask the Presiding Officer, would the Nelson amendment, with its 22 cosponsors, be considered germane following a successful cloture motion?

The PRESIDING OFFICER. There is insufficient information at this point to be able to make that determination.

Mr. NELSON of Florida. So the answer, I say to the Senator from Illinois, it could well be knocked off if cloture is brought on this Defense authorization bill.

Mr. DURBIN. I ask through the Chair one last question. How often do we have an opportunity to change the law and to help these soldiers and their families? How many times do we get a chance in the Senate during the course of the year to consider the Department of Defense authorization bill or another bill that might give us a chance to help those families and to rectify this injustice which the Senator from Florida has pointed out and which I think every Member on both sides of the aisle would like to change?

Mr. NELSON of Florida. The Senator from Florida will ask for the yeas and nays.

If the chairman of the committee, the distinguished Senator from Virginia, is persuasive in talking to the Republican majority leader not to bring the motion for cloture to cut off debate so that amendments like this to help widows and orphans might fall, maybe we can get it to a vote. It is the least we can do for Americans who have given their lives, or their best years, in defense of our country. We simply cannot allow this situation to continue. We need to restore fair benefits to these folks. I am going to continue my fight for these people who have given their all to their Nation and especially to the loved ones whom they have left behind.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, I say to our good friend and colleague, we will take under consideration the Senator's amendment with great care.

Mr. DURBIN. Mr. President, I would like to address to the chairman the following. I have two pending amendments which I would like to call up. I will do this briefly.

Mr. WARNER. Please proceed.

AMENDMENT NO. 1428

Mr. DURBIN. I ask unanimous consent that the pending amendment be set aside for the purpose of calling up amendment No. 1428.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 1428.

Mr. DURBIN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To authorize the Secretary of the Air Force to enter into agreements with St. Clair County, Illinois, for the purpose of constructing joint administrative and operations structures at Scott Air Force Base, Illinois)

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. ADMINISTRATIVE AND OPERATIONS STRUCTURES, SCOTT AIR FORCE BASE, ILLINOIS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may enter into agreements with St. Clair County, Illinois, for the joint construction and use of administrative and operations facilities at Scott Air Force Base, Illinois.

(b) LIMITATIONS.—

(1) TOTAL COST.—The total cost of agreements entered into under subsection (a) may not exceed $60,000,000.

(2) LEASE PAYMENTS.—All payments made by the Air Force under leases entered into under subsection (a) shall be made out of funds available for the Air Force for operation and maintenance.

(3) TERMS OF LEASES.—Any lease agreement entered into under subsection (a)—

(A) shall provide for the lease of such administrative or operations facilities for a period not to exceed 30 years; and

(B) shall provide that, upon termination of the lease, all right, title, and interest in the facilities shall, at the option of the Secretary, be conveyed to the United States.

Mr. DURBIN. Mr. President, and to the chairman and ranking member of the committee, I hope this is an amendment which will be accepted because it is noncontroversial and important to my State and to the protection of our country.

The amendment authorizes the Secretary of the Air Force to enter into agreements with local county officials for the construction and lease of joint administration and operation facilities needed at Scott Air Force Base, currently operating under a joint use agreement with MidAmerica Airport, to accommodate new missions.

The fiscal year 05 Defense Appropriations conference report included $259 million to procure three C–40C aircraft to be based at Scott Air Force Base and flown by the 932nd Airlift Wing with the 375th Air Wing as an active associate, move three C–9C aircraft from Andrews Air Force Base to Scott AFB, and to support these new and expanded missions.

The expanded C–9 mission and new C–40 mission will strain existing TRANSCOM and TACC facilities and require additional administrative and operations space/structures.

Due to the accelerated funding schedule of the C–9 and C–40 missions, immediate administrative and operations space is needed.

St. Clair County, IL, the appropriate local unit of Government, has offered to enter into an agreement with the Air Force to construct the necessary facilities, saving our Department of Defense some money. These structures would be for joint military-civilian use. Currently, Scott AFB and MidAmerica Airport operate on a joint use plan. St. Clair County is a partner in MidAmerica Airport.

The Air Force has estimated the cost of a new facility for TRANSCOM and HQ TACC is about $60 million.

This general provision is needed in order for the Air Force and St. Clair County to enter into an agreement on joint use facilities. The construction would be at no cost to the Air Force. The county would invite the Air Force to lease space in the buildings, consistent with military lease requirements.

If the chairman has not had a chance to review this amendment, I would like to ask his staff to take a look at it. It is no expense to the Government and it provides a necessary facility at a very important airbase.

Mr. WARNER. Mr. President, we will take the amendment under careful consideration, I assure the Senator.

Mr. DURBIN. I ask for the yeas and nays on that pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1571

Mr. DURBIN. Mr. President, I ask that amendment be set aside and we call up amendment No. 1571.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Ms. MIKULSKI, Mr. ALLEN, Mr. GRAHAM, Ms. LANDRIEU, Mr. LEAHY, Mr. SARBANES, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. KERRY, Mr. SALAZAR, Mr. CORZINE, Mr. CHAFEE, Mrs. LINCOLN, Mr. BIDEN, Mr. KENNEDY, and Mrs. MURRAY, proposes an amendment numbered 1571.

Mr. DURBIN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred)

At the end of title XI, add the following:

SEC. 1106. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.

(a) SHORT TITLE.—This section may be cited as the "Reservists Pay Security Act of 2005".

(b) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

"(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

"(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

"(2) the amount of pay and allowances which (as determined under subsection (d))—

"(A) is payable to such employee for that service; and

"(B) is allocable to such pay period.

"(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

"(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

"(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

"(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

"(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

"(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service on active duty to which called or ordered as described in subsection (a).

"(c) Any amount payable under this section to an employee shall be paid—

"(1) by such employee's employing agency;

"(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

"(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

"(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

"(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

"(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

"(f) For purposes of this section—

"(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

"(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

"(3) the term 'basic pay' includes any amount payable under section 5304.".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

"5538. Nonreduction in pay while serving in the uniformed services or National Guard.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act.

Mr. DURBIN. Mr. President, this amendment is not new to this Senate. We have considered it several times and passed it. It has not survived conference committees, but I hope this time it will be successful. we will be successful in our effort in passing it. It is the reservist pay amendment.

Here is what is going on in America: All across America members of Guard units and Reserve units are being activated, called into service for our country, risking their lives, spending lengthy periods of time away from their families. We understand these new assignments create a lot of personal hardship and sacrifice on the part of these soldiers and marines, sailors, airmen, members of the Coast Guard, and others. We also understand it creates much financial hardship on some as well.

So we, as a nation, encourage the employers of Guard and Reserve members to try to stand by the men and women who are serving our country, even when they have been activated. It turns out that well over 1,000 employers across America have said: We will do just that. They continue to make up the difference in pay for these activated members of the Guard and Reserve. We salute them. We thank them. They are bringing financial peace of mind to men and women who are serving our country every day, separated from their homes and their families.

Now, the concern I have is the fact that one of the largest employers in America is not doing the same thing, and that is the Federal Government. The Federal Government is not making up the difference in pay for those members of the Guard and Reserve who are activated. Some of them face quite a setback when they are activated and receive less money and a lot of financial hardship.

Last year, when we debated this amendment, the Government Accountability Office told us that about 40 percent of Guardsmen and Reservists lose some amount of income when mobilized. Well, I want to report to the Senate that figure has now been updated. The new figure is 51 percent. More than half of the men and women activated in the Guard and Reserve lose income because of that activation, causing financial hardship and economic difficulties for some. Over 11 percent of those activated lose more than $2,500.

We also find that income loss is one of the top reasons given by Guardsmen and Reservists as to why they stop serving in Reserve components. We need to actively recruit and retain the very best to serve in America's military. And when you ask those currently serving why they are not reupping, why they are not reenlisting, many of them give as a major reason—one of the top reasons—the loss of income when they are activated to serve from Reserve units.

We want to make certain that we salute the employers across America who are dealing with these troops and helping them. But I think we have an obligation, those of us who work here in Washington, to make sure our Government does the same.

Roughly 1 out of every 10 Guardsmen and Reservists in service to our country is also a Federal employee. How can we on the one hand say to private employers, and even State governments, "We salute you for your foresight and compassion in helping our troops" and not do the same? I think we ought to be standing by those Federal employees who are activated in the service to our country as well. We should not be lagging behind those who have made real contributions and have shown this leadership. We should be setting an example.

This measure does not bust the budget. It results in some expenditures, but the money to make up any lost income by mobilized Federal workers is drawn from funds already previously appropriated. Secondly, it is not additional pay for military service. Reservists continue to receive the same military pay for the same military job. Any differential pay they receive is separate and apart, simply intended to keep such employees financially whole while serving our country.

I do not believe our service men and women sit down and ask those serving with them, "Do you have a supplement in pay coming in here?" and resent it if some do and some do not. Why, then, would we put Federal employees in this unfortunate situation? The wisdom of this amendment is it is readily understandable by the entire force, whether Active Duty or Reserve. They know that private-sector companies are making whole these employees' pay, and they can certainly understand it if the Federal Government did the same.

I think we ought to be sensitive to the fact that if we do not make up the difference in regular civilian income, it could create great hardship, concern, worry, stress, and anxiety on troops that we want in the field with a positive attitude doing their job and coming home safely.

The reason to support this measure is simple: The Federal Government cannot continue to do less for its employees than other major employers. It is time for the Government to be as generous, as caring, as compassionate as Sears, Roebuck, IBM, Home Depot, General Motors, and 24 State governments that stand behind their soldiers once they are activated to serve our country.

How can we commend everyone else and not do our part? We can adopt this amendment. I invite all of my colleagues to come together once more to adopt the Reservist Pay Security Act.

Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DURBIN. Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1496

Mr. LEVIN. Mr. President, I call up amendment No. 1496.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 1496.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the use of funds for normalizing relations with Libya pending resolution with Libya of certain claims relating to the bombing of the LaBelle Discotheque in Berlin, Germany)

At the end of title XII, add the following:

SEC. 1205. LIMITATION ON AVAILABILITY OF FUNDS FOR NORMALIZATION OF RELATIONS WITH GOVERNMENT OF LIBYA.

None of the funds authorized to be appropriated by this Act or any other Act may be obligated or expended for purposes of negotiations towards normalizing relations with the Government of Libya until the Attorney General, in consultation with the Secretary of State and the Secretary of Defense, certifies to Congress that the Government of Libya has made a good faith offer in the negotiations on the claims of members of the Armed Forces of the United States who were injured in the bombing of the LaBelle Discotheque in Berlin, Germany, and the claims of family members of members of the Armed Forces of the United States who were killed in that bombing.

Mr. LEVIN. Mr. President, on April 5, 1986, Libya directed its agents to execute a terrorist attack in West Berlin for the sole purpose of killing and maiming as many American military personnel as possible. So they selected a discotheque that military personnel frequented in Berlin. They placed a bomb in the discotheque when 260 people, including U.S. personnel, were present. When that bomb detonated, two U.S. soldiers were killed and over 90 soldiers were severely injured. They have not been compensated.

The German civilians who were in that discotheque were compensated, but the American military personnel and their families have not been, despite promises of the Libyan Government to do so.

So this amendment simply says that we will not normalize, in any further way, relations with Libya until the Attorney General, after consulting with the Secretary of State and the Secretary of Defense, certifies to Congress that Libya has made a good-faith effort and a good-faith offer in negotiating with U.S. service members who were injured in that discotheque bombing and with the family members of U.S. service members who were killed in that bombing.

It is a very straightforward amendment that is so essential if we are going to do justice for U.S. military personnel who were killed in a terrorist attack by Libya the way justice has been done for the German civilians who were killed in that attack at that discotheque that was perpetrated by Libya and its agents.

So we provide a very carefully worded assessment by the Secretary of State and the Attorney General. They will decide if the good-faith offer has been made the way it has been promised. We do not make that decision in this amendment. We leave that up to the Attorney General, after consulting with the Secretary of State and the Secretary of Defense.

AMENDMENT NO. 1497

Mr. President, I now ask unanimous consent that the pending amendment be laid aside, and I call up amendment No. 1497.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 1497.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To establish limitations on excess charges under time-and-materials contracts and labor-hour contracts of the Department of Defense)

At the end of subtitle A of title VIII, add the following:

SEC. 807. LIMITATION ON EXCESS CHARGES UNDER TIME-AND-MATERIALS AND LABOR-HOUR CONTRACTS.

(a) REGULATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations governing the terms and conditions of time-and-materials contracts and labor-hour contracts entered into for or on behalf of the Department of Defense.

(b) LIMITATION ON EXCESS CHARGES.—

(1) IN GENERAL.—The regulations prescribed pursuant to subsection (a) shall authorize the use of a time-and-materials contract or a labor-hour contract for or on behalf of the Department of Defense only if the contract provides for acquiring supplies or services on the basis of—

(A) direct labor hours provided by the prime contractor at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit; and

(B) the reimbursement of the prime contractor for the reasonable costs (including overhead, general and administrative expenses, and profit, to the extent permitted under the regulations) of subcontracts for supplies and subcontracts for services, except as provided in paragraph (2).

(2) SUBCONTRACTOR LABOR HOURS.—Direct labor hours provided by a subcontractor may be provided on the basis of specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit only if such hourly rates are set forth in the contract for that specific subcontractor.

(c) DEPARTMENT OF DEFENSE PURCHASES THROUGH CONTRACTS ENTERED BY NON-DEFENSE AGENCIES.—The regulations prescribed pursuant to subsection (a) shall include appropriate measures to ensure compliance with the requirements of this section in all Department of Defense purchases through non-defense agencies.

(d) EFFECTIVE DATE.—The regulations prescribed pursuant to subsection (a) shall take effect on the date that is 90 days after the date of the enactment of this Act, and shall apply to—

(1) all contracts awarded for or on behalf of the Department of Defense on or after such date; and

(2) all task or delivery orders issued for or on behalf of the Department of Defense on or after such date, regardless whether the contracts under which such task or delivery orders are issued were awarded before, on, or after such date.

Mr. LEVIN. Mr. President, we read the other day in the Washington Post about a procedure that is used by a number of contractors that reimburses those contractors for services rendered by subcontractors and where the contractor is charging the Government significantly more for that service than the subcontractor is paid. We are talking about labor rates.

Here is what the Post told us and reminded us:

> Security guards in Virgin Islands paid $15 and $20 an hour were billed to the government at [twice that rate]. Office workers provided by [a subcontractor] at $20 an hour were billed to the government [by the prime contractor] at $48.07 an hour.

This is not just to have a profit put in there for the prime contractor. That is legitimate. This is a theory that prime contractors are using known as "mapping," where instead of basing their charge to the Government on the cost of labor, they are basing the charge to the Government on a theoretical cost of labor—not on the subcontractor's cost but on what the prime would have paid for the same service. So we are billed as a Government for labor performed, and the cost of that labor, although it is not the true cost of the labor, is a theoretical cost.

That kind of practice should end. This amendment would fix the problem by requiring that prime contractors charge the Government their actual subcontract costs, unless the subcontract rates are specifically set forth in the prime contract. The General Services Administration has been balking at this change, although the Department of Defense itself says they have recognized the problem and are working to fix it. So we are going to come down with the effort to correct this problem that the DOD recognizes and override the obstinacy of the GSA to correct a very obvious inequity in terms of the American taxpayer.

So that is the sum and substance of this amendment. We would ask that this amendment be considered in the usual course, assuming, again, that cloture is not invoked.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, we are a nation at war. I can think of no other legislation deserving of this body's complete attention than the Defense Authorization bill. What could be more profound than debating critically important amendments on the very issues of war and peace? What could honor our men and women in uniform fighting in the sands of Iraq and Afghanistan than a full and complete discussion of amendments that will promote the safety and well-being of our troops, their families, our veterans, and our national security. Unfortunately, there are those who wish to shut down this critically important debate. And so I rise today to urge my colleagues to consider the consequences of terminating such discourse. When the time comes tomorrow, I ask my colleagues to vote against cloture to end debate on this important piece of legislation.

I am not a member of this committee. And I commend the distinguished chairman from Virginia and the ranking member from Michigan and the other members of this committee who have worked tirelessly to bring this bill to the floor.

In my more than 20 years as a Member of this body, I can tell you, historically, the Defense authorization bill has come up at about this time, and has generally been subject to between five and ten days of unlimited debate over its amendments. From the time that John Stennis was the chairman of the Armed Services Committee to the tenure of its current Chairman, Senator WARNER, I have observed the great care that this body has taken to ensure adequate consideration of amendments that would serve the national security interests of our nation. And we in this body have done so because of the importance of this legislation—particularly at times, such as now, when the Nation faced down grave threats around the globe.

As a matter of tradition as well as law, the Armed Services Committee has always produced an authorization bill. Unlike any other government agencies, the Defense Department has always been subject to both an authorization and appropriations bill.

Other than some expenditures that occur as a result of our demands under Medicaid, Medicare, and the like, nothing consumes as much of our Treasury as does the Defense appropriations bill. Therefore, Mr. President, I rise because of my concern that we are about to vote tomorrow after little more than a day and a half of debate on this Defense authorization bill. Here we are bringing up one of the most critically important pieces of legislation we ever consider here, and we are going to potentially truncate this debate down to a few hours.

Here we are, a nation at war, with literally thousands of our fellow citizens in uniform serving in Afghanistan and Iraq. We are facing major questions about the conduct of a war and considerable strain is being placed on our military personnel—with active duty, reserve, and national guard members. Are constituents are asking How well protected are our troops? How much do we provide for them when they come back?

We have listened to my colleague from Florida, my colleague from Illinois, and my colleague from Michigan, who raise serious issues about whether we are going to provide additional benefits for our veterans. I am told by many who have analyzed these amendments that there is a very good likelihood that those amendments would not survive a post-cloture environment. If we do invoke cloture tomorrow, at 10 or 10:30 tomorrow morning, I am told that those amendments would require a supermajority to consider them, and there is little or no likelihood they would ever have any chance of being even considered by this body.

I do not understand that. I do not quite understand the logic that would suggest somehow we ought to so truncate this debate that these very important amendments would not be considered or at least potentially not be considered. There are a number of amendments being offered on the Base Realignment and Closure Commission that has been formed.

I know the Presiding Officer, like this Senator, has more than a passing interest in what happens with the Base Closure commission. Facilities in both of our States are listed for closure. There are those of us who have deep concerns about how this process is working. If, in fact, cloture is invoked tomorrow, I suspect, based on what I have been told, that any effort by the Presiding Officer or this Senator or others to bring up these amendments, to talk about those issues, to at least debate them here and ask our colleagues whether they are sympathetic to our proposals would fail. We would not be allowed to consider those amendments.

Again, I am not suggesting that every idea we have ought to be adopted by this body. But the fact that we wouldn't even be allowed to debate these matters strikes me as a breach of our obligations to our constituents back home as well as American troops fighting on the frontlines in Iraq and Afghanistan.

I realize you have to close the debate at some point. You can't go on endlessly. We are getting near the end of this session before we take the August break. So clearly over the next several days, we have to conclude these debates. But there ought to be ample enough time, short of 10:30 tomorrow morning, for us to conclude our deliberations, going through amendments, dropping those which may be redundant. At least there ought to be a fair consideration of those matters before we just cut off the debate, slam the door shut on matters as important as the safety and well-being of our troops, American veterans, the BRAC process, the future of new nuclear weapons programs and a whole host of issues that would no longer be viable under a postcloture environment.

For example, Senator STABENOW would like to offer a critically important amendment to guarantee adequate funding levels for veterans health benefits; Senator MURRAY would like to offer an amendment on childcare for troops based overseas; Senator KERRY has an amendment on the GI bill. And Senators MCCAIN and GRAHAM have a number of issues related to the treatment of detainees held in U.S. military facilities.

For those who care about BRAC amendments, those who care about the Geneva Convention, those who care about whether we can have a good debate regarding our veterans, the base-closing commission, all of that discussion would be precluded from having a final consideration if, in fact, cloture is to be invoked.

The Presiding Officer, when queried whether these amendments would fall, properly responded that you would have to see the amendment before you could make a categorical statement. But for those who have been through these amendments and examined whether they would survive postcloture, the conclusion has been that this list of amendments, including many more that I have in front of me, would not survive a postcloture environment.

I urge my colleagues, regardless of how you may feel about these amendments, give this body a chance to do its job. Otherwise, by closing off the debate, we deprive our members and the American people of critically important discourse at a time when our nation is at war.

Throughout my tenure here, I do not ever recall a debate that would last about a day and a half on a Defense authorization bill, particularly when our troops were engaged in combat overseas. Some of the best debates I have ever witnessed as a Member of this body have occurred on the Defense authorization bill because the chairs of this committee, Republicans and Democrats, have insisted that authorization bill be considered by this body in its entirety. We made better decisions because we had those debates about the direction in which our country ought to go.

Arguing over the wisdom of certain weapons systems, arguing over whether we ought to be involved in certain military conflicts, it has been educational for the country.

And in the end, no other issue was more important than those impacting our troops deployed in harm's way. We have lost somewhere between 1,700 and 2,000 of our men and women in uniform, battling in Iraq and Afghanistan. It is for them and their families that we ought to continue to take into serious consideration the various amendments proposed to support their operations at home and abroad.

What matter could possibly trump the importance of having a full debate about the national security needs of our country? I can't think of another subject matter that is more important than this one. Allowing this body to be heard on these issues is the patriotic thing to do. It would be unpatriotic to cut off debate prematurely. There should be a time certain on final passage and not to delay going on endlessly in this discussion. But these are important amendments my colleagues have drafted.

I have no amendment on this list. I am a cosponsor of a couple of them. But I have no matter that I am insisting be brought up here. But there are others here who do have amendments that ought to be heard. But I would hope that the leadership would ask to vitiate the cloture vote, work out the arrangements we traditionally do here so that amendments could be brought up and debated and discussed in a reasonable amount of time, and try to limit the number of amendments so we don't have duplication.

I hope this evening as the leadership considers its game plan for tomorrow and the coming days, they will decide that the Defense authorization bill ought to be the business of the day, of every day this week to finish this debate and to do so in the kind of spirit that I think is warranted, when Members of both bodies get a chance to fully debate and discuss the importance of these issues.

We ought to have a debate about the Base Closure Commission. There are important issues. Is it wise for us to be shutting down major military facilities at a time of war? Would it not be wiser maybe to delay those decisions a few months to determine whether we truly are going to need these facilities in the coming months? That is a legitimate debate to occur. When else is it going to occur if not on this bill? When can it come up? After September 8, when the decisions are made, when we are already just coming back from an August break and people look back and say, Why didn't you raise it then, why didn't you debate it on the floor of Senate to let the American public know what the choices ought to be?

If we cut off this debate, I am told that those amendments that would deal with the Base Closure Commission would not be allowed under a postcloture environment.

I think that is an important debate. Our colleagues may decide to vote against those amendments, may decide they are all wrong, but at least give us a chance to be heard and to vote up or down on whether you think it is the right time to close these facilities.

Certainly, when it comes to veterans' benefits and some of the other issues that my colleagues are offering—Senator DORGAN from North Dakota wants to form a special committee dealing with contracting. Lord knows, given the amount of waste and abuse that there have been reports of that have occurred, that certainly is a good amendment, in my view. I think we probably ought to have such a committee to determine whether taxpayer money is being wasted. That amendment, I am told, would fall.

Senator KENNEDY and Senator FEINSTEIN want to offer an amendment on dealing with the robust nuclear earth penetrator. We have had a good debate here. I listened intently to both sides as they argued the wisdom of having that system or not. I am told that amendment would fall as well. That is an important debate to have, regardless of your view. We ought to be debating the wisdom of that weapons system. If that debate does not occur here, where does it occur, if not on the Defense authorization bill? Is it unpatriotic to have a debate about a weapons system that will cost millions and millions of dollars when there are strong feelings on both sides? If we cut off that debate, we will never have an opportunity to understand the wisdom of having a system or not having that system.

It is not my intention to go down and list every single one of these amendments that I am told would fall. My colleague from Connecticut, would like to propose an amendment increasing Army end strength, he is offering that amendment with several of our colleagues. That is a very important amendment. That is a very important debate, for it gets to the core of the readiness of the American Armed Forces. What is the appropriate personnel level for our forces to both fight wars on two fronts while staying prepared to mobilize against threats that have not yet emerged? If you don't have that debate on this bill, when do you have it? If you don't authorize it, you can't appropriate it. If you can't appropriate it, then we never can decide whether that end strength ought to be increased. Again, there may be those who will offer very strong arguments against the Lieberman amendment about why we don't need to increase the end strength, but let's have the debate and let's have the vote, if you think it is important. I believe it is.

I feel strongly about this and many other issues. Some have suggested that there will be those who will be accused of being not patriotic if they appear to be having an extended debate on the Defense authorization bill. I think just the opposite. It is unpatriotic not to have the debate. Not unlimited debate, not debate that goes on forever, but is it unlimited debated to go on for the next 2 or 3 days to discuss this issue which is in the headlines every day we pick up the paper? Terrorists attacking the transit system in London, hotels in Egypt. We find soldiers dying from suicide bombers every day. What could be more important than this subject matter, to be discussing how best to prepare our troops and our country for what needs to be done to support our veterans when they come back from these conflicts?

It is unpatriotic to cut off the debate. The patriotic thing to do is to have a good discussion, a good civil debate over the important issues that confront our country when it comes to the Defense authorization. I commend the chairman of the committee for insisting that there be a debate on the Defense authorization bill. That is the great tradition of this committee. It is one of the few committees that is an authorizing committee that insists every year that there be a Defense authorization bill. I commend every member of that committee for insisting that we take the time to do it. I wish other authorizing committees were insistent as well so that we would have these debates about policy before deciding on the appropriations levels. That is the way it ought to proceed. My commendations to Senators WARNER and LEVIN and other members of the committee. I thank them for giving us the opportunity to at least discuss these matters tonight.

Every year we have had a good debate on Defense authorization. Armed Services is one of the few committees that insist upon it. I wish others did as well. It is the way we are supposed to proceed.

It is the tradition of this great body to have good discussions, educate our constituents about the difficult choices with not unlimited resources. Where do we go? What do we invest in? How far do we go in helping veterans and in the support structures we need? That debate occurs because there has been a tradition in the committee of insisting that we have that discussion. I hope, as I said in the absence of the chairman, we have a reasonable amount of time this week—call for a time certain on Thursday or Friday, whenever it would occur, to end debate and come to final passage.

Why don't we stay in tomorrow night and Wednesday night later than we normally retire here, and we can come in a bit earlier. Say you have an hour or half an hour for debate on amendment. Let's have that good discussion.

The country would be better for it, and our men and women in uniform deserve it. They want to know where we are and where we are going. There is no vehicle other than the Defense authorization bill for us to have that kind of discussion and to consider these important amendments. It has been the history of this great body, and I hope it will continue to be after tomorrow. And I would suggest, that at a time when this Nation is engaged in a war on terrorism, it is important that we take as much care as possible to consider these critically important matters.

I thank the Chair.

Mr. WARNER. Mr. President, may I assure our colleague and others who have expressed an interest. Senator LEVIN and I are working toward those ends. I take full responsibility for the concept of the cloture. It has achieved. a significant result thus far. We have up to 240 amendments. Another 18 amendments are pending at the desk with rollcalls requested. So the Senate is actively participating. I assure you I am going to meet with my leader—and I respect his judgment—first thing in the morning. I will explore the options that are available with him. I thank my colleague.

Mr. DODD. Mr. President. I thank the chairman.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. While Senators DODD and WARNER are on the floor, let me first thank Senator DODD for the passion he brought to this issue. This sounds like a process issue. It is not a process issue. These are life-and-death issues we are debating. These are war issues and how do we support our troops and their families issues. These are issues of whether there will be benefits for families who have lost loved ones in war. These are issues of whether bases will be closed, issues of nuclear weapons, and issues of whether we are going to go down the road of new nuclear weapons use at the same time we are trying to persuade the world not to go down that road.

These are the most vital issues we can possibly face as a people. I commend the chairman. He is, in good faith, going to attempt to see if we cannot find a way we can have a reasonable few days of debate before this debate is closed off, so we can consider the important amendments that have been filed.

The chairman is very much aware of the tradition of this committee because he has been part of it and supportive of it for so long. The tradition the Senator from Connecticut talks about is tradition which is plenty deep, but it is also law. I think we are the only committee which, by law, must pass an authorization bill. So that tradition is embodied in the law itself.

There is one little statistic, and this is something the Senator from Connecticut feels in his bones is true. But I want to give a statistic to support that passion and feeling that has been so beautifully expressed by the Senator from Connecticut. Last year, the first cloture motion was filed on the 11th day of debate. This year, it was the beginning of the second day. The second cloture motion, because the first wasn't adopted last year, was filed after 15 days of debate and after 148 amendments were considered. That is how important this bill is. So look at a longer period of time—a 10-year average. The average length of time for the first filing of cloture on a Defense authorization bill during that 10-year period is the fifth day of debate, and the second filing is on the ninth day of debate. So we have always historically, and by law, taken a reasonable period of time—a week or 2 weeks—to debate this bill because of its importance to the country.

As I was saying a moment ago, the chairman is very much aware of this tradition. He embodies it. He has fought for it. The Defense authorization bill should have due consideration, and I know he will do what he can in the next 24 hours to see if we cannot work out something that would allow some critically important amendments to be considered.

I thank the chairman for that and I thank the Senator from Connecticut.

Mr. WARNER. Mr. President. we have labored together these 27 years. This, too, shall be overcome in one way or another. I thank my friend from Connecticut. I am impressed with the enthusiasm he expressed at this hour of the night.

Mr. DODD. I thank my friend. Enthusiasm at any hour of the night is appreciated.

Mr. WARNER. Mr. President, I rise to express concerns about the Levin amendment related to Federal time and material contracts.

The proposed amendment would direct that when prime contractor engages a subcontractor to augment the delivery of hours under a time and materials contract, the prime should be entitled to be reimbursed only at the price the subcontractor is billing the prime.

I want to bring to the attention of the Senate the rational for the pricing of these time and materials contracts. The prime contractor must locate, negotiate and obtain the subcontractors with whom he performs the contract and assume the risk associated with his and the subcontractors performance. If a subcontractor does not perform or is substandard in its performance, the prime is responsible. If a subcontractor quits or is dismissed, the prime must find a substitute. Assuming this management role, and more importantly, the risk, is one of the reasons for the time and management contract and the blended payment arrangement.

Of particular concern to me about the Levin amendment is its potential impact on small business. The proposed amendment would be counter to the President's mandate to promote small business participation in government acquisitions by de-incentivizing prime contractors from engaging subcontractors—most of whom are small businesses—in the fulfillment of their contracts.

Finally, Mr. President, I am told that the administration is about to initiate a rule making to revise how time and materials contracts are managed. Federal contracting is a very complex process which is best resolved through a thorough review among all the parties and through the regulatory process. If there are abuses, I am the first to stand and say that they should be stopped. But it is very difficult for the Senate today to understand fully the implications of the Levin amendment and whether it will even resolve any alleged abuses in contracting.

I would like to work with Senator LEVIN and others to encourage the administration to issue its proposed rule promptly, put it out for comment so that all the impacted parties would have the opportunity to comment. If the Senate continues to have concerns once the rule making is completed, that is the appropriate time for us to act.

I ask unanimous consent that several letters I received on this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROFESSIONAL SERVICES COUNCIL,
JULY 25, 2005.

Hon. JOHN WARNER,
Chairman, Committee on Armed Services, Senate, Washington, DC.

DEAR MR. CHAIRMAN: As the Senate continues with its debate on S. 1042, the fiscal year 2006 National Defense Authorization Act, we understand that Senator LEVIN may offer an amendment to dictate the method for pricing time and materials and labor-hour (T&M) contracts and subcontracts on Defense Department contracts and purchases through non-defense agencies. On behalf of the Professional Services Council (PSC), I am writing to urge you to oppose the amendment in its current form.

PSC is the leading national trade association that represents more than 185 companies of all business sizes providing professional and technical services to virtually every agency of the federal government, including information technology, engineering, logistics, operations and maintenance, consulting, international development, scientific environmental and social sciences.

We strongly disagree with the characterization contained in the amendment's title that it is necessary to limit "excess charges." Nothing in the DCAA work or in the contract negotiation process supports the allegation that there are "excess charges" on these T&M contracts. Furthermore, if the Levin amendment was adopted, we believe it would significantly restrict defense agencies' flexibilities to select the best contract type to meet its mission needs. The amendment will also directly affect prime contractor-subcontractor relationships, particularly where the agency's procurement needs are addressed through a task order under an existing multiple-award contract or through purchases from the GSA schedules. It could also particularly affect small business subcontractors and the ability of prime contractors to manage those subcontracts, as well as a contractor's ability to meet existing small business subcontracting requirements.

Finally, because the amendment applies to new task orders under already awarded contracts, all of the government's approved pricing agreements would have to be renegotiated to adopt the regulatory changes that would flow from the legislative prescription. This is a significant administrative task for the department and would significantly slow up new work under these task orders until these actions can be completed.

Over a year ago, the Defense Contract Audit Agency (DCAA) identified a potential ambiguity between provisions in the Federal Acquisition Regulation and the terms and conditions of T&M type contracts, particularly under the GSA Schedules program. Since then, both DCAA and GSA have been meeting to resolve the matter. This discussion should be allowed to continue to timely resolution. In addition, the Federal Acquisition Regulation (FAR) Council is reviewing proposed clarifications to the FAR and that process would, importantly and appropriately, provide an opportunity for public comment on any changes. We strongly encourage the Senate to not preclude the regulatory process from considering the full implications of this important contracting matter.

We appreciate the importance of transparency in the contracting process and believe it can be accomplished through appropriate administrative policies and contract negotiations. The Levin amendment would be a step in the wrong direction.

Thank you for your attention to this matter. If you have any questions or need any additional information, please do not hesitate to call Alan Chvotkin, PSC's senior vice president and counsel, or me. We can be reached at (703) 875–8059.

Sincerely,

STAN SOLOWAY,
President.

ITAA.
July 25, 2005.

U.S. Senate,
Washington, DC.

ATTENTION: VOTE TODAY ON LEVIN AMENDMENT TO S. 1042, DOD AUTHORIZATION BILL

DEAR SENATOR: possible as early as this afternoon, Senator CARL LEVIN, (D-MI) will offer an amendment to S. 1042, the Defense Authorization Bill, which will be detrimental to federal contractors pursuing Time & Material contracts, especially small and mid-sized businesses working as subcontractors.

The government uses Time & Material contracts when outcomes are open ended and therefore difficult to price accurately. The Levin amendment requires prime contractors to "pass through" subcontractor rates to the government, with no allowance for risk or overhead.

ITAA believes that this amendment is very harmful in that it undermines the concept of prime contractors offering total solutions to the government. No prime will accept the work of subcontractors if they cannot properly price risk and yet still be held accountable for total performance. The losers will probably be the small- to mid-size businesses that are now flourishing, since the integrators will do the work themselves at possibly higher rates. The government will have to take on the additional role of the systems integrator and then contract separately with these smaller firms.

While the Levin amendment allows initial subcontractor rates to be included with some overhead and profit considerations, additional future subcontractors could only be added at their labor rates, thus not allowing the prime to price for risk and overhead. The prime contractors, however, would still be held responsible for their performance. Since many of these contracts run 3 to 5 years or more, this would be very disruptive for federal contractors. Also, the amendment seems to go into effect immediately, so that contracts already in place could be affected. The IT industry is very dynamic with new businesses entering the market. The Levin Amendment would freeze the contract to the original participants and take away the flexibility of adding new technology to government contracts.

To summarize the situation, the prime contractor serves the same role as the general contractor when building a new house. It is the company's role to guarantee that a total solution is provided by managing the subcontractors, overseeing the delivery of supplies, and thus presenting the homeowner with a completed building. This amendment singles out future subcontractors and applies different pricing rules to them while still holding the prime contractor responsible for the total project.

We urge your opposition to the Levin Amendment.

Sincerely,

HARRIS N. MILLER,
President.

COMMENTS ON TIME AND MATERIALS CONTRACT AMENDMENT

RISK AND SMALL BUSINESS IMPACTS

This is a problem more for the small to medium size service firms that have to use significant subcontract labor to obtain the appropriate expertise. Larger firms will opt to self-perform rather than subcontract for labor, which will serve to reduce subcontract opportunities. In the final analysis, it is the SB/SDB that will be impacted.

The proposed amendment would not allow prime contractor risk to be added to the subcontractor rate. This likely will militate against using T&M subcontracts in favor of cost type contracts. This may be a problem for subcontractors that do not have CAS compliant systems that would be required under cost reimbursable contracts. This would probably impact commercial sources and small businesses the most.

ADMINISTRATIVE BURDEN

Most large services contracts over the last few years have included large teams of subcontractors (20 + companies). There will be a large administrative burden to the Government (and the contractor) if each subcontractor labor category must be billed out at a separate rate. This will require extensive invoice reconciliation. Also, as subcontractors are added to the team over time for specific requirements a new set of rates will be required to be negotiated and added to the contract. Since the Government is likely to be reluctant to negotiate and administer multiple sets of rates, primes will retain more work in house and small business participation will be reduced.

The use of a single rate per category, eases administration, increases contractor risk and opportunity, and provides labor at commercially competitive rates. If the Government truly believes that the use of subcontractor specific rates is necessary, the solution is already available through the use of a cost type contract.

If enacted, this amendment would slow proposal preparation and submission to a crawl, as no competent prime contractor will conclude a T&M contract containing subcontractor costs until the subcontractor is selected and costs are fully-priced.

The amendment would limit contractor flexibility to cope promptly with changed circumstances without processing a contract modification. Changed circumstances include unanticipated surges in requirements to react to an emergent situation necessitating the hiring of subcontract personnel, the need to substitute for a poor performing subcontractor listed in the contract, and the need to add a subcontractor to meet small business goals.

The legislation is silent on how a contractor would be reimbursed if it reacted to an emergent situation by using subcontracted effort, to the benefit of the Government, when the subcontractor's rates are not listed in the contract. Some labor hour contracts extend over multiple years and have goals for the utilization of small and small disadvantaged businesses, all of which may not be known at the time of contract award.

This requirement would inhibit changing from one subcontractor to another subcontractor for underperformance. The contractor would potentially have to propose the new subcontractor to the contracting officer and have the appropriate rate included in the contract before the change could be made. This would be particularly problematic for contractors working in a deployed situation where completion/delivery may directly impact mission success and the safety/welfare of military personnel.

IMPACT ON COMMERCIAL PRACTICES

The proposed legislation fails to exclude "commercial" T&M purchases. Commercial pricing is not cost-based but is market driven. The legislation would require that certain elements of cost plus profit be included in the specified rates. Commercial contractors will be reluctant or refuse not propose elements of cost which would seem to be required by the proposed legislation.

This revision would preclude the use of commercial T&M contracts which was specifically authorized by legislation just last year.

OTHER CONCERNS

Section (d)(2), which applies the requirement retroactively to task or delivery orders under existing contracts, may be unconstitutional under Winstar. (Supreme Court case that ruled that Congress cannot change laws that will affect contracts retroactively.)

AMENDMENT NO. 1425

Mr. LEVIN. Mr. President, there is one more matter. I was handed this. On behalf of Senator HARKIN, I ask unanimous consent that the pending amendment be laid aside so an amendment of his relating to the Armed Forces network could be introduced at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. HARKIN and Mr. DORGAN, proposes an amendment numbered 1425.

The amendment is as follows:

At the end of subtitle A of title IX, add the following:

SEC. 903. AMERICAN FORCES NETWORK.

(a) MISSION.—The American Forces Network (AFN) shall provide members of the Armed Forces, civilian employees of the Department of Defense, and their families stationed outside the continental United States and at sea with the same type and quality of American radio and television news, information, sports, and entertainment as is available in the continental United States.

(b) POLITICAL PROGRAMMING.—

(1) FAIRNESS AND BALANCE.—All political programming of the American Forces Network shall be characterized by its fairness and balance.

(2) Free flow of programming.—The American Forces Network shall provide in its programming a free flow of political programming from United States commercial and public radio and television stations.

(c) Ombudsman of the American Forces Network.—

(1) Establishment.—There is hereby established the Office of the Ombudsman of the American Forces Network.

(2) Head of office.—

(A) Ombudsman.—The head of the Office of the Ombudsman of the American Forces Network shall be the Ombudsman of the American Forces Network (in this subsection referred to as the "Ombudsman"), who shall be appointed by the Secretary of Defense.

(B) Qualifications.—Any individual nominated for appointment to the position of Ombudsman shall have recognized expertise in the field of mass communications, print media, or broadcast media.

(C) Part-time status.—The position of Ombudsman shall be a part-time position.

(D) Term.—The term of office of the Ombudsman shall be five years.

(E) Removal.—The Ombudsman may be removed from office by the Secretary only for malfeasance.

(3) Duties.—

(A) In general.—The Ombudsman shall ensure that the American Forces Network adheres to the standards and practices of the Network in its programming.

(B) Particular duties.—In carrying out the duties of the Ombudsman under this paragraph, the Ombudsman shall—

(i) initiate and conduct, with such frequency as the Ombudsman considers appropriate, reviews of the integrity, fairness, and balance of the programming of the American Forces Network;

(ii) initiate and conduct, upon the request of Congress or members of the audience of the American Forces Network, reviews of the programming of the Network;

(iii) identify, pursuant to reviews under clause (i) or (ii) or otherwise, circumstances in which the American Forces Network has not adhered to the standards and practices of the Network in its programming, including circumstances in which the programming of the Network lacked integrity, fairness, or balance; and

(iv) make recommendations to the American Forces Network on means of correcting the lack of adherence identified pursuant to clause (iii).

(C) Limitation.—In carrying out the duties of the Ombudsman under this paragraph, the Ombudsman may not engage in any pre-broadcast censorship or pre-broadcast review of the programming of the American Forces Network.

(4) Resources.—The Secretary of Defense shall provide the Office of the Ombudsman of the American Forces Network such personnel and other resources as the Secretary and the Ombudsman jointly determine appropriate to permit the Ombudsman to carry out the duties of the Ombudsman under paragraph (3).

(5) Independence.—The Secretary shall take appropriate actions to ensure the complete independence of the Ombudsman and the Office of the Ombudsman of the American Forces Network within the Department of Defense.

(6) Annual reports.—

(A) In general.—The Ombudsman shall submit to the Secretary of Defense and the congressional defense committees each year a report on the activities of the Office of the Ombudsman of the American Forces Network during the preceding year.

(B) Availability to public.—The Ombudsman shall make available to the public each report submitted under subparagraph (A) through the Internet website of the Office of the Ombudsman of the American Forces Network and by such other means as the Ombudsman considers appropriate.

Mr. LEVIN. Mr. President, this amendment relates to the Armed Forces network. It is provided in this amendment that the Armed Forces network would provide members of the Armed Forces, civilian employees of the Defense Department, and their families stationed outside of the continental U.S. and at sea with the same type and quality of American radio and television news, information, sports, and entertainment that is available in the continental U.S. There are other provisions about fairness, balance, free flow of programming, et cetera. I am not familiar with the details.

I yield the floor.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

CHIEF PETTY OFFICER DANIEL R. HEALY

Mr. GREGG. Mr. President, I rise today to remember and honor Senior Chief Petty Officer Daniel Healy of Exeter, NH for his service and supreme sacrifice for his country.

Daniel exhibited a willingness and enthusiasm to serve and defend his country by joining the United States Navy. He was dedicated to a cause much greater than himself, demonstrated by his decision to join the U.S. Navy SEALs, one of the most challenging, rigorous, and elite fighting organizations in the history of the world. Navy SEALs are named after the environment in which they operate, the Sea, Air, and Land, and are the foundation of Naval Special Warfare combat forces. They are organized, trained and equipped to conduct a variety of Special Operations missions in all operational environments. SEAL training is extremely demanding, both mentally and physically, and produces the world's best maritime warriors that live by the motto of "the only easy day was yesterday." Daniel knew that he would be continually challenged and surely would face dangerous assignments when he signed up for this premier fighting organization. He was a stellar example of today's elite warriors that are upholding the values of freedom and democracy around the world.

Daniel graduated from Exeter High School in 1986, and answered the call to serve our great Nation when he enlisted in the Navy on June 5, 1990. He attended Basic Underwater Demolition/SEAL School and Basic Airborne School from 1991 1992, and then was assigned to SEAL Delivery Vehicle Team ONE for four years. After attending a year of extensive language training in California, Daniel was assigned to SEAL Delivery Team TWO in 1998 and was most recently stationed in Pearl Harbor, HI, again with SEAL Delivery Team ONE. Daniel dutifully and confidently led a training platoon in submerged delivery vehicles. He was deployed to the Middle East in March of 2005, for what should have been a six-month tour. Tragically, on June 28, 2005, Daniel made the ultimate sacrifice for this great Nation. Daniel and 16 other service members were killed while conducting combat operations when the MH 47 helicopter that they were aboard crashed in the vicinity of Asadabad, Afghanistan in Kumar Province.

Throughout his career, Daniel earned a series of awards which testify to the dedication and devotion he held for his fellow SEALS, the Navy, and his country. Daniel's hard work and perseverance contributed greatly to his unit's successes and placed him among many of the great heroes and citizens that have paid the ultimate price for their country. Daniel was recognized throughout his distinguished career by receiving the Navy/Marine Corps Achievement Medal, Joint Meritorious Unit Award, Meritorious Unit Commendation, three Good Conduct Medals, and three National Defense Service Medals. He also attended the Basic Airborne School and was a graduate of language training at the Defense Language Institute, Monterey, CA.

Daniel was truly an exceptional special operations warrior with more than 15 years of service and an unparalleled dedication to serve his county and fellow Navy SEALs. Daniel was also a noble and selfless family man, being a compassionate husband and father of four. He leaves behind a family proud of all that he had accomplished throughout his distinguished life and career in the military. His valor and service cost him his life, but his sacrifice will live on forever among the many dedicated heroes this Nation has sent abroad to defend freedom.

My condolences and prayers go out to Daniel's family, and I offer them my deepest sympathies and most heartfelt thanks for the service, sacrifice, and example of their Navy SEAL, Senior Chief Petty Officer Daniel Healy. He was respected and admired by all those around him, and continually performed above and beyond all expectations while in U.S. Navy. Because of his efforts, the liberty of this country is made more secure.

TRIBUTE TO ADMIRAL VERN CLARK

Mr. WARNER. Mr. President, I rise today to recognize and honor ADM Vern Clark, U.S. Navy, our 27th Chief of Naval Operations, who last week turned over the helm of the U.S. Navy to his successor. As former Secretary of the Navy and a member of the Armed Services Committee for 27 years, I have worked closely with every Chief of Naval Operations since Admiral Clark was Ensign Clark.

A child of the Midwest, Admiral Clark is a graduate of Evangel College and holds a master's degree in business administration from the University of Arkansas. It is this Nation's great fortune that Admiral Clark heard the call of the sea and attended Officer's Candidate School, receiving his commission in August 1968.

His first sea duty tour was aboard USS *John W. Weeks*, DD 701. One of the first things Admiral Clark did upon assuming his present post was to obtain the picture that formally hung in the wardroom of USS *John W. Weeks* to remind him of where he came from and to keep his focus on the fleet.

Admiral Clark has had the good fortune to spend more than half of his career in command. The Navy recognized early on his potential for leadership when as a lieutenant he commanded USS *Grand Rapids*, PG98. He would go on command USS *McCloy*, FF 1038, USS *Spruance*, DD 963, the Fleet Anti-Submarine Training Center Atlantic, Destroyer Squadron One Seven, Destroyer Squadron Five, Cruiser Destroyer Group Three, Second Fleet, and the U.S. Atlantic Fleet.

On those rare occasions when Admiral Clark was not in command, he served in a series of increasingly challenging shore assignments. He completed assignments as the Special Assistant to the Director of the Systems Analysis Division in the Office of the Chief of Naval Operations, the Administrative Assistant to the Deputy Chief of Naval Operations, Surface Warfare, and as the Administrative Aide to the Vice Chief of Naval Operations. He served as head of the Cruiser-Destroyer Combat Systems Requirements Section and Force Anti-Submarine Warfare Officer for the Commander, Naval Surface Force, U.S. Atlantic Fleet, and he directed the Joint Staff's Crisis Action Team for Desert Shield and Desert Storm.

Admiral Clark first hoisted his flag aboard the U.S. Transportation Command where he was Director of both Plans and Policy, J5 and Financial Management and Analysis, J8. While commanding the Carl Vinson Battle Group, he deployed to the Arabian Gulf and later served as the Deputy Commander, Joint Task Force Southwest Asia. Admiral Clark has also served as the Deputy and Chief of Staff, United States Atlantic Fleet; the Director of Operations, J3 and subsequently Director of the Joint Staff.

Admiral Clark assumed his duties in peacetime on July 21, 2000. Sitting in his office on September 11, 2001, war came to Admiral Clark's Navy when American Airlines flight 77 hit the Pentagon just a few yards from where he was sitting. Since that day he has skillfully led the Navy in the global war against terrorism. Throughout this time, he has continued to focus on his top five priorities manpower, current readiness, future readiness, quality of service and alignment. Chief among those priorities is manpower. Admiral Clark is fond of saying that the Navy is winning the war for people. That is due in no small part to his leadership during this difficult time.

Standing beside this officer throughout his superb career has been his wife Connie, a woman to whom he owes much. She has been his key supporter, devoting her life to her husband, to her family, and to the men and women of the Navy family. She has traveled by his side for these many years visiting the fleet. Her sacrifice and devotion have served as an example and inspiration for others. This team has served our Navy well and we will miss them both.

With these words before the Senate, I seek to recognize Admiral Clark for his unswerving loyalty to the Navy and this great Nation. We thank him and wish Vern, his wife Connie, and his sons Jeffery and Christopher fair winds and following seas as they continue forward in what will most assuredly remain lives of service to our country.

ADDITIONAL STATEMENTS

CONGRATULATING KANSAN ANDREW WOJTANIK

• Mr. BROWNBACK. Mr. President, it is a great honor for me to recognize today a young Kansan who has been nationally recognized for his intelligence and outstanding participation in the 16th annual National Geographic World Championship Geography Bee in Budapest, Hungary. Andrew Wojtanik, of Overland Park, KS, won gold for the 2004 National Geographic Bee, and has also published a book, called Afghanistan to Zimbabwe: Country Facts that Helped Me Win the National Geographic Bee.

Then 14-year old-Andrew was among three young Americans to compete against over 5 million students from all over the world. In preparation for the 5 day world championship, Andrew compiled a 432-page study guide with information on 193 countries around the world. After Andrew's guide was published by National Geographic Society, he was congratulated by the United States Congress on the floor of the House of Representatives. The House passed House Resolution 815 in honor of Andrew as the champion of the National Geographic World Championship.

Andrew Wojtanik's recognition for the Geographic Bee is well deserved. His commitment to understanding the world helped America defend its championship title in the 2004 National Geographic Bee.

Today, I join the United States Congress in recognizing and paying tribute to this extraordinary young American. Andrew Wojtanik is a true champion, and I ask my colleagues to join me in recognizing this young man for his outstanding achievement in the 2004 National Geographic World Championship.•

125TH ANNIVERSARY OF THE TURNER COUNTY FAIR

• Mr. JOHNSON. Mr. President, today I wish to honor and publicly recognize the 125th anniversary of the Turner County Fair. From August 14 through August 18, 2005, the citizens of Turner County will gather in Parker, SD, to celebrate their proud past as well as their hope for a promising future.

The Turner County Fair is South Dakota's oldest fair, first organized by the Turner County Agricultural Society and held on October 13 and 14 of 1880.

Since then, the fair has grown into a major event. This year, more than 65,000 people are expected to visit during the 4 days of festivities, and fairgoers will be treated to a rich variety of entertainment. Scheduled activities include a parade, races, concerts, a carnival, a livestock show, and a rodeo. The fair will end with a fireworks display that the local newspaper, the Southeast Trumpet, has advertised as "bigger and better than ever."

I would especially like to recognize the Turner County 4-H Club for their part in this event. Turner County 4-H has played a leading role in the fair for the last 103 years and will figure prominently again this year. The local Jaycees Club, fire department, and a number of other community organizations also deserve recognition for their participation in organizing and producing this event.

For 125 years, the Turner County Fair has brought citizens together to celebrate their heritage, their communities, and their shared hopes. It is indeed a privilege for me to officially recognize its anniversary today, and to wish the citizens of Turner County another 125 years of prosperity and happiness.•

JUNKO CUSHMAN

• Mr. KERRY. Mr. President, I wish to submit to the record the following resolution regarding the passing of Junko Cushman. Beloved by all her friends and neighbors, Junko always found time to serve her community. Whether working to bring arts and culture to her community, or improving the quality of healthcare, Junko always showed uncommon passion and determination in her efforts. She discovered very young that the key to a fulfilling life is a life of helping others. Junko's community may be weaker for her loss, but is no doubt stronger for her service. It is my privilege to honor her on the Senate floor today.

The resolution follows:

Whereas, the passing, at 60, of a distinguished California resident, Junko Cushman, whose good deeds earned her the respect and admiration of her colleagues and the countless individuals whose lives she touched, brought immense sorrow and loss to people throughout the state; and

Whereas, although she never sought attention, Junko Cushman's natural sense of style and hands-on commitment to charitable causes were impossible to overlook; and

Whereas, a Japanese-born San Diegan, she entertained with international flair, excelled at multicultural floral arrangements, and took a leadership role in the Union of Pan Asian Communities; and

Whereas, Mrs. Cushman served as chairwoman of events benefiting the San Diego Museum of Art and the Arthritis Foundation and had been on the boards of the Old Globe Theatre, San Diego Foundation, and Burnham Cancer Institute; and

Whereas, Mrs. Cushman dedicated her time and service to San Diego State University's Japanese Cultural Fair in Balboa Park; and

Whereas, in 1987, Mrs. Cushman served as Chairwoman of a Union of Pan Asian Communities dinner dance on Harbor Island and, in 1989, she played a similar role for the Arthritis Foundation; and

Whereas, over the years, Mrs. Cushman has shown her strong support for California's political system through her affiliation with the Democratic Party; and

Whereas, in 1989, Mrs. Cushman and her husband, Larry, were honored for their community service at a Meals on Wheels dinner dance; and

Whereas, born in Nagano, Japan, and raised in Tokyo, Mrs. Cushman graduated from the prominent Tamagawa High School and, at age 19, she moved to Los Angeles, California, where she studied English for two years before returning to Japan; and

Whereas, she leaves to mourn her passing and celebrate her legacy her husband; Larry; her brother, Hisato Hara; her stepdaughters, Diane Cushman and Janice Ziegler; her grandson, Zachary; her two granddaughters, Ashley and Sarah; her niece Mari; and her nephew Yasuto; now, therefore, be it

Resolved by Assembly Member Juan Vargas, That he expresses his deepest regret at the passing of Junko Cushman, and extends his heartfelt sympathy to her bereaved family and friends.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 7:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 571. An act to designate the facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, as the "Congresswoman Shirley A. Chisholm Post Office Building".

S. 775. An act to designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, as the "Boone Pickens Post Office".

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3070. An act to reauthorize the human space flight, aeronautics, and science programs of the National Aeronautics and Space Administration, and for other purposes.

H.R. 3199. An act to extend and modify authorities needed to combat terrorism, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 128. Concurrent resolution expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3070. An act to reauthorize the human space flight, aeronautics, and science programs of the National Aeronautics and Space Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 128. Concurrent resolution expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania; to the Committee on Foreign Relations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3137. A communication from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting, pursuant to law, the report of a vacancy and a nomination for the position of Assistant Administrator, received on July 21, 2005; to the Committee on Foreign Relations.

EC–3138. A communication from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting, pursuant to law, the report of a vacancy in the position of USAID, Office of the General Counsel, received on July 21, 2005; to the Committee on Foreign Relations.

EC–3139. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–3140. A communication from the Chief, Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Presumptions of Service Connection for Diseases Associated with Service Involving Detention or Internment as a Prisoner of War" (RIN2900–AM09) received on July 21, 2005; to the Committee on Veterans' Affairs.

EC–3141. A communication from the Acting Director, Division for Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Changes in Health Benefits Enrollment" (RIN3206–AK04) received on July 21, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–3142. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "The Feasibility of Using Preferred Provider Organization (PPO) Networks to Reduce the Costs of Acquiring Eyeglasses for Medicare Beneficiaries Following Cataract Surgery" to the Committee on Finance.

EC–3143. A communication from the Regulations Officer, Office of Disability and Income Security Programs, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Technical Revisions to the Supplemental Security Income (SSI) Regulations on Income and Resources" (RIN0960–AE79) received on July 21, 2005; to the Committee on Finance.

EC–3144. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Continuation of Benefit Payments to Certain Individuals Who Are Participating in a Program of Vocational Rehabilitation Services, Employment Services, or Other Support Services" (RIN0960–AF86) received on July 21, 2005; to the Committee on Finance.

EC–3145. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Revised Medical Criteria for Evaluating Genitourinary Impairments" (RIN0906–AF30) received on July 21, 2005; to the Committee on Finance.

EC–3146. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "July–September 2005 Bond Factor Amounts" (Rev. Rul. 2005–44) received on July 21 2005; to the Committee on Finance.

EC–3147. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Student/Teacher Claims for Exemption from Withholding Tax" (Rev. Proc. 2005–44) received on July 21, 2005; to the Committee on Finance.

EC–3148. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—August 2005" (Rev. Rul. 2005–54) received on July 21, 2005; to the Committee on Finance.

EC–3149. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Modification of Notice 2005–51" (Notice 2005–57) received on July 21, 2005; to the Committee on Finance.

EC–3150. A communication from the Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" (29 CFR Parts 4022 and 4044) received on July 21 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3151. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Additives Permitted for Direct Addition to Food for Human Consumption; Vitamin D3" (Docket No. 2003F–0370) received on July 21, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3152. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Electronic Products; Performance Standard for Diagnostic X-Ray Systems and Their Major Components" ((RIN0910–AC34) (Docket No. 2001N–0275)) received on July 21, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3153. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Medical Device Reporting; Confirmation of Effective Date" (Docket No. 2004N–0527) received on July 21, 2005; to the Committee on Health Education, Labor, and Pensions.

EC–3154. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Additives Permitted for Direct Addition to Food for Human Consumption; Vitamin D3" (Docket No. 2002F–0160) received on July 21, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3155. A communication from the Secretary of Energy, transmitting, pursuant to law, a report concerning storage at the Department's Savannah River Site, located near Aiken, South Carolina; to the Committee on Energy and Natural Resources.

EC–3156. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "U.S. Department of Energy Fleet Alternative Fuel Vehicle Acquisition Report"; to the Committee on Energy and Natural Resources.

EC–3157. A communication from the Attorney, Office of Legislation and Regulatory Law, Strategic Petroleum Reserve, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Price Competitive Sale of Strategic Petroleum Reserve Petroleum; Standard Sales Provisions" (RIN1901–AB15) received on July 21, 2005; to the Committee on Energy and Natural Resources.

EC–3158. A communication from the Attorney, Office of Legislation and Regulatory Law, Office of Science, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Policy on Research Misconduct" (RIN1901–AA89) received on July 21, 2005; to the Committee on Energy and Natural Resources.

EC–3159. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Revision of FERC Form No. 73, Oil Pipeline Data Filing Instructions RM05–14–000" received on July 21, 2005; to the Committee on Energy and Natural Resources.

EC–3160. A communication from the Administrator, Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Emerging Markets Program" (RIN0551–AA62) received on July 21, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3161. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Highly Pathogenic Avian Influenza; Additional Restrictions" (APHIS Docket No. 04–011–3) received on July 21, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3162. A communication from the Administrator, Risk Management Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Common Crop Insurance Regulations; Nursery Crop Insurance Provisions" (RIN0563–AB80) received on July 21, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3163. A communication from the Acting Administrator, Food Safety and Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Termination of Designation of the State of North Dakota with Respect to the Inspection of Poultry Products" (RIN0583–AD13) received on July 21, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3164. A communication from the Acting Chief Financial Officer, Department of the Treasury, transmitting, pursuant to law, the Department's Fleet Alternative Fuel Vehicle Acquisition Report for Fiscal Year 2004; to the Committee on Banking, Housing and Urban Affairs.

EC–3165. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report of transactions involving exports to New Zealand; to the Committee on Banking, Housing, and Urban Affairs.

EC–3166. A communication from the Acting Under Secretary for Domestic Finance, Department of the Treasury, transmitting, pursuant to law, the annual report on the Resolution Funding Corporation for the calendar year 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–3167. A communication from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting, pursuant to law, the report of action on a nomination for the position of Assistant Secretary for Housing/Federal Housing Commissioner, received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3168. A communication from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a vacancy in the position of Director, Office of Federal Housing Enterprise Oversight, received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3169. A communication from the Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Up-Front Mortgage Insurance Premiums for Loans Insured Under Sections 203(k) and 234(c) of the National Housing Act" ((RIN2502–AH82) (FR–4749–F–02)) received July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3170. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (Docket No. FEMA–D–7573; 44 CFR 65) received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3171. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations 70 FR 35540" (44 CFR 65) received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3172. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (Docket No. FEMA–B–7452; 44 CFR 65) received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3173. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (Docket No. FEMA–P–7644; 44 CFR 65) received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3174. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (70 FR 35542) received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3175. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (70 FR 37054) received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-3176. A communication from the Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "31 CFR Chapter V, Appendix A" received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 1420. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees (Rept. No. 109–107).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. MARTINEZ:

S. 1477. A bill to make funds generated form the Caribbean National Forest in the Commonwealth of Puerto Rico available to the Secretary of Agriculture for land acquisition intended to protect the integrity of the buffer zone surrounding the Caribbean National Forest, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOMENICI:

S. 1478. A bill to amend the Higher Education Act of 1965 regarding the definition of a high need local educational agency, the definition of a Hispanic-serving institution, and the 2-year wait out period for certain grant recipients; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself and Mr. SANTORUM):

S. 1479. A bill to provide for the expansion of Federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne diseases, including the establishment of a Tick-Borne Diseases Advisory Committee; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. HATCH, Mr. REID, Mrs. CLINTON, Mr. DEWINE, Mr. JEFFORDS, Mr. MCCAIN, Mr. CHAFEE, Mr. LAUTENBERG, Mr. SMITH, Ms. MIKULSKI, Mrs. DOLE, Mr. DURBIN, Mr. LEVIN, Mr. LIEBERMAN, Mrs. BOXER, Ms. COLLINS, Ms. STABENOW, Mr. OBAMA, Mr. AKAKA, Mr. SALAZAR, Mr. DAYTON, Mr. BINGAMAN, Mr. WYDEN, Mr. PRYOR, Mr. BIDEN, Mr. FEINGOLD, Mr. REED, Mr. ISAKSON, Mr. JOHNSON, Mr. NELSON of Florida, Mr. BROWNBACK, Mr. BURR, Ms. SNOWE, Mr. MARTINEZ, Ms. CANTWELL, Mr. VOINOVICH, Mr. HAGEL, and Mr. COLEMAN):

S. Res. 207. A resolution recognizing and honoring the 15th anniversary of the enactment of the Americans with Disabilities Act of 1990; considered and agreed to.

By Mr. SPECTER (for himself and Mr. LEAHY):

S. Res. 208. A resolution commemorating the 25th anniversary of the National Citizens' Crime Prevention Campaign; to the Committee on the Judiciary.

By Mr. CONRAD (for himself and Mr. MCCAIN):

S. Res. 209. A resolution to strengthen fiscal responsibility by improving Senate consideration of conference reports; to the Committee on Rules and Administration.

By Mr. FRIST (for himself and Mr. REID):

S. Res. 210. A resolution expressing sympathy for the people of Egypt in the aftermath of the deadly terrorist attacks on Sharm el-Sheik, Egypt on July 23, 2005; considered and agreed to.

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. KYL, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 7, a bill to increase American jobs and economic growth by making permanent the individual income tax rate reductions, the reduction in the capital gains and dividend tax rates, and the repeal of the estate, gift, and generation-skipping transfer taxes.

S. 151

At the request of Mr. COLEMAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 151, a bill to amend title 38, United States Code, to require an annual plan on outreach activities of the Department of Veterans Affairs.

S. 246

At the request of Mr. BUNNING, the names of the Senator from Utah (Mr. HATCH) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 246, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

S. 319

At the request of Mr. DOMENICI, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 319, a bill to amend the Public Health Service Act to revise the amount of minimum allotments under the Projects for Assistance in Transition from Homelessness program.

S. 372

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 372, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literacy, musical, artistic, or scholarly compositions created by the donor.

S. 392

At the request of Mr. LEVIN, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 397

At the request of Mr. CRAIG, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 457

At the request of Ms. COLLINS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 457, a bill to require the Director of the Office of Management and Budget to issue guidance for, and provide oversight of, the management of micropurchases made with Governmentwide commercial purchase cards, and for other purposes.

S. 470

At the request of Mr. DODD, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 470, a bill to amend the Public Health Service Act to expand the clinical trials drug data bank.

S. 512

At the request of Mr. SANTORUM, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 512, a bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation.

S. 558

At the request of Mr. REID, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 558, a bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

S. 828

At the request of Mr. HARKIN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 828, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes.

S. 914

At the request of Mr. ALLARD, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 914, a bill to amend the Public Health Service Act to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

S. 1014

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1014, a bill to provide additional relief for small business owners ordered to active duty as members of reserve components of the Armed Forces, and for other purposes.

S. 1081

At the request of Mr. KYL, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1081, a bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007.

S. 1089

At the request of Mr. AKAKA, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1089, a bill to establish the National Foreign Language Coordination Council to develop and implement a foreign language strategy, and for other purposes.

S. 1110

At the request of Mr. ALLARD, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1110, a bill to amend the Federal Hazardous Substances Act to require engine coolant and antifreeze to contain a bittering agent in order to render the coolant or antifreeze unpalatable.

S. 1158

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1158, a bill to impose a 6-month moratorium on terminations of certain plans instituted under section 4042 of the Employee Retirement Income Security Act of 1974 in cases in which reorganization of contributing sponsors is sought in bankruptcy or insolvency proceedings.

S. 1172

At the request of Mr. SPECTER, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maine (Ms. COLLINS) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1179

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1179, a bill to amend title XVIII of the Social Security Act to ensure that benefits under part D of such title have no impact on benefits under other Federal programs.

S. 1191

At the request of Mr. SALAZAR, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 1191, a bill to establish a grant program to provide innovative transportation options to veterans in remote rural areas.

S. 1308

At the request of Mr. BAUCUS, the names of the Senator from Alaska (Mr. STEVENS), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from New York (Mr. SCHUMER) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 1308, a bill to establish an Office of Trade Adjustment Assistance, and for other purposes.

S. 1309

At the request of Mr. BAUCUS, the names of the Senator from Maine (Ms. SNOWE), the Senator from New Jersey (Mr. CORZINE), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), the Senator from Michigan (Ms. STABENOW) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 1309, a bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the services sector, and for other purposes.

S. 1321

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1321, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications.

S. 1380

At the request of Mr. VITTER, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1380, a bill to eliminate unsafe railway-road grade crossings, to enhance railroad safety through new safety technology, safety inspections, accident investigations, and for other purposes.

S. 1405

At the request of Mr. NELSON of Nebraska, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1405, a bill to extend the 50 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility and to establish the National Advisory Council on Medical Rehabilitation.

S. 1408

At the request of Mr. SMITH, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1408, a bill to strengthen data protection and safeguards, require data breach notification, and further prevent identity theft.

S. 1411

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1411, a bill to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. 1414

At the request of Mr. BENNETT, his name was added as a cosponsor of S. 1414, a bill to provide for the conduct of a study of the suitability and feasibility of establishing the Trail of the Ancients National Heritage Area in the Four Corners region of the States of Utah, Colorado, Arizona, and New Mexico.

At the request of Mr. DOMENICI, his name was added as a cosponsor of S. 1414, supra.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 1414, supra.

At the request of Mr. ALLARD, his name was added as a cosponsor of S. 1414, supra.

S. 1429

At the request of Mrs. MURRAY, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 1429, a bill to amend the Higher Education Act of 1965 to assist homeless students in obtaining postsecondary education, and for other purposes.

S. RES. 104

At the request of Mr. FEINGOLD, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. Res. 104, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities.

S. RES. 198

At the request of Ms. MIKULSKI, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Res. 198, a resolution commemorating the 25th anniversary of the 1980 worker's strike in Poland and the birth of the Solidarity Trade Union, the first free and independent trade union established in the Soviet-dominated countries of Europe.

AMENDMENT NO. 1313

At the request of Mr. INHOFE, the name of the Senator from Wyoming

(Mr. ENZI) was added as a cosponsor of amendment No. 1313 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1337

At the request of Mr. REID, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of amendment No. 1337 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1345

At the request of Ms. COLLINS, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of amendment No. 1345 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1348

At the request of Mrs. MURRAY, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of amendment No. 1348 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1369

At the request of Mr. DAYTON, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 1369 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1402

At the request of Mr. AKAKA, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of amendment No. 1402 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1410

At the request of Mrs. FEINSTEIN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of amendment No. 1410 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1415

At the request of Mr. KENNEDY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of amendment No. 1415 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1418

At the request of Mr. BUNNING, his name was added as a cosponsor of amendment No. 1418 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1422

At the request of Mr. SALAZAR, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of amendment No. 1422 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1423

At the request of Mr. SALAZAR, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of amendment No. 1423 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1425

At the request of Mr. HARKIN, the names of the Senator from Illinois (Mr. OBAMA), the Senator from Maryland (Ms. MIKULSKI), the Senator from Connecticut (Mr. DODD), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of amendment No. 1425 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1433

At the request of Mr. LIEBERMAN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of amendment No. 1433 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1435

At the request of Ms. STABENOW, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from Washington (Mrs. MURRAY), the Senator from Minnesota (Mr. DAYTON), the Senator from Florida (Mr. NELSON), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Colorado (Mr. SALAZAR), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of amendment No. 1435 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 1478. A bill to amend the Higher Education Act of 1965 regarding the definition of a high need local educational agency, the definition of a Hispanic-serving institution, and the 2-year wait out period for certain grant recipients; to the Committee on Health, Education, Labor, and Pensions.

Mr. DOMENICI. Mr. President, the Higher Education Act of 1965 was signed into law for the purpose of increasing access to higher education for all citizens of the United States and to strengthen the capacity of higher education institutions to better serve their communities. The reauthorization of the Higher Education Act during the 109th Congress presents a powerful opportunity for the Nation to address the higher education needs of our constituencies and it is for this reason that I rise today to introduce the Improving Educational Opportunities for All Act. This bill will make changes to definitions located within title II, teacher quality enhancement grants, and title V, the development institutions sections of the Higher Education Act.

When the Higher Education Act was reauthorized in 1998, Congress responded to the Nation's critical need for high-quality teachers by creating grants to help States invest in the recruitment, preparation, licensing, and support of teachers. Title II of the Higher Education Act, the teacher quality enhancement grants initiative, encourages States to improve the quality of their teaching force through such reforms as strengthening teacher certification standards; holding institutions of higher education accountable for preparing teachers with strong teaching skills and knowledge of their content areas; and reducing shortages of qualified teachers in high-need areas. I believe that these grants have been very effective in meeting their goals, but I also want to make sure that this money is targeted to our highest need local education agencies.

The changes I am proposing to title II of the Higher Education Act will enhance the definition of high need local education agencies to include local education agencies that have a high percentage of students who are minority or of limited English proficiency, residing in rural areas as defined by the Bureau of Census, or have high percentages of Naïve American students.

Nationwide, studies show the most disadvantaged children are the ones most likely to be taught by the newest, least-qualified and lowest-scoring teachers. We need to attract good teachers who are committed to their profession, and reward teachers who are qualified and want to teach in areas of most critical need. We need teachers to be well-prepared to teach all students to the highest standards and I hope that the changes I am proposing will help States develop and implement programs to meet these needs.

Another positive addition to the Higher Education Act, has been the creation of title V grants to developing institutions. Title V of the Higher Education Act is the primary vehicle used to target urgently needed funds to Hispanic serving institutions, HSIs. HSI's use grants under this section to strengthen academic quality, improve institutional management, and increase financial stability. These grants are essential to institutions that provide and increase the number of educational opportunities available to Hispanic students.

Under current guidelines, in order to qualify for a grant under title V, an institution must, have at least 25 percent full time, Hispanic undergraduate student enrollment, and not less than 50 percent of its Hispanic student population must be low income. Title V grants are awarded for 5 years, with a minimum 2-year wait out period after the termination of a grant period before eligibility to apply for another grant.

The first change I am proposing is a change to title V's current "50 percent" low-income assurance requirement. I believe that this requirement is an unnecessary bureaucratic regulation that constrains Hispanic serving institutions abilities to implement programs designed to provide long range solutions to Hispanic higher education challenges. Currently, there are no Government authorized means to collect student financial data, and, although some information can be extrapolated from student financial aid forms, it is not enough information to complete the title V forms.

The bill I am introducing today will improve the HSI eligibility requirements by allowing applicants for title V funding to satisfy the 50 percent low-income Hispanic student population criterion with appropriate evidence of student eligibility for title IV, need-based, aid. The revised title V section will retain the requirement that to be eligible for title V funds, an institution must have an enrollment of needy students. However, rather than conditioning grant qualification upon the cumbersome requirement that institutions prove 50 percent of their Hispanic students are low income, it will allow institutions to qualify for title V money if 50 percent of the students are receiving need-based assistance under title IV or a substantial percentage of the students are receiving Pell grants.

Another unnecessary regulation under title V is the minimum 2-year wait out period after the termination of a grant period before eligibility to apply for another grant. Title V's 2-year wait out period impedes Hispanic Serving Institutions efforts to implement continuing programs with long range solutions to Hispanic higher education challenges. Eliminating the 2-year wait out period will be of great importance to equipping our Nation's Hispanic serving institutions with the continuous funding that they need to best answer complex challenges. In 2000, Congress eliminated the wait out period for tribally controlled colleges and universities, Alaskan Native and Native Hawaiian-serving institutions. Historically Black colleges and universities also do not have a wait out period. It is now time for us to eliminate the wait out period for Hispanic serving institutions.

Hispanic serving institutions provide the quality education essential to full participation in today's society. Many students in my home State of New Mexico have benefited from the academic excellence that Hispanic serving institutions seek to provide. Title V grants are intended to provide assistance to these less advantaged, developing institutions. However, by convoluting the application process, Congress is preventing these institutions from applying for grants and obstructing their development.

I know that the chairman and ranking member of the Health, Education, Labor and Pensions committee have been working very hard on the reauthorization of the Higher Education Act. I appreciate their efforts, and hope they will consider making the changes I am recommending.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1478

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Improving Educational Opportunities for All Act".

SEC. 2. HIGH NEED LOCAL EDUCATIONAL AGENCY.

Section 201(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1021(b)(2)) is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(D) a high percentage of students who are—

"(i) minority students; or

"(ii) of limited English proficiency;

"(E) a rural population, as defined by the Bureau of the Census; or

"(F) a high percentage of Native American students.".

SEC. 3. DEFINITION OF A HISPANIC-SERVING INSTITUTION.

Section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5)) is amended—

(1) in subparagraph (A), by inserting "and" after the semicolon;

(2) in subparagraph (B), by striking "; and" and inserting a period; and

(3) by striking subparagraph (C).

SEC. 4. ELIMINATION OF THE 2-YEAR WAIT OUT PERIOD FOR GRANT RECIPIENTS.

Section 504(a) of the Higher Education Act of 1965 (20 U.S.C. 1101c(a)) is amended—

(1) by striking "PERIOD.—" and all that follows through "The Secretary" and inserting "PERIOD.—The Secretary"; and

(2) by striking paragraph (2).

By Mr. DODD (for himself and Mr. SANTORUM):

S. 1479. A bill to provide for the expansion of Federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne diseases, including the establishment of a Tick-Borne Diseases Advisory Committee; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lyme and Tick-borne Disease Prevention, Education, and Research Act of 2005".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Lyme disease is a common but frequently misunderstood illness that, if not caught early and treated properly, can cause serious health problems.

(2) Lyme disease is a bacterial infection that is transmitted by a tick bite. Early signs of infection may include a rash and flu-like symptoms such as fever, muscle aches, headaches, and fatigue.

(3) Although Lyme disease can be treated with antibiotics if caught early, the disease often goes undetected because it mimics other illnesses or may be misdiagnosed. Untreated, Lyme disease can lead to severe heart, neurological, eye, and joint problems because the bacteria can affect many different organs and organ systems.

(4) If an individual with Lyme disease does not receive treatment, such individual can develop severe heart, neurological, eye, and joint problems.

(5) Although Lyme disease accounts for 90 percent of all vector-borne infections in the United States, the ticks that spread Lyme disease also spread other diseases, such as ehrlichiosis, babesiosis, and other strains of Borrelia. All of these diseases in 1 patient makes diagnosis and treatment more difficult.

(6) Studies indicate that the actual number of tick-borne disease cases are approximately 10 times the amount reported.

(7) Persistence of symptomatology in many patients without reliable testing makes treatment of patients more difficult.

SEC. 3. ESTABLISHMENT OF A TICK-BORNE DISEASES ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services (referred to in this Act as the "Secretary") shall establish within the Office of the Secretary an advisory committee to be known as the Tick-Borne Diseases Advisory Committee (referred to in this section as the "Committee").

(b) DUTIES.—The Committee shall advise the Secretary and the Assistant Secretary for Health regarding the manner in which such officials can—

(1) ensure interagency coordination and communication and minimize overlap regarding efforts to address tick-borne diseases;

(2) identify opportunities to coordinate efforts with other Federal agencies and private organizations addressing such diseases;

(3) ensure interagency coordination and communication with constituency groups;

(4) ensure that a broad spectrum of scientific viewpoints are represented in public health policy decisions and that information disseminated to the public and physicians is balanced; and

(5) advise relevant Federal agencies on priorities related to the Lyme and tick-borne diseases.

(c) MEMBERSHIP.—

(1) APPOINTED MEMBERS.—

(A) IN GENERAL.—From among individuals who are not officers or employees of the Federal Government, the Secretary shall appoint to the Committee, as voting members, an equal number of individuals from each of the groups described in clauses (i) through (v) of subparagraph (B).

(B) GROUPS.—The groups described in this subparagraph include the following:

(i) Scientific community members representing the broad spectrum of viewpoints held within the scientific community related to Lyme and other tick-borne diseases.

(ii) Representatives of tick-borne disease voluntary organizations.

(iii) Health care providers, including at least 1 full-time practicing physician, with relevant experience providing care for individuals with a broad range of acute and chronic tick-borne diseases.

(iv) Patient representatives who are individuals who have been diagnosed with a tick-borne disease or who have had an immediate family member diagnosed with such a disease.

(v) Representatives of State and local health departments and national organizations that represent State and local health professionals.

(C) DIVERSITY.—In appointing members under this paragraph, the Secretary shall ensure that such members, as a group, represent a diversity of scientific perspectives relevant to the duties of the Committee.

(2) EX OFFICIO MEMBERS.—The Secretary shall designate, as nonvoting, ex officio members of the Committee, representatives overseeing tick-borne disease activities from each of the following Federal agencies:

(A) The Centers for Disease Control and Prevention.

(B) The National Institutes of Health.

(C) The Agency for Healthcare Research and Quality.

(D) The Food and Drug Administration.

(E) The Office of the Assistant Secretary for Health.

(F) Such additional Federal agencies as the Secretary determines to be appropriate.

(3) CO-CHAIRPERSONS.—The Secretary shall designate the Assistant Secretary of Health as the co-chairperson of the Committee. The appointed members of the Committee shall also elect a public co-chairperson. The public co-chairperson shall serve a 2-year term.

(4) TERM OF APPOINTMENT.—The term of service for each member of the Committee appointed under paragraph (1) shall be 4 years.

(5) VACANCY.—A vacancy in the membership of the Committee shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of that term. Members may serve after the expiration of their terms until their successors have taken office.

(d) MEETINGS.—The Committee shall hold public meetings, except as otherwise determined by the Secretary, after providing notice to the public of such meetings, and shall meet at least twice a year with additional meetings subject to the call of the co-chairpersons. Agenda items with respect to such meetings may be added at the request of the members of the Committee, including the co-chairpersons. Meetings shall be conducted, and records of the proceedings shall be maintained, as required by applicable law and by regulations of the Secretary.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $250,000 for each of the fiscal years 2006 through 2009. Amounts appropriated under the preceding sentence shall be used for the expenses and per diem costs incurred by the Committee under this section in accordance with the Federal Advisory Committee Act, except that no voting member of the Committee shall be a permanent salaried employee.

SEC. 4. FEDERAL ACTIVITIES RELATED TO THE DIAGNOSIS, SURVEILLANCE, PREVENTION, AND RESEARCH OF LYME AND OTHER TICK-BORNE DISEASES.

(a) IN GENERAL.—The Secretary, acting as appropriate through the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, the Commissioner of Food and Drugs, and the Director of the Agency for Healthcare Research and Quality, as well as additional Federal agencies as the Secretary determines to be appropriate, and in consultation with the Tick-Borne Diseases Advisory Committee, shall provide for the coordination of all Federal programs and activities related to Lyme and other tick-borne diseases, including the activities described in paragraphs (1) through (4) of subsection (a).

(b) ACTIVITIES.—The activities described in this subsection are the following:

(1) DEVELOPMENT OF DIAGNOSTIC TESTS.—Such activities include—

(A) the development of sensitive and more accurate diagnostic tools and tests, including a direct detection test for Lyme disease capable of distinguishing active infection from past infection;

(B) improving the efficient utilization of diagnostic testing currently available to account for the multiple clinical manifestations of both acute and chronic Lyme disease; and

(C) providing for the timely evaluation of promising emerging diagnostic methods.

(2) SURVEILLANCE AND REPORTING.—Such activities include surveillance and reporting of Lyme and other tick-borne diseases—

(A) to accurately determine the prevalence of Lyme and other tick-borne disease;

(B) to evaluate the feasibility of developing a reporting system for the collection of data on physician-diagnosed cases of Lyme disease that do not meet the surveillance criteria of the Centers of Disease Control and Prevention in order to more accurately gauge disease incidence; and

(C) to evaluate the feasibility of creating a national uniform reporting system including required reporting by laboratories in each State.

(3) PREVENTION.—Such activities include—

(A) the provision and promotion of access to a comprehensive, up-to-date clearinghouse of peer-reviewed information on Lyme and other tick-borne disease;

(B) increased public education related to Lyme and other tick-borne diseases through the expansion of the Community Based Education Programs of the Centers for Disease Control and Prevention to include expansion of information access points to the public;

(C) the creation of a physician education program that includes the full spectrum of scientific research related to Lyme and other tick-borne diseases; and

(D) the sponsoring of scientific conferences on Lyme and other tick-borne diseases, including reporting and consideration of the full spectrum of clinically-based knowledge, with the first of such conferences to be held not later than 24 months after the date of enactment of this Act.

(4) Clinical outcomes research.—Such activities include—

(A) the establishment of epidemiological research objectives to determine the long term course of illness for Lyme disease; and

(B) determination of the effectiveness of different treatment modalities by establishing treatment outcome objectives.

(c) Authorization of Appropriations.—For the purposes of carrying out this section, and for the purposes of providing for additional research, prevention, and educational activities for Lyme and other tick-borne diseases, there is authorized to be appropriated $20,000,000 for each of the fiscal years 2006 through 2010. Such authorization is in addition to any other authorization of appropriations available for such purpose.

SEC. 5. REPORTS ON LYME AND OTHER TICK-BORNE DISEASES.

(a) In General.—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out under this Act.

(b) Content.—Reports under subsection (a) shall contain—

(1) significant activities or developments related to the surveillance, diagnosis, treatment, education, or prevention of Lyme or other tick-borne diseases, including suggestions for further research and education;

(2) a scientifically qualified assessment of Lyme and other tick-borne diseases, including both acute and chronic instances, related to the broad spectrum of empirical evidence of treating physicians, as well as published peer reviewed data, that shall include recommendations for addressing research gaps in diagnosis and treatment of Lyme and other tick-borne diseases and an evaluation of treatment guidelines and their utilization;

(3) progress in the development of accurate diagnostic tools that are more useful in the clinical setting for both acute and chronic disease; and

(4) the promotion of public awareness and physician education initiatives to improve the knowledge of health care providers and the public regarding clinical and surveillance practices for Lyme disease and other tick-borne diseases.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 207—RECOGNIZING AND HONORING THE 15TH ANNIVERSARY OF THE ENACTMENT OF THE AMERICANS WITH DISABILITIES ACT OF 1990

Mr. HARKIN (for himself, Mr. Kennedy, Mr. Hatch, Mr. Reid, Mrs. Clinton, Mr. DeWine, Mr. Jeffords, Mr. McCain, Mr. Chafee, Mr. Lautenberg, Mr. Smith, Ms. Mikulski, Mrs. Dole, Mr. Durbin, Mr. Levin, Mr. Lieberman, Mrs. Boxer, Ms. Collins, Ms. Stabenow, Mr. Obama, Mr. Akaka, Mr. Salazar, Mr. Dayton, Mr. Bingaman, Mr. Wyden, Mr. Pryor, Mr. Biden, Mr. Feingold, Mr. Reed, Mr. Isakson, Mr. Johnson, Mr. Nelson of Florida, Mr. Brownback, Mr. Burr, Ms. Snowe, Mr. Martinez, Ms. Cantwell, Mr. Voinovich, Mr. Hagel, and Mr. Coleman) submitted the following resolution; which was considered and agreed to:

S. Res. 207

Whereas July 26, 2005, marks the 15th anniversary of the enactment of the Americans with Disabilities Act of 1990;

Whereas prior to the passage of the Americans with Disabilities Act, it was commonplace for individuals with disabilities to experience discrimination in all aspects of their everyday lives—in employment, housing, public accommodations, education, transportation, communication, recreation, voting, and access to public services;

Whereas prior to the passage of the Americans with Disabilities Act, individuals with disabilities often were the subject of stereotypes and prejudices that did not reflect their abilities, talents, and eagerness to fully contribute to our society and economy;

Whereas the dedicated efforts of disability rights advocates, such as Justin Dart, Jr. and others too numerous to mention, served to awaken Congress and the American people to the discrimination and prejudice faced by individuals with disabilities;

Whereas Congress worked in a bipartisan manner to craft legislation making such discrimination illegal and opening doors of opportunity to individuals with disabilities;

Whereas Congress passed the Americans with Disabilities Act and President George Herbert Walker Bush signed the Act into law on July 26, 1990;

Whereas the Americans with Disabilities Act pledged to fulfill the Nation's goals of equality of opportunity, economic self-sufficiency, full participation, and independent living for individuals with disabilities;

Whereas the Americans with Disabilities Act prohibited employers from discriminating against qualified individuals with disabilities, required that State and local governmental entities accommodate qualified individuals with disabilities, encouraged places of public accommodation to take reasonable steps to make their goods and services accessible to individuals with disabilities, and required that new trains and buses be accessible;

Whereas since 1990, the Americans with Disabilities Act has played an historic role in allowing some 54,000,000 Americans with disabilities to participate more fully in our national life by removing barriers in employment, transportation, public services, telecommunications, and public accommodations;

Whereas accommodations such as curb cuts, ramps, accessible trains and buses, accessible stadiums, accessible telecommunications, and accessible Web sites have become commonplace since passage of the Americans with Disabilities Act, benefitting not only individuals with disabilities but all Americans; and

Whereas the Americans with Disabilities Act is our Nation's landmark civil rights legislation for people with disabilities: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors the 15th anniversary of the enactment of the Americans with Disabilities Act of 1990;

(2) salutes all people whose efforts contributed to the enactment of such Act; and

(3) encourages all Americans to celebrate the advance of freedom and the opening of opportunity made possible by the enactment of such Act.

SENATE RESOLUTION 208—COMMEMORATING THE 25TH ANNIVERSARY OF THE NATIONAL CITIZENS' CRIME PREVENTION CAMPAIGN

Mr. SPECTER (for himself and Mr. Leahy) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. Res. 208

Whereas crime prevention improves the quality of life in every community;

Whereas crime prevention is central to maintaining a sound criminal justice system at the national, State, and local level and to ensuring safer and more secure communities;

Whereas 2005 marks the 25th anniversary of the National Citizens' Crime Prevention Campaign, featuring McGruff the Crime Dog, conducted by the National Crime Prevention Council;

Whereas McGruff the Crime Dog is an icon, recognized as the Nation's symbol for crime prevention;

Whereas the National Citizens' Crime Prevention Campaign has inspired and directed millions of citizens to take action, individually and collectively, to reduce crime, drug abuse, and the fear of crime;

Whereas the National Citizens' Crime Prevention Campaign has led a multitude of community organizations, including law enforcement, other State and local agencies, civic and community groups, faith-based organizations, schools, and businesses, to play a vital role in reducing crime and building safer communities; and

Whereas the National Citizens' Crime Prevention Campaign is a leading example of a campaign conducted by public and private individuals and entities on a national, State, and local level to improve the quality of life throughout the Nation: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the 25th anniversary of the National Citizens' Crime Prevention Campaign, and commends all individuals and organizations involved in the campaign for advancing the principles and practice of effective crime prevention;

(2) asks the people of the United States to join in the celebration of the 25th anniversary of the National Citizens' Crime Prevention Campaign, and of the campaign's icon (McGruff the Crime Dog), and of the campaign's managing organization (National Crime Prevention Council); and

(3) encourages the National Crime Prevention Council and the Crime Prevention Coalition of America to continue to promote, through the National Citizens' Crime Prevention Campaign, individual and collective action, in collaboration with law enforcement and other supporting agencies, to reduce crime and build safer communities throughout the United States.

Mr. SPECTER. Mr. President, I seek recognition today to submit a Senate Resolution commemorating the 25th anniversary of the National Citizens' Crime Prevention Campaign. This effort is being led by the National Crime Prevention Council, NCPC, and its icon, McGruff the Crime Dog.

NCPC is a private, nonprofit educational organization. NCPC is well known by the general public for coordinating the public service advertising efforts featuring McGruff. Yet the National Crime Prevention Council provides comprehensive crime prevention technical assistance and training to communities throughout the United States; develops and implements highly acclaimed and innovative programs; and disseminates information on effective crime prevention practices to thousands of individuals and organizations every year. The council also publishes books, program kits, posters, and consumer education materials that can be localized by crime prevention activists everywhere.

On July 1, 2005, the National Citizens' Crime Prevention Campaign and McGruff the Crime Dog celebrated their 25th anniversary. I, along with Senator LEAHY, acknowledge this significant milestone with a resolution that: 1. Commemorates the 25th anniversary and commends all individuals and organizations involved in the Campaign for advancing the principles and practices of effective crime prevention; 2. Asks all Americans to join in the celebration of the 25th anniversary; and 3. Encourages the efforts of the National Citizens' Crime Prevention Campaign to promote individual and collective action, in collaboration with law enforcement and other supporting agencies, to reduce crime and build safer communities throughout the United States of America.

Mr. LEAHY. Mr. President, I am proud to join my friend and colleague, Senator SPECTER, in submitting this bipartisan resolution commemorating the 25th anniversary of the National Citizens' Crime Prevention Campaign, which is managed by the National Crime Prevention Council. I applaud all individuals and organizations involved in the Campaign for their efforts to advance the principles and practice of effective crime prevention throughout the United States.

We have all been urged over the years by McGruff the Crime Dog, the Campaign's icon, to "Take A Bite Out Of Crime" a simple and effective slogan to help begin to educate and make the public aware of the importance of crime prevention. Through their leadership, the Campaign and McGruff have played vital roles in reducing crime and making our communities safer.

The Campaign was the first public education program on crime prevention in the country. It is designed to stimulate community involvement, generate confidence in comprehensive crime prevention activities and provide a national focus and resource for crime prevention programs nationwide. When it was formally launched in 1979, most Americans viewed crime as inevitable and its prevention as the job of the police. Today, three out of four Americans believe that they can personally take actions to reduce crime and that their neighborhoods and communities can act to prevent crime. A major force behind this shift to a more positive attitude is the National Citizens' Crime Prevention Campaign.

Crime prevention is central to maintaining a sound criminal justice system at the national, State, and local levels, and to ensuring safer and more secure communities. Making prevention a priority through the National Citizens' Crime Prevention Campaign is a collective effort. This alliance of national, State and Federal organizations works with businesses, civic groups, individuals and law enforcement to generate crime prevention awareness and action throughout the country through a variety of mechanisms.

The National Citizens' Crime Prevention Campaign has inspired and directed millions of citizens to take action, individually and collectively, to reduce crime, drug abuse and the fear of crime. I look forward to another 25 years and beyond of McGruff and the Campaign, under the skilled leadership of its President and CEO, Al Lenhardt, who is the former Sergeant At Arms of the U.S. Senate, continuing to be national leaders in improving the quality of life in every community through crime prevention. I have no doubt that together they will continue to promote individual and collective action, in collaboration with law enforcement and other supporting agencies, to reduce crime and build safer communities throughout the United States.

SENATE RESOLUTION 209—TO STRENGTHEN FISCAL RESPONSIBILITY BY IMPROVING SENATE CONSIDERATION OF CONFERENCE REPORTS

Mr. CONRAD (for himself and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

Mr. CONRAD. Mr. President, I am pleased that Senator MCCAIN is joining me today in submitting a bipartisan Senate resolution to strengthen fiscal responsibility and restore some common sense to the consideration of conference reports in the Senate.

Last November the Senate received an omnibus appropriations conference report that totaled 3,646 pages. It included nine different appropriations bills, seven of which had never been debated, amended or voted on by the Senate. It spent more than $388 billion. And it also included a miscellaneous title with several extraneous provisions that had nothing to do with appropriations. Like the appropriations titles, many of these non-appropriations items had never been considered in the Senate.

Even though the vast majority of the Senate had never had a chance to review these provisions, the conference report was rushed to the Senate floor just hours after a handful of members and their staff had finished their work putting it together behind closed doors.

Throughout the day, I and several members of my staff read and analyzed the provisions of this bill. During the examination, we discovered a particularly egregious provision. It would have allowed an agent of the Chairman of the House or Senate Appropriations Committee to look at the tax return of anyone in America. And, further, it would have allowed them to release the private information contained in those returns without any civil or criminal penalty. That would have created the opportunity for an abuse of power almost unprecedented in our history.

Thankfully, my staff and I were able to catch this, and after strenuous debate the provision was nullified. But this is an indication of how completely flawed this process has become. None of us could know when the time came to vote, just a few hours after the bill was released, what other inappropriate provisions it contained. There simply had not been enough time to thoroughly scour the more than 3,600 pages in this bill.

Unfortunately, this is not an isolated example. Over the past several years, we have seen increased abuses of the conference process. There has been a trend toward a handful of members writing legislation in secret, without full opportunity for minority participation or thorough debate in the Senate. In addition to the omnibus appropriations bills we have seen in the past several years, there are several other examples of this trend.

Last year, for example, the majority leadership was unwilling or unable to move a bill through the Senate to extend expiring tax provisions. Apparently, the leadership did not want to vote on amendments to pay for these provisions, and it did not want to debate the fiscal irresponsibility of its tax policy.

So what did the leadership do? It took a modest tax relief measure aimed at making the child tax credit more useful to low- and middle-income families that had languished in conference for over a year, and turned it into a $146 billion revenue loser that extended the 2001 tax cuts relating to the child credit, marriage penalty, and the 10 percent marginal rate bracket through 2010. The conferees also tacked on traditional extenders, R&D, work opportunity tax credit, etc., added a year of AMT relief, and dropped the revenue offsets that had covered all but about $250 million of the original cost. No Democrats participated in the conference, and the Senate had no opportunity to debate the merits of these individual provisions or offer amendments to offset their costs.

But it is not just tax and appropriations bills that have been hijacked in conference. On issue after issue, we have had conferences where the minority was excluded so that the majority could ram through unpopular provisions as part of an un-amendable conference report.

That is not right. We should not be writing brand new legislation in conference in order to bypass Senate consideration. We should not be bundling together 3,646 page conference reports in the middle of the night and asking Senators to vote on them without the opportunity for thorough review and debate. It is clear to me the conference process is broken. Former President Ronald Reagan in his 1988 State of the Union Address told us we should not do business this way. in omnibus conference reports that no Senator has an opportunity to fully understand before they are voted on. He was right.

The Conrad-McCain resolution would address these problems. It would improve Senate consideration of conference reports in five simple. commonsense ways.

First. our resolution would require conference reports to be filed and made available for at least 48 hours prior to Senate consideration. Under our resolution. all Senators would have the opportunity to know what is in each and every conference report that comes before this body.

Second. our resolution would require a written cost estimate or table by the Congressional Budget Office prior to Senate consideration of any conference report. Senators desereve to know before they vote on a bill how much it will cost.

Third, our resolution would require that a bill coming out of conference be primarily in the jurisdiction of the same committee. or appropriations subcommittee, as the Senate-passed bill that was submitted to conference. We should not be sending a $19 billion foreign operations appropriations bill to conference and having it come back as a close-to $400 billion bill that includes Labor-Health and Human Services and other domestic spending. This will help ensure that the Senate considers each bill before it comes back from conference.

If any of those three conditions are not met, our resolution would allow any Senator to raise a point of order against the conference report. That point of order be waived only with a vote of 60 Senators.

In addition, the Conrad-McCain resolution would strengthen current rules that are designed to prohibit extraneous provisions in conference reports. Extraneous provisions are those that are either outside the scope of the bills that the House and Senate sent to conference, or in the jurisdiction of some other committee.

Provisions that are either outside the scope of conference or in another committee's jurisdiction could be stricken from the conference report on a point of order made by any Senator. That point of order could be waived only with a vote of 60 Senators. Importantly, the point of order would not bring down the entire conference report. Instead, it will only remove the extraneous matter, leaving the rest of the conference report intact. This change—similar to the application of the Byrd rule on reconciliation bills—will remove a significant impediment to challenging attempts to push unpopular riders through the Senate on unrelated but otherwise popular legislation.

This common-sense legislation is long overdue. Our political process has become too bogged down with bloated spending bills and special-interest tax break legislation. Too often, it is not until after a conference report has passed that its true cost comes to light. Massive and unwieldy bills have become almost routine in the Senate. This has to stop.

Our resolution would improve the legislative process while strengthening fiscal responsibility in a way that is simple, straightforward, and reasonable. I urge my colleagues to support it.

S. RES. 209

SECTION 1. CONFERENCE REPORTS OUT OF ORDER.

(a) AVAILABILITY.—It shall not be in order to consider a report of a committee of conference under paragraph 1 of rule XXVIII of the Standing Rules of the Senate unless such report is filed and made available 48 hours prior to presentation.

(b) COST ESTIMATE OR TABLE.—It shall not be in order to consider a report of a committee of conference under paragraph 1 of rule XXVIII of the Standing Rules of the Senate unless an official written cost estimate or table by the Congressional Budget Office is available at the time of consideration.

(c) JURISDICTION.—It shall not be in order to consider a report of a committee of conference under paragraph 1 of rule XXVIII of the Standing Rules of the Senate if the preponderance of matter in the conference report is not in the jurisdiction of the committee (or Appropriations subcommittee for one of the regular appropriation bills) that had jurisdiction of the Senate passed bill submitted to conference.

(d) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of 3/5 of the Members, duly chosen and sworn. An affirmative vote of 3/5 of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC. 2. EXTRANEOUS PROVISIONS OF CONFERENCE REPORTS OUT OF ORDER.

(a) PROVISIONS OUTSIDE SCOPE OF CONFERENCE.—It shall not be in order to consider a report of a committee of conference under paragraph 1 of rule XXVIII of the Standing Rules of the Senate if it contains extraneous material outside the scope of conference under rule XXVIII of the Standing Rules of the Senate.

(b) PROVISIONS OUTSIDE JURISDICTION.—It shall not be in order to consider a report of a committee of conference under paragraph 1 of rule XXVIII of the Standing Rules of the Senate if it contains extraneous material in the jurisdiction of a committee other than a committee from whom conferees were appointed.

(c) FORM OF POINT OF ORDER.—It shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(d) POINT OF ORDER SUSTAINED.—When the Senate is considering a conference report, upon a point of order being made by any Senator against extraneous material described in subsection (a) or (b), and such point of order being sustained, such material shall be deemed stricken as provided in subsection (c) and the Senate shall proceed, without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken.

(e) NO FURTHER AMENDMENT.—In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(f) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of 3/5 of the Members, duly chosen and sworn. An affirmative vote of 3/5 of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SENATE RESOLUTION 210—EXPRESSING SYMPATHY FOR THE PEOPLE OF EGYPT IN THE AFTERMATH OF THE DEADLY TERRORIST ATTACKS ON SHARM EL-SHEIK. EGYPT ON JULY 23, 2005.

Mr. FRIST (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 210

Whereas on July 23, 2005, terrorists struck the Red Sea resort city of Sharm el-Sheik. Egypt, detonating explosives in a crowded hotel that killed dozens of the people of Egypt and foreign tourists from around the world, including a citizen of the United States, and injured approximately 200 others;

Whereas the terrorist attacks on Sharm el-Sheik, Egypt were senseless, barbaric, and cowardly acts carried out against innocent civilians;

Whereas Egypt is a friend and ally of the United States and in the past has endured terrorism against its innocent civilians;

Whereas the people of the United States stand in solidarity with the people of Egypt in fighting terrorism;

Whereas President George W. Bush immediately condemned the terrorist attacks on Sharm el-Sheik, Egypt and extended to the people of Egypt his personal condolences and the support of the United States; and

Whereas Secretary of State Condoleezza Rice denounced the terrorist attacks on Sharm el-Sheik, Egypt and stated, "we continue, all of us in the civilized world, to face great challenges in terrorism, and we continue to be united in the view that terrorism must be confronted and that they will not succeed in destroying our way of life": Now, therefore, be it

Resolved, That the Senate—

(1) expresses deep sympathies and condolences to the people of Egypt and the victims and the families of the victims for the heinous terrorist attacks that occurred in Sharm el-Sheik, Egypt on July 23, 2005;

(2) condemns the barbaric and unwarranted terrorist attacks that killed and injured innocent people in Sharm el-Sheik, Egypt;

(3) expresses strong and continued solidarity with the people of Egypt and pledges to remain shoulder-to-shoulder with the people of Egypt to bring the terrorists responsible for the brutal attacks on Sharm el-Sheik, Egypt to justice; and

(4) calls upon the international community to renew and strengthen efforts to—

(A) defeat terrorists by dismantling terrorist networks and exposing the violent and nihilistic ideology of terrorism;

(B) increase international cooperation to advance personal and religious freedom, ethnic and racial tolerance, political liberty and pluralism, and economic prosperity; and

(C) combat the social injustice, oppression, poverty, and extremism that breeds sympathy for terrorism.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1439. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1440. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1441. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1442. Mr. KENNEDY (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1443. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1444. Mrs. CLINTON (for herself and Mr. KENNEDY) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1445. Mr. SARBANES (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1446. Mr. CORZINE submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1447. Mr. HARKIN (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1448. Mr. BIDEN (for himself, Mr. CARPER, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1449. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1450. Mr. OBAMA (for himself and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1451. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1452. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1453. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1454. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1455. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1456. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1457. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1458. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1459. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1460. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1461. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1462. Mr. LAUTENBERG (for himself, Mrs. MURRAY, Mr OBAMA, Mr. CORZINE, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1463. Mr. HARKIN (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1464. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1465. Mr. LOTT (for himself, Mr. COCHRAN, and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1466. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1467. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1468. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1469. Mr. THOMAS (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1470. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1471. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1472. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1473. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1474. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1475. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1476. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, supra.

SA 1477. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1042, supra.

SA 1478. Mrs. HUTCHISON (for herself and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1479. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1480. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1481. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1482. Mr. OBAMA (for himself, Mr. BYRD, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1483. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1484. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1485. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1486. Mr. REID (for himself and Mr. Obama) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1487. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1488. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1489. Ms. COLLINS (for Mr. Thune) proposed an amendment to the bill S. 1042, supra.

SA 1490. Ms. COLLINS (for Mr. Thune) proposed an amendment to the bill S. 1042, supra.

SA 1491. Ms. COLLINS (for Mr. Thune (for himself, Mr. Lieberman, Ms. Collins, Mr. Lautenberg, Mr. Sununu, Ms. Snowe, Mr. Johnson, Mr. Dodd, Mr. Corzine, Mr. Bingaman, and Mr. Domenici)) proposed an amendment to the bill S. 1042, supra

SA 1492. Mr. REED (for Mr. Levin (for himself and Mr. Reed)) proposed an amendment to the bill S. 1042, supra.

SA 1493. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1494. Mr. LEVIN (for himself, Mr. Kennedy, Mr. Rockefeller, and Mr. Reed) submitted an amendment intended to be proposed by him to the bill S. 1042, supra.

SA 1495. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1496. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1042, supra.

SA 1497. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1042, supra.

SA 1498. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1499. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1500. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1501. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1502. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1503. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1504. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1505. Mr. GRAHAM (for himself, Mr. Warner, and Mr. McCain) submitted an amendment intended to be proposed by him to the bill S. 1042, supra.

SA 1506. Mr. ALLARD (for himself and Mr. Salazar) submitted an amendment intended to be proposed by him to the bill S. 1042, supra.

SA 1507. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1508. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1509. Mr. HATCH (for himself, Mr. Inhofe, Mr. Bennett, and Mr. Chambliss) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1510. Mr. HATCH (for himself and Mr. Chambliss) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1511. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1512. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1513. Mr. BYRD (for himself, Mr. Biden, Mr. Rockefeller, Mr. Lieberman, Mrs. Clinton, Mr. Obama, and Mr. Schumer) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1514. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1515. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1516. Mr. HATCH (for himself, Mr. Inhofe, Mr. Bennett, and Mr. Chambliss) proposed an amendment to the bill S. 1042, supra.

SA 1517. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1518. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1519. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1520. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1521. Mr. COLEMAN (for himself and Mr. Levin) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1522. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1523. Mrs. DOLE (for herself, Mr. Durbin, and Mr. Nelson, of Florida) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1524. Mrs. DOLE (for herself, Mr. Lautenberg, Mr. Kennedy, Mr. DeWine, Ms. Landrieu, Mr. Chafee, Ms. Mikulski, Mr. Chambliss, and Mr Durbin) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1525. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1526. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1527. Mrs. BOXER (for herself and Ms. Snowe) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1528. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1529. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1530. Mr. MARTINEZ (for himself and Mr. Nelson, of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1531. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1532. Mr. DORGAN (for himself and Ms. Snowe) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1533. Mr. MARTINEZ (for himself and Mr. Nelson, of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1534. Mr. DeWINE (for himself, Mr. Biden, and Mr. Lieberman) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1535. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1536. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1537. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1538. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1539. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1540. Ms. SNOWE (for herself and Mr. Kerry) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1541. Ms. SNOWE (for herself and Mr. Kerry) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1542. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1543. Mr. DOMENICI (for himself and Mr. Graham) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1544. Mr. DOMENICI (for himself and Mr. Bingaman) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1545. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1546. Mr. DOMENICI (for himself, Mrs. Hutchison, and Mr. Bingaman) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1547. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1548. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1549. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1550. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1551. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1552. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1553. Mr. CONRAD (for himself, Mr. Baucus, Mr. Burns, Mr. Thomas, and Mr. Enzi) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1554. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1555. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1556. Mr. McCAIN (for himself, Mr. Warner, Mr. Graham, and Ms. Collins) proposed an amendment to the bill S. 1042, supra.

SA 1557. Mr. McCAIN (for himself, Mr. Warner, Mr. Graham, Ms. Collins, and Mr. Levin) proposed an amendment to the bill S. 1042, supra.

SA 1558. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1559. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1560. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1561. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1562. Mr. WARNER (for himself and Mr. Leahy) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1563. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1564. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1565. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1566. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 1567. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1568. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1569. Mr. NELSON, of Nebraska (for himself and Mr. Wyden) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1570. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1571. Mr. DURBIN (for himself, Ms. Mikulski, Mr. Allen, Mr. Graham, Ms. Landrieu, Mr. Leahy, Mr. Sarbanes, Mr. Lautenberg, Mr. Bingaman, Mr. Kerry, Mr. Salazar, Mr. Corzine, Mr. Chafee, Mrs. Lincoln, Mr. Biden, Mr. Kennedy, Mrs. Murray, and Mr. Nelson, of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, supra.

SA 1572. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1573. Ms. SNOWE (for herself and Ms. Collins) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1574. Mr. VOINOVICH (for himself and Mr. DeWine) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1575. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1576. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1577. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1578. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1579. Mr. CORZINE (for himself, Mr. Kennedy, Mr. Lautenberg, Mr. Dodd, Mr. Jeffords, and Mr. Feingold) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1439. Mr. BINGAMAN (for himself and Mr. Domenici) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. FIELD PROGRAMMABLE GATE ARRAY.

(a) Additional Amount for Research, Development, Test, and Evaluation, Air Force.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $3,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $3,000,000 may be available for Space Technology (PE # 0602601F) for research and development on the reliability of field programmable gate arrays for space applications, including design of an assurance strategy, reference architectures, research and development on reliability and radiation hardening, and outreach to industry and localities to develop core competencies.

(c) Offset.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for the Air Force is hereby reduced by $3,000,000.

SA 1440. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, between lines 5 and 6, insert the following:

SEC. 244. NATIONAL CRITICAL TECHNOLOGIES PANEL.

(a) Establishment.—The Director of the Office of Science and Technology Policy shall establish within that office a National Critical Technologies Panel (referred to in this section as the "panel"). The panel shall prepare the biennial national critical technologies report required by subsection (c).

(b) Membership.—

(1) Composition and appointment.—The panel shall consist of 13 members appointed from among persons who are experts in science and engineering as follows:

(A) Director.—The Director of the Office of Science and Technology Policy shall appoint 5 members, of whom—

(i) 2 shall be Federal Government officials; and

(ii) 3 shall be appointed from persons in private industry and higher education.

(B) Congressional appointments.—The leadership of the Senate and the House of Representatives shall appoint 4 members, of whom—

(i) 1 shall be appointed by the Majority Leader of the Senate;

(ii) 1 shall be appointed by the Minority Leader of the Senate;

(iii) 1 shall be appointed by the Speaker of the House of Representatives; and

(iv) 1 shall be appointed by the Minority Leader of the House of Representatives.

(C) Agency appointments.—Of the remaining 4 members of the panel—

(i) 1 shall be appointed by the Secretary of Defense, who shall be an official of the Department of Defense;

(ii) 1 shall be appointed by the Secretary of Energy, who shall be an official of the Department of Energy;

(iii) 1 shall be appointed by the Secretary of Commerce, who shall be an official of the Department of Commerce; and

(iv) 1 shall be appointed by the Administrator of the National Aeronautics and Space

Administration, who shall be an official of the National Aeronautics and Space Administration.

(2) TERM OF OFFICE; VACANCIES.—

(A) TERM.—

(i) IN GENERAL.—Except as provided in clause (ii), members shall serve for the duration of the panel.

(ii) PRIVATE PERSONS.—Members appointed under paragraph (1)(A)(ii) shall serve for a term of 2 years.

(B) VACANCIES.—Any vacancy in the membership of the panel shall be filled in the same manner as the original appointment.

(3) CHAIRMAN.—The Director of the Office of Science and Technology Policy shall designate 1 of the members appointed under paragraph (1)(A)(i) as chairman of the panel.

(c) BIENNIAL NATIONAL CRITICAL TECHNOLOGIES REPORT.—

(1) IN GENERAL.—The panel shall submit to the President and Congress a biennial report on national critical technologies.

(2) TECHNOLOGIES CONSIDERED NATIONAL CRITICAL TECHNOLOGIES.—For purposes of this subsection, a product technology or process technology may be considered to be a national critical technology if the panel determines it to be a technology that it is essential for the United States to develop to further the long-term national security or economic prosperity of the United States.

(3) CONTENTS.—

(A) IN GENERAL.—Each report under paragraph (1) shall identify those product technologies and process technologies that the panel considers to be national critical technologies. The number of the such technologies identified in any such report may not exceed 30, but shall include the most economically important emerging civilian technologies during the 10-year period following such report, together with the estimated current and future size of domestic and international markets for products derived from these technologies.

(B) TECHNOLOGIES IDENTIFIED.—Each report under paragraph (1) shall include, with respect to each technology identified in the report—

(i) the reasons the panel selected that technology;

(ii) the state of the development of that technology in the United States and in other countries; and

(iii) an estimate of the current and anticipated level of research and development effort in the United States, including anticipated milestones or specific accomplishments, by—

(I) the Federal Government;

(II) State and local governments;

(III) private industry; and

(IV) colleges and universities.

(C) TYPES OF RESEARCH AND DEVELOPMENT NEEDED.—Each report under paragraph (1) shall—

(i) identify the types of research and development needed to close any significant gaps or deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners; and

(ii) list the technologies and markets targeted by major trading partners for development or capture.

(4) TIMING.—

(A) IN GENERAL.—The panel shall submit a report to the President not later than October 1 of each even-numbered year.

(B) SUBMISSION TO CONGRESS.—Not later than 30 days after the date on which a report is submitted to the President under subparagraph (A), the President shall transmit the report, together with any comments that the President considers appropriate, to Congress.

(d) ADMINISTRATION AND FUNDING OF PANEL.—

(1) IN GENERAL.—The Director of the Office of Science and Technology Policy shall provide administrative support for the panel.

(2) PANEL EXPENSES.—

(A) IN GENERAL.—Funds for necessary expenses of the panel shall be provided for fiscal years after fiscal year 2006 from funds appropriated for that Office.

(B) FISCAL YEAR 2006.—The Secretary of Defense shall reimburse the Director of the Office of Science and Technology Policy for the reasonable expenses, not to exceed $1,000,000, incurred by the panel during fiscal year 2006.

(e) EXPIRATION.—The panel shall terminate on December 31, 2010.

SA 1441. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, add the following:

SEC. 114. TACTICAL WHEELED VEHICLES.

(a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount authorized to be appropriated by section 101(5) for other procurement for the Army is hereby increased by $390,100,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 101(5) for other procurement for the Army, as increased by subsection (a)—

(1) $281,000,000 may be available for the procurement of armored Tactical Wheeled Vehicles to reconstitute Army Prepositioned Stocks–5, including the procurement of armored Light Tactical Vehicles (LTVs), armored Medium Tactical Vehicles (MTVs), and armored Heavy Tactical Vehicles (HTVs) for purposes of equipping one heavy brigade, one infantry brigade, and two infantry battalions; and

(2) $109,100,000 may be available for the procurement of armored Tactical Wheeled Vehicles for the Joint Readiness Training Center at Fort Polk, Louisiana, including the procurement of armored Light Tactical Vehicles, armored Medium Tactical Vehicles, and armored Heavy Tactical Vehicles for purposes of equipping one infantry brigade combat team in order to permit such vehicles to be used for the training and preparation of troops, prior to deployment, on the use of such vehicles.

SA 1442. Mr. KENNEDY (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, between lines 2 and 3, insert the following:

SEC. 807. PUBLIC-PRIVATE COMPETITION FOR WORK PERFORMED BY CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) LIMITATION.—Section 2461(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding subsection (d), a function of the Department of Defense performed by 10 or more civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition process that—

"(i) formally compares the cost of civilian employee performance of that function with the costs of performance by a contractor;

"(ii) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A–76, as implemented on May 29, 2003; and

"(iii) requires continued performance of the function by civilian employees unless the competitive sourcing official concerned determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of $10,000,000 or 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees.

"(B) Any function that is performed by civilian employees of the Department of Defense and is proposed to be reengineered, reorganized, modernized, upgraded, expanded, or changed in order to become more efficient shall not be considered a new requirement for the purpose of the competition requirements in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A–76.

"(C) A function performed by more than 10 Federal Government employees may not be separated into separate functions for the purposes of avoiding the competition requirement in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A–76.

"(D) The Secretary of Defense may waive the requirement for a public-private competition under subparagraph (A) in specific instances if—

"(i) the written waiver is prepared by the Secretary of Defense or the relevant Assistant Secretary of Defense, Secretary of a military department, or head of a Defense Agency;

"(ii) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the requirement for a public-private competition; and

"(iii) a copy of the waiver is published in the Federal Register within 10 working days after the date on which the waiver is granted, although use of the waiver need not be delayed until its publication.".

(b) INAPPLICABILITY TO BEST-VALUE SOURCE SELECTION PILOT PROGRAM.—Paragraph (5) of section 2461(b) of title 10, United States Code, as added by subsection (a), shall not apply with respect to the pilot program for best-value source selection for performance of information technology services authorized by section 336 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1444; 10 U.S.C. 2461 note).

(c) REPEAL OF SUPERSEDED LAW.—Section 327 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 2461 note) is repealed.

SEC. 808. PERFORMANCE OF CERTAIN WORK BY FEDERAL GOVERNMENT EMPLOYEES.

(a) GUIDELINES.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe guidelines and procedures for ensuring that consideration is given to using Federal Government employees on a regular basis for work that is performed under Department of Defense contracts and could be performed by Federal Government employees.

(2) CRITERIA.—The guidelines and procedures prescribed under paragraph (1) shall provide for special consideration to be given to contracts that—

(A) have been performed by Federal Government employees at any time on or after October 1, 1980;

(B) are associated with the performance of inherently governmental functions;

(C) were not awarded on a competitive basis; or

(D) have been determined by a contracting officer to be poorly performed due to excessive costs or inferior quality.

(b) NEW REQUIREMENTS.—

(1) LIMITATION ON REQUIRING PUBLIC-PRIVATE COMPETITION.—No public-private competition may be required under Office of Management and Budget Circular A–76 or any other provision of law or regulation before the performance of a new requirement by Federal Government employees commences, the performance by Federal Government employees of work pursuant to subsection (a) commences, or the scope of an existing activity performed by Federal Government employees is expanded. Office of Management and Budget Circular A–76 shall be revised to ensure that the heads of all Federal agencies give fair consideration to the performance of new requirements by Federal Government employees.

(2) CONSIDERATION OF FEDERAL GOVERNMENT EMPLOYEES.—The Secretary of Defense shall, to the maximum extent practicable, ensure that Federal Government employees are fairly considered for the performance of new requirements, with special consideration given to new requirements that include functions that—

(A) are similar to functions that have been performed by Federal Government employees at any time on or after October 1, 1980; or

(B) are associated with the performance of inherently governmental functions.

(c) USE OF FLEXIBLE HIRING AUTHORITY.—The Secretary shall include the use of the flexible hiring authority available through the National Security Personnel System in order to facilitate performance by Federal Government employees of new requirements and work that is performed under Department of Defense contracts.

(d) INSPECTOR GENERAL REPORT.—Not later than 180 days after the enactment of this Act, the Inspector General of the Department of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the compliance of the Secretary of Defense with the requirements of this section.

(e) DEFINITIONS.—In this section:

(1) The term "National Security Personnel System" means the human resources management system established under the authority of section 9902 of title 5, United States Code.

(2) The term "inherently governmental function" has the meaning given that term in section 5 of the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 112 Stat. 2384; 31 U.S.C. 501 note).

SA 1443. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title V, add the following:

SEC. 596. SENSE OF CONGRESS ON WOMEN IN COMBAT.

It is the sense of Congress that—

(1) women play a critical role in the accomplishment of the mission of the Armed Forces; and

(2) there should be no change to existing statutes, regulations, or policy that would have the effect of decreasing the roles or positions available to women in the Armed Forces.

SA 1444. Mrs. CLINTON (for herself and Mr. KENNEDY) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. RETENTION OF REIMBURSEMENT FOR PROVISION OF RECIPROCAL FIRE PROTECTION SERVICES.

Section 5 of the Act of May 27, 1955 (chapter 105; 69 Stat. 67; 42 U.S.C. 1856d) is amended—

(1) by striking "Funds" and inserting "(a) Funds"; and

(2) by adding at the end the following new subsection:

"(b) Notwithstanding the provisions of subsection (a), all sums received for any Department of Defense activity for fire protection rendered pursuant to this Act shall be credited to the appropriation fund or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation fund or account and shall be available for the same purposes and subject to the same limitations as the funds with which the funds are merged.".

SA 1445. Mr. SARBANES (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

"CHAPTER 1201—[RESERVED]";

and

(2) by inserting after chapter 1103 the following new chapter:

"CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED 120101".

"Sec.
"120101. Organization.
"120102. Purposes.
"120103. Membership.
"120104. Governing body.
"120105. Powers.
"120106. Restrictions.
"120107. Tax-exempt status required as condition of charter.
"120108. Records and inspection.
"120109. Service of process.
"120110. Liability for acts of officers and agents.
"120111. Annual report.
"120112. Definition.

"§ 120101. Organization

"(a) FEDERAL CHARTER.—Korean War Veterans Association, Incorporated (in this chapter, the 'corporation'), a nonprofit organization that meets the requirements for a veterans service organization under section 501(c)(19) of the Internal Revenue Code of 1986 and that is organized under the laws of the State of New York, is a federally chartered corporation.

"(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) expires.

"§ 120102. Purposes

"The purposes of the corporation are those provided in its articles of incorporation and shall include the following:

"(1) Organize as a veterans service organization in order to maintain a continuing interest in the welfare of veterans of the Korean War, and rehabilitation of the disabled veterans of the Korean War to include all that served during active hostilities and subsequently in defense of the Republic of Korea, and their families.

"(2) To establish facilities for the assistance of all veterans and to represent them in their claims before the Department of Veterans Affairs and other organizations without charge.

"(3) To perpetuate and preserve the comradeship and friendships born on the field of battle and nurtured by the common experience of service to our nation during the time of war and peace.

"(4) To honor the memory of those men and women who gave their lives that a free America and a free world might live by the creation of living memorial, monuments, and other forms of additional educational, cultural, and recreational facilities.

"(5) To preserve for ourselves and our posterity the great and basic truths and enduring principles upon which this nation was founded.

"§ 120103. Membership

"Eligibility for membership in the corporation, and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

"§ 120104. Governing body

"(a) BOARD OF DIRECTORS.—The composition of the board of directors of the corporation, and the responsibilities of the board, are as provided in the articles of incorporation of the corporation.

"(b) OFFICERS.—The positions of officers of the corporation, and the election of the officers, are as provided in the articles of incorporation.

"§ 120105. Powers

"The corporation has only those powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§ 120106. Restrictions

"(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

"(b) POLITICAL ACTIVITIES.—The corporation, or a director or officer of the corporation as such, may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

"(c) LOAN.—The corporation may not make a loan to a director, officer, or employee of the corporation.

"(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval, or the authority of the United States, for any of its activities.

"(e) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

"§ 120107. Tax-exempt status required as condition of charter

"If the corporation fails to maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986, the charter granted under this chapter shall terminate.

"§ 120108. Records and inspection

"(a) RECORDS.—The corporation shall keep—

"(1) correct and complete records of account;

"(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

"(3) at its principal office, a record of the names and addresses of its members entitled to vote on matters relating to the corporation.

"(b) INSPECTION.—A member entitled to vote on matters relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§ 120109. Service of process

"The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the Corporation.

"§ 120110. Liability for acts of officers and agents

"The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

"§ 120111. Annual report

"The corporation shall submit to Congress an annual report on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101(b) of this title. The report may not be printed as a public document.

"§ 120112. Definition

"For purposes of this chapter, the term 'State' includes the District of Columbia and the territories and possessions of the United States.".

(b) CLERICAL AMENDMENT.—The item relating to chapter 1201 in the table of chapters at the beginning of subtitle II of title 36, United States Code, is amended to read as follows:

"**1201. Korean War Veterans Association, Incorporated** .... 120101".

SA 1446. Mr. CORZINE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, add the following:

SEC. 538. REDUCTION IN AGE FOR RECEIPT OF MILITARY RETIRED PAY FOR NONREGULAR SERVICE.

(a) REDUCTION IN AGE.—Section 12731(a)(1) of title 10, United States Code, is amended by striking "at least 60 years of age" and inserting "at least 55 years of age".

(b) APPLICATION TO EXISTING PROVISIONS OF LAW OR POLICY.—With respect to any provision of law, or of any policy, regulation, or directive of the executive branch, that refers to a member or former member of the uniformed serivces as being eligible for, or entitled to, retired pay under chapter 1223 of title 10, United States Code, but for the fact that the member or former member is under 60 years of age, such provision shall be carried out with respect to that member or former member by substituting for the reference to being 60 years of age a reference to the age in effect for qualification for such retired pay under section 12731(a) of title 10, United States Code, as amended by subsection (a).

(c) EFFECTIVE DATE.— The amendment made by subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act and shall apply to retired pay payable for that month and subsequent months.

SA 1447. Mr. HARKIN (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IX, add the following:

SEC. 903. AMERICAN FORCES NETWORK.

(a) MISSION.—The American Forces Network (AFN) shall provide members of the Armed Forces, civilian employees of the Department of Defense, and their families stationed outside the continental United States and at sea with the same type and quality of American radio and television news, information, sports, and entertainment as is available in the continental United States.

(b) POLITICAL PROGRAMMING.—

(1) FAIRNESS AND BALANCE.—All political programming of the American Forces Network shall be characterized by its fairness and balance.

(2) FREE FLOW OF PROGRAMMING.—The American Forces Network shall provide in its programming a free flow of political programming from United States commercial and public radio and television stations.

(c) OMBUDSMAN OF THE AMERICAN FORCES NETWORK.—

(1) ESTABLISHMENT.—There is hereby established the Office of the Ombudsman of the American Forces Network.

(2) HEAD OF OFFICE.—

(A) OMBUDSMAN.—The head of the Office of the Ombudsman of the American Forces Network shall be the Ombudsman of the American Forces Network (in this subsection referred to as the "Ombudsman"), who shall be appointed by the Secretary of Defense.

(B) QUALIFICATIONS.—Any individual nominated for appointment to the position of Ombudsman shall have recognized expertise in the field of mass communications, print media, or broadcast media.

(C) PART-TIME STATUS. The position of Ombudsman shall be a part-time position.

(D) TERM.—The term of office of the Ombudsman shall be five years.

(E) REMOVAL.—The Ombudsman may be removed from office by the Secretary only for malfeasance.

(3) DUTIES.—

(A) IN GENERAL.—The Ombudsman shall ensure that the American Forces Network adheres to the standards and practices of the Network in its programming.

(B) PARTICULAR DUTIES.—In carrying out the duties of the Ombudsman under this paragraph, the Ombudsman shall—

(i) initiate and conduct, with such frequency as the Ombudsman considers appropriate, reviews of the integrity, fairness, and balance of the programming of the American Forces Network;

(ii) initiate and conduct, upon the request of Congress or members of the audience of the American Forces Network, reviews of the programming of the Network;

(iii) identify, pursuant to reviews under clause (i) or (ii) or otherwise, circumstances in which the American Forces Network has not adhered to the standards and practices of the Network in its programming, including circumstances in which the programming of the Network lacked integrity, fairness, or balance; and

(iv) make recommendations to the American Forces Network on means of correcting the lack of adherence identified pursuant to clause (iii).

(C) LIMITATION.—In carrying out the duties of the Ombudsman under this paragraph, the Ombudsman may not engage in any pre-broadcast censorship or pre-broadcast review of the programming of the American Forces Network.

(4) RESOURCES.—The Secretary of Defense shall provide the Office of the Ombudsman of the American Forces Network such personnel and other resources as the Secretary and the Ombudsman jointly determine appropriate to permit the Ombudsman to carry out the duties of the Ombudsman under paragraph (3).

(5) INDEPENDENCE.—The Secretary shall take appropriate actions to ensure the complete independence of the Ombudsman and the Office of the Ombudsman of the American Forces Network within the Department of Defense.

(6) ANNUAL REPORTS.—

(A) IN GENERAL.—The Ombudsman shall submit to the Secretary of Defense and the congressional defense committees each year a report on the activities of the Office of the Ombudsman of the American Forces Network during the preceding year.

(B) AVAILABILITY TO PUBLIC.—The Ombudsman shall make available to the public each report submitted under subparagraph (A) through the Internet website of the Office of the Ombudsman of the American Forces Network and by such other means as the Ombudsman considers appropriate.

SA 1448. Mr. BIDEN (for himself, Mr. CARPER, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VII, add the following:

SEC. 718. RESPONSE TO MEDICAL NEEDS ARISING FROM MANDATORY MILITARY VACCINATIONS.

(a) IN GENERAL.—The Secretary of Defense shall maintain a joint military medical center of excellence focusing on the medical needs arising from mandatory military vaccinations.

(b) ELEMENTS.—The joint military medical center of excellence under subsection (a) shall consist of the following:

(1) The current Vaccine Health Care Centers of the Department of Defense, which shall be the principle elements of the center.

(2) Any other elements that the Secretary considers appropriate.

(c) AUTHORIZED ACTIVITIES.—In acting as the principle elements of the joint military medical center under subsection (a), the Vaccine Health Care Centers referred to in subsection (b)(1) may carry out the following:

(1) Medical assistance and care to individuals receiving mandatory military vaccines and their dependents, including long-term case management for adverse events where necessary.

(2) Evaluations to identify and treat potential and actual health effects from vaccines before and after their use in the field.

(3) The development and sustainment of a long-term vaccine safety and efficacy registry.

(4) Support for an expert clinical advisory board for case reviews related to disability assessment questions.

(5) Long-term and short-term studies to identify unanticipated benefits and adverse events from vaccines.

(6) Educational outreach for immunization providers and those requiring immunizations.

(7) The development, dissemination, and validation of educational materials for Department of Defense healthcare workers relating to vaccine safety, efficacy, and acceptability.

SA 1449. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, insert the following:

SEC. 846. DISASTER RELIEF FOR SMALL BUSINESS CONCERNS DAMAGED BY DROUGHT.

(a) DROUGHT DISASTER AUTHORITY.—

(1) DEFINITION OF DISASTER.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(A) by inserting "(1)" after "(k)"; and

(B) by adding at the end the following:

"(2) For purposes of section 7(b)(2), the term 'disaster' includes—

"(A) drought; and

"(B) below average water levels in the Great Lakes, or on any body of water in the United States that supports commerce by small business concerns.".

(2) DROUGHT DISASTER RELIEF AUTHORITY.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended—

(A) by inserting "(including drought), with respect to both farm-related and nonfarm-related small business concerns," before "if the Administration"; and

(B) in subparagraph (B), by striking "the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961)" and inserting the following: "section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), in which case, assistance under this paragraph may be provided to farm-related and nonfarm-related small business concerns, subject to the other applicable requirements of this paragraph".

(b) LIMITATION ON LOANS.—From funds otherwise appropriated for loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), not more than $9,000,000 may be used during each of fiscal years 2005 through 2008, to provide drought disaster loans to nonfarm-related small business concerns in accordance with this section and the amendments made by this section.

(c) PROMPT RESPONSE TO DISASTER REQUESTS.—Section 7(b)(2)(D) of the Small Business Act (15 U.S.C. 636(b)(2)(D)) is amended by striking "Upon receipt of such certification, the Administration may" and inserting "Not later than 30 days after the date of receipt of such certification by a Governor of a State, the Administration shall respond in writing to that Governor on its determination and the reasons therefore, and may".

(d) RULEMAKING.—Not later than 45 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final rules to carry out this section and the amendments made by this section.

SA 1450. Mr. OBAMA (for himself and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title VI, add the following:

SEC. 653. LIMITATIONS ON INQUIRIES BY EMPLOYERS REGARDING SERVICE IN THE UNIFORMED SERVICES OF PROSPECTIVE EMPLOYEES.

Section 4311 of title 38, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(2) by inserting after subsection (b) the following new subsection (c):

"(c) A prospective employer shall not ask or inquire, whether orally or in writing, about the membership in the uniformed services of a person seeking employment with such employer unless—

"(1) such membership is a condition of employment; or

"(2) such employer has a formal written policy of providing preference in hiring to current members of the uniformed services, veterans, or both."; and

(3) in subsection (d), as redesignated by paragraph (1) of this section—

(A) in paragraph (1), by striking "or" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(4) under subsection (c), if the employer makes an inquiry prohibited by that subsection.".

SA 1451. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, add the following:

SEC. 573. MENTAL HEALTH SCREENINGS OF MEMBERS OF THE ARMED FORCES FOR POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) MENTAL HEALTH SCREENINGS.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned shall perform mental health screenings of each member of the Armed Forces who is deployed in a combat operation or to a combat zone.

(b) NATURE OF SCREENINGS.—The first mental health screening of a member under this section shall be designed to determine the mental state of such member before deployment. Each other mental health screening of a member under this section shall be designated to detect symptoms or other evidence in such member of Post Traumatic Stress Disorder (PTSD) or other mental health condition relating to combat.

(c) TIME OF SCREENINGS.—A member shall receive a mental health screening under this section at times as follows:

(1) Prior to deployment in a combat operation or to a combat zone.

(2) Not later than 30 days after the date of the member's return from such deployment.

(3) Whenever the member is screened for human immunodeficiency virus (HIV) or acquired immune deficiency syndrom (AIDS).

(4) Whenever the member receives any other medical examination through the Department of Defense.

SA 1452. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . TAX CHECK-OFF FOR CERTAIN CONTRIBUTIONS TO ARMED FORCES RELIEF TRUST.

(a) TAX CHECK-OFF.—

(1) IN GENERAL.—In the case of an individual, with respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such individual may designate that a contribution has been made for such taxable year to the Armed Forces Relief Trust.

(2) MANNER AND TIME OF DESIGNATION.—A designation under paragraph (1) may be made with respect to any taxable year only at the time of filing the return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made in such manner as the Secretary prescribes by regulations except that such designation shall be made on the first page of the return in the area below the designation for income tax payments to the Presidential Election Campaign Fund.

(3) EXPLANATION OF TAX TREATMENT OF CONTRIBUTIONS TO ARMED FORCES RELIEF TRUST.—The Secretary shall provide taxpayers with an explanation that an above-the-line deduction under section 62(a)(22) of the Internal Revenue Code of 1986 is allowed for any taxable year with respect to any contribution designated under paragraph (1) for such taxable year in an amount not to exceed $1,000, that any amount of such contribution in excess of $1,000 may be taken as an additional deduction for such taxable year by any taxpayer who itemizes deductions, and that such above-the-line deduction is not includible in the determination of the alternative minimum tax under section 55 of such Code.

(b) ABOVE-THE-LINE DEDUCTION.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by redesignating paragraph (20) (as added by section 703(a) of the American Jobs Creation Act of 2004) as paragraph (21) and by inserting after paragraph (21) (as so redesignated) the following new paragraph:

"(v) CERTAIN CONTRIBUTIONS TO ARMED FORCES RELIEF TRUST.—The deduction allowed by section 170 which is attributable to contributions to the Armed Forces Relief Trust not in excess of $1,000.".

(c) TREATMENT OF CHARITABLE CONTRIBUTIONS TO ARMED FORCES RELIEF TRUST.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any contribution made by any of the societies associated with the Armed Forces Relief Trust shall not be commingled with any charitable contribution made to the Trust Fund for which a deduction under section 170 of the Internal Revenue Code of 1986 is allowable.

(2) ADMINISTRATION OF CHARITABLE CONTRIBUTIONS.—The administration and distribution of any charitable contributions described in paragraph (1) shall be made by the Armed Forces Relief Trust subject to the advice of a board of directors the establishment and operation of which is determined under subsection (d).

(d) ADVISORY BOARD OF DIRECTORS.—

(1) APPOINTMENT.—

(A) IN GENERAL.—Within the Armed Forces Relief Trust there is established an advisory board of directors the members of which are appointed as follows:

(i) One individual appointed by the Chairman of the Committee on Finance of the Senate.

(ii) One individual appointed by the Chairman of the Committee on Armed Services of the Senate.

(iii) One individual appointed by the Chairman of the Committee on Veterans' Affairs of the Senate.

(iv) One individual appointed by the Chairman of the Committee on Appropriations of the Senate.

(v) One individual appointed by the Chairman of the Joint Committee on Taxation.

(vi) One individual appointed by the Chairman of the Committee on Armed Services of the House of Representatives.

(vii) One individual appointed by the Chairman of the Committee on Veterans' Affairs of the House of Representatives.

(viii) One individual appointed by the Chairman of the Committee on Appropriations of the House of Representatives.

(ix) One individual appointed by the President from each of the following: the Army Emergency Relief Society, the Navy Marine Corps Relief Society, the Air Force Aid Society, and the Coast Guard Mutual Assistance Relief Society.

(x) Two individuals appointed by the President from 2 veterans service organizations.

(B) TERM.—The term of each member of the advisory board shall be 3 years, except that any member whose term of office has expired shall continue to serve until such member's successor is appointed. No member shall serve more than two 3-year terms.

(C) APPOINTMENT OF SUCCESSORS.—The appointment of any successor member shall be made in the same manner as the original appointment. If a member dies or resigns before the expiration of the member's term, a successor shall be appointed for the unexpired portion of the term in the same manner as the original appointment.

(D) PROHIBITION.—No member of the advisory board may be an employee of the Federal Government.

(2) CHAIRMAN; VICE CHAIRMAN.—

(A) DESIGNATION.—The President shall designate a chairman for the advisory board. The advisory board shall not later than its second meeting, by majority vote, designate a vice chairman, who shall perform the duties of the chairman in the absence of the chairman.

(B) DUTIES OF CHAIRMAN.—The chairman shall call the meetings of the advisory board, propose meeting agendas, chair the meetings, and establish, with the approval of a majority of the members, the rules and procedures for such meetings.

(3) OPERATIONS OF THE BOARD.—The advisory board shall meet semi-annually, for the purpose of providing ongoing advice to the Armed Forces Relief Trust regarding the distribution of contributed funds, policies governing said distribution, and the administrative costs and operations of the Armed Forces Relief Trust. A majority of the members shall constitute a quorum. Advisory board members shall serve without compensation. While performing duties as a member of the advisory board, each member shall be reimbursed under Federal Government travel regulations for travel expenses. Such reimbursements and any other reasonable expenses of the advisory board shall be provided by the budget of the Executive Office of the President.

(4) AUDIT.—The General Accountability Office shall audit the distribution and management of funds of the Armed Forces Relief Trust on an annual basis to ensure compliance with statutory and administrative directives. The Comptroller General of the United States shall report to the advisory board and Congress on the results of such audit.

(5) REPORTS.—Within 60 days after its semi-annual meeting, the advisory board shall submit a written report to the President of its action, and of its views and recommendations. Any report other than the semi-annual report, shall, if approved by a majority of the members of the advisory board, be submitted to the President within 60 days after such approval.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SA 1453. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In subtitle B of title VII of the bill, add the following at the end:

SEC. 718. PANDEMIC AVIAN FLU PREPAREDNESS.

(a) STUDY.—The Secretary of Defense, in collaboration with the Secretary of Health and Human Services, shall conduct an ongoing study on efforts within the Department of Defense to prepare for pandemic influenza, including pandemic avian influenza. In conducting such study the Secretary shall address the following, with respect to military and civilian personnel—

(1) the procurement of vaccines, antivirals and other medicines, and medical supplies, including personal protective equipment, particularly those that must be imported;

(2) protocols for the allocation and distribution of vaccines and medicines among high priority populations;

(3) public health containment measures that may be implemented on military bases and other facilities, including quarantine, travel restrictions and other isolation precautions;

(4) communication with Department of Defense affiliated health providers about pandemic preparedness and response;

(5) surge capacity for the provision of medical care during pandemics;

(6) the availability and delivery of food and basic supplies and services;

(7) surveillance efforts domestically and internationally, including those utilizing the Global Emerging Infections Systems (GEIS), and how such efforts are integrated with other ongoing surveillance systems;

(8) the integration of pandemic and response planning with those of other Federal departments, including the Department of Health and Human Services, Department of the Veterans Affairs, Department of State, and USAID; and

(9) collaboration (as appropriate) with international entities engaged in pandemic preparedness and response.

(b) SUBMISSION OF REPORT.—Not later than 120 days after the date of enactment of this Act, and annually thereafter, the Secretary of Defense shall submit to the Committee on

Armed Services and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Armed Services and Committee on Energy and Commerce of the House of Representatives, a report concerning the results of the study conducted under subsection (a).

SA 1454. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VIII, add the following:

SEC. 815. COMPLIANCE WITH BERRY AMENDMENT REGARDING CERTAIN SPECIALTY METALS.

Section 2533a of title 10, United States Code, is amended—

(1) in subsection (a), by striking "(h)" and inserting "(i)";

(2) by redesignating subsections (f), (g), (h), (i), and (j) as subsections (g), (h), (i), (j), and (k), respectively; and

(3) by inserting after subsection (e) the following new subsection (f):

"(f) EXCEPTION FOR SPECIALTY METALS TO FACILITATE CIVIL-MILITARY INTEGRATION.—(1) Subsection (a) does not preclude the procurement of an item containing specialty metals produced outside the United States if the contractor or subcontractor that produces the item (or, in the case of a component that contains specialty metals, the producer of such component)—

"(A) uses the same production processes for the production of the item or component being delivered to the Department of Defense as it uses for similar items or components to be delivered to other customers;

"(B) notifies the contracting officer before the award of the contract that it will purchase during the period specified in paragraph (2) an amount of domestically-melted specialty metals equivalent in quality and amount to that which would have been used to produce the item or component for delivery to the Department of Defense; and

"(C) purchases the amount of domestically-melted specialty metals specified in the notice under subparagraph (B) during the period specified in paragraph (2).

"(2) The period specified in the subparagraph (1)(B) with respect to an item or component covered by paragraph (1) is the period ending on the date of the delivery of the item or component to the Department of Defense and beginning on—

"(A) the date of the of the award of the contract for the delivery of the item or component to the Department of Defense; or

"(B) any other date agreed upon by the Department of Defense consistent with the production process of the producer under subparagraph (1)(A).".

SA 1455. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

Subtitle D—Post Traumatic Stress Disorder

SEC. 741. SHORT TITLE.

This subtitle may be cited as the "Peace of Mind for Our Armed Forces and Their Family Members Act of 2005".

SEC. 722. MENTAL HEALTH SCREENINGS FOR POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) SCREENINGS OF MEMBERS OF ARMED FORCES.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned shall perform mental health screenings of each member of the Armed Forces who is deployed in a combat operation or to a combat zone.

(2) NATURE OF SCREENINGS.—The first mental health screening of a member under this subsection shall be designed to determine the mental state of such member before deployment. Each other mental health screening of a member under this subsection shall be designated to detect symptoms or other evidence in such member of Post Traumatic Stress Disorder (PTSD) or other mental health condition relating to combat.

(3) TIME OF SCREENINGS.—A member shall receive a mental health screening under this subsection at times as follows:

(A) Prior to deployment in a combat operation or to a combat zone.

(B) Not later than 30 days after the date of the member's return from such deployment.

(C) Not later than 90 days after the date of the member's return from such deployment.

(D) Not later than 180 days after the date of the member's return from such deployment.

(E) Not later than one year after the date of the member's return from such deployment, and every year thereafter until such time as the Secretary concerned determines appropriate.

(b) SCREENING OF DEPENDENTS.—Subject to the availability of facilities and resources, the Secretary concerned may perform mental health screenings of any dependent of a member of the Armed Forces deployed in a combat operation or to a combat zone who requests such screenings under this section.

(c) OTHER SCREENINGS.—Nothing in this section shall be construed to prohibit the Secretary concerned from performing other mental health screenings or assessments of a member of the Armed Forces, or of a dependent of a member of the Armed Forces, if circumstances so warrant.

SEC. 743. LEADERSHIP TRAINING ON POST TRAUMATIC STRESS DISORDER.

(a) TRAINING REQUIRED.—Each Secretary concerned shall provide training on the causes, symptoms, and effects of Post Traumatic Stress Disorder (PTSD) to members of the Armed Forces who serve as commanders of military units at the company level and above.

(b) ELEMENTS.—The training provided under subsection (a) shall include the following:

(1) Information on the availability of mental health screenings under section 2 for members of the Armed Forces and their dependents.

(2) Information on various means of encouraging members of the Armed Forces who may be experiencing Post Traumatic Stress Disorder to seek evaluation and treatment.

(3) Such other information on Post Traumatic Stress Disorder, and the identification, evaluation, and treatment of Post Traumatic Stress Disorder, as the Secretary concerned considers appropriate.

SEC. 744. TRAINING AND EDUCATION OF MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS ON POST TRAUMATIC STRESS DISORDER.

(a) TRAINING FOR MEMBERS OF ARMED FORCES.—Each Secretary concerned shall provide training on the causes, symptoms, and effects of Post Traumatic Stress Disorder (PTSD) to members of the Armed Forces.

(b) EDUCATION FOR DEPENDENTS.—Each Secretary concerned shall take appropriate actions to make available to the dependents of members of the Armed Forces information on the causes, symptoms, and effects of Post Traumatic Stress Disorder in members of the Armed Forces.

SEC. 745. TREATMENT PROGRAMS FOR POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) PROGRAMS REQUIRED.—The Secretary of Defense shall implement programs, and enhance existing programs, in order to improve the treatment provided by the Department of Defense to members of the Armed Forces for Post Traumatic Stress Disorder (PTSD) and other mental health conditions associated with service in combat. Such programs shall facilitate the participation of dependents of members of the Armed Forces in the treatment of such members for such conditions.

(b) REPORT ON PROGRAMS.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the actions taken by the Secretary under subsection (a). The report shall include—

(1) a description of the programs implemented or enhanced under that subsection, including a description of how such programs will improve the treatment of members of the Armed Forces for Post Traumatic Stress Disorder; and

(2) information on the participation of members of the Armed Forces and their dependents in such programs.

SEC. 746. DEFINITIONS.

In this subtitle:

(1) DEPENDENT.—The term "dependent", with respect to a member of the Armed Forces, has the meaning given such term in section 1072(2) of title 10, United States Code.

(2) SECRETARY CONCERNED.—The term "Secretary concerned" has the meaning given such term in section 101(a) of title 10, United States Code.

SA 1456. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, add the following:

SEC. 358. SENSE OF SENATE ON TAX RELIEF FOR EMPLOYERS WHO COVER PAY GAP OF MOBILIZED EMPLOYEES WHO ARE MEMBERS OF THE NATIONAL GUARD AND RESERVES.

(a) FINDINGS.—The Senate makes the following findings:

(1) More than 137,000 members of the National Guard and the Reserves have been called or ordered to active duty.

(2) 74,700 members of the National Guard and the Reserves are serving bravely in the war on terrorism.

(3) When a member of the National Guard or the Reserves is called or ordered to active duty, the member faces a loss of income in the difference between the amount of the member's civilian pay and the member's military pay (often referred to as a "pay gap") because military salaries are less than civilian salaries. More than 51 percent of our citizen soldiers take a pay cut when they are deployed, and 11 percent of them lose more than $2,500 per month.

(4) The pay gap can make it difficult for military families to make ends meet while a member of the National Guard or the Reserves is mobilized.

(5) There are hundreds, if not thousands, of patriotic employers that continue to pay the salaries of members of the National Guard and the Reserves who are called or ordered to active duty.

(6) Some of these employers not only continue to pay salaries to their employees who are members of the National Guard or the Reserves on active duty, they often need to hire a temporary employee to keep their businesses going while such employees are on active duty.

(7) While these patriotic employers make this sacrifice, there are thousands more who cannot afford to do so.

(b) SENSE OF SENATE.—It is the sense of the Senate that the tax provisions under budget reconciliation should contain provisions to provide tax relief to employers who make up the pay gap for their employees who are called or ordered to active duty in the National Guard or the Reserves.

SA 1457. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. CHAPLAIN PROGRAM.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY RESERVE.—The amount authorized to be appropriated by section 301(6) for operation and maintenance for the Army Reserve is hereby increased by $7,600,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 301(6) for operation and maintenance for the Army Reserve, as increased by subsection (a), $7,600,000 may be available for the Chaplain Program, of which—

(1) $2,400,000 may be available for trainers;

(2) $1,000,000 may be available for augmentation personnel;

(3) $4,200,000 may be available for spouses, facilities, and materials.

SA 1458. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. COMPENSATION OF ENERGY EMPLOYEES EXPOSED TO RESIDUAL BERYLLIUM CONTAMINATION.

(a) AMENDMENTS TO ENERGY EMPLOYEES OCCUPATIONAL ILLNESS PROGRAM.—The Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398)) is amended as follows:

(1) EMPLOYEES COVERED UNDER PROGRAM.—Section 3621(7)(C) (42 U.S.C. 7384l(7)(C)) is amended by striking "during a period when the vendor was engaged in activities related to the production or processing of beryllium for sale to, or use by, the Department of Energy" and inserting the following: "during a period when—

"(i) the vendor was engaged in activities related to the production or processing of beryllium for sale to, or use by, the Department of Energy; or

"(ii) there existed a potential for significant residual beryllium contamination at a facility after the vendor ceased to be engaged in such activities, according to the Report on Residual Radioactive Contamination and Beryllium Contamination at Atomic Weapons Employer Facilities and Beryllium Vendors, published by the National Institute for Occupational Safety and Health in October 2003, or any update of such report, including updates required under section 3169 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 42 U.S.C. 7384 note).".

(2) DETERMINATION OF BERYLLIUM EXPOSURE.—Section 3623(a) (42 U.S.C. 7384n(a)) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking "A covered beryllium employee" and inserting "(1) A covered beryllium employee";

(C) by inserting after "such facility" the following: "or significant residual beryllium remained after the termination at such facility of activities related to the production or processing of beryllium"; and

(D) by adding at the end the following new paragraph:

"(2) A covered beryllium employee exposed to residual beryllium while present in a facility that engaged in activities related to the production or processing of beryllium for sale to, or use by, the Department of Energy and one or more other entities shall be determined to have been exposed to beryllium in the performance of duty for the purposes of the compensation program regardless of whether the source of such exposure can be distinguished through reliable documentation.".

(3) REQUIREMENT TO EXPAND LIST OF BERYLLIUM VENDORS.—Section 3622 (42 U.S.C. 7384m) is amended by striking "Not later than December 31, 2002, the President may" and inserting "Not later than December 31, 2005, and annually thereafter until December 31, 2008, the President shall".

(b) UPDATES OF REPORTS ON RESIDUAL CONTAMINATION.—

(1) UPDATES REQUIRED.—Subsection (a) of section 3169 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2191; 42 U.S.C. 7384 note) is amended to read as follows:

"(a) UPDATES OF REPORT.—Not later than 14 days after a residual beryllium report is completed for a facility and the Director of the National Institute for Occupational Safety and Health completes an internal review of such report, the Director shall submit to Congress an update to the report required by section 3151(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 42 U.S.C. 7384 note) that includes with respect to such facility the applicable elements described in subsection (b).".

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in subsection (b), by striking "The update" and inserting "Each update submitted under subsection (a)";

(B) in subsection (c), by striking "the report" and inserting "each report"; and

(C) in the heading, by striking "update" and inserting "updates".

SA 1459. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. SENSE OF THE SENATE REGARDING INTERIM REPORTS ON RESIDUAL BERYLLIUM CONTAIMINATION AT DEPARTMENT OF ENERGY VENDOR FACILITIES.

(a) FINDINGS.—The Senate makes the following findings:

(1) Section 3169 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 42 U.S.C. 7384 note) requires the National Institute for Occupational Safety and Health to submit, not later than December 31, 2006, an update to the October 2003 report of the Institute on residual beryllium contamination at Department of Energy vendor facilities.

(2) The American Beryllium Company, Tallevast, Florida, machined beryllium for the Department of Energy's Oak Ridge Y-12, Tennessee, and Rocky Flats, Colorado, facilities from 1967 until 1992.

(3) The National Institute for Occupational Safety and Health has completed its evaluation of residual beryllium contamination at the American Beryllium Company.

(4) Claimants from American Beryllium Company need to know whether residual beryllium was present at the American Beryllium Company facility before or after the dates of coverage established by the Department of Energy and the Department of Labor in order to evaluate the need for further legislative action.

(b) SENSE OF THE SENATE.—It is the sense of the Senate to urge the Director of the National Institute for Occupational Safety and Health—

(1) to provide to Congress interim reports of residual beryllium contamination at facilities not later than 14 days after completing the internal review of such reports; and

(2) to publish in the Federal Register summaries of the findings of such reports, including the dates of any significant residual beryllium contamination, at such time as the reports are provided to Congress under paragraph (1).

SA 1460. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 286, between lines 7 and 8, insert the following:

Subtitle H—Convention Against Torture Implementation

SEC. 1081. SHORT TITLE.

This subtitle may be cited as the "Convention Against Torture Implementation Act of 2005".

SEC. 1082. PROHIBITION ON CERTAIN TRANSFERS OF PERSONS.

(a) PROHIBITION.—No person in the custody or control of a department, agency, or official of United States Government, or of any contractor of any such department or agency, shall be expelled, returned, or extradited to another country, whether directly or indirectly, if—

(1) the country is included on the most recent list submitted to Congress by the Secretary of State under section 1083; or

(2) there are otherwise substantial grounds for believing that the person would be in danger of being subjected to torture.

(b) EXCEPTIONS.—

(1) WAIVERS.—

(A) AUTHORITY.—The Secretary of State may waive the prohibition in subsection (a)(1) with respect to a country if the Secretary certifies to the appropriate congressional committees that—

(i) the acts of torture that were the basis for including that country the list have ended; and

(ii) there is in place a mechanism that assures the Secretary in a verifiable manner that a person expelled, returned, or extradited to that country will not be tortured in that country, including, at a minimum, immediate, unfettered, and continuing access, from the point of return, to such person by an independent humanitarian organization.

(B) REPORTS ON WAIVERS.—

(i) REPORTS REQUIRED.—For each person expelled, returned, or extradited under a waiver provided under subparagraph (A), the head of the appropriate government agency making such transfer shall submit to the appropriate congressional committees a report that includes the name and nationality of the person transferred, the date of transfer, the reason for such transfer, and the name of the receiving country.

(ii) FORM.—Each report under this subparagraph shall be submitted, to the extent practicable, in unclassified form, but may include a classified annex as necessary to protect the national security of the United States.

(2) EXTRADITION OR REMOVAL.—The prohibition in subsection (a)(1) may not be construed to apply to the legal extradition of a person under a bilateral or multilateral extradition treaty or to the legal removal of a person under the immigration laws of the United States if, before such extradition or removal, the person has recourse to a United States court of competent jurisdiction to challenge such extradition or removal.

(e) ASSURANCES INSUFFICIENT.—Written or verbal assurances made to the United States by the government of a country that persons in its custody or control will not be tortured are not sufficient for believing that a person is not in danger of being subjected to torture for purposes of subsections (a)(2) and (b)(2), or for meeting the requirements of subsection (b)(1)(A)(ii).

SEC. 1083. REPORTS ON COUNTRIES USING TORTURE.

Not later than 30 days after the effective date or this subtitle, and annually thereafter, the Secretary of State shall submit to the appropriate congressional committees a report listing each country where torture is known to be used. The list shall be compiled on the basis of the information contained in the most recent annual report of the Secretary of State submitted to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate under section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)).

SEC. 1084. REGULATIONS.

(a) INTERIM REGULATIONS.—Not later than 60 days after the effective date of this subtitle, the heads of the appropriate government agencies shall prescribe interim regulations for the purpose of carrying out this subtitle and implementing the obligations of the United States under Article 3 of the Convention Against Torture, subject to any reservations, understandings, declarations, and provisos contained in the Senate resolution advising and consenting to the ratification of the Convention Against Torture, and consistent with the provisions of this subtitle.

(b) FINAL REGULATIONS.—Not later than 180 days after interim regulations are prescribed under subsection (a), and following a period of notice and opportunity for public comment, the heads of the appropriate government agencies shall prescribe final regulations for the purposes described in subsection (a).

SEC. 1085. SAVINGS CLAUSE.

Nothing in this subtitle shall be construed to eliminate, limit, or constrain in any way the obligations of the United States or the rights of any individual under the Convention Against Torture or any other applicable law.

SEC. 1086. REPEAL OF SUPERSEDED AUTHORITY.

Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277; 8 U.S.C. 1231 note) is repealed. Regulations promulgated under such section that are in effect on the date this subtitle becomes effective shall remain in effect until the heads of the appropriate government agencies issue interim regulations under section 1084(a).

SEC. 1087. DEFINITIONS.

(a) DEFINED TERMS.—In this subtitle:

(1) APPROPRIATE GOVERNMENT AGENCIES.—The term "appropriate government, agencies" means—

(A) the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))); and

(B) elements of the Department of State, the Department of Defense, the Department of Homeland Security, the Department of Justice, the United States Secret Service, the United States Marshals Service, and any other Federal law enforcement, national security, intelligence, or homeland security agency that takes or assumes custody or control or persons or transports persons in its custody or control outside the United States, other than those elements listed or designated as elements of the intelligence community under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committees on Armed Services, Homeland Security and Government Affairs, Judiciary, Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(B) the Committees on Armed Services, Homeland Security, Judiciary, International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives.

(3) CONVENTION AGAINST TORTURE.—The term "Convention Against Torture" means the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984, entered into force on June 26, 1987, signed by the United States on April 18, 1988, and ratified by the United States on October 21, 1994 (T. Doc. 100–20).

(4) EXPELLED PERSON.—A person who is expelled is a person who is involuntarily transferred from the territory of any country, or a port of entry thereto, to the territory of another country, or a port of entry thereto.

(5) EXTRADITED PERSON.—A person who is extradited is an accused person who, in accordance with chapter 209 of title 18, United States Code, is surrendered or delivered to another country with jurisdiction to try and punish the person.

(6) RETURNED PERSON.—A person who is returned is a person who is transferred from the territory of any country, or a port of entry thereto, to the territory of another country of which the person is a national or where the person has previously resided, or a port of entry thereto.

(b) SAME TERMS AS IN THE CONVENTION AGAINST TORTURE—Except as otherwise provided, the terms used in this subtitle have the meanings given those terms in the Convention Against Torture, subject to any reservations, understandings, declarations, and provisos contained in the Senate resolution advising and consenting to the ratification of the Convention Against Torture.

SEC. 1088. EFFECTIVE DATE.

This subtitle shall take effect on the date that is 30 days after the date of the enactment of this subtitle.

SEC. 1089. CLASSIFICATION IN UNITED STATES CODE.

This subtitle shall be classified to the United States Code as a new chapter of title 50, United States Code.

SA 1461. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—FULL RECOGNITION OF SACRIFICE AND VALOR OF UNITED STATES SERVICE MEMBERS

Subtitle A—Findings

SEC. ___01. FINDINGS.

Congress makes the following findings:

(1) In his prepared testimony for the June 28, 2005, hearing of the Committee on Veterans' Affairs of the Senate, Secretary R. James Nicholson reported that over 103,000 veterans of the Global War on Terrorism, including operations in Iraq, are projected to seek health care from the Department of Veterans Affairs during fiscal year 2005.

(2) In his prepared testimony for the May 19, 2005, hearing of the Committee on Veterans' Affairs of the House of Representatives, Department of Veterans Affairs Seamless Transition Office Director John Brown testified that—

(A) over 85,000 veterans of the Global War on Terrorism, including operations in Iraq, had already sought care from the Department of Veterans Affairs; and

(B) 24 percent of all veterans returning from these operations were seeking health care from the Department of Veterans Affairs.

(3) In his testimony before the Subcommittee on Defense of the Committee on Appropriations of the Senate on May 11, 2005, Air Force Surgeon General Lieutenant General George Peach Taylor, Jr. testified that over 55,000 service members had been medically evacuated since the beginning of Operation Iraqi Freedom.

(4) The Department of Defense reports that, through July 22, 2005—

(A) 13,559 service members had been wounded in action in Operation Iraqi Freedom; and

(B) 511 service members had been wounded in action in Operation Enduring Freedom.

(5) The number of wounded service members reported wounded by the Department of Defense constitute less than ⅙ of the number of veterans reported to have already sought health care from the Department of Veterans' Affairs, a number which excludes wounded service members still serving on active duty in the Armed Services and wounded service members who sought health care from private physicians.

(6) In his testimony before the June 28, 2005, hearing of the Committee on Veterans' Affairs of the Senate, Secretary Nicholson estimated that the Department of Veterans Affairs will experience a $1,300,000,000 funding shortfall for fiscal year 2005 and a $1,700,000,000 funding shortfall for fiscal year 2006, in large part because of the Department's inability to plan for the increased workload experienced as a result of large numbers of veterans returning from Operations Iraqi Freedom and Enduring Freedom and seeking health care from the Department.

(7) It is impossible for the Department of Veterans Affairs to estimate, and for Congress to appropriate, the resources necessary to ensure that the Department of Veterans Affairs can adequately provide quality health care to veterans returning home from Operation Iraqi Freedom and other critical operations if the number of wounded and disabled service members is not accurately reported.

Subtitle B—Accounting for Casualties Incurred in the Prosecution of the Global War on Terrorism

SEC. ___11. MONTHLY ACCOUNTING.

Not later than 5 days after the end of each calendar month, the Secretary of Defense shall publish, for each operation described in section ___12, a full accounting of the casualties among the members of the Armed Forces that were incurred in such operation during that month.

SEC. ___12. OPERATIONS COVERED.

The operations referred to in section ___11 are as follows:

(1) Operation Iraqi Freedom.

(2) Operation Enduring Freedom.

(3) Each other operation undertaken by the Armed Forces in the prosecution of the Global War on Terrorism.

SEC. ___13. COMPREHENSIVE CONTENT OF ACCOUNTING.

For the purpose of providing a full and complete accounting of casualties covered by a report under section ___11, the Secretary of Defense shall include in the report the number of casualties in each casualty status in accordance with section ___14.

SEC. ___14. CASUALTY STATUS.

(a) STATUS TYPES.—In a report under this title, each casualty among members of the Armed Forces shall be characterized by the most specific casualty status applicable to the member as follows:

(1) Killed in action.

(2) Killed in non-hostile duty.

(3) Killed, self-inflicted.

(4) Wounded in action, not returned to duty.

(5) Wounded in action, returned to duty (to the extent that data is available to support this characterization of casualty status).

(6) Evacuated for medical reasons.

(b) DEFINITIONS.—In this section:

(1) KILLED IN ACTION.—The term "killed in action", with respect to a member of the Armed Forces, means that the member incurred one or more mortal wounds while involved in an action against a hostile force, whether or not the wounds are inflicted by the hostile force.

(2) KILLED IN NON-HOSTILE DUTY.—The term "killed in non-hostile duty", with respect to a member of the Armed Forces, means that the member incurred one or more mortal wounds that were not self-inflicted and not inflicted during an action against a hostile force.

(3) KILLED, SELF-INFLICTED.—The term "killed, self-inflicted", with respect to a member of the Armed Forces, means a suicide of the member or the death of the member as a result of one or more self-inflicted injuries.

(4) WOUNDED IN ACTION, NOT RETURNED TO DUTY.—The term "wounded in action, not returned to duty", with respect to a member of the Armed Forces, means that the member, while involved in an action against a hostile force, incurred one or more non-mortal injuries that required medical attention and that prevented the member from returning to duty within 72 hours after incurring the injury or injuries.

(5) WOUNDED IN ACTION, RETURNED TO DUTY.—The term "wounded in action, returned to duty", with respect to a member of the Armed Forces, means that the member, while involved in an action against a hostile force, incurred one or more non-mortal injuries that required medical attention but did not prevent the member from returning to duty within 72 hours after incurring the injury or injuries.

(6) EVACUATED FOR MEDICAL REASONS.—The term "evacuated for medical reasons", with respect to a member of the Armed Forces, means that the member was evacuated from a theater of operations for medical reasons, including psychological reasons.

SEC. ___15. PUBLICATION AND RELEASE OF REPORT.

The Secretary of Defense shall—

(1) transmit a copy of the report under section ___11 to the Secretary of Veterans Affairs;

(2) transmit a copy of the report to the chairman and ranking member of—

(A) the Committee on Armed Services of the Senate;

(B) the Committee on Armed Services of the House of Representatives;

(C) the Committee on Veterans' Affairs of the Senate; and

(D) the Committees on Veterans' Affairs of the House of Representatives; and

(3) place the report on the official website of the Department of Defense.

SEC. ___16. SENSE OF CONGRESS.

It is the sense of Congress that full and accurate reporting of casualties among the members of the Armed Forces is essential to the ability of the Federal Government to plan for and provide the resources necessary to ensure that the Department of Veterans Affairs can provide sufficient health care and treatment to members of the Armed Services returning from theaters of conflict.

SA 1462. Mr. LAUTENBERG (for himself, Mrs. MURRAY, Mr. OBAMA, Mr. CORZINE, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VII, add the following:

SEC. 705. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF MEDICAL TREATMENT FACILITIES OR OTHER DEPARTMENT OF DEFENSE FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking "(a) RESTRICTION ON USE OF FUNDS.—".

SA 1463. Mr. HARKIN (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 357, between lines 19 and 20, insert the following:

SEC. 2843. LAND CONVEYANCE, IOWA ARMY AMMUNITION PLANT, MIDDLETOWN, IOWA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Middletown (in this section referred to as the "City") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 1.0 acres located at the Iowa Army Ammunition Plant, Middletown, Iowa.

(b) PAYMENT OF COSTS OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary may require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) REIMBURSEMENT.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by surveys satisfactory to the Secretary. The cost of each survey shall be borne by the City.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SA 1464. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces; and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, add the following:

SEC. 114. E-HUNTER UNMANNED AERIAL VEHICLE KITS.

Of the amount authorized to be appropriated by section 101(5) for other procurement for the Army, $5,000,000 shall be available for the procurement and installation of E-Hunter Unmanned Aerial Vehicle (UAV) kits.

SA 1465. Mr. LOTT (for himself, Mr. COCHRAN, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title II, add the following:

SEC. 224. ARROW BALLISTIC MISSILE DEFENSE SYSTEM.

Of the amount authorized to be appropriated by section 201(5) for research, development, test, and evaluation for Defense-wide activities and available for ballistic missile defense, $80,000,000 may be available for coproduction of the Arrow ballistic missile defense system.

SA 1466. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. RELEASE OF RIGHT TO PAYMENT FROM REVERSIONARY INTEREST HOLDERS FOR IMPROVEMENTS TO MILITARY INSTALLATIONS CLOSED OR REALIGNED UNDER 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

The United States shall release or otherwise relinquish any entitlement to receive, pursuant to an agreement providing for such payment, compensation from the holder of a reversionary interest in real property used by the United States for improvements made to a military installation that is closed or realigned as part of the 2005 round of defense base closure and realignment.

SA 1467. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. CONGRESSIONAL AUTHORITY UNDER DEFENSE PRODUCTION ACT.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended—

(1) in subsection (a)—

(A) by striking "30" and inserting "60"; and

(B) by adding at the end the following: "The findings and recommendations of any such investigation shall be sent immediately to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives for review.";

(2) in subsection (b)—

(A) by inserting before the first period ", or in such instance at the request of the chairman and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Financial Services of the House of Representatives";

(B) in paragraph (2), by inserting before the period ", and the findings and recommendations of such investigation shall be sent immediately to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives for review"; and

(C) by striking "30" and inserting "60";

(3) in subsection (f)—

(A) by striking "designee may" and inserting "designee shall";

(B) in paragraph (4), by striking "and" at the end;

(C) in paragraph (5), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(6) the long-term projections of United States requirements for sources of energy and other critical resources and materials and for economic security.".

(4) in subsection (g)—

(A) by striking "The President" and inserting the following:

"(1) IN GENERAL.—The President"; and

(B) by adding at the end the following:

"(2) QUARTERLY SUBMISSIONS.—The Secretary of the Treasury shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on a quarterly basis, a detailed summary and analysis of each merger, acquisition, or takeover that is being reviewed, was reviewed during the preceding 90-day period, or is likely to be reviewed in the coming quarter by the President or the President's designee under subsection (a) or (b). Each such summary and analysis shall be submitted in unclassified form, with classified annexes as the Secretary determines are required to protect company proprietary information and other sensitive information. Each such summary and analysis shall include an appendix detailing dissenting views."; and

(5) by adding at the end the following new subsections:

"(l) CONGRESSIONAL AUTHORITY.—

"(1) IN GENERAL.—If the President does not suspend or prohibit an acquisition, merger, or takeover under subsection (d), the acquisition, merger, or takeover may not be consummated until 10 legislative days after the President notifies the Congress of the decision not to suspend or prohibit. If a joint resolution objecting to the proposed transaction is introduced in either House of Congress by the chairman of one of the appropriate congressional committees during such period, the transaction may not be consummated until 30 legislative days after such resolution is introduced.

"(2) DISAPPROVAL UPON PASSAGE OF RESOLUTION.—If a joint resolution introduced under paragraph (1) is enacted into law, the transaction may not be consummated.

"(3) CONSIDERATIONS.—The Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives shall review any findings and recommendations submitted under subsection (a) or (b), and any joint resolution under paragraph (1) of this subsection shall be based on the factors outlined in subsection (f).

"(4) SENATE PROCEDURE.—Any joint resolution under paragraph (1) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 765).

"(5) HOUSE CONSIDERATION.—For the purpose of expediting the consideration and enactment of a joint resolution under paragraph (1), a motion to proceed to the consideration of any such joint resolution shall be treated as highly privileged in the House of Representatives.

"(m) THOROUGH REVIEW.—The President, or the President's designee, shall ensure that an acquisition, merger, or takeover that is completed prior to a review or investigation under this section shall be fully reviewed for national security considerations, even in the event that a request for such review is withdrawn.".

SA 1468. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VIII, add the following

SEC. 807. CONTRACTING FOR PROCUREMENT OF CERTAIN SUPPLIES AND SERVICES.

(a) In General.—Section 2462(a) of title 10, United States Code, is amended by striking "from a source" and all that follows through the end and inserting "in compliance with applicable provisions of section 2304 of this title.".

(b) Modification of Limitation on Conversion to Contractor Performance.—Section 8014(a)(3) of the Department of Defense Appropriations Act, 2005 (Public law 108–287; 118 State. 972) is amended—

(1) in subparagraph (A), by inserting ", payment that could be used in lieu of such a plan, health savings account, or medical savings account" after "health insurance plan"; and

(2) in subparagraph (B), by striking "that requires" and all that follows through the end and inserting "that does not comply with the requirements of any Federal law governing the provision of health care benefits by Government contractors that would be applicable if the contractor performed the activity or function under the contract.".

SA 1469. Mr. THOMAS (for himself and Mr. Enzi) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following

SEC. 1073. RENEWAL OF MORATORIUM ON RETURN OF VETERANS MEMORIAL OBJECTS TO FOREIGN NATIONS WITHOUT SPECIFIC AUTHORIZATION IN LAW.

Section 1051(c) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 763; 10 U.S.C. 2572 note) is amended by inserting ", and during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on the date that is eight years after that date" before the period.

SA 1470. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title IX, add the following:

SEC. 912. STUDY ON USE OF SPACE SHUTTLE-DERIVED LAUNCH SYSTEM TO MEET SPACE LAUNCH REQUIREMENTS.

(a) Study Required.—The Secretary of Defense shall conduct a study to evaluate the feasability and advisability of utilizing a space launch system derived from the Space Shuttle to meet current and future space launch requirements for medium and heavy payloads for national security purposes as a complement to current space launch vehicles.

(b) Elements.—The study required by subsection (a) shall include the following:

(1) A comparison of the reliability of the space launch system described in that subsection with the vehicles referred to in that subsection.

(2) A comparison of the workforce available to support such system and to support such vehicles.

(3) A comparative assessment of the infrastructure investment required for such system and for such vehicles.

(4) A comparative assessment of the impact of the utilization of such system and of the utilization of such vehicles on other weapons systems.

(5) An identification of single points of failure, if any, in such system and in such vehicles.

(6) An identification and comparison of any economies of scale with other departments and agencies of the Federal Government that might result from the utilization of such system or of such vehicles.

(c) Report.—The Secretary shall submit to the congressional defense committees a report on the study required by subsection (a) not later than February 28, 2006.

SA 1471. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, add the following:

SEC. 538. DEFENSE SCIENCE BOARD STUDY ON DEPLOYMENT OF MEMBERS OF THE NATIONAL GUARD AND RESERVES IN THE GLOBAL WAR ON TERRORISM.

(a) Study Required.—The Defense Science Board shall conduct a study on the length and frequency of the deployment of members of the National Guard and the Reserves as a result of the global war on terrorism.

(b) Elements.—The study required by subsection (a) shall include the following:

(1) An identification of the current range of lengths and frequencies of deployments of members of the National Guard and the Reserves.

(2) An assessment of the consequences for force structure, morale, and missions capability of deployments of members of the National Guard and the Reserves in the course of the global war on terrorism that are lengthy, frequent, or both.

(3) An identification of the optimal length and frequency of deployments of members of the National Guard and the Reserves during the global war on terrorism.

(4) An identification of mechanisms to reduce the length, frequency, or both of deployments of members of the National Guard and the Reserves during the global war on terrorism.

(c) Report.—Not later than May 1, 2006, the Defense Science Board shall submit to the congressional defense committees a report on the study required by subsection (a). The report shall include the results of the study and such recommendations as the Defense Science Board considers appropriate in light of the study.

SA 1472. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table: as follows:

At the end of subtitle H of title V, add the following:

SEC. 596. AWARD OF COMBAT MEDICAL BADGE (CMB) OR OTHER COMBAT BADGE FOR ARMY HELICOPTER MEDICAL EVACUATION AMBULANCE (MEDEVAC) PILOTS AND CREWS.

(a) Requirement to Elect and Award Combat Badge.—The Secretary of the Army shall, at the election of the Secretary—

(1) award the Combat Medical Badge (CMB) to each member of a helicopter medical evacuation ambulance crew; or

(2)(A) establish a bade of appropriate design, to be known as the Combat Medevac Badge; and

(B) award that badge to each member of a helicopter medical evacuation ambulance crew who meets such requirements for eligibility for the award of that badge as the Secretary shall prescribe.

(b) Award for Service Before Date of Enactment.—In the case of persons who qualified for treatment as a member of a helicopter medical evacuation ambulance crew by reason of service during the period beginning on June 25, 1950k and ending on the date of the enactment of this Act, the Secretary shall award a badge under subsection (a) to each such person with respect to who an application for the award of such badge is made to the Secretary after such date in such manner as the Secretary may require.

(c) Member of Helicopter Medical Evacuation Ambulance Crew Defined.—In this section, the term "member of a helicopter medical evacuation ambulance crew" means any person who while a member of the Army served in combat on or after June 25, 1950, as a pilot or crew member of a helicopter medical evacuation ambulance.

SA 1473. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction,

and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 117, line 11, insert "through a computer accessible Internet website and other means and" before "at no cost".

SA 1474. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, in the table preceding line 1, strike the item relating to Fort Sam Houston, Texas.

On page 311, in the table preceding line 1, strike the amount identified as the total in the amount column and insert "$1,188,122,000".

On page 313, line 4, strike "$2,966,642,000" and insert "$2,959,642,000".

On page 313, line 7, strike "$1,007,222,000" and insert "$1,000,222,000".

SA 1475. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 337, between lines 4 and 5, insert the following:

SEC. 2602. PROHIBITION ON USE OF FUNDS FOR ARMY RESERVE MILITARY CONSTRUCTION PROJECT AT ELLINGTON FIELD, TEXAS.

None of the funds authorized to be appropriated to the Department of the Army by section 2601(1)(A) for the Army Reserve for military construction may be made available for construction of an Army Reserve center at Ellington Field, Texas.

SA 1476. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of title XII, insert the following:

SEC. 1205. THE UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION.

(a) FINDINGS.—Congress finds the following:

(1) The 2004 Report to Congress of the United States-China Economic and Security Review Commission states that—

(A) China's State-Owned Enterprises (SOEs) lack adequate disclosure standards, which creates the potential for United States investors to unwittingly contribute to enterprises that are involved in activities harmful to United States security interests;

(B) United States influence and vital long-term interests in Asia are being challenged by China's robust regional economic engagement and diplomacy;

(C) the assistance of China and North Korea to global ballistic missile proliferation is extensive and ongoing;

(D) China's transfers of technology and components for weapons of mass destruction (WMD) and their delivery systems to countries of concern, including countries that support acts of international terrorism, has helped create a new tier of countries with the capability to produce WMD and ballistic missiles;

(E) the removal of the European Union arms embargo against China that is currently under consideration in the European Union would accelerate weapons modernization and dramatically enhance Chinese military capabilities;

(F) China's recent actions toward Taiwan call into question China's commitments to a peaceful resolution;

(G) China is developing a leading-edge military with the objective of intimidating Taiwan and deterring United States involvement in the Strait, and China's qualitative and quantitative military advancements have already resulted in a dramatic shift in the cross-Strait military balance toward China; and

(H) China's growing energy needs are driving China into bilateral arrangements that undermine multilateral efforts to stabilize oil supplies and prices, and in some cases may involve dangerous weapons transfers.

(2) On March 14, 2005, the National People's Congress approved a law that would authorize the use of force if Taiwan formally declares independence.

(b) SENSE OF CONGRESS.—

(1) PLAN.—The President is strongly urged to take immediate steps to establish a plan to implement the recommendations contained in the 2004 Report to Congress of the United States-China Economic and Security Review Commission in order to correct the negative implications that a number of current trends in United States-China relations have for United States long-term economic and national security interests.

(2) CONTENTS.—Such a plan should contain the following:

(A) Actions to address China's policy of undervaluing its currency, including—

(i) encouraging China to provide for a substantial upward revaluation of the Chinese yuan against the United States dollar;

(ii) allowing the yuan to float against a trade-weighted basket of currencies; and

(iii) concurrently encouraging United States trading partners with similar interests to join in these efforts.

(B) Actions to make better use of the World Trade Organization (WTO) dispute settlement mechanism and applicable United States trade laws to redress China's unfair trade practices, including China's exchange rate manipulation, denial of trading and distribution rights, lack of intellectual property rights protection, objectionable labor standards, subsidization of exports, and forced technology transfers as a condition of doing business. The United States Trade Representative should consult with our trading partners regarding any trade dispute with China.

(C) Actions to encourage United States diplomatic efforts to identify and pursue initiatives to revitalize United States engagement with China's Asian neighbors. The initiatives should have a regional focus and complement bilateral efforts. The Asia-Pacific Economic Cooperation forum (APEC) offers a ready mechanism for pursuit of such initiatives.

(D) Actions by the administration to hold China accountable for proliferation of prohibited technologies and to secure China's agreement to renew efforts to curtail North Korea's commercial export of ballistic missiles.

(E) Actions by the Secretaries of State and Energy to consult with the International Energy Agency with the objective of upgrading the current loose experience-sharing arrangement, whereby China engages in some limited exchanges with the organization, to a more structured arrangement whereby China would be obligated to develop a meaningful strategic oil reserve, and coordinate release of stocks in supply-disruption crises or speculator-driven price spikes.

(F) Actions by the administration to develop a coordinated, comprehensive national policy and strategy designed to meet China's challenge to maintaining United States scientific and technological leadership and competitiveness in the same way the administration is presently required to develop and publish a national security strategy.

(G) Actions to review laws and regulations governing the Committee on Foreign Investment in the United States (CFIUS), including exploring whether the definition of national security should include the potential impact on national economic security as a criterion to be reviewed, and whether the chairmanship of CFIUS should be transferred from the Secretary of the Treasury to a more appropriate executive branch agency.

(H) Actions by the President and the Secretaries of State and Defense to press strongly their European Union counterparts to maintain the EU arms embargo on China.

(I) Actions by the administration to discourage foreign defense contractors from selling sensitive military use technology or weapons systems to China. The administration should provide a comprehensive annual report to the appropriate committees of Congress on the nature and scope of foreign military sales to China, particularly sales by Russia and Israel.

(J) Any additional actions outlined in the 2004 Report to Congress of the United States-China Economic and Security Review Commission that affect the economic or national security of the United States.

SA 1477. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title VI, add the following:

SEC. 624. ELIGIBILITY OF ORAL AND MAXILLOFACIAL SURGEONS FOR SPECIAL PAY FOR RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.

(a) IN GENERAL.—Section 302g(b) of title 37, United States Code, is amended by inserting

", including oral and maxillorfacial surgery," after "in a health profession".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 2005.

SA 1478. Mrs. HUTCHISON (for herself and Ms. Mikulski) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VI, add the following:

SEC. 624. ELIGIBILITY OF ORAL AND MAXILLOFACIAL SURGEONS FOR INCENTIVE SPECIAL PAY FOR MEDICAL OFFICERS OF THE ARMED FORCES.

(a) In General.—For purposes of eligibility for incentive special pay payable under section 302(b) of title 37, United States Code, oral and maxillofacial surgeons shall be treated as medical officers of the Armed Forces who may be paid variable special pay under section 302(a)(2) of such title.

(b) Effective Date.—Subsection (a) shall take effect on October 1, 2005, and shall apply with respect to incentive special pay payable under section 302(b) of title 37, United States Code, on or after that date.

SA 1479. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, insert the following:

SEC. 846. SMALL DISADVANTAGED BUSINESSES.

(a) In General.—Subparagraphs (D) and (E) of section 8(a)(6) of the Small Business Act (15 U.S.C. 637(a)(6)), regarding asset withdrawals, shall not apply to a socially and economically disadvantaged small business concern if—

(1) the small business concern provides supplies or services under a Government prime contract or subcontract at any tier; and

(2) such supplies or services are provided in whole or in part through the presence of the personnel of such small business concern in a qualified area.

(b) Duration.—A waiver under subsection (a) shall last for the duration of the prime contract or subcontract with the Government under subsection (a)(1).

(c) Definitions.—As used in this section—

(1) the term "qualified area" means—

(A) a combat zone, as defined in section 112(c)(2) of the Internal Revenue Code of 1986; and

(B) an area designated by the Secretary of State as eligible for a danger pay allowance under section 5928 of title 5, United States Code; and

(2) the term "socially and economically disadvantaged small business concern" has the meaning given that term under section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A)).

SA 1480. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. AERONAUTICAL RESEARCH CAPABILITIES ASSESSMENT.

(a) In General.—The Secretary of Defense, in cooperation with the Administrator of the National Aeronautics and Space Administration, is directed to conduct an assessment of aeronautical research assets and capabilities operated and maintained by the Administration to determine their potential application to existing and planned aeronautical research activities of the Department of Defense.

(b) Matters Covered.—The assessment shall include an identification and inventory of Administration facilities, personnel and supporting infrastructure which offer research capabilities not presently available to the Department for the conduct of aeronautical research and which would make a significant contribution to the Department aeronautical research mission and programs.

(c) Deadline.—The Secretary and the Administrator shall—

(1) complete the assessment within 6 months after the date of enactment of this Act; and

(2) transmit it, together with associated working papers, within 60 days after it is completed to the Joint Aeronautical Research Working Group established under subsection (d).

(d) Establishment and Responsibilities of Joint Aeronautical Research Working Group.—Within 30 days after the date of enactment of this Act, the Secretary and the Administrator shall establish a Joint Aeronautical Research Working Group for the purpose of identifying opportunities for cooperative aeronautical research between the Administration and the Department, and developing recommendations for implementation of those opportunities. The Secretary and the Administrator shall jointly determine the composition, operational procedures, and statement of work to guide the activities of the Working Group.

SA 1481. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. MODIFICATION OF AUTHORITY OF ARMY WORKING-CAPITAL FUNDED FACILITIES TO ENGAGE IN COOPERATIVE ACTIVITIES WITH NON-ARMY ENTITIES.

(a) Applicability of Sunset.—Subsection (j) of section 4544 of title 10, United States Code, is amended by striking "September 30, 2009," and all that follows through the end and inserting September 30, 2009.".

(b) Crediting of Proceeds of Sale of Articles and Services.—Such section is further amended—

(1) in subsection (d), by striking "subsection (e)" and inserting "subsection (f)"

(2) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), and (j), respectively;

(3) by inserting after subsection (d) the following new subsection (e):

"(e) Proceeds Credited to Working Capital Fund.—The proceeds of sale of an article or service pursuant to a contract or other cooperative arrangement under this section shall be credited to the working capital fund that incurs the cost of manufacturing the article or performing the service."; and

(4) in subsection (g), as redesignated by paragraph (2) of this subsection, by striking "subsection (e)" and inserting "subsection (f)".

SA 1482. Mr. OBAMA (for himself, Mr. Byrd, and Mr. Durbin) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. SENSE OF THE SENATE REGARDING REQUIREMENT TO OBTAIN CONSENT OF GOVERNORS OF STATES AFFECTED BY MOVEMENT OR REALLOCATION OF AIRCRAFT FROM AIR NATIONAL GUARD UNITS.

It is the sense of the Senate that the movement or reallocation of aircraft from one Air National Guard unit to another Air National Guard unit—

(1) constitutes—

(A) a relocation or withdrawal of a unit for purposes of section 18238 of title 10, United States Code; and

(B) a "change in the branch, organization, or allotment of a unit" for purposes of section 104(c) of title 32, United States Code; and

(2) therefore requires the consent of the governor of an affected State.

SA 1483. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title X, add the following:

SEC. 1009. FUNDING FOR INCREASED PERSONNEL STRENGTHS FOR ARMY AND MARINE CORPS FOR FISCAL YEAR 2006.

(a) ADDITIONAL AMOUNTS.—

(1) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by $1,081,640,000.

(2) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, MARINE CORPS.—The amount authorized to be appropriated by section 301(3) for operation and maintenance for the Marine Corps is hereby increased by $31,431,000.

(3) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, DEFENSE-WIDE ACTIVITIES.—The amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities is hereby increased by $121,397,000.

(4) ADDITIONAL AMOUNT FOR DEFENSE HEALTH PROGRAM.—The amount authorized to be appropriated by section 303(a) for the Defense Health Program is hereby increased by $275,615,000, with the amount of the increase to be allocated to amounts available under paragraph (1) of that section for operation and maintenance.

(5) ADDITIONAL AMOUNT FOR MILITARY PERSONNEL.—The amount authorized to be appropriated by section 421 for military personnel is hereby increased by $2,698,091,000.

(b) OFFSETS FROM SUPPLEMENTAL AMOUNTS FOR IRAQ, AFGHANISTAN, AND GLOBAL WAR ON TERRORISM.—

(1) OPERATION AND MAINTENANCE, ARMY.—The amount authorized to be appropriated by section 1406(1) is hereby reduced by $1,081,640,000.

(2) OPERATION AND MAINTENANCE, MARINE CORPS.—The amount authorized to be appropriated by section 1406(3) is hereby reduced by $31,431,000.

(3) OPERATION AND MAINTENANCE, DEFENSE-WIDE ACTIVITIES.—The amount authorized to be appropriated by section 1406(5) is hereby reduced by $121,397,000.

(4) DEFENSE HEALTH PROGRAM.—The amount authorized to be appropriated by section 1407 is hereby reduced by $275,615,000.

(5) MILITARY PERSONNEL, ARMY.—The amount authorized to be appropriated by section 1408(1) is hereby reduced by $2,527,520,000.

(6) MILITARY PERSONNEL, MARINE CORPS.—The amount authorized to be appropriated by section 1408(3) is hereby reduced by $170,571,000.

SA 1484. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 296, after line 19, insert the following:

SEC. 1205. REPORT ON NUCLEAR WEAPONS DEVELOPMENT IN NORTH KOREA.

(a) FINDINGS.—Congress makes the following findings:

(1) Since the 1993 announcement by officials of the Government of North Korea that North Korea intended to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968 (21 UST 483) (hereinafter referred to as the "Nuclear Non-Proliferation Treaty"), the United States and its allies have carried out a number of diplomatic initiatives to address concerns related to nuclear weapons development in North Korea.

(2) Diplomatic negotiations led to the Agreed Framework between the United States and North Korea, signed in Geneva October 21, 1994 (hereinafter referred to as the "Agreed Framework"), under which more than 8,000 plutonium spent fuel rods suitable for reprocessing into weapons grade material were kept under international monitoring.

(3) During the period that the Agreed Framework has not been in effect since 2002—

(A) officials of the Government of North Korea have indicated North Korea has reprocessed all of the 8,000 plutonium spent fuel rods that were previously under international monitoring so that such rods are in a form suitable for use in multiple nuclear weapons;

(B) North Korea has withdrawn from the Nuclear Non-Proliferation Treaty; and

(C) officials of the Government of North Korea have indicated that North Korea has restarted its known plutonium-based reactor at Yongbyon which allows North Korea to prepare more nuclear weapons material.

(4) Since 2002, the United States diplomatic strategy with respect to nuclear materials in North Korea has centered on a six party talks process, the last meeting of which occurred in June 2004, and next meeting of which is expected to begin on July 26, 2005.

(5) Complete and open debate by Congress and the people of the United States of the national security interests and an accurate assessment of the diplomatic options available to the United States with respect to North Korea require that the most complete data regarding nuclear materials development in North Korea be made available.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States negotiators in the process of six party talks regarding the development of nuclear materials in North Korea should be fully empowered with the flexibility to negotiate meaningfully to seek agreements and understandings that advance toward the goal of a denuclearized North Korea, as such agreements and understandings are in the national security interest of the United States; and

(2) such six party talks should occur in an ongoing, regular, and frequent basis.

(c) REPORT.—

(1) REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to Congress a report on the development of nuclear materials in North Korea. Such report shall include—

(A) an estimate of the number of nuclear weapons that the President believes that it is likely that North Korea produced—

(i) prior to the signing of the Agreed Framework in 1994;

(ii) during the period from 1994 through 2002 that the Agreed Framework was in effect; and

(iii) after the date that the United States and North Korea ceased adhering to the Agreed Framework in 2002; and

(B) an assessment of the number of plutonium and uranium-based nuclear weapons that the President—

(i) believes that North Korea has control of on the date of the enactment of the Act; and

(ii) projects that North Korea could have control of on the dates that are 1, 3, 5, and 10 years after the date of the enactment of this Act if diplomatic efforts to prevent the proliferation of nuclear materials in North Korea are unsuccessful.

(2) FORM OF REPORT.—The report required by paragraph (1) shall be submitted in an unclassified form.

SA 1485. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 296, after line 19, insert the following:

SEC. 1205. SENSE OF CONGRESS ON UNITED STATES PARTICIPATION IN REVIEW CONFERENCES OF THE PARTIES TO TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968 (21 UST 483) (hereinafter referred to as the "Nuclear Non-Proliferation Treaty"), which has 188 party countries, is the centerpiece of the international regime to prevent the spread of nuclear weapons.

(2) Since 1975, a Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons has been held every five years to review the Nuclear Non-Proliferation Treaty, evaluate the progress has been made, and assess the additional steps that must be carried out to prevent the spread of nuclear weapons.

(3) The Nuclear Non-Proliferation Treaty must be strengthened to respond to current proliferation challenges, and the leadership of the United States is crucial in such effort.

(4) The United States was represented at each of the first four Review Conferences, which were held during 1975, 1980, 1985, and 1990, by an official no lower than the equivalent of a Deputy Secretary of State, who reported directly to the Secretary of State, and at the last two conferences, which were held during 1995 and 2000, the United States was represented by the Vice President and the Secretary of State.

(5) The Assistant Secretary for Arms Control of the Department of State, who reports to the Secretary of State through the Undersecretary for Arms Control and International Security Affairs and the Deputy Secretary of State, represented the United States at the 2005 Review Conference and was the lowest-level representative ever to represent the United States at a Review Conference.

(6) The level of United States representation at Review Conferences affects the ability of the United States Government to exert leadership in strengthening the international nuclear nonproliferation regime.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Secretary of State should represent the United States at all future Review Conferences of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons;

(2) not later than 90 days prior to the start of each Review Conference or any preparatory conference to the Nuclear Non-Proliferation Treaty, the President should submit to Congress a plan that outlines the United States objectives for the Review Conference or preparatory conference and a comprehensive strategy for achieving such objectives; and

(3) not later than 90 days after the conclusion of a Review Conference or any such preparatory conference or, with respect to the Review Conference held during 2005, not later than 90 days after the date of enactment of this Act, the President should submit to Congress an after-action review of the Review Conference or preparatory conference, including an assessment of which United States objectives related to strengthening international nuclear nonproliferation efforts were achieved and which such objectives were not achieved during the Review Conference or preparatory conference.

SA 1486. Mr. REID (for himself and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

SEC. 1205. UPDATE OF UNITED STATES STRATEGY TO COMBAT THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—Congress makes the following findings:

(1) On February 11, 2004, President George W. Bush stated that "the greatest threat before humanity today is the possibility of secret and sudden attack with chemical or biological or radiological or nuclear weapons" and on September 30, 2004, President George W. Bush stated that "the biggest threat facing the country is weapons of mass destruction in the hands of a terrorist network."

(2) Protecting against nuclear, radiological, biological, or chemical terrorism requires a layered defense drawing upon a full spectrum of capabilities and tools, beginning with a national strategy for a domestic and international effort to detect, prevent, and respond to the proliferation of weapons of mass destruction (WMD), or, if prevention fails, to manage the consequences of attacks while preserving fundamental liberties and economic activity.

(2) A National Strategy to Combat Weapons of Mass Destruction was published in December 2002.

(3) Since the development of the National Strategy—

(A) the nature of the weapons of mass destruction threats to the United States has changed; and

(B) the understanding of likely future weapons of mass destruction threats has also changed.

(4) Since the development of the National Strategy, United States policies and capabilities for detecting, preventing, and responding to weapons of mass destruction threats have also changed:

(A) President George W. Bush enumerated on February 11, 2004, a number of new actions the United States would call for to address weaknesses in efforts to combat the proliferation of weapons of mass destruction. Some of the most important of these actions have not yet been implemented or have met international resistance.

(B) A significant intelligence failure has been identified with respect to the assessment of the weapons of mass destruction capabilities of Iraq, which failure has precipitated several efforts to identify systemic deficiencies in intelligence and implement recommended improvements, including implementation of 70 recommendations of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction.

(C) As required by the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), and as recommended by the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, President George W. Bush announced in June 2005 the intent to establish a National Counter Proliferation Center (NCPC). The Center will exercise strategic oversight of the work of the intelligence community on threats posed by the proliferation of weapons of mass destruction and will play a unique leading role within the United States Government in addressing such threats.

(D) A number of other significant changes to United States policies and capabilities to combat the proliferation of weapons of mass destruction have been recommended, and in some cases, implemented since December 2002, in the absence of an updated national strategy on combatting the proliferation of weapons of mass destruction.

(b) UPDATE OF NATIONAL STRATEGY TO COMBAT WEAPONS OF MASS DESTRUCTION.—(1) Not later than 6 months after the date of the enactment of this Act, the President shall develop and submit to Congress an update to the National Strategy to Combat Weapons of Mass Destruction of December 2002.

(2) The update of the National Strategy shall take into account developments since the publication of the National Strategy in December 2002.

(3) The update of the National Strategy shall include the following:

(A) INTELLIGENCE-BASED THREAT ASSESSMENT.—An assessment of the threat to United States territory, citizens, and interests from the proliferation of weapons of mass destruction and the threat of terrorist acquisition and use of weapons of mass destruction, which assessment should draw upon, and be consistent with, the coordinated judgments of the intelligence community.

(B) OBJECTIVES.—A statement of the objectives of United States policy, both domestically and internationally, regarding detection, prevention, and responding to the proliferation of weapons of mass destruction and the threat of terrorist acquisition (including through development or theft) and use of weapons of mass destruction.

(C) CAPABILITIES, ROLES, MISSIONS, CONCEPTS OF OPERATIONS.—A statement of the full spectrum of currently-available capabilities necessary, both domestically and internationally, to address the proliferation of weapons of mass destruction and the threat of terrorist acquisition and use of weapons of mass destruction, and a statement of the roles, missions, and concepts of operations for each of the organizations and programs responsible for providing such capabilities.

(D) POLICY, PROGRAM AND OPERATIONAL COORDINATION.—A review of the mechanisms for planning, coordinating, and implementing policy, programs, and operations, including government-wide strategic operational planning, across all agencies and entities undertaking work to combat the proliferation of weapons of mass destruction and to protect the homeland against weapons of mass destruction attacks, and a statement of plans for improving such mechanisms.

(4) The update of the National Strategy shall address specific areas key to a successful national strategy to combat the proliferation of weapons of mass destruction, including, but not limited to the following:

(A) NATIONAL COUNTER PROLIFERATION CENTER.—A description of the roles, missions, and concepts of operations for the National Counter Proliferation Center, including a plan and schedule for establishing the Center and developing it to full working capacity.

(B) INTERNATIONAL NONPROLIFERATION REGIMES.—A review of how the United States will seek to strengthen the international nonproliferation regimes, including, but not limited to, the Nuclear Nonproliferation Treaty and associated entities (such as the Nuclear Suppliers Group) in the wake of the 2005 Nuclear Nonproliferation Treaty review conference, the Missile Technology Control Regime, the Biological Weapons Convention, and the Chemical Weapons Convention and associated entities (such as the Australia Group).

(C) SECURITY OF NUCLEAR MATERIALS.—A review of how the United States plans to enhance programs to secure weapons-usable nuclear materials and radiological materials suitable for use in a so-called "dirty bomb" that are located around the world, including but not limited to fulfilling commitments made under the G-8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction.

(D) DETECTION AND CHARACTERIZATION CAPABILITIES.—A review of how the United States plans to improve the array of technologies and devices for the detection of weapons of mass destruction to help ensure the homeland is protected from any means by which weapons of mass destruction could be used against the United States and to prevent the unauthorized movement of such weapons.

(E) INTERDICTION CAPABILITIES.—An assessment of the ability of the United States and the international community to interdict in transit illicit equipment, technology, materials, and personnel related to weapons of mass destruction, including—

(i) an assessment of the date, type, number, and impact of interdictions under the Proliferation Security Initiative and any other similar initiatives or programs;

(ii) an assessment of whether and how the capabilities under the Initiative, and any other similar initiatives or programs, can be strengthened to achieve more concrete results; and

(iii) an assessment of the amount of funding needed to support such capabilities.

(F) NUCLEAR INSPECTIONS AND SAFEGUARDS.—A review of how the United States will seek to strengthen the ability of the International Atomic Energy Agency (IAEA) to monitor peaceful nuclear energy programs to ensure that such programs are not used as a cover for nuclear weapons development, including, but not limited to—

(i) how the United States will encourage the adoption and ratification by each non-nuclear weapon state of the Model Additional Protocol with the Agency; and

(ii) how the Executive Branch will implement the United States Additional Protocol with the Agency in light of its inability, thus far, to reach agreement on implementing legislation that would permit

United States ratification of the Additional Protocol to which the United States Senate gave its advice and consent to ratification on March 31, 2004.

(G) INTELLIGENCE CAPABILITIES.—A plan for the implementation of intelligence reforms intended to improve intelligence capabilities relating to the proliferation of weapons of mass destruction.

(H) NORTH KOREA AND IRAN.—A plan for each of the following:

(i) Preventing further processing of nuclear weapons material in North Korea and ultimately verifiably eliminating the nuclear weapons program of North Korea.

(ii) Preventing Iran from developing nuclear weapons.

(iii) Persuading other nations not to pursue or proliferate their nuclear weapons or nuclear weapons technologies.

(5) The update required by paragraph (1) shall be submitted to Congress in unclassified form but may include a classified annex if necessary.

SA 1487. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Departmet of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

TITLE XV—NATIONAL COMMISSION ON THE FUTURE OF THE ALL-VOLUNTEER ARMY

SEC. 1501. FINDINGS.

Congress makes the following findings:

(1) The war in Iraq and military operations in Afghanistan and elsewhere around the world have put the regular Army, the Army National Guard, and the Army Reserve under extreme stress.

(2) There is a severe mismatch between the size of the force and the missions that it is being asked to perform.

(3) The operational requirements of a sustained protracted conflict, combined with the supply and demand mismatch, are having a current negative and corrosive effect on the force, which could worsen over time.

(4) The demands on the force are not likely to diminish in the foreseeable future.

(5) 40 percent of the forces in Iraq are from the National Guard or the Reserve.

(6) The severe stresses on the force are having an effect on recruitment and retention for all components of the Army.

(7) The regular component of the Army could be thousands of recruits short of its goal by the end of 2005, and the Army National Guard and the Army Reserve could be even further behind their recruiting goals by that time.

(8) Shortfalls in recruiting impose further stress on the force, exacerbate recruiting and retention difficulties, and put pressure on recruiters to use more aggressive tactics and to lower standards.

(9) The stress is also seen in the day-to-day challenges faced by military families confronting multiple and extended tours of duty in combat operations abroad.

(10) Surveys of members of the National Guard and the Reserve reveal that the combination of multiple and extended tours with the resulting family burdens is the principle reason for the decision of such members not to continue service in the Army.

(11) Addressing size, resources, recruiting, retention, military family quality of life, and others issues facing the Army, the Army National Guard, and the Army Reserve is an urgent national priority.

(12) These are admittedly very complex issues, and a partisan inquiry into who is responsible for "breaking the force" is not what is needed.

(13) Given the profound importance of these issues, a bipartisan commission of prominent Americans should study these issues and make recommendations to Congress on an appropriate response to them.

SEC. 1502. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established the National Commission on the Future of the All-Volunteer Army (in this title referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of eight members of whom—

(A) two shall be appointed by the Majority Leader of the Senate;

(B) two shall be appointed by the Minority Leader of the Senate;

(C) two shall be appointed by the Speaker of the House of Representatives; and

(D) two shall be appointed by the Minority Leader of the House of Representatives, from among the members of such House.

(2) DATE.—The appointments of the members of the Commission shall be made not later than 90 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

SEC. 1503. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of all matters relating to the future of the all-volunteer Army.

(2) MATTERS STUDIED.—In conducting the study, the Commission shall consider—

(A) the roles and missions anticipated for the Army during the five-year period beginning on January 1, 2006, including the role and missions of the Army in homeland defense;

(B) the proper size and structure of the Army in order to perform the roles and missions described in subparagraph (A), including the proper allocation of responsibilities for such roles and missions between the regular component of the Army and the reserve components of the Army;

(C) the proper size and structure of the reserve components of the Army to continue to contribute to the performance of such roles and missions;

(D) whether the current utilization of the reserve components of the Army is compatible with the continuing contribution of the reserve components of the Army to such roles and missions; and

(E) the recruitment and retention practices required to provide for an Army of the size and structure needed to perform such roles and missions, including practices relating to career paths, quality of life for members and their families, compensation, recruitment and retention incentives, and other benefits.

(b) REPORT.—Not later than six months after the date of the enactment of this Act, the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate in light of such findings and conclusions.

SEC. 1504. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 1505. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable

for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 1506. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 1503(b).

SEC. 1507. FUNDING.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 301(5) for operation and maintenance, Defense-wide activities, $3,000,000 may be available for the activities of the Commission under this title.

(b) AVAILABILITY.—Amounts available under subsection (a) shall remain available until expended.

SA 1488. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 309, after line 24, insert the following:

SEC. 1411. COMMISSION ON STRATEGY FOR SUCCESS IN THE GLOBAL WAR ON TERRORISM.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on a Strategy for Success in the Global War on Terrorism (in this section referred to as the "Commission").

(b) STUDY AND REPORT.—

(1) STUDY.—The Commission shall conduct a study on the strategy, tactics, and metrics for assessing performance and measuring success used by the United States in the conduct of the Global War on Terrorism and submit a report on the findings of such study, as described in paragraph (2).

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Commission shall submit to the appropriate congressional committees a report on the study required by paragraph (1). Such report shall include the following:

(A) Recommendations for a set of benchmarks by which the United States can assess performance and measure success in the following areas:

(i) Reducing the capability of major world wide terrorist organizations for carrying out attacks against the United States and its interests.

(ii) Disrupting senior leadership of major world wide terrorist organizations.

(iii) Decreasing the ability of major world wide terrorist organizations to recruit new members.

(iv) Disrupting major world wide terrorist organizations' access to, movement of, and use of financial assets and key non-financial resources.

(v) Eliminating safe havens and training grounds for major world wide terrorist organizations.

(vi) Preventing terrorists from gaining access to nuclear materials and other weapons of mass destruction.

(vii) Enhancing the public image of the United States within the populations from which terrorists have most often originated.

(B) An assessment of performance and progress by the United States in winning Global War on Terrorism according to the benchmarks set forth by the Commission in accordance with subparagraph (A).

(C) An assessment of the impact of the individual operations carried out by the United States as part of the Global War on Terrorism, including Operation Iraqi Freedom, on overall progress in the Global War on Terrorism.

(D) An analysis of the annual country reports on terrorism produced by the Secretary of State in accordance with section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), including an assessment of the following:

(i) The effectiveness of the process by which the Secretary of State tabulates and categorizes terrorist attacks and events around the world.

(ii) The accuracy of the data reported in the reports.

(iii) The adequacy of safeguards against the influence of political considerations or other corrupting factors on the quality of data included in the reports.

(iv) Any recommendations the Commission may have for expanding, reconfiguring, or otherwise improving the reports.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members who are appointed not later than one month after the date of the enactment of this Act, as follows:

(A) Two co-chairpersons, of which—

(i) one co-chairperson shall be appointed by a committee consisting of the majority leaders of the Senate and the House of Representatives, and of the chairman of each of the appropriate congressional committees; and

(ii) one co-chairperson shall be appointed by a committee consisting of the minority leaders of the House and Senate, the ranking minority member of each of the appropriate congressional committees.

(B) Five members appointed by the chairman and ranking minority members of the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Homeland Security and Government Affairs of the Senate.

(C) Five members appointed by the chairmen and ranking minority members of the Committee on Armed Services, the Committee on Homeland Security, and the Committee on International Relations of the House of Representatives.

(2) QUALIFICATIONS.—Individuals appointed to the Commission should have proven experience or expertise in the prosecution of the Global War on Terrorism or in the study and analysis of terrorism, terrorists, United States military strategy, intelligence operations, or other relevant subject matter.

(3) VACANCIES.—Any vacancy on the Commission shall not affect its powers and shall be filled in the manner in which the original appointment was made.

(4) CHAIRPERSONS.—The members appointed pursuant to paragraph (1)(A) shall serve as co-chairpersons of the Commission.

(5) PROHIBITION ON PAY.—Members of the Commission shall serve without pay.

(6) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(7) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(8) MEETINGS.—The Commission shall meet at the call of the chairpersons. The initial meeting of the Commission shall occur not later than two weeks after the date on which not less than six members are appointed. The Commission may select a temporary chairperson until such time as the co-chairpersons have been appointed.

(9) DIRECTOR AND STAFF.—

(A) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson. The Director shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

(B) STAFF.—The Commission may appoint personnel as appropriate. The staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(10) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the General Schedule.

(11) POWERS.—

(A) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(B) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(C) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the chairpersons of the Commission, the head of such department or agency shall furnish information to the Commission in a timely manner.

(D) POSTAL SERVICES.—The Commission may use the United States postal services in the same manner and under the same conditions as other departments and agencies of the United States.

(E) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(F) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(12) SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.—The appropriate departments and agencies of the United States shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security

clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

(d) Appropriate Congressional Committees Defined.—In this section, the term "appropriate congressional committees" means the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Homeland Security and Government Affairs of the Senate and the Committee on Armed Services, the Committee on International Relations, and the Committee on Homeland Security of the House of Representatives.

(e) Termination.—The Commission shall terminate 7 days following the submission of the report described in section (b)(2).

SA 1489. Ms. COLLINS (for Mr. Thune) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by adding at the end the following:

"SEC. 2915. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

"(a) In General.—Notwithstanding any other provision of this part, the round of defense base closure and realignment otherwise scheduled to occur under this part in 2005 by reasons of sections 2912, 2913, and 2914 shall occur instead in the year following the year in which the last of the actions described in subsection (b) occurs (in this section referred to as the 'postponed closure round year').

"(b) Actions Required Before Base Closure Round.—(1) The actions referred to in subsection (a) are the following actions:

"(A) The complete analysis, consideration, and, where appropriate, implementation by the Secretary of Defense of the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States.

"(B) The return from deployment in the Iraq theater of operations of substantially all (as determined by the Secretary of Defense) major combat units and assets of the Armed Forces.

"(C) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of the report on the quadrennial defense review required to be submitted in 2006 by the Secretary of Defense under section 118(d) of title 10, United States Code.

"(D) The complete development and implementation by the Secretary of Defense and the Secretary of Homeland Security of the National Maritime Security Strategy.

"(E) The complete development and implementation by the Secretary of Defense of the Homeland Defense and Civil Support directive.

"(F) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of a report submitted by the Secretary of Defense that assesses military installation needs taking into account—

"(i) relevant factors identified through the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States;

"(ii) the return of the major combat units and assets described in subparagraph (B);

"(iii) relevant factors identified in the report on the 2005 quadrennial defense review;

"(iv) the National Maritime Security Strategy; and

"(v) the Homeland Defense and Civil Support directive.

"(2) The report required under subparagraph (F) of paragraph (1) shall be submitted not later than one year after the occurrence of the last action described in subparagraphs (A) through (E) of such paragraph.

"(c) Administration.—For purposes of sections 2912, 2913, and 2914, each date in a year that is specified in such sections shall be deemed to be the same date in the postponed closure round year, and each reference to a fiscal year in such sections shall be deemed to be a reference to the fiscal year that is the number of years after the original fiscal year that is equal to the number of years that the postponed closure round year is after 2005."; and

(2) in section 2904(b)—

(A) in the heading, by striking "Congressional Disapproval" and inserting "Congressional Action";

(B) in paragraph (1)—

(i) in subparagraph (A), by striking "the date on which the President transmits such report" and inserting "the date by which the President is required to transmit such report"; and

(ii) in subparagraph (B), by striking "such report is transmitted" and inserting "such report is required to be transmitted";

(C) by redesignating paragraph (2) as paragraph (3);

(D) by inserting after paragraph (1) the following new paragraph:

"(2) The Secretary may not carry out any closure or realignment recommended by the Commission in a report transmitted from the President pursuant to section 2903(e) if a recommendation for such closure or realignment is specified as disapproved by Congress in a joint resolution partially disapproving the recommendations of the Commission that is enacted before the earlier of—

"(A) the end of the 45-day period beginning on the date by which the President is required to transmit such report; or

"(B) the adjournment of Congress sine die for the session during which such report is required to be transmitted."; and

(E) in paragraph (3), as redsignated by subparagraph (C), by striking "paragraph (1)" and inserting "paragraphs (1) and (2)".

SA 1490. Ms. COLLINS (for Mr. Thune) proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title IX, add the following:

SEC. 912. NATIONAL SPACE RADAR SYSTEM.

The Secretary of the Air Force shall proceed with the development and implementation of a national space radar system that employs at least two frequencies.

SA 1491. Ms. COLLINS (for Mr. Thune (for himself, Mr. Lieberman, Ms. Collins, Mr. Lautenberg, Mr. Sununu, Ms. Snowe, Mr. Johnson, Mr. Dodd, Mr. Corzine, Mr. Bingaman, and Mr. Domenici)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. TESTIMONY BY MEMBERS OF THE ARMED FORCES IN CONNECTION WITH THE 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

(a) Sense of the Senate.—It is the sense of the Senate that the Secretary of Defense should permit any member of the Armed Forces to provide to the Defense Base Closure and Realignment Commission testimony on the military value of a military installation inside the United States for purposes of the consideration by the Commission of the Secretary's recommendations for the 2005 round of defense base closure and realignment under section 2914(d) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(b) Protection Against Retaliation.—No member of the Armed Forces may be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because such member provided or caused to be provided testimony under subsection (a).

SA 1492. Mr. REED (for Mr. Levin (for himself and Mr. Reed)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title II, add the following:

SEC. 330. ADDITIONAL AMOUNT FOR COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) Increased Amount for Operation and Maintenance, Cooperative Threat Reduction Programs.—The amount authorized to be appropriated by section 301(19) for the Cooperative Threat Reduction programs is hereby increased by $50,000,000.

(b) Offset.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, is hereby reduced by $50,000,000, with the amount of the reduction to be allocated as follows:

(1) The amount available in Program Element 0603882C for long lead procurement of Ground-Based Interceptors is hereby reduced by $30,000,000.

(2) The amount available for initial construction of associated silos is hereby reduced by $20,000,000.

SA 1493. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title II, add the following:

SEC. 330. ADDITIONAL AMOUNT FOR COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) INCREASED AMOUNT FOR OPERATION AND MAINTENANCE, COOPERATIVE THREAT REDUCTION PROGRAMS.—The amount authorized to be appropriated by section 301(19) for the Cooperative Threat Reduction programs is hereby increased by $63,000,000.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide—

(1) the amount available in Program Element 0603882C for long lead procurement of Ground-Based Interceptors 31-40 is hereby reduced by $50,000,000; and

(2) the amount available for initial construction of associated silos is hereby reduced by $13,000,000.

SA 1494. Mr. LEVIN (for himself, Mr. KENNEDY, Mr. ROCKEFELLER, and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of division A, add the following:

TITLE XV—NATIONAL COMMISSION ON POLICIES AND PRACTICES ON TREATMENT OF DETAINEES SINCE SEPTEMBER 11, 2001

SEC. 1501. FINDINGS.

Congress makes the following findings:

(1) The vast majority of the members of the Armed Forces have served honorably and upheld the highest standards of professionalism and morality.

(2) While there have been numerous reviews, inspections, and investigations by the Department of Defense and others regarding aspects of the treatment of individuals detained in the course of Operation Enduring Freedom, Operation Iraqi Freedom, or United States activities to counter international terrorism since September 11, 2001, none has provided a comprehensive, objective, and independent investigation of United States policies and practices relating to the treatment of such detainees.

(3) The reports of the various reviews, inspections, and investigations conducted by the Department of Defense and others have left numerous omissions and reached conflicting conclusions regarding institutional and personal responsibility for United States policies and practices on the treatment of the detainees described in paragraph (2) that may have caused or contributed to the mistreatment of such detainees.

(4) Omissions in the reports produced to date also include omissions relating to—

(A) the authorities of the intelligence community for activities to counter international terrorism since September 11, 2001, including the rendition of detainees to foreign countries, and whether such authorities differed from the authorities of the military for the detention and interrogation of detainees;

(B) the role of intelligence personnel in the detention and interrogation of detainees;

(C) the role of special operations forces in the detention and interrogation of detainees; and

(D) the role of contract employees in the detention and interrogation of detainees.

SEC. 1502. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on United States Policies and Practices Relating to the Treatment of Detainees Since September 11, 2001 (in this title referred to as the "Commission").

SEC. 1503. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be appointed by the senior member of the leadership of the Senate of the Democratic Party, in consultation with the senior member of the leadership of the House of Representatives of the Democratic Party, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party;

(4) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(5) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, the Armed Forces, intelligence gathering or analysis, law, public administration, law enforcement, and foreign affairs.

(4) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed not later than 30 days after the date of the enactment of this Act.

(c) MEETINGS; QUORUM; VACANCIES.—

(1) INITIAL MEETING.—The Commission shall meet and begin the operations as soon as practicable after all members have been appointed under subsection (b).

(2) MEETINGS.—After its initial meeting under paragraph (1), the Commission shall meet upon the call of the chairman or a majority of its members.

(3) QUORUM.—Six members of the Commission shall constitute a quorum.

(4) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 1504. PURPOSES.

(a) IN GENERAL.—The purposes of the Commission are to—

(1) examine and report upon the policies and practices of the United States relating to the treatment of individuals detained in Operation Enduring Freedom (OEF), Operation Iraqi Freedom (OIF), or United States activities to counter international terrorism since September 11, 2001 (in this title referred to as "detainees"), including the rendition of detainees to foreign countries;

(2) examine, evaluate, and report on the causes of and factors that may have contributed to the alleged mistreatment of detainees, including, but not limited to—

(A) laws and policies of the United States relating to the detention or interrogation of detainees, including the rendition of detainees to foreign countries;

(B) activities of special operations forces of the Armed Forces;

(C) activities of contract employees of any department, agency, or other entity of the United States Government, including for the rendition of detainees to foreign countries; and

(D) activities of employees of the Central Intelligence Agency, the Defense Intelligence Agency, or any other element of the intelligence community;

(3) assess the responsibility of leaders, whether military or civilian, within and outside the Department of Defense for policies and actions, or failures to act, that may have contributed, directly or indirectly, to the mistreatment of detainees;

(4) ascertain, evaluate, and report on the effectiveness and propriety of interrogation techniques, policies, and practices for producing useful and reliable intelligence;

(5) ascertain, evaluate, and report on all planning for long-term detention, or procedures for prosecution by civilian courts or military tribunals or commission, of detainees in the custody of any department, agency, or other entity of the United States Government or who have been rendered to any foreign government or entity; and

(6) investigate and submit a report to the President and Congress on the Commission's findings, conclusions, and recommendations, including any modifications to existing treaties, laws, policies, or regulations, as appropriate.

(b) UTILIZATION OF OTHER MATERIALS.—The Commission may build upon reports conducted by the Department of Defense or other entities by reviewing the source materials, findings, conclusions, and recommendations of those other reviews in order to—

(1) avoid unnecessary duplication; and

(2) identify any omissions in or conflicts between such reports which in the Commission's view merit further investigation.

SEC. 1505. FUNCTIONS OF COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation that ascertains relevant facts and circumstances relating to—

(A) laws, policies, and practices of the United States relating to the treatment of detainees since September 11, 2001, including any relevant treaties, statutes, Executive orders, regulations, plans, policies, practices, or procedures;

(B) activities of any department, agency, or other entity of the United States Government relating to Operation Enduring Freedom, Operation Iraqi Freedom, and efforts to counter international terrorism since September 11, 2001;

(C) the role of private contract employees in the treatment of detainees;

(D) the role of legal and medical personnel in the treatment of detainees, including the role of medical personnel in advising on plans for, and the conduct of, interrogations;

(E) dealings of any department, agency, or other entity of the United States Government with the International Committee of the Red Cross;

(F) the role of congressional oversight; and

(G) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify and review how policies regarding the detention, interrogation, and rendition of detainees were formulated and implemented, and evaluate such policies in light of lessons learned from activities in Iraq, Afghanistan, Guantanamo Bay, Cuba, and elsewhere; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing any appropriate modifications in legislation, organization, coordination, planning, management, procedures, rules, and regulations.

SEC. 1506. POWERS OF COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents,

as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only—

(I) by the agreement of the chairman and the vice chairman; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subparagraph (A), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION AND MATERIALS FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—

(A) COOPERATION OF AGENCIES.—The Commission shall receive the full and timely cooperation of any department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States Government, and of any officer or employee thereof, whose assistance is necessary for the fulfillment of the duties of the Commission under this title.

(B) FURNISHING OF MATERIALS.—The Commission is authorized to secure directly from any department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States Government information, materials (including classified materials), suggestions, estimates, and statistics for the purposes of this title. Each such department, agency, element, bureau, board, commission, independent establishment, or other instrumentality shall, to the maximum extent authorized by law, furnish all such information, materials, suggestions, estimates, and statistics directly to the Commission, promptly upon a request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, but in no case later than 14 days after such a request.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information and materials shall be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders. The Commission shall maintain all classified information and materials provided to the Commission under this title in a secure location in the offices of the Commission or as designated by the Commission.

(3) ACCESS TO INFORMATION AND MATERIALS.—No department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States may withhold information or materials, including classified materials, from the Commission on the grounds that providing the information or materials would constitute the unauthorized disclosure of classified information, pre-decisional materials, or information relating to intelligence sources or methods.

(d) ASSISTANCE FROM PARTICULAR FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments, agencies, and other elements of the United States Government may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States Government.

SEC. 1507. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission shall be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 1508. STAFF OF COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairman, in consultation with the vice chairman and in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) TREATMENT.—The staff director and any personnel of the Commission who are employees of the Commission shall be treated as employees of the Federal Government under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) EXCEPTION.—Subparagraph (A) shall not apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 1509. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The departments, agencies, and elements of the United States Government shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements. No person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. 1510. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section 1511.

(c) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

SEC. 1511. REPORTS OF COMMISSION; TERMINATION.

(a) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions and recommendations as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 12 months after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports, disseminating the final report.

SEC. 1512. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission to carry out this section $2,500,000.

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

SA 1495. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. TREATMENT OF INDIAN TRIBE GOVERNMENTS AS PUBLIC ENTITIES FOR PURPOSES OF DISPOSAL OF REAL PROPERTY RECOMMENDED FOR CLOSURE IN JULY 2003 BRAC COMMISSION REPORT.

Section 8013 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139; 107 Stat. 1440) is amended by striking "the report to the President from the Defense Base Closure and Realignment Commission, July 1991" and inserting "the reports to the President from the Defense Base Closure and Realignment Commission, July 1991 and July 1993".

SA 1496. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of title XII, add the following:

SEC. 1205. LIMITATION ON AVAILABILITY OF FUNDS FOR NORMALIZATION OF RELATIONS WITH GOVERNMENT OF LIBYA.

None of the funds authorized to be appropriated by this Act or any other Act may be obligated or expended for purposes of negotiations towards normalizing relations with the Government of Libya until the Attorney General, in consultation with the Secretary of State and the Secretary of Defense, certifies to Congress that the Government of Libya has made a good faith offer in the negotiations on the claims of members of the Armed Forces of the United States who were injured in the bombing of the LaBelle Discotheque in Berlin, Germany, and the claims of family members of members of the Armed Forces of the United States who were killed in that bombing.

SA 1497. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy; to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle A of title VIII, add the following:

SEC. 807. LIMITATION ON EXCESS CHARGES UNDER TIME-AND-MATERIALS AND LABOR-HOUR CONTRACTS.

(a) REGULATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations governing the the terms and conditions of time-and-materials contracts and labor-hour contracts entered into for or on behalf of the Department of Defense.

(b) LIMITATION ON EXCESS CHARGES.—

(1) IN GENERAL.—The regulations prescribed pursuant to subsection (a) shall authorize the use of a time-and-materials contract or a labor-hour contract for or on behalf of the Department of Defense only if the contract provides for acquiring supplies or services on the basis of—

(A) direct labor hours provided by the prime contractor at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit; and

(B) the reimbursement of the prime contractor for the reasonable costs (including overhead, general and administrative expenses, and profit, to the extent permitted under the regulations) of subcontracts for supplies and subcontracts for services, except as provided in paragraph (2).

(2) SUBCONTRACTOR LABOR HOURS.—Direct labor hours provided by a subcontractor may be provided on the basis of specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit only if such hourly rates are set forth in the contract for that specific subcontractor.

(c) DEPARTMENT OF DEFENSE PURCHASES THROUGH CONTRACTS ENTERED BY NON-DEFENSE AGENCIES.—The regulations prescribed pursuant to subsection (a) shall include appropriate measures to ensure compliance with the requirements of this section in all Department of Defense purchases through non-defense agencies.

(d) EFFECTIVE DATE.—The regulations prescribed pursuant to subsection (a) shall take effect on the date that is 90 days after the date of the enactment of this Act, and shall apply to—

(1) all contracts awarded for or on behalf of the Department of Defense on or after such date; and

(2) all task or delivery orders issued for or on behalf of the Department of Defense on or after such date, regardless whether the contracts under which such task or delivery orders are issued were awarded before, on, or after such date.

SA 1498. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

SEC. ____. Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall submit a report to the appropriate Congressional committees with the following information—

(a) Whether records of civilian casualties in Afghanistan and Iraq are kept by the Department, and if so, how and from what sources this information is collected, where it is kept, and who is responsible for maintaining such records.

(b) Whether such records indicate (1) who caused the casualties (whether hostile government forces, insurgent forces, United States Armed Forces, ,or other); (2) a description of the circumstances under which the casualties occurred; (3) if the casualties were fatalities or injuries; (4) if any condolence payment, compensation or assistance was provided to the victim or to the victim's family; (5) an estimate of the total number of such casualties, and (6) any other information relating to the casualties.

SA 1499. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 219, strike lines 20 through 25 and insert the following:

(3) REPORT.—

(A) IN GENERAL.—The Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services and the Committee on Small Business of the House of Representatives on an annual basis a report setting forth the research programs identified under paragraph (1) during the preceding year.

(B) CONTENTS.—Each report under subparagraph (A) shall include, for the year covered by such report, a description of—

(i) the incentives and actions taken by prime contractors and program managers to increase Phase III awards under the Small Business Innovation Research Program; and

(ii) the requirements intended to be met by each program identified in the report.

(4) PILOT PROGRAM.—

(A) IN GENERAL.—The Secretary of each military department is authorized to use not more than an amount equal to 1 percent of the funds available to the military department for the Small Business Innovation Research Program and the Small Business Technology Transfer Program for a pilot program to transition programs that have successfully completed Phase II of the Small Business Innovation Research Program to Phase III of the Program.

(B) TERM.—A pilot program under subparagraph (A) shall terminate not later than 3 years after the date on which the pilot program is initiated.

SA 1500. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, insert the following:

SEC. 846. RADIO FREQUENCY IDENTIFIER TECHNOLOGY.

(a) SMALL BUSINESS STRATEGY.—As part of implementing its requirement that contractors use radio frequency identifier technology, the Secretary of Defense shall develop and implement—

(1) best practice standards regarding the use of that technology to ensure that the Department of Defense meets its contracting goals for the utilization of small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), in Department of Defense contracts; and

(2) a strategy to educate the small business community regarding radio frequency identifier technology requirements, compliance, standards, and opportunities.

(b) REPORTING.—

(1) INITIAL REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary of Defense shall submit a report to the Committee on Small Business and Entrepreneurship and the Committee on Armed Services of the Senate and the Committee on Small Business and the Committee on Armed Services of the House of Representatives detailing the status of the efforts by the Secretary of Defense to establish requirements for radio frequency identifier technology used in Department of Defense contracting, including—

(A) standardization of the data required to be reported by such technology; and

(B) standardization of the manufacturing quality required for such technology.

(2) ANNUAL REPORT.—Not later than 1 year after the date of submission of the report under paragraph (1), and annually thereafter, the Secretary of Defense shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives detailing—

(A) the information described in paragraph (1);

(B) the status of the efforts of the Secretary of Defense to develop and implement the best practice standards required by subsection (a)(1); and

(C) the status of the efforts of the Secretary of Defense to develop and implement a strategy to educate the small business community, as required by subsection (a)(2).

SA 1501. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. CREDIT FOR INCOME DIFFERENTIAL FOR EMPLOYMENT OF ACTIVATED MILITARY RESERVIST AND REPLACEMENT PERSONNEL.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. EMPLOYER WAGE CREDIT FOR ACTIVATED MILITARY RESERVISTS.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) in the case of an eligible small business employer, the employment credit with respect to all qualified employees and qualified replacement employees of the taxpayer, plus

"(2) the self-employment credit of a qualified self-employed taxpayer.

"(b) EMPLOYMENT CREDIT.—For purposes of this section—

"(1) QUALIFIED EMPLOYEES.—

"(A) IN GENERAL.—The employment credit with respect to a qualified employee of the taxpayer for any taxable year is equal to 40 percent of so much of the excess (if any) paid by the taxpayer to such qualified employee of—

"(i) the qualified employee's average daily qualified compensation for the taxable year, over

"(ii) the average daily military pay and allowances received by the qualified employee during the taxable year while participating in qualified reserve component duty to the exclusion of the qualified employee's normal employment duties,

for the aggregate number of days the qualified employee participates in qualified reserve component duty during the taxable year (including time spent in a travel status) as does not exceed $25,000. The employment credit, with respect to all qualified employees, is equal to the sum of the employment credits for each qualified employee under this subsection.

"(B) AVERAGE DAILY QUALIFIED COMPENSATION AND AVERAGE DAILY MILITARY PAY AND ALLOWANCES.—As used with respect to a qualified employee—

"(i) the term 'average daily qualified compensation' means the qualified compensation of the qualified employee for the taxable year divided by 365, and

"(ii) the term 'average daily military pay and allowances' means—

"(I) the amount paid to the qualified employee during the taxable year as military pay and allowances on account of the qualified employee's participation in qualified reserve component duty, divided by

"(II) the total number of days the qualified employee participates in qualified reserve component duty, including time spent in travel status.

"(C) QUALIFIED COMPENSATION.—When used with respect to the compensation paid to a qualified employee for any period during which the qualified employee participates in qualified reserve component duty, the term 'qualified compensation' means—

"(i) compensation which is normally contingent on the qualified employee's presence for work and which would be deductible from the taxpayer's gross income under section 162(a)(1) if the qualified employee were present and receiving such compensation,

"(ii) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and with respect to which the number of days the qualified employee participates in qualified reserve component duty does not result in any reduction in the amount of vacation time, sick leave, or other nonspecific leave previously credited to or earned by the qualified employee, and

"(iii) group health plan costs (if any) with respect to the qualified employee.

"(D) QUALIFIED EMPLOYEE.—The term 'qualified employee' means a person who—

"(i) has been an employee of the taxpayer for the 91-day period immediately preceding the period during which the employee participates in qualified reserve component duty, and

"(ii) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as defined in sections 10142 and 10101 of title 10, United States Code.

"(2) QUALIFIED REPLACEMENT EMPLOYEES.—

"(A) IN GENERAL.—The employment credit with respect to a qualified replacement employee of the taxpayer for any taxable year is equal to 40 percent of so much of the individual's qualified compensation attributable to service rendered as a qualified replacement employee as does not exceed $15,000. The employment credit, with respect to all qualified replacement employees, is equal to the sum of the employment credits for each qualified replacement employee under this subsection.

"(B) QUALIFIED COMPENSATION.—When used with respect to the compensation paid to a qualified replacement employee, the term 'qualified compensation' means—

"(i) compensation which is normally contingent on the qualified replacement employee's presence for work and which is deductible from the taxpayer's gross income under section 162(a)(1),

"(ii) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and

"(iii) group health plan costs (if any) with respect to the qualified replacement employee.

"(C) QUALIFIED REPLACEMENT EMPLOYEE.—The term 'qualified replacement employee' means an individual who is hired to replace a qualified employee or a qualified self-employed taxpayer, but only with respect to the period during which such employee or taxpayer participates in qualified reserve component duty, including time spent in travel status, and, in the case of a qualified employee, is receiving qualified compensation (as defined in paragraph (1)(C)) for which an employment credit is allowed as determined under paragraph (1).

"(c) Self-Employment Credit.—For purposes of this section—

"(1) In general.—The self-employment credit of a qualified self-employed taxpayer for any taxable year is equal to 40 percent of so much of the excess (if any) of—

"(A) the qualified self-employed taxpayer's average daily qualified compensation for the taxable year, over

"(B) the average daily military pay and allowances received by the taxpayer during the taxable year while participating in qualified reserve component duty to the exclusion of the taxpayer's normal self-employment duties,

for the aggregate number of days the taxpayer participates in qualified reserve component duty during the taxable year (including time spent in a travel status) as does not exceed $25,000.

"(2) Average daily qualified compensation and average daily military pay and allowances.—As used with respect to a qualified self-employed taxpayer—

"(A) the term 'average daily qualified compensation' means the qualified compensation of the qualified self-employed taxpayer for the taxable year divided by 365 days, and

"(B) the term 'average daily military pay and allowances' means—

"(i) the amount paid to the taxpayer during the taxable year as military pay and allowances on account of the taxpayer's participation in qualified reserve component duty, divided by

"(ii) the total number of days the taxpayer participates in qualified reserve component duty, including time spent in travel status.

"(3) Qualified compensation.—When used with respect to the compensation paid to a qualified self-employed taxpayer for any period during which the qualified self-employed taxpayer participates in qualified reserve component duty, the term 'qualified compensation' means—

"(A) the self-employment income (as defined in section 1402(b) of the taxpayer which is normally contingent on the taxpayer's presence for work,

"(B) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and

"(C) the amount paid for insurance which constitutes medical care for the taxpayer for such year (within the meaning of section 162(l)).

"(4) Qualified self-employed taxpayer.—The term 'qualified self-employed taxpayer' means a taxpayer who—

"(A) has net earnings from self-employment (as defined in section 1402(a)) for the taxable year, and

"(B) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States.

"(d) Coordination With Other Credits.—The amount of credit otherwise allowable under sections 51(a) and 1396(a) with respect to any employee shall be reduced by the credit allowed by this section with respect to such employee.

"(e) Limitations.—

"(1) Application with other credits.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(B) the tentative minimum tax for the taxable year.

"(2) Disallowance for failure to comply with employment or reemployment rights of members of the reserve components of the Armed Forces of the United States.—No credit shall be allowed under subsection (a) to a taxpayer for—

"(A) any taxable year, beginning after the date of the enactment of this section, in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

"(B) the 2 succeeding taxable years.

"(3) Disallowance with respect to persons ordered to active duty for training.—No credit shall be allowed under subsection (a) to a taxpayer with respect to any period by taking into account any person who is called or ordered to active duty for any of the following types of duty:

"(A) Active duty for training under any provision of title 10, United States Code.

"(B) Training at encampments, maneuvers, outdoor target practice, or other exercises under chapter 5 of title 32, United States Code.

"(C) Full-time National Guard duty, as defined in section 101(d)(5) of title 10, United States Code.

"(f) General Definitions and Special Rules.—For purposes of this section—

"(1) Eligible small business employer.—

"(A) In general.—The term 'eligible small business employer' means, with respect to any taxable year, any employer which—

"(i) employed an average of 100 or fewer employees on business days during such taxable year, and

"(ii) under a written plan of the employer, provides the excess amount described in subsection (b)(1)(A) to every qualified employee of the employer.

"(B) Controlled groups.—For purposes of subparagraph (A), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

"(2) Military pay and allowances.—The term 'military pay' means pay as that term is defined in section 101(21) of title 37, United States Code, and the term 'allowances' means the allowances payable to a member of the Armed Forces of the United States under chapter 7 of that title.

"(3) Qualified reserve component duty.—The term 'qualified reserve component duty' includes only active duty performed, as designated in the reservist's military orders, in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code.

"(4) Carryback and carryforward allowed.—

"(A) In general.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (f)(1) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to the taxable year preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year.

"(B) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

"(5) Certain rules to apply.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.".

(b) No Deduction for Compensation Taken Into Account for Credit.—Section 280C(a) of the Internal Revenue Code of 1986 (relating to rule for employment credits) is amended—

(1) by inserting "or compensation" after "salaries", and

(2) by inserting "30B," before "45A(a),".

(c) Conforming Amendment.—Section 55(c)(2) of the Internal Revenue Code of 1986 is amended by inserting "30B(e)(1)," after "30(b)(3),".

(d) Clerical Amendment.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end of 30A the following new item:

"Sec. 30B. Employer wage credit for activated military reservists.".

(e) Effective Date.—The amendments made by this section shall apply to amounts paid in taxable years beginning after December 31, 2004.

SA 1502. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VI, add the following:

SEC. 605. PERMANENT EXTENSION OF PERIOD OF TEMPORARY CONTINUATION OF BASIC ALLOWANCE FOR HOUSING FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES WHO DIE ON ACTIVE DUTY.

Effective immediately after the termination, pursuant to subsection (b) of section 1022 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109-13; 119 State. 251), of the amendments made by subsection (a) of such section, section 403(l) of title 37, United States Code, is amended by striking "180 days" each place it appears and inserting "365 days".

SA 1503. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REPORT ON EDUCATIONAL BENEFITS FOR VETERANS.

(a) In General.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall submit a report containing the information described in subsection (b) to—

(1) the Committee on Armed Services of the Senate;

(2) the Committee on Armed Services of the House of Representatives;

(3) the Committee on Veterans' Affairs of the Senate; and

(4) the Committee on Veterans' Affairs of the House of Representatives.

(b) Contents.—The report under subsection (a) shall include—

(1) an analysis by the Department of Defense of the effect on recruitment of educational benefits under the Montgomery GI Bill, including—

(A) the percentage of personnel who sign up for such educational benefits; and

(B) the importance of such educational benefits in the decision of an individual to enlist;

(2) an analysis by the Department of Veterans Affairs of the effect on readjustment of educational benefits under the Montgomery GI Bill, including—

(A) the percentage who use partial benefits;

(B) the percentage who use full benefits; and

(C) the reasons that veterans choose not to use benefits;

(3) suggestions of ways to improve educational benefits in order to improve recruiting, retention and readjustment;

(4) cost estimates for the improvements suggested under paragraph (3);

(5) projected 5-year and 10-year costs of educational benefits under chapters 1606 and 1607 of title 10, United States Code, and section 3015 of title 38, United States Code; and

(6) projected 5-year and 10-year costs under chapters 1606 and 1607 of title 10, United States Code, and section 3015 of title 38, United States Code, if the baseline 3-year active duty rate is increased to cover the average price of—

(A) a public 4-year secondary education (commuter tuition and fees, room and board, books and supplies, transportation and other expenses);

(B) a public 4-year secondary education (non-commuter tuition and fees, room and board, books and supplies, transportation and other expenses);

(C) a public 4-year secondary education (commuter tuition and fees, room and board); and

(D) a public 4-year secondary education (non-commuter tuition and fees, room and board).

(c) Calculation.—In calculating costs under paragraphs (5) and (6) of subsection (b)—

(1) future costs shall be adjusted for inflation using the "college tuition and fees" component of the Consumer Price Index; and

(2) the ratio between the cost of benefits under chapters 1606 and 1607 of title 10, United States Code, and the cost of benefits under section 3015 of title 38, United States Code, shall be the same as the ratio between such costs as of the date of enactment of this Act.

SA 1504. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. PROJECT SHERIFF.

(a) Availability of Amount.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities, the amount available for the Force Transformation Directorate is hereby increased by $10,000,000, with the amount of the increase to be available for Project Sheriff.

(b) Offset.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities the amount available for the Transformation Initiatives Program is hereby reduced by $10,000,000.

SA 1505. Mr. GRAHAM (for himself, Mr. Warner, and Mr. McCain) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. AUTHORITY TO UTILIZE COMBATANT STATUS REVIEW TRIBUNALS AND ANNUAL REVIEW BOARD TO DETERMINE STATUS OF DETAINEES AT GUANTANAMO BAY, CUBA.

(a) Authority.—The President is authorized to utilize the Combatant Status Review Tribunals and a noticed Annual Review Board, and the procedures thereof as specified in subsection (b), currently in operation at Guantanamo Bay, Cuba, in order to determine the status of the detainees held at Guantanamo Bay, including whether any such detainee is a lawful enemy combatant or an unlawful enemy combatant.

(b) Procedures.—

(1) In general.—Except as provided in paragraph (2), the procedures specified in this subsection are as follows:

(A) For the Combatant Status Review Tribunals, the memorandum of the Secretary of the Navy of July 29, 2004, regarding the implementation of Combatant Status Review Tribunal procedures for Enemy Combatants detained at Guantanamo Bay Naval Base, Cuba.

(B) For the Annual Review Board, the Department of Defense Designated Civilian Official Memorandum dated September 14, 2004, regarding the Implementation of Administrative Review Procedures for Enemy Combatants Detained at U.S. Naval Base Guantanamo Bay, Cuba.

(2) Exception.—The exceptions provided in this paragraph for the procedures specified in paragraph (1) are as follows:

(A) To the extent practicable, the Combatant Status Review Tribunal shall determine, by a preponderance of the evidence, whether statements derived from persons held in foreign custody were obtained without under coercion.

(B) A detainee shall be provided a military judge advocate for purposes of the Annual Review Board.

(C) The Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advise and consent of the Senate.

(3) Modification of procedures.—The President may modify the procedures and requirements set forth under paragraphs (1) and (2). Any modification of such procedures or requirements may not go into effect until 30 days after the date on which the President notifies the congressional defense committees of the modification.

(c) Definitions.—In this section:

(1) The term "lawful enemy combatant" means person engaging in war or other armed conflict against the United States or its allies on behalf of a state party to the Geneva Convention Relative to the Treatment of Prisoners of War, dated August 12, 1949, who meets the criteria of a prisoner of war under Article 4 of that Convention.

(2) The term "unlawful enemy combatant", with respect to noncitizens of the United States, means a person (other than a person described in paragraph (1)) engaging in war, other armed conflict, or hostile acts against the United States or its allies, or knowingly supporting others so engaged, regardless of location.

SA 1506. Mr. ALLARD (for himself and Mr. Salazar) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. ROCKY FLATS ENVIRONMENTAL TECHNOLOGY SITE.

(a) Definitions.—In this section:

(1) Essential mineral right.—The term "essential mineral right" means a right to mine sand and gravel at Rocky Flats, as depicted on the map.

(2) Fair market value.—The term "fair market value" means the value of an essential mineral right, as determined by an appraisal performed by an independent, certified mineral appraiser under the Uniform Standards of Professional Appraisal Practice.

(3) Map.—The term "map" means the map entitled "Rocky Flats National Wildlife Refuge", dated July 25, 2005, and available for inspection in appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

(4) Natural resource damage liability claim.—The term "natural resource damage liability claim" means a natural resource damage liability claim under subsections (a)(4)(C) and (f) of section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) arising from hazardous substances releases at or from Rocky Flats that, as of the date of enactment of this Act, are identified in the administrative record for Rocky Flats required by the National Oil and Hazardous Substances Pollution Contingency Plan prepared under section 105 of that Act (42 U.S.C. 9605).

(5) Rocky flats.—The term "Rocky Flats" means the Department of Energy facility in the State of Colorado known as the "Rocky Flats Environmental Technology Site".

(6) Secretary.—The term "Secretary" means the Secretary of Energy.

(7) Trustees.—The term "Trustees" means the Federal and State officials designated as

trustees under section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)).

(b) PURCHASE OF ESSENTIAL MINERAL RIGHTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, such amounts authorized to be appropriated under subsection (c) shall be available to the Secretary to purchase essential mineral rights at Rocky Flats.

(2) CONDITIONS.—The Secretary shall not purchase an essential mineral right under paragraph (1) unless—

(A) the owner of the essential mineral right is a willing seller; and

(B) the Secretary purchases the essential mineral right for an amount that does not exceed fair market value.

(3) LIMITATION.—Only those funds authorized to be appropriated under subsection (c) shall be available for the Secretary to purchase essential mineral rights under paragraph (1).

(4) RELEASE FROM LIABILITY.—Notwithstanding any other law, any natural resource damage liability claim shall be considered to be satisfied by—

(A) the purchase by the Secretary of essential mineral rights under paragraph (1) for consideration in an amount equal to $10,000,000;

(B) the payment by the Secretary to the Trustees of $10,000,000; or

(C) the purchase by the Secretary of any portion of the mineral rights under paragraph (1) for—

(i) consideration in an amount less than $10,000,000; and

(ii) a payment by the Secretary to the Trustees of an amount equal to the difference between—

(I) $10,000,000; and

(II) the amount paid under clause (i).

(5) USE OF FUNDS.—

(A) IN GENERAL.—Any amounts received under paragraph (4) shall be used by the Trustees for the purposes described in section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1)), including—

(i) the purchase of additional mineral rights at Rocky Flats; and

(ii) the development of habitat restoration projects at Rocky Flats.

(B) CONDITION.—Any expenditure of funds under this paragraph shall be made jointly by the Trustees.

(C) ADDITIONAL FUNDS.—The Trustees may use the funds received under paragraph (4) in conjunction with other private and public funds.

(6) EXEMPTION FROM NATIONAL ENVIRONMENTAL POLICY ACT.—Any purchases of mineral rights under this subsection shall be exempt from the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(7) ROCKY FLATS NATIONAL WILDLIFE REFUGE.—

(A) TRANSFER OF MANAGEMENT RESPONSIBILITIES.—The Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107–107) is amended—

(i) in section 3175—

(I) by striking subsections (b) and (f); and

(II) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(ii) in section 3176(a)(1), by striking ‘‘section 3175(d)’’ and inserting ‘‘section 3175(c)’’.

(B) BOUNDARIES.—Section 3177 of the Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107–107) is amended by striking subsection (c) and inserting the following:

‘‘(c) COMPOSITION.—

‘‘(1) IN GENERAL.—Except as provided in paragraph (2), the refuge shall consist of land within the boundaries of Rocky Flats, as depicted on the map—

‘‘(A) entitled ‘Rocky Flats National Wildlife Refuge’;

‘‘(B) dated July 25, 2005; and

‘‘(C) available for inspection in the appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

‘‘(2) EXCLUSIONS.—The refuge does not include—

‘‘(A) any land retained by the Department of Energy for response actions under section 3175(c);

‘‘(B) any land depicted on the map described in paragraph (1) that is subject to 1 or more essential mineral rights described in section 3114(a) of the National Defense Authorization Act for Fiscal Year 2006 over which the Secretary shall retain jurisdiction of the surface estate until the essential mineral rights—

‘‘(i) are purchased under subsection (b) of that Act; or

‘‘(ii) are mined and reclaimed by the mineral rights holders in accordance with requirements established by the State of Colorado; and

‘‘(C) the land depicted on the map described in paragraph (1) on which essential mineral rights are being actively mined as of the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 until—

‘‘(i) the essential mineral rights are purchased; or

‘‘(ii) the surface estate is reclaimed by the mineral rights holder in accordance with requirements established by the State of Colorado.

‘‘(3) ACQUISITION OF ADDITIONAL LAND.—Notwithstanding paragraph (1), upon the purchase of the mineral rights or reclamation of the land depicted on the map described in paragraph (1), the Secretary shall—

‘‘(A) transfer the land to the Secretary of the Interior for inclusion in the refuge; and

‘‘(B) the Secretary of the Interior shall—

‘‘(i) accept the transfer of the land; and

‘‘(ii) manage the land as part of the refuge.’’.

(c) FUNDING.—Of the amounts authorized to be appropriated to the Secretary for the Rocky Flats Environmental Technology Site for fiscal year 2006, $10,000,000 shall be made available to the Secretary for the purposes described in subsection (b).

SA 1507. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. LIABILITY PROTECTION FOR DONATING FIRE EQUIPMENT TO VOLUNTEER FIRE COMPANIES.

(a) LIABILITY PROTECTION.—A person who donates fire control or fire rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death caused by the equipment after the donation.

(b) EXCEPTIONS.—Subsection (a) does not apply to a person if—

(1) the person's act or omission causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct; or

(2) the person is the manufacturer of the fire control or fire rescue equipment.

(c) PREEMPTION.—This section preempts the laws of any State to the extent that such laws are inconsistent with this section, except that notwithstanding subsection (b) this section shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(d) DEFINITIONS.—In this section:

(1) PERSON.—The term ‘‘person’’ includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term ‘‘fire control or fire rescue equipment’’ includes any—

(A) fire, rescue, or emergency medical services vehicle;

(B) fire fighting, rescue, or emergency medical services tool;

(C) fire appliance;

(D) communications equipment;

(E) protective gear;

(F) fire hose; or

(G) breathing apparatus.

(3) STATE.—The term ‘‘State’’ includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(4) VOLUNTEER FIRE COMPANY.—The term ‘‘volunteer fire company’’ means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(e) EFFECTIVE DATE.—This section applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after the date of the enactment of this Act.

SA 1508. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 379, after line 22, add the following:

SEC. 3302. AUTHORIZATION FOR DISPOSAL OF TUNGSTEN ORES AND CONCENTRATES.

(a) DISPOSAL AUTHORIZED.—The Director of the Defense Logistics Agency is authorized to dispose of 20,000,000 pounds of tungsten ores and concentrates from the National Defense Stockpile in fiscal year 2006.

(b) CERTAIN SALES AUTHORIZED.—The tungsten ores and concentrates disposed under subsection (a) may be sold to entities with ore conversion or tungsten carbide manufacturing or processing capabilities in the United States.

(c) SUSPENSION AUTHORIZED.—The Secretary of Commerce may, in consultation with the Director of the Defense Logistics Agency, suspend disposal of tungsten ores and concentrates under subsection (a) if the Secretary determines that additional disposal of such ores and concentrates would have an adverse impact on United States entities that mine or process tungsten.

SA 1509. Mr. HATCH (for himself, Mr. INHOFE, Mr. BENNETT, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 66, after line 22, insert the following:

SEC. 330. SENSE OF THE SENATE REGARDING DEPOT MAINTENANCE.

(a) FINDINGS.—The Senate finds that—

(1) the Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements;

(2) since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the service has made great progress toward modernizing all 3 of its Depots, in order to maintain their status as "world class" maintenance repair and overhaul operations;

(3) One of the indispensable components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate $150,000,000 a year over 6 years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of our Nation's 3 Air Force depots; and

(4) the funds expended to date have ensured that transformation projects, such as the initial implementation of "Lean" and "Six Sigma" production techniques, have achieved great success in reducing the time necessary to perform depot maintenance on aircraft.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting its commitment to invest $150,000,000 a year over 6 years, since fiscal year 2004, in the Nation's 3 Air Force Depots; and

(2) the Air Force should continue to fully fund its commitment of $150,000,000 a year through fiscal year 2009 in investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

SA 1510. Mr. HATCH (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. 138. SENSE OF SENATE ON F/A-22 RAPTOR AIRCRAFT.

(a) FINDINGS.—The Senate makes the following findings:

(1) It is widely held that integrated air defense systems, composed of next generation surface-to-air missiles and fifth generation fighters, will be the primary threat to United States dominance of the skies and the ability of the Nation to access strategically important regions during future conflicts.

(2) Many of the current tactical aircraft of the United States first flew more than 30 years ago and several nations have deployed integrated air defense systems designed to counter these aircraft. These aircraft include the F-15 Eagle, F-16 Fighting Falcon, and F/A-18 Hornet, none of which are stealth aircraft.

(3) the F/A-22 Raptor aircraft is a highly-capable stealth aircraft designed to neutralize both surface-to-air missiles and fifth generation fighters.

(4) The F/A-22 Raptor aircraft is a truly transformational aircraft incorporating—

(A) super-cruise engines that allow for extended supersonic flight (a magnitude longer than its after-burner predecessors);

(B) unmatched stealth capabilities; and

(C) a radar and avionics system that will permit the identification of ground targets and engage enemy aircraft at great ranges.

(5) The F-35 Joint Strike Fighter is being designed as a compliment to the F/A-22 Raptor aircraft, but the F-35 Joint Strike Fighter will not be as stealthy the F/A-22 Raptor aircraft, nor will it be able, due to design constraints, to utilize super-cruise engines.

(6) The F/A-22 Raptor aircraft is the most maneuverable fighter flying today, a matter of particular importance when encountering newer Russian-made aircraft that have been sold widely throughout the world and boast a highly impressive maneuver capability.

(7) The F/A-22 Raptor aircraft is a capable bomber, with a large weapons bay having the capacity to carry two 1,000 pound Global Positioning System-guided Joint Direct Attack Munitions or several Small Diameter Bombs.

(8) The National Defense Strategy calls for a force structure that—

(A) defends the homeland;

(B) is capable of forward deterrence in four regions;

(C) can swiftly defeat adversaries in two overlapping conflicts; and

(D) can decisively defeat an enemy in one of those conflicts.

(9) The Air Force has repeatedly warned that, in order to meet the requirements of the National Defense Strategy, the service requires far more than the 180 F/A-22 Raptor aircraft currently planned for procurement by the Department of Defense.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Defense should review the decision articulated in Program Budget Decision 753 to ensure that sufficient numbers of F/A-22 Raptor aircraft are procured in order meet applicable requirements in the National Defense Strategy.

SA 1511. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, add the following:

SEC. 846. PROHIBITION ON PROCUREMENTS FROM COMMUNIST CHINESE MILITARY COMPANIES.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410p. Prohibition on procurements of goods and services from Communist Chinese military companies.

"(a) PROHIBITION.—The Secretary of Defense may not procure goods or services, through a contract or any subcontract (at any tier) under a contract, from any Communist Chinese military company.

"(b) DEFINITION.—In this section, the term "Communist Chinese military company" has the meaning given that term in section 1237(b)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 1701 note).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2410o the following new item:

"2410p. Prohibition on procurements of goods and services from Communist Chinese military companies.".

SA 1512. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. RETENTION OF REIMBURSEMENT FOR PROVISION OF RECIPROCAL FIRE PROTECTION SERVICES.

Section 5 of the Act of May 27, 1955 (69 Stat. 67; 42 U.S.C. 1856d) is amended—

(1) by inserting "(a)" after "SEC. 5."; and

(2) by adding at the end the following new subsection:

"(b) Notwithstanding subsection (a), all sums received by any Department of Defense activity for fire protection rendered pursuant to this Act shall be credited to the appropriation, fund, or account from which the expenses were paid. Amounts so credited shall be merged with the funds in such appropriation, fund, or account, and shall be available for the same purposes, and subject to the same limitations, as the funds with which the credited amounts are merged.".

SA 1513. Mr. BYRD (for himself, Mr. Biden, Mr. Rockefeller, Mr. Lieberman, Mrs. Clinton, Mr. Obama, and Mr. Schumer) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. SENSE OF THE SENATE CONCURRING WITH THE BASE CLOSURE AND REALIGNMENT COMMISSION LEGAL OPINION ON EXISTENCE OF LEGAL IMPEDIMENTS TO CLOSURE OR REALIGNMENT OF AIR NATIONAL GUARD ASSETS.

It is the sense of the Senate that the Senate concurs with the conclusion that legal impediments exist to the closure or realignment of Air National Guard assets, as stated in the memorandum entitled "Discussion of Legal and Policy Considerations Related to Certain Base Closure and Realignment Recommendations" issued on July 14, 2005, by the Office of General Counsel of the Base Closure and Realignment Commission.

SA 1514. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 357, strike line 20, and insert the following:

PART II—NAVY CONVEYANCES

SEC. 2851. LAND CONVEYANCE, MARINE CORPS AIR STATION, MIRAMAR, SAN DIEGO, CALIFORNIA.

(a) Conveyance Authorized.—Subject to subsection (c), the Secretary of the Navy may convey to the County of San Diego, California (in this section referred to as the "County"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon and appurtenant easements thereto, consisting of approximately 230 acres located on the eastern boundary of Marine Corps Air Station, Miramar, California, for the purpose of removing the property from the boundaries of the installation and permitting the County to preserve the entire property known as the Stowe Trail as a public passive park recreational area.

(b) Consideration.—

(1) In general.—As consideration for the conveyance under subsection (a), the County shall provide the United States consideration with a total value that is not less than the fair market value of the conveyed real property, as determined by the Secretary. The consideration provided by the County shall be in a form and quantity that is acceptable to the Secretary.

(2) Relation to other laws.—The requirements under sections 2662 and 2802 of title 10, United States Code, shall not apply with respect to any new facilities the construction of which is accepted as in-kind consideration under this subsection.

(c) Reversionary Interest.—

(1) In general.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(2) Release of reversionary interest.—The Secretary shall release, without consideration, the reversionary interest retained by the United States under paragraph (1) if—

(A) Marine Corps Air Station, Miramar, is no longer being used for Department of Defense activities; or

(B) the Secretary determines that the reversionary interest is otherwise unnecessary to protect the interests of the United States.

(d) Payment of Costs of Conveyance.—

(1) Payment required.—The Secretary shall require the County to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a) and implement the receipt of any in-kind consideration under subsection (b), including appraisal costs, survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance and receipt of any in-kind consideration. If amounts are collected from the County in advance of the Secretary incurring the actual costs, and the amount received exceeds the costs actually incurred by the Secretary under this section, the Secretary shall refund the excess amount to the County.

(2) Reimbursement.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(f) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART III—AIR FORCE CONVEYANCES

SA 1515. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. CHILD AND FAMILY ASSISTANCE BENEFITS FOR MEMBERS OF THE ARMED FORCES.

(a) Additional Amount for Operation and Maintenance, Defense-wide.—The amount authorized to be appropriated by section 301(5) for operation and maintenance, Defense-wide activities, is hereby increased by $120,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance, Defense-wide activities, as increased by subsection (a), $120,000,000 may be available as follows:

(1) $100,000,000 for childcare services for families of members of the Armed Forces.

(2) $20,000,000 for family assistance centers that primarily serve members of the Armed Forces and their families.

SA 1516. Mr. HATCH (for himself, Mr. Inhofe, Mr. Bennett, and Mr. Chambliss) proposed an Amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Departmet of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 66, after line 22, insert the following:

SEC. 330. SENSE OF THE SENATE REGARDING DEPOT MAINTENANCE.

(a) Findings.—The Senate finds that—

(1) the Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements;

(2) since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the service has made great progress toward modernizing all 3 of its Depots, in order to maintain their status as "world class" maintenance repair and overhaul operations;

(3) one of the indispensable components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate $150,000,000 a year over 6 years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of our Nation's 3 Air Force depots; and

(4) the funds expended to date have ensured that transformation projects, such as the initial implementation of "Lean" and "Six Sigma" production techniques, have achieved great success in reducing the time necessary to perform depot maintenance on aircraft.

(b) Sense of the Senate.—It is the sense of the Senate that—

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting its commitment to invest $150,000,000 a year over 6 years, since fiscal year 2004, in the Nation's 3 Air Force Depots; and

(2) the Air Force should continue to fully fund its commitment of $150,000,000 a year through fiscal year 2009 in investments and

recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

SA 1517. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042. to authorize appropriations for fiscal year 2006 for military activities of the Departmet of Defense. for military construction. and for defense activities of the Department of Energy. to prescribe personnel strengths for such fiscal year for the Armed Forces. and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title VI. add the following:

SEC. 653. ENFORCEMENT AND LIABILITY FOR NONCOMPLIANCE WITH SERVICEMEMBERS CIVIL RELIEF ACT.

(a) ENFORCEMENT.—

(1) IN GENERAL.—The Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) is amended by adding at the end the following new title:

"TITLE VIII—ENFORCEMENT

"SEC. 801. ADMINISTRATIVE ENFORCEMENT.

"(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—(1) Except as provided in subsection (b), compliance with the requirements imposed by this Act shall be enforced by the Federal Trade Commission in accordance with the Federal Trade Commission Act with respect to entities and persons subject to the Federal Trade Commission Act.

"(2) For the purpose of the exercise by the Commission under this subsection of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed by this Act shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act, and shall be subject to enforcement by the Commission with respect to any entity or person subject to enforcement by the Commission pursuant to this subsection, irrespective of whether such person or entity is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.

"(3) The Commission shall have such procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements imposed by this Act and to require the filing of reports, the production of documents, and the appearance of witnesses, as though the applicable terms and conditions of the Federal Trade Commission Act were part of this Act.

"(4) Any person or entity violating any provision of this Act shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Federal Trade Commission Act as though the applicable terms and provisions of the Federal Trade Commission Act were part of this Act.

"(5)(A) The Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person or entity that has engaged in such violation. In such action, such person or entity shall be liable, in addition to any amounts otherwise recoverable, for a civil penalty in the amount of $5,000 to $50,000, as determined appropriate by the court for each violation.

"(B) In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

"(b) ENFORCEMENT BY OTHER REGULATORY AGENCIES.—Compliance with the requirements imposed by this Act with respect to financial institutions shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, and any subsidiaries of such (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organization operating under section 25 or 25A of the Federal Reserve Act, and bank holding companies and their nonbank subsidiaries or affiliates (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Directors of the Federal Deposit Insurance Corporation;

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation and any subsidiaries of such saving associations (except brokers, dealers, persons providing insurance, investment companies, and investment advisers);

"(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any federally insured credit union, and any subsidiaries of such an entity;

"(4) State insurance law, by the applicable State insurance authority of the State in which a person is domiciled, in the case of a person providing insurance; and

"(5) the Federal Trade Commission Act, by the Federal Trade Commission for any other financial institution or other person that is not subject to the jurisdiction of any agency or authority under paragraphs (1) through (4).".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by adding at the end the following new items:

"TITLE VIII—ENFORCEMENT

"Sec. 801. Administrative enforcement.".

(b) LIABILITY FOR NONCOMPLIANCE.—

(1) Section 301(c) of the Servicemembers Civil Relief Act (50 U.S.C. App. 531(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(2) Section 302(b) of that Act (50 U.S.C. App. 532(b)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(3) Section 303(d) of that Act (50 U.S.C. App. 533(d)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(4) Section 305(h) of that Act (50 U.S.C. App. 535(h)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(5) Section 306(e) of that Act (50 U.S.C. App. 536(e)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(6) Section 307(c) of that Act (50 U.S.C. App. 537(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

SA 1518. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Departmet of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title VI, add the following:

SEC. 653. SERVICEMEMBERS RIGHTS UNDER THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) IN GENERAL.—Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended—

(1) in subclause (II), by striking "; and" and inserting a semicolon;

(2) in subclause (III), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(IV) notify the homeowner by a statement or notice, written in plain English by the Secretary of Housing and Urban Development, in consultation with the Secretary of Defense and the Secretary of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance.".

(b) NO EFFECT ON OTHER LAWS.—Nothing in this section shall relieve any person of any obligation imposed by any other Federal, State, or local law.

(c) DISCLOSURE FORM.—Not later than 150 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue a final disclosure form to fulfill the requirement of section 106(c)(5)(A)(ii)(IV) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)).

(d) EFFECTIVE DATE.—The amendments made under subsection (a) shall take effect 150 days after the date of enactment of this Act.

SA 1519. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Departmet of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DEPARTMENT OF DEFENSE TASK FORCE ON MENTAL HEALTH.

(a) REQUIREMENT TO ESTABLISH.—The Secretary of Defense shall establish within the Department of Defense a task force to examine matters relating to mental health and the Armed Forces.

(b) COMPOSITION.—

(1) MEMBERS.—The task force shall consist of not more than 14 members appointed by the Secretary of Defense from among individuals described in paragraph (2) who have demonstrated expertise in the area of mental health.

(2) RANGE OF MEMBERS.—The individuals appointed to the task force shall include—

(A) at least one member of each of the Army, Navy, Air Force, and Marine Corps; and

(B) a number of persons from outside the Department of Defense equal to the total number of personnel from within the Department of Defense (whether members of the Armed Forces or civilian personnel) who are appointed to the task force.

(3) INDIVIDUALS APPOINTED WITHIN DEPARTMENT OF DEFENSE.—At least one of the individuals appointed to the task force from within the Department of Defense shall be the surgeon general of an Armed Force or a designee of such surgeon general.

(4) INDIVIDUALS APPOINTED OUTSIDE DEPARTMENT OF DEFENSE.—(A) Individuals appointed to the task force from outside the Department of Defense may include officers or employees of other departments or agencies of the Federal Government, officers or employees of State and governments, or individuals from the private sector.

(B) The individuals appointed to the task force from outside the Department of Defense shall include—

(i) an officer or employee of the Department of Veterans Affairs appointed by the Secretary of Defense in consultation with the Secretary of Veterans Affairs;

(ii) an officer or employee of the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services appointed by the Secretary of Defense in consultation with the Secretary of Health and Human Services; and

(iii) at least two individuals who are representatives of—

(I) a mental health policy and advocacy organization; and

(II) a national veterans service organization.

(5) DEADLINE FOR APPOINTMENT.—All appointments of individuals to the task force

shall be made not later than 120 days after the date of the enactment of this Act.

(6) CO-CHAIRS OF TASK FORCE.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of the Defense at the time of appointment from among the Department of Defense personnel appointed to the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by members so appointed.

(c) LONG-TERM PLAN ON MENTAL HEALTH SERVICES.—

(1) IN GENERAL.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary a long-term plan (referred to as a strategic plan) on means by which the Department of Defense shall improve the efficacy of mental health services provided to members of the Armed Forces by the Department of Defense.

(2) UTILIZATION OF OTHER EFFORTS.—In preparing the report, the task force shall take into consideration completed and ongoing efforts by the Department of Defense to improve the efficacy of mental health care provided to members of the Armed Forces by the Department.

(3) ELEMENTS.—The long-term plan shall include an assessment of and recommendations (including recommendations for legislative or administrative action) for measures to improve the following:

(A) The awareness of the prevalence of mental health conditions among members of the Armed Forces.

(B) The efficacy of existing programs to prevent, identify, and treat mental health conditions among members of the Armed Forces, including programs for and with respect to forward-deployed troops.

(C) The reduction or elimination of barriers to care, including the stigma associated with seeking help for mental health related conditions, and the enhancement of confidentiality for members of the Armed Forces seeking care for such conditions.

(D) The adequacy of outreach, education, and support programs on mental health matters for families of members of the Armed Forces.

(E) The efficacy of programs and mechanisms for ensuring a seamless transition from care of members of the Armed Forces on active duty for mental health conditions through the Department of Defense to care for such conditions through the Department of Veterans Affairs after such members are discharged or released from military, naval, or air service.

(F) The availability of long-term follow-up and access to care for mental health conditions for members of the Individual Ready Reserve, and the Selective Reserve and for discharged, separated, or retired members of the Armed Forces.

(G) Collaboration among organizations in the Department of Defense with responsibility for or jurisdiction over the provision of mental health services.

(H) Coordination between the Department of Defense and civilian communities, including local support organizations, with respect to mental health services.

(I) The scope and efficacy of curricula and training on mental health matters for commanders in the Armed Forces.

(J) Such other matters as the task force considers appropriate.

(d) ADMINISTRATIVE MATTERS.—

(1) COMPENSATION.—Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be treated for purposes of section 3161 of title 5, United States Code, as having been appointed under subsection (b) of such section.

(2) OVERSIGHT.—The Under Secretary of Defense for Personnel and Readiness shall oversee the activities of the task force.

(3) ADMINISTRATIVE SUPPORT.—The Washington Headquarters Services of the Department of Defense shall provide the task force with personnel, facilities, and other administrative support as necessary for the performance of the duties of the task force.

(4) ACCESS TO FACILITIES.—The Under Secretary of Defense for Personnel and Readiness shall, in coordination with the Secretaries of the military departments, ensure appropriate access by the task force to military installations and facilities for purposes of the discharge of the duties of the task force.

(e) REPORT.—

(1) IN GENERAL.—The task force shall submit to the Secretary of Defense a report on its activities under this section. The report shall include—

(A) a description of the activities of the task force;

(B) the plan required by subsection (c); and

(C) such other mattes relating to the activities of the task force that the task force considers appropriate.

(2) TRANSMITTAL TO CONGRESS.—Not later than 90 days after receipt of the report under paragraph (1), the Secretary shall transmit the report to the Committees on Armed Services and Veterans' Affairs of the Senate and the House of Representatives. The Secretary may include in the transmittal such comments on the report as the Secretary considers appropriate.

(f) TERMINATION.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to Congress under subsection (e)(2).

SA 1520. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. ASSESSMENT OF PRODUCTION OF ALTERNATIVE TRANSPORTATION FUELS FOR THE DEPARTMENT OF DEFENSE.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program to evaluate the commercial and technical viability of advanced technologies for the production of alternative transportation fuels having applications for the Department of Defense. The program shall include the construction and operation of testing facilities in accordance with subsection (d).

(b) ALTERNATIVE TRANSPORTATION FUELS.—For purposes of this section, alternative transportation fuels are ethanol and Fischer Tropsch fuels that are produced domestically from cellulosic biomass feedstocks or Illinois Basin Coal.

(c) COORDINATION OF EFFORTS.—

(1) IN GENERAL.—The Secretary of Defense shall carry out the program required by this section through the Under Secretary of Defense for Acquisition, Technology, and Logistics and in consultation with the Director of Defense Research and Engineering, the Advanced Systems and Concepts Office, the Secretary of Agriculture, and the Secretary of Energy.

(2) ROLE OF BIOMASS RESEARCH AND DEVELOPMENT TECHNOLOGIC ADVISORY COMMITTEE.—The consultations under paragraph (1) shall include the participation of the Biomass Research and Development Technical Advisory Committee established under section 306 of the Biomass Research and Development Act of 2000 (title III of Public Law 106–224; 7 U.S.C. 8101 note).

(d) FACILITIES FOR EVALUATING PRODUCTION OF ALTERNATIVE TRANSPORTATION FUELS.—

(1) IN GENERAL.—In carrying out the program required by this section, the Secretary of Defense shall provide for the following:

(A) The utilization and capital modification of the National Corn-to-Ethanol Research Center for the purpose of evaluating the technical and commercial viability of corn kernel cellulosics for producing ethanol.

(B) The construction or capital modification of—

(i) not less than four facilities for the purposes of evaluating the production from cellulosic biomass of alternative transportation fuels having applications for the Department of Defense; and

(ii) not less than four facilities for the purposes of evaluating the production from Illinois Basin Coal of alternative transportation fuels having applications for the Department of Defense

(2) LOCATION OF FACILITIES.—(A) The facilities constructed under paragraph (1)(B) for the purposes of cellulosic biomass shall—

(i) afford the efficient use of a diverse range of fuel sources; and

(ii) give initial preference to existing domestic facilities with current or potential capacity for cellulose conversion.

(B) The facilities constructed under paragraph (1)(B) for the purposes of Illinois Basin Coal shall be located within the Illinois Basin Coal region.

(3) CAPACITY OF FACILITIES.—Each facility constructed under paragraph (1) shall have the flexibility for producing commercial volumes of alternative transportation fuels such that when the facility demonstrates economic viability of the process it can provide commercial production for the region in which it is located.

(4) AUTHORITY TO ENTER INTO TRANSACTIONS FOR FACILITY CONSTRUCTION.—The Secretary of Defense shall seek to construct the facilities required by paragraph (1)(B) at the lowest cost practicable. The Secretary may make grants, enter into agreements, and provide loans or loan guarantees to corporations, farm cooperatives, associates of farmers, and consortia of such entities for such purposes.

(5) EVALUATIONS AT FACILITIES.—

(A) IN GENERAL.—Not later than 5 years after the date of the enactment of this Act, the Secretary of Defense shall begin at the facilities described in paragraph (1)(B) evaluations of the technical and commercial viability of different processes of producing alternative transportation fuels having Department of Defense applications from cellulosic biomass or Illinois Basin Coal.

(B) EVALUATIONS AT NATIONAL CORN-TO-ETHANOL RESEARCH CENTER.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall begin at the National Corn-to-Ethanol Research Center evaluations of the technical and commercial viability of different processes of corn kernel cellulosics for producing ethanol.

(e) PROGRAM MILESTONES.—In carrying out the program required by this section, the Secretary of Defense shall meet the following milestones:

(1) SELECTION OF TESTING PROCESSES.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall select processes for evaluating the technical and commercial viability of producing ethanol or Fischer Tropsch fuel from cellulosic biomass or Illinois Basin Coal.

(2) INITIATION OF WORK AT EXISTING FACILITIES.—Not later than one year after the date of enactment of this Act, the Secretary shall enter into agreements to carry out testing under this section at existing facilities.

(3) CONSTRUCTION AGREEMENTS.—Not later than one year after the date of the enactment of this Act, the Secretary shall enter into agreements for the capital modification or construction of facilities under subsection (d)(1)(B).

(4) COMPLETION OF ENGINEERING AND DESIGN WORK.—Not later than three years after the date of the enactment of this Act, the Secretary shall complete capital modifications of existing facilities and the engineering and design work necessary for the construction of new facilities under this section.

(f) REPORT ON PROGRAM.—Not later than 18 months after the date of the enactment of this Act, and annually thereafter for the next 5 years, the Secretary of Defense shall, in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics, submit a report on the implementation and results of the program required by this section to—

(1) the Committees on Armed Services, Energy and Natural Resources, Agriculture, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Energy and Commerce, Agriculture, and Appropriations of the House of Representatives.

(g) FUNDING.—

(1) IN GENERAL.—Of the amounts authorized to be appropriated under this Act, $75,000,000 may be available for the program required by this section, of which $15,000,000 may be available in each of fiscal years 2006 through 2010 for the program.

(2) AVAILABILITY.—Amounts available under paragraph (1) shall remain available until expended.

SA 1521. Mr. COLEMAN (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 226, after line 23, add the following:

SEC. 824. CENTRAL CONTRACTOR REGISTRY DATABASE.

(a) AUTHORITY.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2302d the following new section:

"§ 2302e. Central contractor registry

"(a) ESTABLISHMENT.—The Secretary of Defense shall maintain a centralized, electronic database for the registration of sources of property and services who seek to participate in contracts and other procurements entered into by the various procurement officials of the United States. The database shall be known as the 'Central Contractor Registry'.

"(b) TAXPAYER INFORMATION.—(1) The Central Contractor Registry shall include the following tax-related information for each source registered in that registry:

"(A) Each of that source's taxpayer identification numbers.

"(B) The source's authorization for the Secretary of Defense to obtain from the Commissioner of Internal Revenue—

"(i) verification of the validity of each of that source's taxpayer identification numbers; and

"(ii) in the case of any of such source's registered taxpayer identification numbers that is determined invalid, the correct taxpayer identification number (if any).

"(2)(A) The Secretary of Defense shall require each source, as a condition for registration in the Central Contractor Registry, to provide the Secretary with the information and authorization described in paragraph (1).

"(B) The Secretary shall—

"(i) warn each source seeking to register in the Central Contractor Registry that the source may be subject to backup withholding for a failure to submit each such number to the Secretary; and

"(ii) take the actions necessary to initiate the backup withholding in the case of a registrant who fails to register each taxpayer identification number valid for the registrant and is subject to the backup withholding requirement.

"(3) A source registered in the Central Contractor Registry is not eligible for a contract entered into under this chapter or title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) if that source—

"(A) has failed to provide the authorization described in paragraph (1)(B);

"(B) has failed to register in that registry all valid taxpayer identification numbers for that source; or

"(C) has registered in that registry an invalid taxpayer identification number and fails to correct that registration.

"(4)(A) The Secretary of Defense shall make arrangements with the Commissioner of Internal Revenue for each head of an agency within the Department of Defense to participate in the taxpayer identification number matching program of the Internal Revenue Service.

"(B) The Commissioner of Internal Revenue shall cooperate with the Secretary of Defense to determine the validity of taxpayer identification numbers registered in the Central Contractor Registry. As part of the cooperation, the Commissioner shall promptly respond to a request of the Secretary of Defense or the head of an agency within the Department of Defense for electronic validation of a taxpayer identification number for a registrant by notifying the Secretary or head of an agency, respectively, of—

"(i) the validity of that number; and

"(ii) in the case of an invalid taxpayer identification number, any correct taxpayer identification number for such registrant that the Commissioner can promptly and reasonably determine.

"(C) The Secretary shall transmit to a registrant a notification of each of the registrant's taxpayer identification numbers, if any, that is determined invalid by the Commissioner of Internal Revenue and shall provide the registrant with an opportunity to substitute a valid taxpayer identification number.

"(5) The Secretary of Defense shall require that, at the place in the Central Contractor Registry where the taxpayer identification numbers of a registrant are to be displayed, the display bear (as applicable)—

"(A) for each taxpayer identification number of that registrant, an indicator of whether such number has been determined valid, is being reviewed for validity, or has been determined invalid; or

"(B) an indicator that no taxpayer identification number is required for the registrant.

"(6) This subsection applies to each source who registers any information regarding that source in the Central Contractor Registry after December 31, 2005, except that paragraphs (1), (2), and (3) do not apply to a source who establishes to the satisfaction of the Secretary of Defense that such source is not required to have a taxpayer identification number.

"(c) CONFIDENTIALITY OF INFORMATION.—The Secretary of Defense shall ensure that taxpayer identification numbers in the Central Contractor Registry are not made available to the public. The Secretary shall prescribe a requirement for procurement officials of the United States having access to such numbers in that registry to maintain the confidentiality of those numbers.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2302d the following new item:

"2302e. Central Contractor Registry.".

SA 1522. Mrs. DOLE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title VIII, add the following:

SEC. 834. TRAINING FOR DEFENSE ACQUISITION WORKFORCE ON THE REQUIREMENTS OF THE BERRY AMENDMENT.

(a) TRAINING DURING FISCAL YEAR 2006.—The Secretary of Defense shall ensure that each member of the defense acquisition workforce (including personnel engaged in end-item inspections) receives training during fiscal year 2006 on the requirements of section 2533a of title 10, United States Code (commonly referred to as the "Berry Amendment"), and the regulations implementing that section.

(b) INCLUSION OF INFORMATION IN NEW TRAINING PROGRAMS.—The Secretary shall ensure that any training program for the defense acquisition workforce development or implemented after the date of the enactment of this Act includes comprehensive information on the requirements described in subsection (a).

SA 1523. Mrs. DOLE (for herself, Mr. DURBIN, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title VI, add the following:

SEC. 653. TERMS OF CONSUMER CREDIT EXTENDED TO SERVICEMEMBER OR SERVICEMEMBER'S DEPENDENT.

(a) TERMS OF CONSUMER CREDIT.—Title II of the Servicemembers Civil Relief Act (50 U.S.C. App. 521 et seq.) is amended by adding at the end the following new section:

"SEC. 208. TERMS OF CONSUMER CREDIT.

"(a) INTEREST.—A creditor who extends consumer credit to a servicemember or a servicemember's dependent shall not require the servicemember or the servicemember's dependent to pay interest with respect to the extension of such credit, except as—

"(1) agreed to under the terms of the credit agreement or promissory note;

"(2) authorized by the applicable State law; and

"(3) not specifically prohibited by this section.

"(b) ANNUAL PERCENTAGE RATE.—A creditor described in subsection (a) shall not impose an annual percentage rate greater than 36 percent with respect to the consumer credit extended to a servicemember or a servicemember's dependent.

"(c) MANDATORY LOAN DISCLOSURES.—

"(1) INFORMATION REQUIRED.—With respect to any extension of consumer credit to a servicemember or a servicemember's dependent, a creditor shall provide to the servicemember or the servicemember's dependent the following information in writing at or before the issuance of the credit:

"(A) A statement of the annual percentage rate applicable to the extension of credit.

"(B) Any disclosures required under the Truth in Lending Act (15 U.S.C. 1601 et seq.).

"(C) A clear description of the payment obligations of the servicemember or the servicemember's dependent, as applicable.

"(2) TERMS.—Such disclosures shall be presented in accordance with terms prescribed by the regulations issued by the Board of Governors of the Federal Reserve System to implement the Truth in Lending Act (15 U.S.C. 1601 et seq.).

"(d) LIMITATION.—A creditor described in subsection (a) shall not automatically renew, repay, refinance, or consolidate with the proceeds of other credit extended by the same creditor any consumer credit extended to a servicemember or a servicemember's dependent without—

"(1) executing new loan documentation signed by the servicemember or the servicemember's dependent, as applicable; and

"(2) providing the loan disclosures described in subsection (c) to the servicemember or the servicemember's dependent.

"(e) PREEMPTION.—Except as provided in subsection (f)(2), this section preempts any State or Federal law, rule, or regulation, including any State usury law, to the extent that such laws, rules, or regulations are inconsistent with this section, except that this section shall not preempt any such law, rule, or regulation that provides additional protection to a servicemember or a servicemember's dependent.

"(f) PENALTIES.—

"(1) MISDEMEANOR.—Any creditor who knowingly violates this section shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

"(2) PRESERVATION OF OTHER REMEDIES.—The remedies and rights provided under this section are in addition to and do not preclude any remedy otherwise available under law to the person claiming relief under this section, including any award for consequential and punitive damages.

"(g) DEFINITION.—For purposes of this section, the term 'interest' includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to the extension of consumer credit.".

(b) CLERICAL AMENDMENT.—The table of contents of the Servicemembers Civil Relief Act (50 U.S.C. App. 501) is amended by inserting after the item relating to section 207 the following new item:

"Sec. 208. Terms of consumer credit.".

SA 1524. Mrs. DOLE (for herself, Mr. LAUTENBERG, Mr. KENNEDY, Mr. DEWINE, Ms. LANDRIEU, Mr. CHAFEE, Ms. MIKULSKI, Mr. CHAMBLISS, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VII, add the following:

SEC. 718. MENTAL HEALTH COUNSELORS UNDER TRICARE.

(a) REIMBURSEMENT UNDER TRICARE.—Section 1079(a)(8) of title 10, United States Code, is amended—

(1) by inserting "or licensed or certified mental health counselors" after "certified marriage and family therapists" both places it appears; and

(2) by inserting "or licensed or certified mental health counselors" after "that the therapists."

(b) AUTHORITY TO PROVIDE MENTAL HEALTH SERVICES IN CLINICAL TRIALS.—Section 1079(a)(13) of such title is amended by inserting ", licensed or certified mental health counselor," after "certified marriage and family therapist".

(c) AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS.—Section 704(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2799; 10 U.S.C. 1091 note) is amended by inserting "mental health counselors," after "psychologists,".

(d) APPLICABILITY OF LICENSURE REQUIREMENT FOR HEALTH-CARE PROFESSIONALS.—Section 1094 (e)(2) of title 10, United States Code, is amended by inserting "mental health counselor," after "psychologist,".

SA 1525. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . SPECIAL EXPOSURE COHORTS.

(a) REPORTS ON SPECIAL EXPOSURE COHORTS.—

(1) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Director of the National Institute for Occupational Safety and Health (referred to in this section as the "Director") shall prepare and submit as described in paragraph (4) a report identifying the Department of Energy facilities, and atomic weapons employer facilities, at which a class of employees is reasonably likely to qualify for treatment as members of the Special Exposure Cohort under section 3626 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384q), in the event that the class submits a petition as described in subsection (a)(3) of such section.

(2) CONTENTS.—

(A) IN GENERAL.—The report shall—

(i) list and describe each of the classes of employees referred to in paragraph (1), including the job categories and time periods of employment for such classes;

(ii) state a rationale or basis for describing those classes as reasonably likely to qualify for treatment as members of the Special Exposure Cohort;

(iii) indicate whether any of the described classes are multi-facility classes; and

(iv) state the number of claimants with pending claims in the described classes.

(B) RESEARCH.—The report shall be based on research conducted by the Director and by contractors of the National Institute for Occupational Safety and Health.

(C) LIST OF FACILITIES REVIEWED.—The report shall list facilities where the Director has conducted a review, for purposes of making the identification described in paragraph (1), and facilities where the Director has not conducted such a review.

(D) PLAN.—The report shall specify a plan to assist petitioners at facilities identified in the report in filing petitions under subsection (a)(3) of such section 3626.

(3) UPDATED REPORT.—Not later than 12 months after submitting an initial report under this section, the Director shall update the report and submit the updated report as described in paragraph (4).

(4) SUBMISSION AND DISSEMINATION.—

(A) SUBMISSION.—The Director shall submit the reports described in this section—

(i) to the Committee on Armed Services, the Committee on Education and the Workforce, and the Committee on the Judiciary of the House of Representatives;

(ii) to the Committee on Armed Services and the Committee on Health, Education, Labor, and Pensions of the Senate; and

(iii) to the Advisory Board on Radiation and Worker Health, for the purpose of obtaining the Board's recommendations.

(B) DISSEMINATION.—The Director shall make the reports available in electronic and printed form.

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to suggest that the decision of the Director to identify a facility or describe a class of employees for a report submitted under this subsection constitutes a prejudgement on the outcome of a petition filed under subsection (a)(3) of such section 3626 by a class of employees at such facility, or a response to a recommendation

by the Advisory Board on Radiation and Worker Health under subsection (a)(1) of such section relating to such a class of employees.

(b) SPECIAL EXPOSURE COHORT.—Section 3626(a) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384q(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "or atomic weapons employer facility" after "Department of Energy facility"; and

(B) by striking "that facility" and inserting "the facility involved"; and

(2) in paragraph (3), by adding at the end the following: "For purposes of establishing procedures and considering petitions under this paragraph, a reference to a facility shall be considered to include a reference to multiple facilities with a common class of employees, to permit the President to treat a multiple-facility exposure cohort as members of the Special Exposure Cohort.".

(c) RESIDUAL CONTAMINATION.—

(1) ADJUDICATION.—Not later than 21 days after the date of enactment of this Act, the Secretary of Labor shall reinstate and commence adjudication of all claims filed under subtitle B of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384l et seq.) as a result of changes the definition of the term "atomic weapons employee" made by the amendment in section 3168(a) of division A of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2190).

(2) REPORT.—Not later than 45 days after the date of enactment of this Act, the Secretary of Labor shall prepare and submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a report that—

(A) identifies all of the atomic weapons employer facilities; and

(B) states the number of claims under such subtitle that were denied due to the fact that the initial employment of the atomic weapons employee involved occurred before the covered period when the employer involved was processing or producing material that emitted radiation and was used in the production of an atomic weapon, and the number of related cases.

(3) DEFINITIONS.—As used in this section, the terms "atomic weapons employee" and "atomic weapons employer facilities" have the meanings given the terms in section 3621 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384l).

SA 1526. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. SENSE OF THE SENATE REGARDING COMMUNITY IMPACT ASSISTANCE RELATED TO CONSTRUCTION OF NAVY LANDING FIELD, NORTH CAROLINA.

It is the sense of the Senate that—

(1) the planned construction of an outlying landing field in North Carolina is vital to the national security interests of the United States; and

(2) the Federal Government should provide community impact assistance to those communities directly impacted by the location of the outlying landing field, including—

(A) economic development assistance;

(B) impact aid program assistance;

(C) the provision by cooperative agreement with the Navy of fire, rescue, water, and sewer services;

(D) access by leasing arrangement to appropriate land for farming for farmers impacted by the location of the landing field;

(E) direct ad valorem tax relief;

(F) direct relocation assistance; and

(G) fair compensation to landowners for property purchased by the Navy.

SA 1527. Mrs. BOXER (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. . USE OF DEPARTMENT OF DEFENSE FUNDS FOR ABORTIONS IN CASES OF RAPE AND INCEST.

Section 1093(a) of title 10, United States Code, is amended by inserting before the period at the end the following: "or in cases in which the pregnancy is the result of an act of rape or incest."

SA 1528. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, insert the following:

SEC. 846. EXTENSION OF SOCIALLY AND ECONOMICALLY DISADVANTAGED BUSINESS PROGRAM.

Section 7102(c) of the Federal Acquisition Streamlining Act of 1994 (15 U.S.C. 644 note) is amended by striking "September 30, 2003" and inserting "September 30, 2006".

SA 1529. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title II, add the following:

SEC. 244. REPORT ON COLLABORATION ON CERTAIN RESEARCH BETWEEN THE DEPARTMENT OF DEFENSE AND THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress a report setting forth the recommendations of the Secretary and the Administrator regarding the most appropriate means of carrying out collaboration between the Department and the Administration in research on the following:

(1) Gas turbines.

(2) Noise and emissions reductions with respect to jet engines.

(3) Hypersonic propulsion for aircraft flight.

SA 1530. Mr. MARTINEZ (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title X, add the following:

SEC. 1023. SENSE OF SENATE ON SECOND HOMEPORT FOR NUCLEAR AIRCRAFT CARRIERS ON THE EAST COAST OF THE UNITED STATES.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Navy has long recognized the need for sufficient deepwater ports, in both the Atlantic Ocean and the Pacific Ocean, to adequately protect its fleet.

(2) The Chief of Naval Operations testified before Congress in 2005 that the Navy needs two homeports capable of handling aircraft carriers on each coast of the United States for strategic and security purposes.

(3) The Navy currently maintains two aircraft carrier homeports on the East Coast of the United States.

(4) The scheduled decommissioning of the two remaining conventional carriers would leave the Navy with an aircraft carrier fleet consisting entirely of nuclear aircraft carriers.

(5) The Navy currently possesses only one homeport on the East Coast of the United States capable of handling nuclear aircraft carriers.

(6) Dispersing the Atlantic aircraft carrier fleet at two ports on the East Coast of the United States is a strategic and security imperative.

(b) SENSE OF SENATE.—It is the sense of the Senate that a second homeport capable of handling nuclear aircraft carriers should be established on the East Coast of the United States as soon as possible after the date of the enactment of this Act.

SA 1531. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1044. STUDY ON ROLE AND MISSION OF THE DEFENSE ADVANCED RESEARCH PROJECTS AGENCY.

(a) STUDY REQUIRED.—The Secretary of Defense shall carry out a study of the role and mission of the Defense Advanced Research Projects Agency (DARPA).

(b) CONTENT OF STUDY.—The study under subsection (a) shall include the following:

(1) An examination of unique mission of the Defense Advanced Research Projects Agency at the time of its establishment, and whether there has been a significant change in the need for an organization filling such mission, including an assessment of the current need for the Department of Defense—

(A) to ensure that the United States maintains clear leadership in all significant areas of basic and applied research having potential relevance to the national security of the United States for the foreseeable future;

(B) to ensure United States leadership in key areas, such as advanced mathematics or revolutionary materials, not adequately addressed by other departments or agencies of the Federal Government;

(C) to explore revolutionary approaches to difficult, but critical problems that would not be attempted by research programs with near-term and mid-term development goals;

(D) to create and foster research teams and partnerships crossing disciplinary lines, including a linkage of academic and private sector entities that would be unlikely to form through traditional research practices; and

(E) to protect the unique research capacity of research groups in institutions of higher education and ensure that perspectives and insights from research conducted by institutions of higher education continuously stimulate advances in defense research.

(2) An analysis of whether the mission of the Agency can be fulfilled by other components of the Department of Defense engaged in defense research.

(3) An identification of recommendations for ensuring that the Agency is capable of carrying out the unique functions assigned to it, which recommendations shall be based on an assessment of whether—

(A) the Agency is assigned a position in the Department of Defense best suited to ensuring that it is evaluated with respect to the mission referred to in paragraph (1);

(B) the tests applied to the Agency ensure a focus by the Agency on projects relevant to the security interests of the United States without forcing the Agency to engage in projects with immediate relevance to defense applications in the near term;

(C) the classification of research limits access to key research assets in institutions of higher education and elsewhere, including work by noncitizens;

(D) the hiring practices for program managers of the Agency ensure that the Agency hires the most qualified individuals and ensures that hired individuals maintain their positions long enough to achieve significant progress complex areas of research;

(E) the performance review cycles of the Agency hold researchers to the highest standards without requiring fixed, near-term performance requirements that can compromise a focus on breakthrough technologies;

(F) the Agency—

(i) under takes appropriate steps to survey all potential areas where revolutionary or breakthrough research may yield critical results; and

(ii) undertakes adequate methods for establishing priorities;

(G) the Agency has developed adequate strategies for transferring successful breakthrough research to other research organizations in the Department of Defense or other private or public research organizations; and

(H) the Agency takes adequate steps to ensure that its priorities and management strategies are held to the highest standards by an independent review group committed to the unique mission of the Agency and capable of ensuring that the Agency remain focused on topics that meet meaningful standards for importance and difficulty.

(c) REPORT.—

(1) IN GENERAL.—Not later than February 1, 2007, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study under subsection (a).

(2) RECOMMENDATIONS.—The report shall include recommendations regarding—

(A) the appropriate mission of the Defense Advanced Research Projects Agency; and

(B) whether or not modifications are required for the authorities and resources applicable to the Agency in order to ensure that such mission can be executed with utmost efficiency.

(d) ROLE OF DEFENSE SCIENCE BOARD.—The Secretary shall act through the Defense Science Board in carrying out the study under subsection (a) and preparing the report under subsection (c).

SA 1532. Mr. DORGAN (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DIVISION ___—IMPORTATION OF PRESCRIPTION DRUGS

TITLE ___—IMPORTATION OF PRESCRIPTION DRUGS

SEC. ___1. SHORT TITLE.

This title may be cited as the "Pharmaceutical Market Access and Drug Safety Act of 2005".

SEC. ___2. FINDINGS.

Congress finds that—

(1) Americans unjustly pay up to 5 times more to fill their prescriptions than consumers in other countries;

(2) the United States is the largest market for pharmaceuticals in the world, yet American consumers pay the highest prices for brand pharmaceuticals in the world;

(3) a prescription drug is neither safe nor effective to an individual who cannot afford it;

(4) allowing and structuring the importation of prescription drugs to ensure access to safe and affordable drugs approved by the Food and Drug Administration will provide a level of safety to American consumers that they do not currently enjoy;

(5) American seniors alone will spend $1,800,000,000,000 on pharmaceuticals over the next 10 years; and

(6) allowing open pharmaceutical markets could save American consumers at least $38,000,000,000 each year.

SEC. ___3. REPEAL OF CERTAIN SECTION REGARDING IMPORTATION OF PRESCRIPTION DRUGS.

Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by striking section 804.

SEC. ___4. IMPORTATION OF PRESCRIPTION DRUGS; WAIVER OF CERTAIN IMPORT RESTRICTIONS.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section ___3, is further amended by inserting after section 803 the following:

"SEC. 804. COMMERCIAL AND PERSONAL IMPORTATION OF PRESCRIPTION DRUGS.

"(a) IMPORTATION OF PRESCRIPTION DRUGS.—

"(1) IN GENERAL.—In the case of qualifying drugs imported or offered for import into the United States from registered exporters or by registered importers—

"(A) the limitation on importation that is established in section 801(d)(1) is waived; and

"(B) the standards referred to in section 801(a) regarding admission of the drugs are subject to subsection (g) of this section (including with respect to qualifying drugs to which section 801(d)(1) does not apply).

"(2) IMPORTERS.—A qualifying drug may not be imported under paragraph (1) unless—

"(A) the drug is imported by a pharmacy, group of pharmacies, or a wholesaler that is a registered importer; or

"(B) the drug is imported by an individual for personal use or for the use of a family member of the individual (not for resale) from a registered exporter.

"(3) RULE OF CONSTRUCTION.—This section shall apply only with respect to a drug that is imported or offered for import into the United States—

"(A) by a registered importer; or

"(B) from a registered exporter to an individual.

"(4) DEFINITIONS.—

"(A) REGISTERED EXPORTER; REGISTERED IMPORTER.—For purposes of this section:

"(i) The term 'registered exporter' means an exporter for which a registration under subsection (b) has been approved and is in effect.

"(ii) The term 'registered importer' means a pharmacy, group of pharmacies, or a wholesaler for which a registration under subsection (b) has been approved and is in effect.

"(iii) The term 'registration condition' means a condition that must exist for a registration under subsection (b) to be approved.

"(B) QUALIFYING DRUG.—For purposes of this section, the term 'qualifying drug' means a drug for which there is a corresponding U.S. label drug.

"(C) U.S. LABEL DRUG.—For purposes of this section, the term 'U.S. label drug' means a prescription drug that—

"(i) with respect to a qualifying drug, has the same active ingredient or ingredients, route of administration, dosage form, and strength as the qualifying drug;

"(ii) with respect to the qualifying drug, is manufactured by or for the person that manufactures the qualifying drug;

"(iii) is approved under section 505(c); and

"(iv) is not—

"(I) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

“(II) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262), including—

“(aa) a therapeutic DNA plasmid product;

“(bb) a therapeutic synthetic peptide product;

“(cc) a monoclonal antibody product for in vivo use; and

“(dd) a therapeutic recombinant DNA-derived product;

“(III) an infused drug, including a peritoneal dialysis solution;

“(IV) an injected drug;

“(V) a drug that is inhaled during surgery;

“(VI) a drug that is the listed drug referred to in 2 or more abbreviated new drug applications under which the drug is commercially marketed; or

“(VII) a sterile opthlamic drug intended for topical use on or in the eye.

“(D) OTHER DEFINITIONS.—For purposes of this section:

“(i)(I) The term ‘exporter’ means a person that is in the business of exporting a drug to individuals in the United States from Canada or from a permitted country designated by the Secretary under subclause (II), or that, pursuant to submitting a registration under subsection (b), seeks to be in such business.

“(II) The Secretary shall designate a permitted country under subparagraph (E) (other than Canada) as a country from which an exporter may export a drug to individuals in the United States if the Secretary determines that—

“(aa) the country has statutory or regulatory standards that are equivalent to the standards in the United States and Canada with respect to—

“(AA) the training of pharmacists;

“(BB) the practice of pharmacy; and

“(CC) the protection of the privacy of personal medical information; and

“(bb) the importation of drugs to individuals in the United States from the country will not adversely affect public health.

“(ii) The term ‘importer’ means a pharmacy, a group of pharmacies, or a wholesaler that is in the business of importing a drug into the United States or that, pursuant to submitting a registration under subsection (b), seeks to be in such business.

“(iii) The term ‘pharmacist’ means a person licensed by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

“(iv) The term ‘pharmacy’ means a person that—

“(I) is licensed by a State to engage in the business of selling prescription drugs at retail; and

“(II) employs 1 or more pharmacists.

“(v) The term ‘prescription drug’ means a drug that is described in section 503(b)(1).

“(vi) The term ‘wholesaler’—

“(I) means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A); and

“(II) does not include a person authorized to import drugs under section 801(d)(1).

“(E) PERMITTED COUNTRY.—The term ‘permitted country’ means—

“(i) Australia;

“(ii) Canada;

“(iii) a member country of the European Union, but does not include a member country with respect to which—

“(I) the country's Annex to the Treaty of Accession to the European Union 2003 includes a transitional measure for the regulation of human pharmaceutical products that has not expired; or

“(II) the Secretary determines that the requirements described in subclauses (I) and (II) of clause (vii) will not be met by the date on which such transitional measure for the regulation of human pharmaceutical products expires;

“(iv) Japan;

“(v) New Zealand;

“(vi) Switzerland; and

“(vii) a country in which the Secretary determines the following requirements are met:

“(I) The country has statutory or regulatory requirements—

“(aa) that require the review of drugs for safety and effectiveness by an entity of the government of the country;

“(bb) that authorize the approval of only those drugs that have been determined to be safe and effective by experts employed by or acting on behalf of such entity and qualified by scientific training and experience to evaluate the safety and effectiveness of drugs on the basis of adequate and well-controlled investigations, including clinical investigations, conducted by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs;

“(cc) that require the methods used in, and the facilities and controls used for the manufacture, processing, and packing of drugs in the country to be adequate to preserve their identity, quality, purity, and strength;

“(dd) for the reporting of adverse reactions to drugs and procedures to withdraw approval and remove drugs found not to be safe or effective; and

“(ee) that require the labeling and promotion of drugs to be in accordance with the approval of the drug.

“(II) The valid marketing authorization system in the country is equivalent to the systems in the countries described in clauses (i) through (vi).

“(III) The importation of drugs to the United States from the country will not adversely affect public health.

“(b) REGISTRATION OF IMPORTERS AND EXPORTERS.—

“(1) REGISTRATION OF IMPORTERS AND EXPORTERS.—A registration condition is that the importer or exporter involved (referred to in this subsection as a ‘registrant’) submits to the Secretary a registration containing the following:

“(A)(i) In the case of an exporter, the name of the exporter and an identification of all places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter.

“(ii) In the case of an importer, the name of the importer and an identification of the places of business of the importer at which the importer initially receives a qualifying drug after importation (which shall not exceed 3 places of business except by permission of the Secretary).

“(B) Such information as the Secretary determines to be necessary to demonstrate that the registrant is in compliance with registration conditions under—

“(i) in the case of an importer, subsections (c), (d), (e), (g), and (j) (relating to the sources of imported qualifying drugs; the inspection of facilities of the importer; the payment of fees; compliance with the standards referred to in section 801(a); and maintenance of records and samples); or

“(ii) in the case of an exporter, subsections (c), (d), (f), (g), (h), (i), and (j) (relating to the sources of exported qualifying drugs; the inspection of facilities of the exporter and the marking of compliant shipments; the payment of fees; and compliance with the standards referred to in section 801(a); being licensed as a pharmacist; conditions for individual importation; and maintenance of records and samples).

“(C) An agreement by the registrant that the registrant will not under subsection (a) import or export any drug that is not a qualifying drug.

“(D) An agreement by the registrant to—

“(i) notify the Secretary of a recall or withdrawal of a qualifying drug distributed in a permitted country that the registrant has exported or imported, or intends to export or import, to the United States under subsection (a);

“(ii) provide for the return to the registrant of such drug; and

“(iii) cease, or not begin, the exportation or importation of such drug unless the Secretary has notified the registrant that exportation or importation of such drug may proceed.

“(E) An agreement by the registrant to ensure and monitor compliance with each registration condition, to promptly correct any noncompliance with such a condition, and to promptly report to the Secretary any such noncompliance.

“(F) A plan describing the manner in which the registrant will comply with the agreement under subparagraph (E).

“(G) An agreement by the registrant to enforce a contract under subsection (c)(3)(B) against a party in the chain of custody of a qualifying drug with respect to the authority of the Secretary under clauses (ii) and (iii) of that subsection.

“(H) An agreement by the registrant to notify the Secretary not more than 30 days before the registrant intends to make the change, of—

“(i) any change that the registrant intends to make regarding information provided under subparagraph (A) or (B); and

“(ii) any change that the registrant intends to make in the compliance plan under subparagraph (F).

“(I) In the case of an exporter—

“(i) An agreement by the exporter that a qualifying drug will not under subsection (a) be exported to any individual not authorized pursuant to subsection (a)(2)(B) to be an importer of such drug.

“(ii) An agreement to post a bond, payable to the Treasury of the United States that is equal in value to the lesser of—

“(I) the value of drugs exported by the exporter to the United States in a typical 4-week period over the course of a year under this section; or

“(II) $1,000,000;

“(iii) An agreement by the exporter to comply with applicable provisions of Canadian law, or the law of the permitted country designated under subsection (a)(4)(D)(i)(II) in which the exporter is located, that protect the privacy of personal information with respect to each individual importing a prescription drug from the exporter under subsection (a)(2)(B).

“(iv) An agreement by the exporter to report to the Secretary—

“(I) not later than August 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the 6-month period from January 1 through June 30 of that year; and

“(II) not later than January 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the previous fiscal year.

“(J) In the case of an importer, an agreement by the importer to report to the Secretary—

"(i) not later than August 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the 6-month period from January 1 through June 30 of that fiscal year; and

"(ii) not later than January 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the previous fiscal year.

"(K) Such other provisions as the Secretary may require by regulation to protect the public health while permitting—

"(i) the importation by pharmacies, groups of pharmacies, and wholesalers as registered importers of qualifying drugs under subsection (a); and

"(ii) importation by individuals of qualifying drugs under subsection (a).

"(2) APPROVAL OR DISAPPROVAL OF REGISTRATION.—

"(A) IN GENERAL.—Not later than 90 days after the date on which a registrant submits to the Secretary a registration under paragraph (1), the Secretary shall notify the registrant whether the registration is approved or is disapproved. The Secretary shall disapprove a registration if there is reason to believe that the registrant is not in compliance with one or more registration conditions, and shall notify the registrant of such reason. In the case of a disapproved registration, the Secretary shall subsequently notify the registrant that the registration is approved if the Secretary determines that the registrant is in compliance with such conditions.

"(B) CHANGES IN REGISTRATION INFORMATION.—Not later than 30 days after receiving a notice under paragraph (1)(H) from a registrant, the Secretary shall determine whether the change involved affects the approval of the registration of the registrant under paragraph (1), and shall inform the registrant of the determination.

"(3) PUBLICATION OF CONTACT INFORMATION FOR REGISTERED EXPORTERS.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall make readily available to the public a list of registered exporters, including contact information for the exporters. Promptly after the approval of a registration submitted under paragraph (1), the Secretary shall update the Internet website and the information provided through the toll-free telephone number accordingly.

"(4) SUSPENSION AND TERMINATION.—

"(A) SUSPENSION.—With respect to the effectiveness of a registration submitted under paragraph (1):

"(i) Subject to clause (ii), the Secretary may suspend the registration if the Secretary determines, after notice and opportunity for a hearing, that the registrant has failed to maintain substantial compliance with a registration condition.

"(ii) If the Secretary determines that, under color of the registration, the exporter has exported a drug or the importer has imported a drug that is not a qualifying drug, or a drug that does not comply with subsection (g)(2)(A) or (g)(4), or has exported a qualifying drug to an individual in violation of subsection (i)(2)(F), the Secretary shall immediately suspend the registration. A suspension under the preceding sentence is not subject to the provision by the Secretary of prior notice, and the Secretary shall provide to the registrant an opportunity for a hearing not later than 10 days after the date on which the registration is suspended.

"(iii) The Secretary may reinstate the registration, whether suspended under clause (i) or (ii), if the Secretary determines that the registrant has demonstrated that further violations of registration conditions will not occur.

"(B) TERMINATION.—The Secretary, after notice and opportunity for a hearing, may terminate the registration under paragraph (1) of a registrant if the Secretary determines that the registrant has engaged in a pattern or practice of violating 1 or more registration conditions, or if on 1 or more occasions the Secretary has under subparagraph (A)(ii) suspended the registration of the registrant. The Secretary may make the termination permanent, or for a fixed period of not less than 1 year. During the period in which the registration is terminated, any registration submitted under paragraph (1) by the registrant, or a person that is a partner in the export or import enterprise, or a principal officer in such enterprise, and any registration prepared with the assistance of the registrant or such a person, has no legal effect under this section.

"(5) DEFAULT OF BOND.—A bond required to be posted by an exporter under paragraph (1)(I)(ii) shall be defaulted and paid to the Treasury of the United States if, after opportunity for an informal hearing, the Secretary determines that the exporter has—

"(A) exported a drug to the United States that is not a qualifying drug or that is not in compliance with subsection (g)(2)(A), (g)(4), or (i); or

"(B) failed to permit the Secretary to conduct an inspection described under subsection (d).

"(c) SOURCES OF QUALIFYING DRUGS.—A registration condition is that the exporter or importer involved agrees that a qualifying drug will under subsection (a) be exported or imported into the United States only if there is compliance with the following:

"(1) The drug was manufactured in an establishment—

"(A) required to register under subsection (h) or (i) of section 510; and

"(B)(i) inspected by the Secretary; or

"(ii) for which the Secretary has elected to rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country whose regulatory system the Secretary recognizes as equivalent under a mutual recognition agreement, as provided for under section 510(i)(3), section 803, or part 26 of title 21, Code of Federal Regulations (or any corresponding successor rule or regulation).

"(2) The establishment is located in any country, and the establishment manufactured the drug for distribution in the United States or for distribution in 1 or more of the permitted countries (without regard to whether in addition the drug is manufactured for distribution in a foreign country that is not a permitted country).

"(3) The exporter or importer obtained the drug—

"(A) directly from the establishment; or

"(B) directly from an entity that, by contract with the exporter or importer—

"(i) provides to the exporter or importer a statement (in such form and containing such information as the Secretary may require) that, for the chain of custody from the establishment, identifies each prior sale, purchase, or trade of the drug (including the date of the transaction and the names and addresses of all parties to the transaction);

"(ii) agrees to permit the Secretary to inspect such statements and related records to determine their accuracy;

"(iii) agrees, with respect to the qualifying drugs involved, to permit the Secretary to inspect warehouses and other facilities, including records, of the entity for purposes of determining whether the facilities are in compliance with any standards under this Act that are applicable to facilities of that type in the United States; and

"(iv) has ensured, through such contractual relationships as may be necessary, that the Secretary has the same authority regarding other parties in the chain of custody from the establishment that the Secretary has under clauses (ii) and (iii) regarding such entity.

"(4)(A) The foreign country from which the importer will import the drug is a permitted country; or

"(B) The foreign country from which the exporter will export the drug is the permitted country in which the exporter is located.

"(5) During any period in which the drug was not in the control of the manufacturer of the drug, the drug did not enter any country that is not a permitted country.

"(6) The exporter or importer retains a sample of each lot of the drug sufficient for testing by the Secretary.

"(d) INSPECTION OF FACILITIES; MARKING OF SHIPMENTS.—

"(1) INSPECTION OF FACILITIES.—A registration condition is that, for the purpose of assisting the Secretary in determining whether the exporter involved is in compliance with all other registration conditions—

"(A) the exporter agrees to permit the Secretary—

"(i) to conduct onsite inspections, including monitoring on a day-to-day basis, of places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter;

"(ii) to have access, including on a day-to-day basis, to—

"(I) records of the exporter that relate to the export of such drugs, including financial records; and

"(II) samples of such drugs;

"(iii) to carry out the duties described in paragraph (3); and

"(iv) to carry out any other functions determined by the Secretary to be necessary regarding the compliance of the exporter; and

"(B) the Secretary has assigned 1 or more employees of the Secretary to carry out the functions described in this subsection for the Secretary randomly, but not less than 12 times annually, on the premises of places of businesses referred to in subparagraph (A)(i), and such an assignment remains in effect on a continuous basis.

"(2) MARKING OF COMPLIANT SHIPMENTS.—A registration condition is that the exporter involved agrees to affix to each shipping container of qualifying drugs exported under subsection (a) such markings as the Secretary determines to be necessary to identify the shipment as being in compliance with all registration conditions. Markings under the preceding sentence shall—

"(A) be designed to prevent affixation of the markings to any shipping container that is not authorized to bear the markings; and

"(B) include anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies.

"(3) CERTAIN DUTIES RELATING TO EXPORTERS.—Duties of the Secretary with respect to an exporter include the following:

"(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the exporter at which qualifying drugs are stored and from which qualifying drugs are shipped.

``(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the exporter, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an exporter.

``(C) Randomly reviewing records of exports to individuals for the purpose of determining whether the drugs are being imported by the individuals in accordance with the conditions under subsection (i). Such reviews shall be conducted in a manner that will result in a statistically significant determination of compliance with all such conditions.

``(D) Monitoring the affixing of markings under paragraph (2).

``(E) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records, of other parties in the chain of custody of qualifying drugs.

``(F) Determining whether the exporter is in compliance with all other registration conditions.

``(4) PRIOR NOTICE OF SHIPMENTS.—A registration condition is that, not less than 8 hours and not more than 5 days in advance of the time of the importation of a shipment of qualifying drugs, the importer involved agrees to submit to the Secretary a notice with respect to the shipment of drugs to be imported or offered for import into the United States under subsection (a). A notice under the preceding sentence shall include—

``(A) the name and complete contact information of the person submitting the notice;

``(B) the name and complete contact information of the importer involved;

``(C) the identity of the drug, including the established name of the drug, the quantity of the drug, and the lot number assigned by the manufacturer;

``(D) the identity of the manufacturer of the drug, including the identity of the establishment at which the drug was manufactured;

``(E) the country from which the drug is shipped;

``(F) the name and complete contact information for the shipper of the drug;

``(G) anticipated arrival information, including the port of arrival and crossing location within that port, and the date and time;

``(H) a summary of the chain of custody of the drug from the establishment in which the drug was manufactured to the importer;

``(I) a declaration as to whether the Secretary has ordered that importation of the drug from the permitted country cease under subsection (g)(2)(C) or (D); and

``(J) such other information as the Secretary may require by regulation.

``(5) MARKING OF COMPLIANT SHIPMENTS.—A registration condition is that the importer involved agrees, before wholesale distribution (as defined in section 503(e)) of a qualifying drug that has been imported under subsection (a), to affix to each container of such drug such markings or other technology as the Secretary determines necessary to identify the shipment as being in compliance with all registration conditions, except that the markings or other technology shall not be required on a drug that bears comparable, compatible markings or technology from the manufacturer of the drug. Markings or other technology under the preceding sentence shall—

``(A) be designed to prevent affixation of the markings or other technology to any container that is not authorized to bear the markings; and

``(B) shall include anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of such technologies.

``(6) CERTAIN DUTIES RELATING TO IMPORTERS.—Duties of the Secretary with respect to an importer include the following:

``(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the importer at which a qualifying drug is initially received after importation.

``(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the importer, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an importer.

``(C) Reviewing notices under paragraph (4).

``(D) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records of other parties in the chain of custody of qualifying drugs.

``(E) Determining whether the importer is in compliance with all other registration conditions.

``(e) IMPORTER FEES.—

``(1) REGISTRATION FEE.—A registration condition is that the importer involved pays to the Secretary a fee of **$10,000** due on the date on which the importer first submits the registration to the Secretary under subsection (b).

``(2) INSPECTION FEE.—A registration condition is that the importer involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

``(3) AMOUNT OF INSPECTION FEE.—

``(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for importers for that fiscal year that is sufficient, and not more than necessary, to pay the costs for that fiscal year of administering this section with respect to registered importers, including the costs associated with—

``(i) inspecting the facilities of registered importers, and of other entities in the chain of custody of a qualifying drug as necessary, under subsection (d)(6);

``(ii) developing, implementing, and operating under such subsection an electronic system for submission and review of the notices required under subsection (d)(4) with respect to shipments of qualifying drugs under subsection (a) to assess compliance with all registration conditions when such shipments are offered for import into the United States; and

``(iii) inspecting such shipments as necessary, when offered for import into the United States to determine if such a shipment should be refused admission under subsection (g)(5).

``(B) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (a).

``(C) TOTAL PRICE OF DRUGS.—

``(i) ESTIMATE.—For the purposes of complying with the limitation described in subparagraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under paragraph (2) for a fiscal year, the Secretary shall estimate the total price of qualifying drugs imported into the United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during the 6-month period from January 1 through June 30 of the previous fiscal year, as reported to the Secretary by each registered importer under subsection (b)(1)(J).

``(ii) CALCULATION.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during that fiscal year, as reported to the Secretary by each registered importer under subsection (b)(1)(J).

``(iii) ADJUSTMENT.—If the total price of qualifying drugs imported into the United States by registered importers during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for that fiscal year, the Secretary shall provide for a pro-rata reduction in the fee due from each registered importer on April 1 of the subsequent fiscal year so that the limitation described in subparagraph (B) is observed.

``(D) INDIVIDUAL IMPORTER FEE.—Subject to the limitation described in subparagraph (B), the fee under paragraph (2) to be paid on October 1 and April 1 by an importer shall be an amount that is proportional to a reasonable estimate by the Secretary of the semiannual share of the importer of the volume of qualifying drugs imported by importers under subsection (a).

``(4) USE OF FEES.—

``(A) IN GENERAL.—Subject to appropriations Acts, fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration until expended (without fiscal year limitation), and the Secretary may, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, transfer some proportion of such fees to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

``(B) SOLE PURPOSE.—Fees collected by the Secretary under paragraphs (1) and (2) are only available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

``(5) COLLECTION OF FEES.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

``(f) EXPORTER FEES.—

``(1) REGISTRATION FEE.—A registration condition is that the exporter involved pays to the Secretary a fee of **$10,000** due on the date on which the exporter first submits that registration to the Secretary under subsection (b).

‘‘(2) INSPECTION FEE.—A registration condition is that the exporter involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

‘‘(3) AMOUNT OF INSPECTION FEE.—

‘‘(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for exporters for that fiscal year that is sufficient, and not more than necessary, to pay the costs for that fiscal year of administering this section with respect to registered exporters, including the costs associated with—

‘‘(i) inspecting the facilities of registered exporters, and of other entities in the chain of custody of a qualifying drug as necessary, under subsection (d)(3);

‘‘(ii) developing, implementing, and operating under such subsection a system to screen marks on shipments of qualifying drugs under subsection (a) that indicate compliance with all registration conditions, when such shipments are offered for import into the United States; and

‘‘(iii) screening such markings, and inspecting such shipments as necessary, when offered for import into the United States to determine if such a shipment should be refused admission under subsection (g)(5).

‘‘(B) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered exporters under subsection (a).

‘‘(C) TOTAL PRICE OF DRUGS.—

‘‘(i) ESTIMATE.—For the purposes of complying with the limitation described in subparagraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under paragraph (2) for a fiscal year, the Secretary shall estimate the total price of qualifying drugs imported into the United States by registered exporters during that fiscal year by adding the total price of qualifying drugs exported by each registered exporter during the 6-month period from January 1 through June 30 of the previous fiscal year, as reported to the Secretary by each registered exporter under subsection (b)(1)(I)(iv).

‘‘(ii) CALCULATION.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered exporters during that fiscal year by adding the total price of qualifying drugs exported by each registered exporter during that fiscal year, as reported to the Secretary by each registered exporter under subsection (b)(1)(I)(iv).

‘‘(iii) ADJUSTMENT.—If the total price of qualifying drugs imported into the United States by registered exporters during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for that fiscal year, the Secretary shall provide for a pro-rata reduction in the fee due from each registered exporter on April 1 of the subsequent fiscal year so that the limitation described in subparagraph (B) is observed.

‘‘(D) INDIVIDUAL EXPORTER FEE.—Subject to the limitation described in subparagraph (B), the fee under paragraph (2) to be paid on October 1 and April 1 by an exporter shall be an amount that is proportional to a reasonable estimate by the Secretary of the semiannual share of the exporter of the volume of qualifying drugs exported by exporters under subsection (a).

‘‘(4) USE OF FEES.—

‘‘(A) IN GENERAL.—Subject to appropriations Acts, fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration until expended (without fiscal year limitation), and the Secretary may, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, transfer some proportion of such fees to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

‘‘(B) SOLE PURPOSE.—Fees collected by the Secretary under paragraphs (1) and (2) are only available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

‘‘(5) COLLECTION OF FEES.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

‘‘(g) COMPLIANCE WITH SECTION 801(A).—

‘‘(1) IN GENERAL.—A registration condition is that each qualifying drug exported under subsection (a) by the registered exporter involved or imported under subsection (a) by the registered importer involved is in compliance with the standards referred to in section 801(a) regarding admission of the drug into the United States, subject to paragraphs (2), (3), and (4).

‘‘(2) SECTION 505; APPROVAL STATUS.—

‘‘(A) IN GENERAL.—A qualifying drug that is imported or offered for import under subsection (a) shall comply with the conditions established in the approved application under section 505(b) for the U.S. label drug as described under this subsection.

‘‘(B) NOTICE BY MANUFACTURER; GENERAL PROVISIONS.—

‘‘(i) IN GENERAL.—The person that manufactures a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country shall in accordance with this paragraph submit to the Secretary a notice that—

‘‘(I) includes each difference in the qualifying drug from a condition established in the approved application for the U.S. label drug beyond—

‘‘(aa) the variations provided for in the application; and

‘‘(bb) any difference in labeling (except ingredient labeling); or

‘‘(II) states that there is no difference in the qualifying drug from a condition established in the approved application for the U.S. label drug beyond—

‘‘(aa) the variations provided for in the application; and

‘‘(bb) any difference in labeling (except ingredient labeling).

‘‘(ii) INFORMATION IN NOTICE.—A notice under clause (i)(I) shall include the information that the Secretary may require under section 506A, any additional information the Secretary may require (which may include data on bioequivalence if such data are not required under section 506A), and, with respect to the permitted country that approved the qualifying drug for commercial distribution, or with respect to which such approval is sought, include the following:

‘‘(I) The date on which the qualifying drug with such difference was, or will be, introduced for commercial distribution in the permitted country.

‘‘(II) Information demonstrating that the person submitting the notice has also notified the government of the permitted country in writing that the person is submitting to the Secretary a notice under clause (i)(I), which notice describes the difference in the qualifying drug from a condition established in the approved application for the U.S. label drug.

‘‘(III) The information that the person submitted or will submit to the government of the permitted country for purposes of obtaining approval for commercial distribution of the drug in the country which, if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name, address, and a brief statement of the qualifications of the person that made the translation.

‘‘(iii) CERTIFICATIONS.—The chief executive officer and the chief medical officer of the manufacturer involved shall each certify in the notice under clause (i) that—

‘‘(I) the information provided in the notice is complete and true; and

‘‘(II) a copy of the notice has been provided to the Federal Trade Commission and to the State attorneys general.

‘‘(iv) FEE.—If a notice submitted under clause (i) includes a difference that would, under section 506A, require the submission of a supplemental application if made as a change to the U.S. label drug, the person that submits the notice shall pay to the Secretary a fee in the same amount as would apply if the person were paying a fee pursuant to section 736(a)(1)(A)(ii). Subject to appropriations Acts, fees collected by the Secretary under the preceding sentence are available only to the Secretary and are for the sole purpose of paying the costs of reviewing notices submitted under clause (i).

‘‘(v) TIMING OF SUBMISSION OF NOTICES.—

‘‘(I) PRIOR APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (C) applies shall be submitted to the Secretary not later than 120 days before the qualifying drug with the difference is introduced for commercial distribution in a permitted country, unless the country requires that distribution of the qualifying drug with the difference begin less than 120 days after the country requires the difference.

‘‘(II) OTHER APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (D) applies shall be submitted to the Secretary not later than the day on which the qualifying drug with the difference is introduced for commercial distribution in a permitted country.

‘‘(III) OTHER NOTICES.—A notice under clause (i) to which subparagraph (E) applies shall be submitted to the Secretary on the date that the qualifying drug is first introduced for commercial distribution in a permitted country and annually thereafter.

‘‘(vi) REVIEW BY SECRETARY.—

‘‘(I) IN GENERAL.—In this paragraph, the difference in a qualifying drug that is submitted in a notice under clause (i) from the U.S. label drug shall be treated by the Secretary as if it were a manufacturing change to the U.S. label drug under section 506A.

‘‘(II) STANDARD OF REVIEW.—Except as provided in subclause (III), the Secretary shall review and approve or disapprove the difference in a notice submitted under clause (i), if required under section 506A, using the safe and effective standard for approving or disapproving a manufacturing change under section 506A.

"(III) BIOEQUIVALENCE.—If the Secretary would approve the difference in a notice submitted under clause (i) using the safe and effective standard under section 506A and if the Secretary determines that the qualifying drug is not bioequivalent to the U.S. label drug, the Secretary may—

"(aa) include in the labeling provided under paragraph (3) a prominent advisory that the qualifying drug is safe and effective but is not bioequivalent to the U.S. label drug if the Secretary determines that such an advisory is necessary for health care practitioners and patients to use the qualifying drug safely and effectively; or

"(bb) decline to approve the difference if the Secretary determines that the availability of both the qualifying drug and the U.S. label drug would pose a threat to the public health.

"(IV) REVIEW BY THE SECRETARY.—The Secretary shall review and approve or disapprove the difference in a notice submitted under clause (i), if required under section 506A, not later than 120 days after the date on which the notice is submitted.

"(V) ESTABLISHMENT INSPECTION.—If review of such difference would require an inspection of the establishment in which the qualifying drug is manufactured—

"(aa) such inspection by the Secretary shall be authorized; and

"(bb) the Secretary may rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country whose regulatory system the Secretary recognizes as equivalent under a mutual recognition agreement, as provided under section 510(i)(3), section 803, or part 26 of title 21, Code of Federal Regulations (or any corresponding successor rule or regulation).

"(vii) PUBLICATION OF INFORMATION ON NOTICES.—

"(I) IN GENERAL.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall readily make available to the public a list of notices submitted under clause (i).

"(II) CONTENTS.—The list under subclause (I) shall include the date on which a notice is submitted and whether—

"(aa) a notice is under review;

"(bb) the Secretary has ordered that importation of the qualifying drug from a permitted country cease; or

"(cc) the importation of the drug is permitted under subsection (a).

"(III) UPDATE.—The Secretary shall promptly update the Internet website with any changes to the list.

"(C) NOTICE; DRUG DIFFERENCE REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(c) or (d)(3)(B)(i), require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

"(i) Promptly after the notice is submitted, the Secretary shall notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general that the notice has been submitted with respect to the qualifying drug involved.

"(ii) If the Secretary has not made a determination whether such a supplemental application regarding the U.S. label drug would be approved or disapproved by the date on which the qualifying drug involved is to be introduced for commercial distribution in a permitted country, the Secretary shall—

"(I) order that the importation of the qualifying drug involved from the permitted country not begin until the Secretary completes review of the notice; and

"(II) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the order.

"(iii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

"(I) order that the importation of the qualifying drug involved from the permitted country cease, or provide that an order under clause (ii), if any, remains in effect;

"(II) notify the permitted country that approved the qualifying drug for commercial distribution of the determination; and

"(III) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

"(iv) If the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the Secretary shall—

"(I) vacate the order under clause (ii), if any;

"(II) consider the difference to be a variation provided for in the approved application for the U.S. label drug;

"(III) permit importation of the qualifying drug under subsection (a); and

"(IV) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

"(D) NOTICE; DRUG DIFFERENCE NOT REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(d)(3)(B)(ii), not require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

"(i) During the period in which the notice is being reviewed by the Secretary, the authority under this subsection to import the qualifying drug involved continues in effect.

"(ii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

"(I) order that the importation of the qualifying drug involved from the permitted country cease;

"(II) notify the permitted country that approved the qualifying drug for commercial distribution of the determination; and

"(III) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

"(iii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the difference shall be considered to be a variation provided for in the approved application for the U.S. label drug.

"(E) NOTICE; DRUG DIFFERENCE NOT REQUIRING APPROVAL; NO DIFFERENCE.—In the case of a notice under subparagraph (B)(i) that includes a difference for which, under section 506A(d)(1)(A), a supplemental application would not be required for the difference to be made to the U.S. label drug, or that states that there is no difference, the Secretary—

"(i) shall consider such difference to be a variation provided for in the approved application for the U.S. label drug;

"(ii) may not order that the importation of the qualifying drug involved cease; and

"(iii) shall promptly notify registered exporters and registered importers.

"(F) DIFFERENCES IN ACTIVE INGREDIENT, ROUTE OF ADMINISTRATION, DOSAGE FORM, OR STRENGTH.—

"(i) IN GENERAL.—A person who manufactures a drug approved under section 505(b) shall submit an application under section 505(b) for approval of another drug that is manufactured for distribution in a permitted country by or for the person that manufactures the drug approved under section 505(b) if—

"(I) there is no qualifying drug in commercial distribution in permitted countries whose combined population represents at least 50 percent of the total population of all permitted countries with the same active ingredient or ingredients, route of administration, dosage form, and strength as the drug approved under section 505(b); and

"(II) each active ingredient of the other drug is related to an active ingredient of the drug approved under section 505(b), as defined in clause (v).

"(ii) APPLICATION UNDER SECTION 505(b).—The application under section 505(b) required under clause (i) shall—

"(I) request approval of the other drug for the indication or indications for which the drug approved under section 505(b) is labeled;

"(II) include the information that the person submitted to the government of the permitted country for purposes of obtaining approval for commercial distribution of the other drug in that country, which if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name, address, and a brief statement of the qualifications of the person that made the translation;

"(III) include a right of reference to the application for the drug approved under section 505(b); and

"(IV) include such additional information as the Secretary may require.

"(iii) TIMING OF SUBMISSION OF APPLICATION.—An application under section 505(b) required under clause (i) shall be submitted to the Secretary not later than the day on which the information referred to in clause (ii)(II) is submitted to the government of the permitted country.

"(iv) NOTICE OF DECISION ON APPLICATION.—The Secretary shall promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of a determination to approve or to disapprove an application under section 505(b) required under clause (i).

"(v) RELATED ACTIVE INGREDIENTS.—For purposes of clause (i)(II), 2 active ingredients are related if they are—

"(I) the same; or

"(II) different salts, esters, or complexes of the same moiety.

"(3) SECTION 502; LABELING.—

"(A) IMPORTATION BY REGISTERED IMPORTER.—

"(i) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered importer, such drug shall be considered to be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the qualifying drug bears—

"(I) a copy of the labeling approved for the U.S. label drug under section 505, without regard to whether the copy bears any trademark involved;

"(II) the name of the manufacturer and location of the manufacturer;

"(III) the lot number assigned by the manufacturer;

"(IV) the name, location, and registration number of the importer; and

"(V) the National Drug Code number assigned to the qualifying drug by the Secretary.

"(ii) REQUEST FOR COPY OF THE LABELING.—The Secretary shall provide such copy to the registered importer involved, upon request of the importer.

"(iii) REQUESTED LABELING.—The labeling provided by the Secretary under clause (ii) shall—

"(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the qualifying drug;

"(II) not include the proprietary name of the U.S. label drug or any active ingredient thereof;

"(III) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the qualifying drug is safe and effective but not bioequivalent to the U.S. label drug; and

"(IV) if the inactive ingredients of the qualifying drug are different from the inactive ingredients for the U.S. label drug, include—

"(aa) a prominent notice that the ingredients of the qualifying drug differ from the ingredients of the U.S. label drug and that the qualifying drug must be dispensed with an advisory to people with allergies about this difference and a list of ingredients; and

"(bb) a list of the ingredients of the qualifying drug as would be required under section 502(e).

"(B) IMPORTATION BY INDIVIDUAL.—

"(i) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered exporter to an individual, such drug shall be considered to be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the packaging and labeling of the qualifying drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and the labeling of the qualifying drug includes—

"(I) directions for use by the consumer;

"(II) the lot number assigned by the manufacturer;

"(III) the name and registration number of the exporter;

"(IV) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug;

"(V) if the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

"(aa) a prominent advisory that persons with an allergy should check the ingredient list of the drug because the ingredients of the drug differ from the ingredients of the U.S. label drug; and

"(bb) a list of the ingredients of the drug as would be required under section 502(e); and

"(VI) a copy of any special labeling that would be required by the Secretary had the U.S. label drug been dispensed by a pharmacist in the United States, without regard to whether the special labeling bears any trademark involved.

"(ii) PACKAGING.—A qualifying drug offered for import to an individual by an exporter under this section that is packaged in a unit-of-use container (as those items are defined in the United States Pharmacopeia and National Formulary) shall not be repackaged, provided that—

"(I) the packaging complies with all applicable regulations under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.); or

"(II) the consumer consents to waive the requirements of such Act, after being informed that the packaging does not comply with such Act and that the exporter will provide the drug in packaging that is compliant at no additional cost.

"(iii) REQUEST FOR COPY OF SPECIAL LABELING AND INGREDIENT LIST.—The Secretary shall provide to the registered exporter involved a copy of the special labeling, the advisory, and the ingredient list described under clause (i), upon request of the exporter.

"(iv) REQUESTED LABELING AND INGREDIENT LIST.—The labeling and ingredient list provided by the Secretary under clause (iii) shall—

"(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the drug; and

"(II) not include the proprietary name of the U.S. label drug or any active ingredient thereof.

"(4) SECTION 501; ADULTERATION.—A qualifying drug that is imported or offered for import under subsection (a) shall be considered to be in compliance with section 501 if the drug is in compliance with subsection (c).

"(5) STANDARDS FOR REFUSING ADMISSION.—A drug exported under subsection (a) from a registered exporter or imported by a registered importer may be refused admission into the United States if 1 or more of the following applies:

"(A) The drug is not a qualifying drug.

"(B) A notice for the drug required under paragraph (2)(B) has not been submitted to the Secretary.

"(C) The Secretary has ordered that importation of the drug from the permitted country cease under paragraph (2) (C) or (D).

"(D) The drug does not comply with paragraph (3) or (4).

"(E) The shipping container appears damaged in a way that may affect the strength, quality, or purity of the drug.

"(F) The Secretary becomes aware that—

"(i) the drug may be counterfeit;

"(ii) the drug may have been prepared, packed, or held under insanitary conditions; or

"(iii) the methods used in, or the facilities or controls used for, the manufacturing, processing, packing, or holding of the drug do not conform to good manufacturing practice.

"(G) The Secretary has obtained an injunction under section 302 that prohibits the distribution of the drug in interstate commerce.

"(H) The Secretary has under section 505(e) withdrawn approval of the drug.

"(I) The manufacturer of the drug has instituted a recall of the drug.

"(J) If the drug is imported or offered for import by a registered importer without submission of a notice in accordance with subsection (d)(4).

"(K) If the drug is imported or offered for import from a registered exporter to an individual and 1 or more of the following applies:

"(i) The shipping container for such drug does not bear the markings required under subsection (d)(2).

"(ii) The markings on the shipping container appear to be counterfeit.

"(iii) The shipping container or markings appear to have been tampered with.

"(h) LICENSING AS PHARMACIST.—A registration condition is that the exporter involved agrees that a qualifying drug will be exported to an individual only if the Secretary has verified that—

"(1) the exporter is authorized under the law of the permitted country in which the exporter is located to dispense prescription drugs; and

"(2) the exporter employs persons that are licensed under the law of the permitted country in which the exporter is located to dispense prescription drugs in sufficient number to dispense safely the drugs exported by the exporter to individuals, and the exporter assigns to those persons responsibility for dispensing such drugs to individuals.

"(i) INDIVIDUALS; CONDITIONS FOR IMPORTATION.—

"(1) IN GENERAL.—For purposes of subsection (a)(2)(B), the importation of a qualifying drug by an individual is in accordance with this subsection if the following conditions are met:

"(A) The drug is accompanied by a copy of a prescription for the drug, which prescription—

"(i) is valid under applicable Federal and State laws; and

"(ii) was issued by a practitioner who, under the law of a State of which the individual is a resident, or in which the individual receives care from the practitioner who issues the prescription, is authorized to administer prescription drugs.

"(B) The drug is accompanied by a copy of the documentation that was required under the law or regulations of the permitted country in which the exporter is located, as a condition of dispensing the drug to the individual.

"(C) The copies referred to in subparagraphs (A)(i) and (B) are marked in a manner sufficient—

"(i) to indicate that the prescription, and the equivalent document in the permitted country in which the exporter is located, have been filled; and

"(ii) to prevent a duplicative filling by another pharmacist.

"(D) The individual has provided to the registered exporter a complete list of all drugs used by the individual for review by the individuals who dispense the drug.

"(E) The quantity of the drug does not exceed a 90-day supply.

"(F) The drug is not an ineligible subpart H drug. For purposes of this section, a prescription drug is an 'ineligible subpart H drug' if the drug was approved by the Secretary under subpart H of part 314 of title 21, Code of Federal Regulations (relating to accelerated approval), with restrictions under section 520 of such part to assure safe use, and the Secretary has published in the Federal Register a notice that the Secretary has determined that good cause exists to prohibit the drug from being imported pursuant to this subsection.

"(2) NOTICE REGARDING DRUG REFUSED ADMISSION.—If a registered exporter ships a drug to an individual pursuant to subsection (a)(2)(B) and the drug is refused admission to the United States, a written notice shall be sent to the individual and to the exporter that informs the individual and the exporter of such refusal and the reason for the refusal.

"(j) MAINTENANCE OF RECORDS AND SAMPLES.—

"(1) IN GENERAL.—A registration condition is that the importer or exporter involved shall—

"(A) maintain records required under this section for not less than 2 years; and

"(B) maintain samples of each lot of a qualifying drug required under this section for not less than 2 years.

"(2) PLACE OF RECORD MAINTENANCE.—The records described under paragraph (1) shall be maintained—

"(A) in the case of an importer, at the place of business of the importer at which the importer initially receives the qualifying drug after importation; or

"(B) in the case of an exporter, at the facility from which the exporter ships the qualifying drug to the United States.

"(k) DRUG RECALLS.—

"(1) MANUFACTURERS.—A person that manufactures a qualifying drug imported from a permitted country under this section shall promptly inform the Secretary—

"(A) if the drug is recalled or withdrawn from the market in a permitted country;

"(B) how the drug may be identified, including lot number; and

"(C) the reason for the recall or withdrawal.

"(2) SECRETARY.—With respect to each permitted country, the Secretary shall—

"(A) enter into an agreement with the government of the country to receive information about recalls and withdrawals of qualifying drugs in the country; or

"(B) monitor recalls and withdrawals of qualifying drugs in the country using any information that is available to the public in any media.

"(3) NOTICE.—The Secretary may notify, as appropriate, registered exporters, registered importers, wholesalers, pharmacies, or the public of a recall or withdrawal of a qualifying drug in a permitted country.

"(l) DRUG LABELING AND PACKAGING.—

"(1) IN GENERAL.—When a qualifying drug that is imported into the United States by an importer under subsection (a) is dispensed by a pharmacist to an individual, the pharmacist shall provide that the packaging and labeling of the drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and shall include with any other labeling provided to the individual the following:

"(A) The lot number assigned by the manufacturer.

"(B) The name and registration number of the importer.

"(C) If required under paragraph (2)(B)(vi)(III) of subsection (g), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug.

"(D) If the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

"(i) a prominent advisory that persons with allergies should check the ingredient list of the drug because the ingredients of the drug differ from the ingredients of the U.S. label drug; and

"(ii) a list of the ingredients of the drug as would be required under section 502(e).

"(2) PACKAGING.—A qualifying drug that is packaged in a unit-of-use container (as those terms are defined in the United States Pharmacopeia and National Formulary) shall not be repackaged, provided that—

"(A) the packaging complies with all applicable regulations under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.); or

"(B) the consumer consents to waive the requirements of such Act, after being informed that the packaging does not comply with such Act and that the pharmacist will provide the drug in packaging that is compliant at no additional cost.

"(m) CHARITABLE CONTRIBUTIONS.—Notwithstanding any other provision of this section, this section does not authorize the importation into the United States of a qualifying drug donated or otherwise supplied for free or at nominal cost by the manufacturer of the drug to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country.

"(n) UNFAIR AND DISCRIMINATORY ACTS AND PRACTICES.—

"(1) IN GENERAL.—It is unlawful for a manufacturer, directly or indirectly (including by being a party to a licensing agreement or other agreement), to—

"(A) discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of rebates or other incentives to the permitted country or other person, to another person that is in the same country and that does not export a qualifying drug into the United States under this section;

"(B) discriminate by charging a higher price for a prescription drug sold to a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section than the price that is charged to another person in the United States that does not import a qualifying drug under this section, or that does not distribute, sell, or use such a drug;

"(C) discriminate by denying, restricting, or delaying supplies of a prescription drug to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section or to a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section;

"(D) discriminate by publicly, privately, or otherwise refusing to do business with a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section or with a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section;

"(E) knowingly fail to submit a notice under subsection (g)(2)(B)(i), knowingly fail to submit such a notice on or before the date specified in subsection (g)(2)(B)(v) or as otherwise required under subsection (e) (3), (4), and (5) of section ___4 of the Pharmaceutical Market Access and Drug Safety Act of 2005, knowingly submit such a notice that makes a materially false, fictitious, or fraudulent statement, or knowingly fail to provide promptly any information requested by the Secretary to review such a notice;

"(F) knowingly fail to submit an application required under subsection (g)(2)(F), knowingly fail to submit such an application on or before the date specified in subsection (g)(2)(F)(ii), knowingly submit such an application that makes a materially false, fictitious, or fraudulent statement, or knowingly fail to provide promptly any information requested by the Secretary to review such an application;

"(G) cause there to be a difference (including a difference in active ingredient, route of administration, dosage form, strength, formulation, manufacturing establishment, manufacturing process, or person that manufactures the drug) between a prescription drug for distribution in the United States and the drug for distribution in a permitted country;

"(H) refuse to allow an inspection authorized under this section of an establishment that manufactures a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country;

"(I) fail to conform to the methods used in, or the facilities used for, the manufacturing, processing, packing, or holding of a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country to good manufacturing practice under this Act;

"(J) become a party to a licensing agreement or other agreement related to a qualifying drug that fails to provide for compliance with all requirements of this section with respect to such drug;

"(K) enter into a contract that restricts, prohibits, or delays the importation of a qualifying drug under this section;

"(L) engage in any other action to restrict, prohibit, or delay the importation of a qualifying drug under this section; or

"(M) engage in any other action that the Federal Trade Commission determines to discriminate against a person that engages or attempts to engage in the importation of a qualifying drug under this section.

"(2) AFFIRMATIVE DEFENSE.—

"(A) DISCRIMINATION.—It shall be an affirmative defense to a charge that a manufacturer has discriminated under subparagraph (A), (B), (C), (D), or (M) of paragraph (1) that the higher price charged for a prescription drug sold to a person, the denial, restriction, or delay of supplies of a prescription drug to a person, the refusal to do business with a person, or other discriminatory activity against a person, is not based, in whole or in part, on—

"(i) the person exporting or importing a qualifying drug into the United States under this section; or

"(ii) the person distributing, selling, or using a qualifying drug imported into the United States under this section.

"(B) DRUG DIFFERENCES.—It shall be an affirmative defense to a charge that a manufacturer has caused there to be a difference described in subparagraph (G) of paragraph (1) that—

"(i) the difference was required by the country in which the drug is distributed;

"(ii) the Secretary has determined that the difference was necessary to improve the safety or effectiveness of the drug;

"(iii) the person manufacturing the drug for distribution in the United States has given notice to the Secretary under subsection (g)(2)(B)(i) that the drug for distribution in the United States is not different from a drug for distribution in permitted countries whose combined population represents at least 50 percent of the total population of all permitted countries; or

"(iv) the difference was not caused, in whole or in part, for the purpose of restricting importation of the drug into the United States under this section.

"(3) EFFECT OF SUBSECTION.—

"(A) SALES IN OTHER COUNTRIES.—This subsection applies only to the sale or distribution of a prescription drug in a country if the manufacturer of the drug chooses to sell or distribute the drug in the country. Nothing in this subsection shall be construed to compel the manufacturer of a drug to distribute or sell the drug in a country.

"(B) DISCOUNTS TO INSURERS, HEALTH PLANS, PHARMACY BENEFIT MANAGERS, AND COVERED ENTITIES.—Nothing in this subsection shall be construed to—

"(i) prevent or restrict a manufacturer of a prescription drug from providing discounts to an insurer, health plan, pharmacy benefit manager in the United States, or covered entity in the drug discount program under section 340B of the Public Health Service Act (42 U.S.C. 256b) in return for inclusion of the drug on a formulary;

"(ii) require that such discounts be made available to other purchasers of the prescription drug; or

"(iii) prevent or restrict any other measures taken by an insurer, health plan, or pharmacy benefit manager to encourage consumption of such prescription drug.

"(C) CHARITABLE CONTRIBUTIONS.—Nothing in this subsection shall be construed to—

"(i) prevent a manufacturer from donating a prescription drug, or supplying a prescription drug at nominal cost, to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country; or

"(ii) apply to such donations or supplying of a prescription drug.

"(4) ENFORCEMENT.—

"(A) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of this subsection shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

"(B) ACTIONS BY THE COMMISSION.—The Federal Trade Commission—

"(i) shall enforce this subsection in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section; and

"(ii) may seek monetary relief threefold the damages sustained, in addition to any other remedy available to the Federal Trade Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

"(5) ACTIONS BY STATES.—

"(A) IN GENERAL.—

"(i) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State have been adversely affected by any manufacturer that violates paragraph (1), the attorney general of a State may bring a civil action on behalf of the residents of the State, and persons doing business in the State, in a district court of the United States of appropriate jurisdiction to—

"(I) enjoin that practice;

"(II) enforce compliance with this subsection;

"(III) obtain damages, restitution, or other compensation on behalf of residents of the State and persons doing business in the State, including threefold the damages; or

"(IV) obtain such other relief as the court may consider to be appropriate.

"(ii) NOTICE.—

"(I) IN GENERAL.—Before filing an action under clause (i), the attorney general of the State involved shall provide to the Federal Trade Commission—

"(aa) written notice of that action; and

"(bb) a copy of the complaint for that action.

"(II) EXEMPTION.—Subclause (I) shall not apply with respect to the filing of an action by an attorney general of a State under this paragraph, if the attorney general determines that it is not feasible to provide the notice described in that subclause before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Federal Trade Commission at the same time as the attorney general files the action.

"(B) INTERVENTION.—

"(i) IN GENERAL.—On receiving notice under subparagraph (A)(ii), the Federal Trade Commission shall have the right to intervene in the action that is the subject of the notice.

"(ii) EFFECT OF INTERVENTION.—If the Federal Trade Commission intervenes in an action under subparagraph (A), it shall have the right—

"(I) to be heard with respect to any matter that arises in that action; and

"(II) to file a petition for appeal.

"(C) CONSTRUCTION.—For purposes of bringing any civil action under subparagraph (A), nothing in this subsection shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

"(i) conduct investigations;

"(ii) administer oaths or affirmations; or

"(iii) compel the attendance of witnesses or the production of documentary and other evidence.

"(D) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Federal Trade Commission for a violation of paragraph (1), a State may not, during the pendency of that action, institute an action under subparagraph (A) for the same violation against any defendant named in the complaint in that action.

"(E) VENUE.—Any action brought under subparagraph (A) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

"(F) SERVICE OF PROCESS.—In an action brought under subparagraph (A), process may be served in any district in which the defendant—

"(i) is an inhabitant; or

"(ii) may be found.

"(G) MEASUREMENT OF DAMAGES.—In any action under this paragraph to enforce a cause of action under this subsection in which there has been a determination that a defendant has violated a provision of this subsection, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

"(H) EXCLUSION ON DUPLICATIVE RELIEF.—The district court shall exclude from the amount of monetary relief awarded in an action under this paragraph brought by the attorney general of a State any amount of monetary relief which duplicates amounts which have been awarded for the same injury.

"(6) EFFECT ON ANTITRUST LAWS.—Nothing in this subsection shall be construed to modify, impair, or supersede the operation of the antitrust laws. For the purpose of this subsection, the term 'antitrust laws' has the meaning given it in the first section of the Clayton Act, except that it includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

"(7) MANUFACTURER.—In this subsection, the term 'manufacturer' means any entity, including any affiliate or licensee of that entity, that is engaged in—

"(A) the production, preparation, propagation, compounding, conversion, or processing of a prescription drug, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; or

"(B) the packaging, repackaging, labeling, relabeling, or distribution of a prescription drug.".

(b) PROHIBITED ACTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 301 (21 U.S.C. 331), by striking paragraph (aa) and inserting the following:

"(aa)(1) The sale or trade by a pharmacist, or by a business organization of which the pharmacist is a part, of a qualifying drug that under section 804(a)(2)(A) was imported by the pharmacist, other than—

"(A) a sale at retail made pursuant to dispensing the drug to a customer of the pharmacist or organization; or

"(B) a sale or trade of the drug to a pharmacy or a wholesaler registered to import drugs under section 804.

"(2) The sale or trade by an individual of a qualifying drug that under section 804(a)(2)(B) was imported by the individual.

"(3) The making of a materially false, fictitious, or fraudulent statement or representation, or a material omission, in a notice under clause (i) of section 804(g)(2)(B) or in an application required under section 804(g)(2)(F), or the failure to submit such a notice or application.

"(4) The importation of a drug in violation of a registration condition or other requirement under section 804, the falsification of any record required to be maintained, or provided to the Secretary, under such section, or the violation of any registration condition or other requirement under such section."; and

(2) in section 303(a) (21 U.S.C. 333(a)), by striking paragraph (6) and inserting the following:

"(6) Notwithstanding subsection (a), any person that knowingly violates section 301(i)(2) or (3) or section 301(aa)(4) shall be imprisoned not more than 10 years, or fined in accordance with title 18, United States Code, or both.".

(c) AMENDMENT OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by striking subsection (g) and inserting the following:

"(g) With respect to a prescription drug that is imported or offered for import into the United States by an individual who is not in the business of such importation, that is not shipped by a registered exporter under section 804, and that is refused admission under subsection (a), the Secretary shall notify the individual that—

"(1) the drug has been refused admission because the drug was not a lawful import under section 804;

"(2) the drug is not otherwise subject to a waiver of the requirements of subsection (a);

"(3) the individual may under section 804 lawfully import certain prescription drugs from exporters registered with the Secretary under section 804; and

"(4) the individual can find information about such importation, including a list of registered exporters, on the Internet website of the Food and Drug Administration or through a toll-free telephone number required under section 804.".

(2) ESTABLISHMENT REGISTRATION.—Section 510(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(i)) is amended in paragraph (1) by inserting after "import into the United States" the following: ", including a drug that is, or may be, imported or offered for import into the United States under section 804,".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is 90 days after the date of enactment of this title.

(d) EXHAUSTION.—

(1) IN GENERAL.—Section 271 of title 35, United States Code, is amended—

(A) by redesignating subsections (h) and (i) as (i) and (j), respectively; and

(B) by inserting after subsection (g) the following:

"(h) It shall not be an act of infringement to use, offer to sell, or sell within the United States or to import into the United States any patented invention under section 804 of the Federal Food, Drug, and Cosmetic Act that was first sold abroad by or under authority of the owner or licensee of such patent.".

(2) RULE OF CONSTRUCTION.—Nothing in the amendment made by paragraph (1) shall be construed to affect the ability of a patent owner or licensee to enforce their patent, subject to such amendment.

(e) EFFECT OF SECTION 804.—

(1) IN GENERAL.—Section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall permit the importation of qualifying drugs (as defined in such section 804) into the United States without regard to the status of the issuance of implementing regulations—

(A) from exporters registered under such section 804 on the date that is 90 days after the date of enactment of this title; and

(B) from permitted countries, as defined in such section 804, by importers registered under such section 804 on the date that is 1 year after the date of enactment of this title.

(2) REVIEW OF REGISTRATION BY CERTAIN EXPORTERS.—

(A) REVIEW PRIORITY.—In the review of registrations submitted under subsection (b) of such section 804, registrations submitted by entities in Canada that are significant exporters of prescription drugs to individuals in the United States as of the date of enactment of this title will have priority during the 90 day period that begins on such date of enactment.

(B) PERIOD FOR REVIEW.—During such 90-day period, the reference in subsection (b)(2)(A) of such section 804 to 90 days (relating to approval or disapproval of registrations) is, as applied to such entities, deemed to be 30 days.

(C) LIMITATION.—That an exporter in Canada exports, or has exported, prescription drugs to individuals in the United States on or before the date that is 90 days after the date of enactment of this title shall not serve as a basis, in whole or in part, for disapproving a registration under such section 804 from the exporter.

(D) FIRST YEAR LIMIT ON NUMBER OF EXPORTERS.—During the 1-year period beginning on the date of enactment of this title, the Secretary of Health and Human Services (referred to in this section as the "Secretary") may limit the number of registered exporters under such section 804 to not less than 50, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(E) SECOND YEAR LIMIT ON NUMBER OF EXPORTERS.—During the 1-year period beginning on the date that is 1 year after the date of enactment of this title, the Secretary may limit the number of registered exporters under such section 804 to not less than 100, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(F) FURTHER LIMIT ON NUMBER OF EXPORTERS.—During any 1-year period beginning on a date that is 2 or more years after the date of enactment of this title, the Secretary may limit the number of registered exporters under such section 804 to not less than 25 more than the number of such exporters during the previous 1-year period, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(3) LIMITS ON NUMBER OF IMPORTERS.—

(A) FIRST YEAR LIMIT ON NUMBER OF IMPORTERS.—During the 1-year period beginning on the date that is 1 year after the date of enactment of this title, the Secretary may limit the number of registered importers under such section 804 to not less than 100 (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups), so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs imported into the United States.

(B) SECOND YEAR LIMIT ON NUMBER OF IMPORTERS.—During the 1-year period beginning on the date that is 2 years after the date of enactment of this title, the Secretary may limit the number of registered importers under such section 804 to not less than 200 (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups), so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs into the United States.

(C) FURTHER LIMIT ON NUMBER OF IMPORTERS.—During any 1-year period beginning on a date that is 3 or more years after the date of enactment of this title, the Secretary may limit the number of registered importers under such section 804 to not less than 50 more (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups) than the number of such importers during the previous 1-year period, so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs to the United States.

(4) NOTICES FOR DRUGS FOR IMPORT FROM CANADA.—The notice with respect to a qualifying drug introduced for commercial distribution in Canada as of the date of enactment of this title that is required under subsection (g)(2)(B)(i) of such section 804 shall be submitted to the Secretary not later than 30 days after the date of enactment of this title if—

(A) the U.S. label drug (as defined in such section 804) for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period most recently completed before the date of enactment of this title; or

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(5) NOTICE FOR DRUGS FOR IMPORT FROM OTHER COUNTRIES.—The notice with respect to a qualifying drug introduced for commercial distribution in a permitted country other than Canada as of the date of enactment of this title that is required under subsection (g)(2)(B)(i) of such section 804 shall be submitted to the Secretary not later than 180 days after the date of enactment of this title if—

(A) the U.S. label drug for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period that is first completed on the date that is 120 days after the date of enactment of this title; or

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(6) NOTICE FOR OTHER DRUGS FOR IMPORT.—

(A) GUIDANCE ON SUBMISSION DATES.—The Secretary shall by guidance establish a series of submission dates for the notices under subsection (g)(2)(B)(i) of such section 804 with respect to qualifying drugs introduced for commercial distribution as of the date of enactment of this title and that are not required to be submitted under paragraph (4) or (5).

(B) CONSISTENT AND EFFICIENT USE OF RESOURCES.—The Secretary shall establish the dates described under subparagraph (A) so that such notices described under subparagraph (A) are submitted and reviewed at a rate that allows consistent and efficient use of the resources and staff available to the Secretary for such reviews. The Secretary may condition the requirement to submit such a notice, and the review of such a notice, on the submission by a registered exporter or a registered importer to the Secretary of a notice that such exporter or importer intends to import such qualifying drug to the United States under such section 804.

(C) PRIORITY FOR DRUGS WITH HIGHER SALES.—The Secretary shall establish the dates described under subparagraph (A) so that the Secretary reviews the notices described under such subparagraph with respect to qualifying drugs with higher dollar volume of sales in the United States before the notices with respect to drugs with lower sales in the United States.

(7) NOTICES FOR DRUGS APPROVED AFTER EFFECTIVE DATE.—The notice required under subsection (g)(2)(B)(i) of such section 804 for a qualifying drug first introduced for commercial distribution in a permitted country (as defined in such section 804) after the date of enactment of this title shall be submitted to and reviewed by the Secretary as provided under subsection (g)(2)(B) of such section 804, without regard to paragraph (4), (5), or (6).

(8) REPORT.—Beginning with fiscal year 2006, not later than 90 days after the end of each fiscal year during which the Secretary reviews a notice referred to in paragraph (4), (5), or (6), the Secretary shall submit a report to Congress concerning the progress of the Food and Drug Administration in reviewing the notices referred to in paragraphs (4), (5), and (6).

(9) USER FEES.—

(A) EXPORTERS.—When establishing an aggregate total of fees to be collected from exporters under subsection (f)(2) of such section 804, the Secretary shall, under subsection (f)(3)(C)(i) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by registered exporters during fiscal year 2006 to be $1,000,000,000.

(B) IMPORTERS.—When establishing an aggregate total of fees to be collected from importers under subsection (e)(2) of such section 804, the Secretary shall, under subsection (e)(3)(C)(i) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by registered importers during—

(i) fiscal year 2006 to be $1,000,000,000; and

(ii) fiscal year 2007 to be $10,000,000,000.

(C) FISCAL YEAR 2007 ADJUSTMENT.—

(i) REPORTS.—Not later than February 20, 2007, registered importers shall report to the Secretary the total price and the total volume of drugs imported to the United States by the importer during the 4-month period from October 1, 2006, through January 31, 2007.

(ii) REESTIMATE.—Notwithstanding subsection (e)(3)(C)(ii) of such section 804 or subparagraph (B), the Secretary shall reestimate the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during fiscal year 2007. Such reestimate shall be equal to—

(I) the total price of qualifying drugs imported by each importer as reported under clause (i); multiplied by

(II) 3.

(iii) ADJUSTMENT.—The Secretary shall adjust the fee due on April 1, 2007, from each importer so that the aggregate total of fees collected under subsection (e)(2) for fiscal year 2007 does not exceed the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during fiscal year 2007 as reestimated under clause (ii).

(D) ANNUAL REPORT.—

(i) FOOD AND DRUG ADMINISTRATION.—Beginning with fiscal year 2006, not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e), (f), or (g)(2)(B)(iv) of such section 804, the Secretary shall prepare and submit to the House of Representatives and the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for the fiscal year for which the report is made and credited to the Food and Drug Administration.

(ii) CUSTOMS AND BORDER CONTROL.—Beginning with fiscal year 2006, not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e) or (f) of such section 804, the Secretary of Homeland Security, in consultation with the Secretary of the Treasury, shall prepare and submit to the House of Representatives and the Senate a report on the use, by the Bureau of Customs and Border Protection, of the fees, if any, transferred by the Secretary to the Bureau of Customs and Border Protection for the fiscal year for which the report is made.

(10) SPECIAL RULE REGARDING IMPORTATION BY INDIVIDUALS.—

(A) IN GENERAL.—Notwithstanding any provision of this title (or an amendment made by this title), the Secretary shall designate additional countries from which an individual may import a qualifying drug into the United States under such section 804 if any action implemented by the Government of Canada has the effect of limiting or prohibiting the importation of qualifying drugs into the United States from Canada.

(B) TIMING AND CRITERIA.—The Secretary shall designate such additional countries under subparagraph (A)—

(i) not later than 6 months after the date of the action by the Government of Canada described under such subparagraph; and

(ii) using the criteria described under subsection (a)(4)(D)(i)(II) of such section 804.

(f) IMPLEMENTATION OF SECTION 804.—

(1) INTERIM RULE.—The Secretary may promulgate an interim rule for implementing section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a) of this section.

(2) NO NOTICE OF PROPOSED RULEMAKING.—The interim rule described under paragraph (1) may be developed and promulgated by the Secretary without providing general notice of proposed rulemaking.

(3) FINAL RULE.—Not later than 1 year after the date on which the Secretary promulgates an interim rule under paragraph (1), the Secretary shall, in accordance with procedures under section 553 of title 5, United States Code, promulgate a final rule for implementing such section 804, which may incorporate by reference provisions of the interim rule provided for under paragraph (1), to the extent that such provisions are not modified.

(g) CONSUMER EDUCATION.—The Secretary shall carry out activities that educate consumers—

(1) with regard to the availability of qualifying drugs for import for personal use from an exporter registered with and approved by the Food and Drug Administration under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by this section, including information on how to verify whether an exporter is registered and approved by use of the Internet website of the Food and Drug Administration and the toll-free telephone number required by this title;

(2) that drugs that consumers attempt to import from an exporter that is not registered with and approved by the Food and Drug Administration can be seized by the United States Customs Service and destroyed, and that such drugs may be counterfeit, unapproved, unsafe, or ineffective; and

(3) with regard to the availability at domestic retail pharmacies of qualifying drugs imported under such section 804 by domestic wholesalers and pharmacies registered with and approved by the Food and Drug Administration.

(h) EFFECT ON ADMINISTRATION PRACTICES.—Notwithstanding any provision of this title (and the amendments made by this title), nothing in this title (or the amendments made by this title) shall be construed to change, limit, or restrict the practices of the Food and Drug Administration or the Bureau of Customs and Border Protection in effect on January 1, 2004, with respect to the importation of prescription drugs into the United States by an individual, on the person of such individual, for personal use.

(i) REPORT TO CONGRESS.—The Federal Trade Commission shall, on an annual basis, submit to Congress a report that describes any action taken during the period for which the report is being prepared to enforce the provisions of section 804(n) of the Federal Food, Drug, and Cosmetic Act (as added by this title), including any pending investigations or civil actions under such section.

SEC. 5. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION INTO UNITED STATES.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section 3, is further amended by adding at the end the following section:

"SEC. 805. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION.

"(a) IN GENERAL.—The Secretary of Homeland Security shall deliver to the Secretary a shipment of drugs that is imported or offered for import into the United States if—

"(1) the shipment has a declared value of less than $10,000; and

"(2)(A) the shipping container for such drugs does not bear the markings required under section 804(d)(2); or

"(B) the Secretary has requested delivery of such shipment of drugs.

"(b) NO BOND OR EXPORT.—Section 801(b) does not authorize the delivery to the owner or consignee of drugs delivered to the Secretary under subsection (a) pursuant to the execution of a bond, and such drugs may not be exported.

"(c) DESTRUCTION OF VIOLATIVE SHIPMENT.—The Secretary shall destroy a shipment of drugs delivered by the Secretary of Homeland Security to the Secretary under subsection (a) if—

"(1) in the case of drugs that are imported or offered for import from a registered exporter under section 804, the drugs are in violation of any standard described in section 804(g)(5); or

"(2) in the case of drugs that are not imported or offered for import from a registered exporter under section 804, the drugs are in violation of a standard referred to in section 801(a) or 801(d)(1).

"(d) CERTAIN PROCEDURES.—

"(1) IN GENERAL.—The delivery and destruction of drugs under this section may be carried out without notice to the importer, owner, or consignee of the drugs except as required by section 801(g) or section 804(i)(2). The issuance of receipts for the drugs, and recordkeeping activities regarding the drugs, may be carried out on a summary basis.

"(2) OBJECTIVE OF PROCEDURES.—Procedures promulgated under paragraph (1) shall be designed toward the objective of ensuring that, with respect to efficiently utilizing Federal resources available for carrying out this section, a substantial majority of shipments of drugs subject to described in subsection (c) are identified and destroyed.

"(e) EVIDENCE EXCEPTION.—Drugs may not be destroyed under subsection (c) to the extent that the Attorney General of the United States determines that the drugs should be preserved as evidence or potential evidence with respect to an offense against the United States.

"(f) RULE OF CONSTRUCTION.—This section may not be construed as having any legal effect on applicable law with respect to a shipment of drugs that is imported or offered for import into the United States and has a declared value equal to or greater than $10,000.".

(b) PROCEDURES.—Procedures for carrying out section 805 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall be established not later than 90 days after the date of the enactment of this title.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 90 days after the date of enactment of this title.

SEC. 6. WHOLESALE DISTRIBUTION OF DRUGS; STATEMENTS REGARDING PRIOR SALE, PURCHASE, OR TRADE.

(a) STRIKING OF EXEMPTIONS; APPLICABILITY TO REGISTERED EXPORTERS.—Section 503(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(e)) is amended—

(1) in paragraph (1)—

(A) by striking "and who is not the manufacturer or an authorized distributor of record of such drug";

(B) by striking "to an authorized distributor of record or"; and

(C) by striking subparagraph (B) and inserting the following:

"(B) The fact that a drug subject to subsection (b) is exported from the United States does not with respect to such drug exempt any person that is engaged in the business of the wholesale distribution of the drug from providing the statement described in subparagraph (A) to the person that receives the drug pursuant to the export of the drug.

"(C)(i) The Secretary shall by regulation establish requirements that supersede subparagraph (A) (referred to in this subparagraph as 'alternative requirements') to identify the chain of custody of a drug subject to subsection (b) from the manufacturer of the drug throughout the wholesale distribution of the drug to a pharmacist who intends to sell the drug at retail if the Secretary determines that the alternative requirements, which may include standardized anti-counterfeiting or track-and-trace technologies, will identify such chain of custody or the identity of the discrete package of the drug from which the drug is dispensed with equal or greater certainty to the requirements of subparagraph (A), and that the alternative requirements are economically and technically feasible.

"(ii) When the Secretary promulgates a final rule to establish such alternative requirements, the final rule in addition shall, with respect to the registration condition established in clause (i) of section 804(c)(3)(B), establish a condition equivalent to the alternative requirements, and such equivalent condition may be met in lieu of the registration condition established in such clause (i).";

(2) in paragraph (2)(A), by adding at the end the following: "The preceding sentence may not be construed as having any applicability with respect to a registered exporter under section 804."; and

(3) in paragraph (3), by striking "and subsection (d)—" in the matter preceding subparagraph (A) and all that follows through "the term 'wholesale distribution' means" in subparagraph (B) and inserting the following: "and subsection (d), the term 'wholesale distribution' means".

(b) CONFORMING AMENDMENT.—Section 503(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(d)) is amended by adding at the end the following:

"(4) Each manufacturer of a drug subject to subsection (b) shall maintain at its corporate offices a current list of the authorized distributors of record of such drug.

"(5) For purposes of this subsection, the term 'authorized distributors of record' means those distributors with whom a manufacturer has established an ongoing relationship to distribute such manufacturer's products.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) shall take effect on January 1, 2010.

(2) DRUGS IMPORTED BY REGISTERED IMPORTERS UNDER SECTION 804.—Notwithstanding paragraph (1), the amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) shall take effect on the date that is 90 days after the date of enactment of this title with respect to qualifying drugs imported under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by section ___4.

(3) HIGH-RISK DRUGS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), the Secretary of Health and Human Services (referred to in this section as the "Secretary") may apply the amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) before January 1, 2010, with respect to a prescription drug if the Secretary—

(i) determines that the drug is at high risk for being counterfeited; and

(ii) publishes the determination and the basis for the determination in the Federal Register.

(B) PEDIGREE NOT REQUIRED.—Notwithstanding a determination under subparagraph (A) with respect to a prescription drug, the amendments described in such subparagraph shall not apply with respect to a wholesale distribution of such drug if the drug is distributed by the manufacturer of the drug to a person that distributes the drug to a retail pharmacy for distribution to the consumer or patient, with no other intervening transactions.

(C) LIMITATION.—The Secretary may make the determination under subparagraph (A) with respect to not more than 50 drugs before January 1, 2010.

(4) EFFECT WITH RESPECT TO REGISTERED EXPORTERS.—The amendment made by subsection (a)(2) shall take effect on the date that is 90 days after the date of enactment of this title.

(5) ALTERNATIVE REQUIREMENTS.—The Secretary shall issue regulations to establish the alternative requirements, referred to in the amendment made by subsection (a)(1), that take effect not later than—

(A) January 1, 2008, with respect to a prescription drug determined under paragraph (3)(A) to be at high risk for being counterfeited; and

(B) January 1, 2010, with respect to all other prescription drugs.

(6) INTERMEDIATE REQUIREMENTS.—With respect to the prescription drugs described under paragraph (5)(B), the Secretary shall by regulation require the use of standardized anti-counterfeiting or track-and-trace technologies on such prescription drugs at the case and pallet level effective not later than January 1, 2008.

SEC. ___7. INTERNET SALES OF PRESCRIPTION DRUGS.

(a) IN GENERAL.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 503A the following:

"SEC. 503B. INTERNET SALES OF PRESCRIPTION DRUGS.

"(a) REQUIREMENTS REGARDING INFORMATION ON INTERNET SITE.—

"(1) IN GENERAL.—A person may not dispense a prescription drug pursuant to a sale of the drug by such person if—

"(A) the purchaser of the drug submitted the purchase order for the drug, or conducted any other part of the sales transaction for the drug, through an Internet site;

"(B) the person dispenses the drug to the purchaser by mailing or shipping the drug to the purchaser; and

"(C) such site, or any other Internet site used by such person for purposes of sales of a prescription drug, fails to meet each of the requirements specified in paragraph (2), other than a site or pages on a site that—

"(i) are not intended to be accessed by purchasers or prospective purchasers; or

"(ii) provide an Internet information location tool within the meaning of section 231(e)(5) of the Communications Act of 1934 (47 U.S.C. 231(e)(5)).

"(2) REQUIREMENTS.—With respect to an Internet site, the requirements referred to in subparagraph (C) of paragraph (1) for a person to whom such paragraph applies are as follows:

"(A) Each page of the site shall include either the following information or a link to a page that provides the following information:

"(i) The name of such person.

"(ii) Each State in which the person is authorized by law to dispense prescription drugs.

"(iii) The address and telephone number of each place of business of the person with respect to sales of prescription drugs through the Internet, other than a place of business that does not mail or ship prescription drugs to purchasers.

"(iv) The name of each individual who serves as a pharmacist for prescription drugs that are mailed or shipped pursuant to the site, and each State in which the individual is authorized by law to dispense prescription drugs.

"(v) If the person provides for medical consultations through the site for purposes of providing prescriptions, the name of each individual who provides such consultations; each State in which the individual is licensed or otherwise authorized by law to provide such consultations or practice medicine; and the type or types of health professions for which the individual holds such licenses or other authorizations.

"(B) A link to which paragraph (1) applies shall be displayed in a clear and prominent place and manner, and shall include in the caption for the link the words 'licensing and contact information'.

"(b) INTERNET SALES WITHOUT APPROPRIATE MEDICAL RELATIONSHIPS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a person may not dispense a prescription drug, or sell such a drug, if—

"(A) for purposes of such dispensing or sale, the purchaser communicated with the person through the Internet;

"(B) the patient for whom the drug was dispensed or purchased did not, when such communications began, have a prescription for the drug that is valid in the United States;

"(C) pursuant to such communications, the person provided for the involvement of a practitioner, or an individual represented by the person as a practitioner, and the practitioner or such individual issued a prescription for the drug that was purchased;

"(D) the person knew, or had reason to know, that the practitioner or the individual referred to in subparagraph (C) did not, when issuing the prescription, have a qualifying medical relationship with the patient; and

"(E) the person received payment for the dispensing or sale of the drug.

For purposes of subparagraph (E), payment is received if money or other valuable consideration is received.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

"(A) the dispensing or selling of a prescription drug pursuant to telemedicine practices sponsored by—

"(i) a hospital that has in effect a provider agreement under title XVIII of the Social Security Act (relating to the Medicare program); or

"(ii) a group practice that has not fewer than 100 physicians who have in effect provider agreements under such title; or

"(B) the dispensing or selling of a prescription drug pursuant to practices that promote the public health, as determined by the Secretary by regulation.

"(3) QUALIFYING MEDICAL RELATIONSHIP.—

"(A) IN GENERAL.—With respect to issuing a prescription for a drug for a patient, a practitioner has a qualifying medical relationship with the patient for purposes of this section if—

"(i) at least one in-person medical evaluation of the patient has been conducted by the practitioner; or

"(ii) the practitioner conducts a medical evaluation of the patient as a covering practitioner.

"(B) IN-PERSON MEDICAL EVALUATION.—A medical evaluation by a practitioner is an in-person medical evaluation for purposes of this section if the practitioner is in the physical presence of the patient as part of conducting the evaluation, without regard to whether portions of the evaluation are conducted by other health professionals.

"(C) COVERING PRACTITIONER.—With respect to a patient, a practitioner is a covering practitioner for purposes of this section if the practitioner conducts a medical evaluation of the patient at the request of a practitioner who has conducted at least one in-person medical evaluation of the patient and is temporarily unavailable to conduct the evaluation of the patient. A practitioner is a covering practitioner without regard to whether the practitioner has conducted any in-person medical evaluation of the patient involved.

"(4) RULES OF CONSTRUCTION.—

"(A) INDIVIDUALS REPRESENTED AS PRACTITIONERS.—A person who is not a practitioner (as defined in subsection (e)(1)) lacks legal capacity under this section to have a qualifying medical relationship with any patient.

"(B) STANDARD PRACTICE OF PHARMACY.—Paragraph (1) may not be construed as prohibiting any conduct that is a standard practice in the practice of pharmacy.

"(C) APPLICABILITY OF REQUIREMENTS.—Paragraph (3) may not be construed as having any applicability beyond this section, and does not affect any State law, or interpretation of State law, concerning the practice of medicine.

"(c) ACTIONS BY STATES.—

"(1) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice that violates section 301(l), the State may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such practice, to enforce compliance with such section (including a nationwide injunction), to obtain damages, restitution, or other compensation on behalf of residents of such State, to obtain reasonable attorneys fees and costs if the State prevails in the civil action, or to obtain such further and other relief as the court may deem appropriate.

"(2) NOTICE.—The State shall serve prior written notice of any civil action under paragraph (1) or (5)(B) upon the Secretary and provide the Secretary with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Secretary shall have the right—

"(A) to intervene in such action;

"(B) upon so intervening, to be heard on all matters arising therein; and

"(C) to file petitions for appeal.

"(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this chapter shall prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

"(5) ACTIONS BY OTHER STATE OFFICIALS.—

"(A) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

"(B) In addition to actions brought by an attorney general of a State under paragraph (1), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

"(d) EFFECT OF SECTION.—This section shall not apply to a person that is a registered exporter under section 804.

"(e) GENERAL DEFINITIONS.—For purposes of this section:

"(1) The term 'practitioner' means a practitioner referred to in section 503(b)(1) with respect to issuing a written or oral prescription.

"(2) The term 'prescription drug' means a drug that is described in section 503(b)(1).

"(3) The term 'qualifying medical relationship', with respect to a practitioner and a patient, has the meaning indicated for such term in subsection (b).

"(f) INTERNET-RELATED DEFINITIONS.—

"(1) IN GENERAL.—For purposes of this section:

"(A) The term 'Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the transmission control protocol/internet protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

"(B) The term 'link', with respect to the Internet, means one or more letters, words, numbers, symbols, or graphic items that appear on a page of an Internet site for the purpose of serving, when activated, as a method for executing an electronic command—

"(i) to move from viewing one portion of a page on such site to another portion of the page;

"(ii) to move from viewing one page on such site to another page on such site; or

"(iii) to move from viewing a page on one Internet site to a page on another Internet site.

"(C) The term 'page', with respect to the Internet, means a document or other file accessed at an Internet site.

"(D)(i) The terms 'site' and 'address', with respect to the Internet, mean a specific location on the Internet that is determined by Internet Protocol numbers. Such term includes the domain name, if any.

"(ii) The term 'domain name' means a method of representing an Internet address without direct reference to the Internet Protocol numbers for the address, including methods that use designations such as '.com', '.edu', '.gov', '.net', or '.org'.

"(iii) The term 'Internet Protocol numbers' includes any successor protocol for determining a specific location on the Internet.

"(2) AUTHORITY OF SECRETARY.—The Secretary may by regulation modify any definition under paragraph (1) to take into account changes in technology.

"(g) INTERACTIVE COMPUTER SERVICE; ADVERTISING.—No provider of an interactive computer service, as defined in section 230(f)(2) of the Communications Act of 1934 (47 U.S.C. 230(f)(2)), or of advertising services shall be liable under this section for dispensing or selling prescription drugs in violation of this section on account of another person's selling or dispensing such drugs, provided that the provider of the interactive computer service or of advertising services does not own or exercise corporate control over such person.".

(b) INCLUSION AS PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by inserting after paragraph (k) the following:

"(l) The dispensing or selling of a prescription drug in violation of section 503B.".

(c) INTERNET SALES OF PRESCRIPTION DRUGS; CONSIDERATION BY SECRETARY OF PRACTICES AND PROCEDURES FOR CERTIFICATION OF LEGITIMATE BUSINESSES.—In carrying out section 503B of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section), the Secretary of Health and Human Services shall take into consideration the practices and procedures of public or private entities that certify that businesses selling prescription drugs through Internet sites are legitimate businesses, including practices and procedures regarding disclosure formats and verification programs.

(d) REPORTS REGARDING INTERNET-RELATED VIOLATIONS OF FEDERAL AND STATE LAWS ON DISPENSING OF DRUGS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this subsection as the "Secretary") shall, pursuant to the submission of an application meeting the criteria of the Secretary, make an award of a grant or contract to the National Clearinghouse on Internet Prescribing (operated by the Federation of State Medical Boards) for the purpose of—

(A) identifying Internet sites that appear to be in violation of Federal or State laws concerning the dispensing of drugs;

(B) reporting such sites to State medical licensing boards and State pharmacy licensing boards, and to the Attorney General and the Secretary, for further investigation; and

(C) submitting, for each fiscal year for which the award under this subsection is made, a report to the Secretary describing investigations undertaken with respect to violations described in subparagraph (A).

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there is authorized to be appropriated $100,000 for each of the fiscal years 2005 through 2007.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) take effect 90 days after the date of enactment of this title, without regard to whether a final rule to implement such amendments has been promulgated by the Secretary of Health and Human Services under section 701(a) of the Federal Food, Drug, and Cosmetic Act. The preceding sentence may not be construed as affecting the authority of such Secretary to promulgate such a final rule.

SEC. 8. PROHIBITING PAYMENTS TO UNREGISTERED FOREIGN PHARMACIES.

(a) IN GENERAL.—Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following:

"(g) RESTRICTED TRANSACTIONS.—

"(1) IN GENERAL.—The introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system is prohibited.

"(2) PAYMENT SYSTEM.—

"(A) IN GENERAL.—The term 'payment system' means a system used by a person described in subparagraph (B) to effect a credit transaction, electronic fund transfer, or money transmitting service that may be used in connection with, or to facilitate, a restricted transaction, and includes—

"(i) a credit card system;

"(ii) an international, national, regional, or local network used to effect a credit transaction, an electronic fund transfer, or a money transmitting service; and

"(iii) any other system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic fund transfers, or money transmitting services.

"(B) PERSONS DESCRIBED.—A person referred to in subparagraph (A) is—

"(i) a creditor;

"(ii) a credit card issuer;

"(iii) a financial institution;

"(iv) an operator of a terminal at which an electronic fund transfer may be initiated;

"(v) a money transmitting business; or

"(vi) a participant in an international, national, regional, or local network used to effect a credit transaction, electronic fund transfer, or money transmitting service.

"(3) RESTRICTED TRANSACTION.—The term 'restricted transaction' means a transaction or transmittal, on behalf of an individual who places an unlawful drug importation request to any person engaged in the operation of an unregistered foreign pharmacy, of—

"(A) credit, or the proceeds of credit, extended to or on behalf of the individual for the purpose of the unlawful drug importation request (including credit extended through the use of a credit card);

"(B) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the individual for the purpose of the unlawful drug importation request;

"(C) a check, draft, or similar instrument which is drawn by or on behalf of the individual for the purpose of the unlawful drug importation request and is drawn on or payable at or through any financial institution; or

"(D) the proceeds of any other form of financial transaction (identified by the Board by regulation) that involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the individual for the purpose of the unlawful drug importation request.

"(4) UNLAWFUL DRUG IMPORTATION REQUEST.—The term 'unlawful drug importation request' means the request, or transmittal of a request, made to an unregistered foreign pharmacy for a prescription drug by mail (including a private carrier), facsimile, phone, or electronic mail, or by a means that involves the use, in whole or in part, of the Internet.

"(5) UNREGISTERED FOREIGN PHARMACY.—The term 'unregistered foreign pharmacy' means a person in a country other than the United States that is not a registered exporter under section 804.

"(6) OTHER DEFINITIONS.—

"(A) CREDIT; CREDITOR; CREDIT CARD.—The terms 'credit', 'creditor', and 'credit card' have the meanings given the terms in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

"(B) ACCESS DEVICE; ELECTRONIC FUND TRANSFER.—The terms 'access device' and 'electronic fund transfer'—

"(i) have the meaning given the term in section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a); and

"(ii) the term 'electronic fund transfer' also includes any fund transfer covered under Article 4A of the Uniform Commercial Code, as in effect in any State.

"(C) FINANCIAL INSTITUTION.—The term 'financial institution'—

"(i) has the meaning given the term in section 903 of the Electronic Transfer Fund Act (15 U.S.C. 1693a); and

"(ii) includes a financial institution (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)).

"(D) MONEY TRANSMITTING BUSINESS; MONEY TRANSMITTING SERVICE.—The terms 'money transmitting business' and 'money transmitting service' have the meaning given the terms in section 5330(d) of title 31, United States Code.

"(E) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

"(7) POLICIES AND PROCEDURES REQUIRED TO PREVENT RESTRICTED TRANSACTIONS.—

"(A) REGULATIONS.—The Board shall promulgate regulations requiring—

"(i) an operator of a credit card system;

"(ii) an operator of an international, national, regional, or local network used to effect a credit transaction, an electronic fund transfer, or a money transmitting service;

"(iii) an operator of any other payment system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic transfers or money transmitting services where at least one party to the transaction or transfer is an individual; and

"(iv) any other person described in paragraph (2)(B) and specified by the Board in such regulations,

to establish policies and procedures that are reasonably designed to prevent the introduction of a restricted transaction into a payment system or the completion of a restricted transaction using a payment system.

"(B) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In promulgating regulations under subparagraph (A), the Board shall—

"(i) identify types of policies and procedures, including nonexclusive examples, that shall be considered to be reasonably designed to prevent the introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system; and

"(ii) to the extent practicable, permit any payment system, or person described in paragraph (2)(B), as applicable, to choose among alternative means of preventing the introduction or completion of restricted transactions.

"(C) NO LIABILITY FOR BLOCKING OR REFUSING TO HONOR RESTRICTED TRANSACTION.—

"(i) IN GENERAL.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, and any participant in such payment system that prevents or otherwise refuses to honor transactions in an effort to implement the policies and procedures required under this subsection or to otherwise comply with this subsection shall not be liable to any party for such action.

"(ii) COMPLIANCE.—A person described in paragraph (2)(B) meets the requirements of this subsection if the person relies on and complies with the policies and procedures of a payment system of which the person is a member or in which the person is a participant, and such policies and procedures of the payment system comply with the requirements of the regulations promulgated under subparagraph (A).

"(D) ENFORCEMENT.—

"(i) IN GENERAL.—This section shall be enforced by the Federal functional regulators and the Federal Trade Commission under applicable law in the manner provided in section 505(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)).

"(ii) FACTORS TO BE CONSIDERED.—In considering any enforcement action under this subsection against a payment system or person described in paragraph (2)(B), the Federal functional regulators and the Federal Trade Commission shall consider the following factors:

"(I) The extent to which the payment system or person knowingly permits restricted transactions.

"(II) The history of the payment system or person in connection with permitting restricted transactions.

"(III) The extent to which the payment system or person has established and is maintaining policies and procedures in compliance with regulations prescribed under this subsection.

"(8) TRANSACTIONS PERMITTED.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, is authorized to engage in transactions with foreign pharmacies in connection with investigating violations or potential violations of any rule or requirement adopted by the payment system or person in connection with complying with paragraph (7). A payment system, or such a person, and its agents and employees shall not be found to be in violation of, or liable under, any federal, state or other law by virtue of engaging in any such transaction.

"(9) RELATION TO STATE LAWS.—No requirement, prohibition, or liability may be imposed on a payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, under the laws of any state with respect to any payment transaction by an individual because the payment transaction involves a payment to a foreign pharmacy.

"(10) TIMING OF REQUIREMENTS.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, must adopt policies and procedures reasonably designed to comply with any regulations required under paragraph (7) within 60 days after such regulations are issued in final form.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day that is 90 days after the date of enactment of this title.

(c) IMPLEMENTATION.—The Board of Governors of the Federal Reserve System shall promulgate regulations as required by subsection (g)(7) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333), as added by subsection (a), not later than 90 days after the date of enactment of this title.

SEC. 9. IMPORTATION EXEMPTION UNDER CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1006(a)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 956(a)(2)) is amended by striking "not import the controlled substance into the United States in an amount that exceeds 50 dosage units of the controlled substance." and inserting "import into the United States not more than 10 dosage units combined of all such controlled substances.".

SA 1533. Mr. MARTINEZ (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SENSE OF THE SENATE REGARDING OIL AND GAS EXPLORATION ON MILITARY OPERATIONS

(A) Findings.—The Senate finds the following:

(1) Whereas the U.S. Air Force and Navy conduct vital and critical national security preparedness missions in the Eastern Gulf of Mexico

(2) Whereas the U.S. Air Force and Navy have had to move their live-fire training operations from Vieques, Puerto Rico

(3) Whereas these training operations are critical for the battle-preparedness of military personnel

(4) Whereas the training areas for these live-fire missions are restricted to an increasingly limited area

(5) Whereas a oil and gas exploration operations in the vicinity of U.S. military training operations poses a risk to human life and an accident could threaten and impact coastal communities and beaches

(6) Where as military personnel have expressed concerns with oil and gas operations impeding on their training in the Eastern Gulf of Mexico

(B) The Sense of the Senate.—It is the Sense of the Senate that oil and gas exploration operations should not interfere with the training missions and operations of the Department of Defense.

SA 1534. Mr. DEWINE (for himself, Mr. BIDEN, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. EXPANSION OF EMERGENCY SERVICES UNDER RECIPROCAL AGREEMENTS.

Subsection (b) of the first section of the Act of May 27, 1955 (69 Stat. 66, chapter 105; 42 U.S.C. 1856(b)) is amended by striking "and fire fighting" and inserting ", fire fighting, and emergency services, including basic and advanced life support, hazardous material containment and confinement, and special rescue events involving vehicular and water mishaps, and trench, building, and confined space extractions".

SA 1535. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, between lines 2 and 3, insert the following:

SEC. 807. MODIFICATION OF LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.

Section 8014(a)(3) of the Department of Defense Appropriations Act, 2005 (Public law 108-287; 118 Stat. 972) is amended—

(1) in subparagraph (A), by inserting ", payment that could be used in lieu of such a plan, health savings account, or medical savings account" after "health insurance plan"; and

(2) in subparagraph (B), by striking "that requires" and all that follows through the end of the subparagraph and inserting "that does not comply with the requirements of any Federal law governing the provision of health care benefits by Government contractors that would be applicable if the contractor performed the activity or function under the contract.".

SA 1536. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, strike lines 1 through 3, and insert the following:

(e) Commercialization Pilot Program.—

(1) In general.—The Secretary of Defense and each Secretary of a military department, until September 30, 2008, shall create and administer a pilot program to accelerate the transition of technologies, products, and services developed under the Small Business Innovation Research Program and the Small Business Technology Transfer Program to Phase III of the applicable program.

(2) Funding.—For purposes of the pilot program under this subsection, the Secretary of Defense and each Secretary of a military department is authorized to use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department to carry out the Small Business Innovation Research Program and the Small Business Technology Transfer Program under subsections (f) and (n) of section 9 of the Small Business Act (15 U.S.C. 638).

(3) Exemption.—The pilot program authorized by this subsection shall not be subject to the limitations on the use of funds in subsections (f)(2) and (n)(2) of section 9 of the Small Business Act (15 U.S.C. 638).

(4) Reports.—

(A) In general.—Once the Secretary of Defense or the Secretary of a military department creates a pilot program under this subsection, such Secretary shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services and the Committee on Small Business of the House of Representatives at the end of each fiscal year a report regarding the activities under the pilot program during the preceding year.

(B) Contents.—Each report under subparagraph (A) shall include, for the year covered by such report—

(i) an accounting of the funds used in any pilot program;

(ii) a detailed description of the pilot program; and

(iii) a detailed compilation of results achieved by such pilot program in terms of businesses assisted and the number of inventions transitioned.

(f) Award Inflation Adjustments.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (j)(2)(D)—

(A) by striking "an increase to $100,000" and inserting the following: "a process to—

"(i) make an increase to $100,000";

(B) by striking "once every 5 years" and inserting the following: "under section 35A of the Office of Federal Procurement Policy Act (41 U.S.C. 431a)"; and

(C) by adding at the end the following:

"(ii) permit the head of an agency to further adjust the amount of funds an agency may award in the first and second phase of an SBIR program;"; and

(2) in subsection (p)(2)(B)(ix)—

(A) by striking "and" before "2-year awards"; and

(B) by inserting before "greater or lesser amounts" the following: "and an adjustment of such amounts under section 35A of the Office of Federal Procurement Policy Act (41 U.S.C. 431a),".

(g) Mentor-Protege Assistance.—Section 8(d)(4)(E) of the Small Business Act (15 U.S.C. 637(d)(4)(E)) is amended by inserting before the period at the end the following: ": *Provided further*, That Federal agencies are encouraged to provide such incentives to small business concerns participating in the Small Business Innovation Research and Small Business Technology Transfer Programs in accordance with requirements for such programs under section 9".

(h) Testing and Evaluation Authority.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) the term 'commercial applications' includes testing and evaluation of products, services, or technologies for use in technical or weapons systems.".

(i) Small Business Innovation Research Program Defined.—In this section, the term "Small Business Innovation Research Program" has the meaning

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SA 1537. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, strike lines 1 through 3, and insert the following:

(e) Commercialization Pilot Program.—

(1) In general.—The Secretary of Defense and each Secretary of a military department, until September 30, 2008, is authorized to create and administer a pilot program to accelerate the transition of technologies, products, and services developed under the Small Business Innovation Research Program and the Small Business Technology

Transfer Program to Phase III of the applicable program.

(2) FUNDING.—For purposes of the pilot program under this subsection, the Secretary of Defense and each Secretary of a military department is authorized to use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department to carry out the Small Business Innovation Research Program and the Small Business Technology Transfer Program under subsections (f) and (n) of section 9 of the Small Business Act (15 U.S.C. 638).

(3) EXEMPTION.—The pilot program authorized by this subsection shall not be subject to the limitations on the use of funds in subsections (f)(2) and (n)(2) of section 9 of the Small Business Act (15 U.S.C. 638).

(4) REPORTS.—

(A) IN GENERAL.—If the Secretary of Defense or the Secretary of a military department creates a pilot program under this subsection, such Secretary shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services and the Committee on Small Business of the House of Representatives at the end of each fiscal year a report regarding the activities under the pilot program during the preceding year.

(B) CONTENTS.—Each report under subparagraph (A) shall include, for the year covered by such report—

(i) an accounting of the funds used in any pilot program;

(ii) a detailed description of the pilot program; and

(iii) a detailed compilation of results achieved by such pilot program in terms of businesses assisted and the number of inventions transitioned.

(f) AWARD INFLATION ADJUSTMENTS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (j)(2)(D)—

(A) by striking "an increase to $100,000" and inserting the following: "a process to—

"(i) make an increase to $100,000";

(B) by striking "once every 5 years" and inserting the following: "under section 35A of the Office of Federal Procurement Policy Act (41 U.S.C. 431a)"; and

(C) by adding at the end the following:

"(ii) permit the head of an agency to further adjust the amount of funds an agency may award in the first and second phase of an SBIR program;"; and

(2) in subsection (p)(2)(B)(ix)—

(A) by striking "and" before "2-year awards"; and

(B) by inserting before "greater or lesser amounts" the following: "and an adjustment of such amounts under section 35A of the Office of Federal Procurement Policy Act (41 U.S.C. 431a),".

(g) MENTOR-PROTEGE ASSISTANCE.—Section 8(d)(4)(E) of the Small Business Act (15 U.S.C. 637(d)(4)(E)) is amended by inserting before the period at the end the following: ": *Provided further*, That Federal agencies are encouraged to provide such incentives to small business concerns participating in the Small Business Innovation Research and Small Business Technology Transfer Programs in accordance with requirements for such programs under section 9".

(h) TESTING AND EVALUATION AUTHORITY.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) the term 'commercial applications' includes testing and evaluation of products, services, or technologies for use in technical or weapons systems.".

(i) SMALL BUSINESS INNOVATION RESEARCH PROGRAM DEFINED.—In this section, the term "Small Business Innovation Research Program" has the meaning

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SA 1538. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, insert the following:

SEC. 846. TERMINATION OF PROGRAM.

Section 711(c) of the Small Business Competitive Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by inserting after "January 1, 1989" the following: ", and shall terminate on the date of enactment of the National Defense Authorization Act for Fiscal Year 2006".

SA 1539. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert:

SEC. . BUILDING THE PARTNERSHIP SECURITY CAPACITY OF FOREIGN MILITARY AND SECURITY FORCES.

(a) AUTHORITY.—The President may authorize building the capacity of partner nations' military or security forces to disrupt or destroy terrorist networks, close safe havens, or participate in or support United States, coalition, or international military or stability operations.

(b) TYPES OF PARTNERSHIP SECURITY CAPACITY BUILDING.—The partnership security capacity building authorized under subsection (a) may include the provision of equipment, supplies, services, training, and funding.

(c) AVAILABILITY OF FUNDS.—The Secretary of Defense may, with the concurrence of the Secretary of State, implement partnership security capacity building as authorized under section (a) including by transferring funds available to the Department of Defense to the Department of State, or to any other federal agency. Any funds so transferred shall remain available until expended. The amount of such partnership security capacity building provided by the Department of Defense under this section may not exceed $750,000,000 in any fiscal year.

(d) CONGRESSIONAL NOTIFICATION.—Before building partnership security capacity under this section, the Secretaries of State and Defense shall submit to their congressional oversight committees a notification of the nations designated by the President with which partnership security capacity will be built under this section and the nature and amounts of security capacity building to occur. Any such notification shall be building, submitted not less than 7 days before the provision of such partnership security capacity building.

(e) MILITARY AND SECURITY FORCES DEFINED.—For purposes of this section, the term 'military and security forces' includes armies, guard, border security, civil defense, infrastructure protection, and police forces.

(f) COMPLEMENTARY AUTHORITY.—The authority to build partnership security capacity under this section is in addition to any other authority of the Department of Defense to provide assistance to a foreign country.

SEC. . SECURITY AND STABILIZATION ASSISTANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, upon a request from the Secretary of State and upon a determination by the Secretary of Defense that an unforeseen emergency exists that requires immediate reconstruction, security, or stabilization assistance to a foreign country for the purpose of restoring or maintaining peace and security in that country, and that the provision of such assistance is in the national security interests of the United States, the Secretary of Defense may authorize the use or transfer of defense articles, services, training or other support, including support acquired by contract or otherwise, to provide such assistance.

(b) AVAILABILITY OF FUNDS.—Subject to subsection (a), the Secretary of Defense may transfer funds available to the Department of Defense to the Department of State, or to any other federal agency, to carry out the purposes of this section, and funds so transferred shall remain available until expended.

(c) LIMITATION.—The aggregate value of assistance provided or funds transferred under the authority of this section may not exceed $200,000,000.

(d) COMPLEMENTARY AUTHORITY.—The authority to provide assistance under this section shall be in addition to any other authority to provide assistance to a foreign country.

(e) EXPIRATION.—The authority in this section shall expire on September 30, 2006.

SA 1540. Ms. SNOWE (for herself and Mr. KERRY) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, insert the following:

SEC. 846. SMALL BUSINESS CONTRACTING IN OVERSEAS PROCUREMENTS.

(a) CONGRESSIONAL FINDINGS AND REAFFIRMATION OF EXISTING POLICY.—

(1) FINDINGS.—Congress finds that—

(A) small business contracting in support of overseas activities of the Federal Government strengthens the trade posture of the United States in the global marketplace;

(B) small business contractors are a vital component of the civilian and defense industrial base, and they have provided outstanding value in support of the activities of the Federal Government domestically and internationally, especially in the international reconstruction, stabilization, and assistance activities in the Global War on Terror;

(C) maintaining a vital small business industrial base protects the Federal Government from higher costs and reduced innovation that accompany undue consolidation of Government contracts;

(D) Congress has a strong interest in preserving the competitive nature of the Government contracting marketplace, particularly with regard to performance of Federal contracts and subcontracts overseas;

(E) small business contractors suffer competitive harm and the Federal Government suffers a needless reduction in competition and a needless shrinkage of its industrial base when Federal agencies exempt contracts and subcontracts awarded for performance overseas from the application of the Small Business Act;

(F) small businesses desiring to support the troops deployed in the Global War on Terror and the reconstruction of Iraq and Afghanistan have faced needless hurdles to meaningful participation in Government contracts and subcontracts; and

(G) Congress has a strong interest in holding large prime contractors accountable for fulfilling their subcontracting plans on overseas assistance and reconstruction projects.

(2) Reaffirmation of Policy.—In light of the findings in paragraph (1), Congress reaffirms its policy contained in sections 2 and 15 of the Small Business Act (15 U.S.C. 631, 644) and section 302 of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631a) to promote international competitiveness of United States small businesses and to ensure that small business concerns are awarded a fair portion of all Federal prime contracts, and subcontracts, regardless of geographic area.

(b) Compliance.—Not later than 270 days after the date of enactment of this Act, the head of each Federal agency, office, and department having jurisdiction over acquisition regulations shall conduct regulatory reviews to ensure that such regulations require compliance with the Small Business Act in Federal prime contracts and subcontracts, regardless of the geographic place of award or performance, and shall promulgate any necessary conforming changes to such regulations.

(c) Cooperation With the Small Business Administration.—The Administrator and the Chief Counsel for Advocacy of the Small Business Administration shall be consulted for recommendations concerning regulatory reviews and changes required by such reviews.

(d) Conflicting Provisions of Law.—In conducting any regulatory review or promulgating any changes required by a review, due note and recognition shall be given to the specific requirements and procedures of any other Federal statute or treaty which may exempt any Federal prime contract or subcontract from the application of the Small Business Act in whole or in part.

(e) Report to Congressional Committees.—Not later than 1 year after the date of enactment of this Act, the Administrator and the Chief Counsel for Advocacy of the Small Business Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the activities of Federal agencies, offices, and departments in carrying out this section.

SA 1541. Ms. SNOWE (for herself and Mr. KERRY) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, insert the following:

SEC. 846. FAIR ACCESS TO MULTIPLE-AWARD CONTRACTS.

(a) Findings and Reaffirmations of Congressional Policy.—

(1) Findings.—Congress finds that—

(A) multiple-award contracts have increased administrative efficiency in Government procurement;

(B) at the same time, small businesses and firms new to Government contracting have experienced problems with transparency and fairness in gaining access to multiple-award contracts;

(C) data presented before the Acquisition Advisory Panel for the Office of Federal Procurement Policy indicates that the small business share of sales under the Federal Supply Schedules amounts to less than half of the small business share of Federal Supply Schedule contracts;

(D) Federal contracting officials incorrectly persist in limiting competition under the Federal Supply Schedule acquisitions to no more than 3 bidders; and

(E) the small business reservation and greater notice requirements will promote greater and fairer access to multiple-award contracts.

(2) Congressional Policy.—

(A) In General.—Congress reaffirms its policy stated in section 15(j) of the Small Business Act (15 U.S.C. 644(j)), to provide a small business reservation for all contracts below the simplified acquisition threshold, specifically including Federal Supply Schedule contracts and multi-agency contracts.

(B) Multiple-Award Contracts.—Congress favors increasing competition in the use of multiple-award contracts by civilian agencies, as was previously increased for defense agencies in section 803 of the National Defense Authorization Act for Fiscal Year 2002 (10 U.S.C. 2304 note).

(b) Small Business Participation Assurances.—Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended—

(1) in paragraph (2), by striking "(2) In carrying out paragraph (1)" and inserting the following:

"(3) In carrying out paragraphs (1) and (2)";

(2) in paragraph (3), by striking "(3) Nothing in paragraph (1)" and inserting:

"(4) Nothing in this subsection"; and

(3) by inserting after paragraph (1) the following:

"(2)(A) In the case of orders under multiple-award contracts, including Federal Supply Schedule contracts and multi-agency contracts, contracting officers shall consider not fewer than 2 small business concerns, if such small business concerns can offer the items sought by the contracting officer on terms that are competitive with respect to price, quality, and delivery schedule with the goods or services otherwise available in the market.

"(B) If only 1 small business concern can satisfy the requirement, the contracting officer shall consider such small business concern in awarding the contract.".

(c) Competition Requirement for Purchase of Services Pursuant to Multiple-Award Contracts.—Not later than 180 days after the date of enactment of this Act, the Federal Acquisition Regulation shall be amended to promote competition in multiple-award contracts by civilian agencies on the same terms as are applicable to the Department of Defense and defense agencies pursuant to section 803 of the National Defense Authorization Act for Fiscal Year 2002 (10 U.S.C. 2304 note).

(d) Report Requirement.—

(1) In General.—Not less frequently than once every 180 days, the Administrator of the Small Business Administration shall submit a report on the level of participation of small business concerns in multiple-award contracts, including Federal Supply Schedule contracts, to—

(A) the Administrator, Office for Federal Procurement Policy;

(B) the Committee on Small Business and Entrepreneurship of the Senate; and

(C) the Committee on Small Business of the House of Representatives.

(2) Contents.—Each report submitted under paragraph (1) shall contain, for the 6-month reporting period—

(A) the total number of multiple-award contracts;

(B) the total number of small business concerns that received multiple-award contracts;

(C) the total number of orders;

(D) the total value of orders;

(E) the number of orders received by small business concerns;

(F) the value of orders received by small business concerns;

(G) the number of small business concerns that received orders; and

(H) such other information that may be relevant.

SA 1542. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 12, insert the following:

SEC. 846. BATTLEFIELD SMALL BUSINESS CONTRACTORS.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end:

"(s) Battlefield Small Business Contractors.—

"(1) In General.—The Administrator shall—

"(A) not later than 30 days after the date of enactment of the National Defense Authorization Act for Fiscal Year 2006, promulgate a regulation or issue an order excluding receipts received by a small business concern as reimbursements for security services related to business operations of such small business concern under any Federal contract or subcontract performed in a qualified area from applicable size standards; and

"(B) not later than 180 days after the date of enactment of the National Defense Authorization Act for Fiscal Year 2006, submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives concerning the desirability and feasability of providing any other size standards exemptions for small business concerns working under Federal contracts or subcontracts in a qualified area.

"(2) DEFINITION.—In this subsection, the term 'qualified area' means—

"(A) Iraq,

"(B) Afghanistan, and

"(C) any foreign country which included a combat zone, as that term is defined in section 112(c)(2) of the Internal Revenue Code of 1986, at the time of performance of the relevant Federal contract or subcontract.".

SA 1543. Mr. DOMENICI (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 372, line 3, insert after "$1,637,239,000" the following: ", of which amount $338,565,000 shall be available for project 99-D-143, the Mixed Oxide Fuel Fabrication Facility, Savannah River Site, Aiken, South Carolina, and $24,000,000 shall be available for project 99–D–141, the Pit Disassembly and Conversion Facility, Savannah River Site, Aiken, South Carolina".

SA 1544. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. LONG WAVELENGTH ARRAY LOW FREQUENCY RADIO ASTRONOMY INSTRUMENTS.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $6,000,000.

(b) AVAILABILITY OF AMOUNT.—

(1) IN GENERAL.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by subsection (a), $6,000,000 may be available for research and development on Long Wavelength Array low frequency radio astronomy instruments.

(2) CONSTRUCTION WITH OTHER AMOUNTS.—The amount available under paragraph (1) for the purpose set forth in that paragraph is in addition to any other amounts available under this Act for that purpose.

(c) OFFSET.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby reduced by $6,000,000.

SA 1545. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title V, add the following:

SEC. 509. RETIRED RANK OF VICE ADMIRAL FOR CHIEF OF NAVAL RESEARCH AFTER CERTAIN YEARS OF SERVICE IN POSITION.

Section 5022(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) An officer who is retired after completing service as Chief of Naval Research and serving in such position in the grade of rear admiral (upper half) may, at the discretion of the President, be retired with the rank and grade of vice admiral. If so retired in the grade of vice admiral, the officer is entitled to the retired pay of that grade, unless entitled to higher pay under another provision of law.".

SA 1546. Mr. DOMENICI (for himself, Mrs. HUTCHISON, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. ELIMINATION OF THE 2-YEAR WAIT OUT PERIOD FOR GRANT RECIPIENTS.

Section 504(a) of the Higher Education Act of 1965 (20 U.S.C. 1101c(a)) is amended—

(1) by striking "PERIOD.—" and all that follows through "The Secretary" and inserting "PERIOD.—The Secretary"; and

(2) by striking paragraph (2).

SA 1547. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. TRAINING SUPPORT EQUIPMENT FOR THE MARINE CORPS RESERVE.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, MARINE CORPS.—The amount authorized to be appropriated by section 301(3) for operation and maintenance for the Marine Corps is hereby increased by $20,379,000.

(b) AVAILABILITY OF AMOUNT.—

(1) IN GENERAL.—Of the amount authorized to be appropriated by section 301(3) for operation and maintenance for the Marine Corps, as increased by subsection (a), $20,379,000 may be available for training support equipment for the Marine Corps Reserve, including the procurement of the following:

(A) Improved load bearing equipment (ILBE).

(B) Lightweight helmets (LWH).

(C) Goggles and spectacles under of the military eye protection system (MEPS).

(D) Outer tactical vests (OTV).

(E) Full spectrum battle equipment (FSBE) for individuals and platoons.

(F) Combat assault slings (CAS).

(G) Individual first aid kits (IFAK).

(H) Individual water purification (IWP) systems.

(I) Field tarps.

(J) All purpose environmental clothing.

(K) Extended cold weather (APEC) gortex clothing.

(L) Reversible helmet covers (RHC).

(M) Small arms protective insert (SAPI) plates.

(2) SUPPLEMENT NOT SUPPLANT.—Amounts available under paragraph (1) for purposes specified in that paragraph are in addition to any other amounts available in this Act for such purposes.

SA 1548. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 305, strike line 2 and all that follows through line 6, and insert the following:

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement accounts for the Air Force in the amounts as follows:

(1) For aircraft, $323,200,000.

(2) For other procurement, $51,900,000.

(b) AVAILABILITY OF CERTAIN AMOUNTS.—Of the amounts authorized to be appropriated by subsection (a)(1), $218,500,000 shall be available for purposes as follows:

(1) Procurement of Predator MQ-1 air vehicles, initial spares, and RSP kits.

(2) Procurement of Containerized Dual Control Station Launch and Recovery Elements.

(3) Procurement of a Fixed Ground Control Station.

(4) Procurement of other upgrades to Predator MQ–1 Ground Control Stations, spares, and signals intelligence packages.

SEC. 1405A. REDUCTION IN AUTHORIZATION OF APPROPRIATIONS FOR IRAQ FREEDOM FUND.

The amount authorized to be appropriated for fiscal year 2006 for the Iraq Freedom Fund is the amount specified by section 1409(a) of this Act, reduced by $218,500,000.

SA 1549. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction,

and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, insert the following:

SEC. 1073. PILOT PROGRAMS FOR USE OF LEAVE BY SPOUSES OF INDIVIDUALS PERFORMING NATIONAL GUARD OR RESERVE SERVICE.

(a) SHORT TITLE.—This section may be cited as the "National Guard and Reserve Service Leave Act of 2005".

(b) FEDERAL EMPLOYEES PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) AGENCY.—The term "agency" means an Executive agency that employs an employee.

(B) COVERED PERIOD OF SERVICE.—The term "covered period of service" means any period of service performed by the spouse of an employee while that spouse—

(i) is a member of a reserve component of the Armed Forces as described under section 10101 of title 10, United States Code; and

(ii) is serving on active duty in the Armed Forces in support of a contingency operation as defined under section 101(a)(13) of title 10, United States Code.

(C) EMPLOYEE.—The term "employee" has the meaning given under section 6331 of title 5, United States Code.

(D) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning given under section 105 of title 5, United States Code.

(2) ESTABLISHMENT OF PROGRAM.—The Office of Personnel Management shall establish a pilot program to authorize an employee to—

(A) use any sick leave of that employee during a covered period of service in the same manner and to the same extent as annual leave is used; and

(B) use any leave available to that employee under subchapter III or IV of chapter 63 of title 5, United States Code, during a covered period of service as though that covered period of service is a medical emergency.

(3) AGENCY PARTICIPATION.—Agencies may apply to the Office of Personnel Management to participate in the pilot program under this subsection. The Office of Personnel Management shall select at least 5 agencies to participate in the pilot program. For purposes of this paragraph the Office of Personnel Management may treat any office or other organizational entity within an agency as an agency.

(4) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out this subsection.

(5) TERMINATION.—The pilot program under this subsection shall terminate on December 31, 2007.

(c) VOLUNTARY PRIVATE SECTOR LEAVE PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) COVERED PERIOD OF SERVICE.—The term "covered period of service" means any period of service performed by the spouse of an employee while that spouse—

(i) is a member of a reserve component of the Armed Forces as described under section 10101 of title 10, United States Code; and

(ii) is serving on active duty in the Armed Forces in support of a contingency operation as defined under section 101(a)(13) of title 10, United States Code.

(B) EMPLOYEE.—The term "employee" means an employee of a business entity participating in the program under this subsection.

(2) ESTABLISHMENT OF PROGRAM.—

(A) IN GENERAL.—The Secretary of Labor shall establish a pilot program to authorize employees of business entities described under paragraph (3) to use sick leave, or any other leave available to an employee, during a covered period of service in the same manner and to the same extent as annual leave (or its equivalent) is used.

(B) EXCEPTION.—Subparagraph (A) shall not apply to leave made available under the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

(3) VOLUNTARY BUSINESS PARTICIPATION.—The Secretary of Labor shall solicit business entities to voluntarily participate in the pilot program under this subsection.

(4) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary of Labor shall prescribe regulations to carry out this subsection.

(5) TERMINATION.—The pilot program under this subsection shall terminate on December 31, 2007.

(d) GAO REPORT.—Not later than December 31, 2006, the Government Accountability Office shall submit a report to Congress on the programs under subsections (a) and (b) that includes—

(1) an evaluation of the success of each program; and

(2) recommendations for the continuance or termination of each program.

SA 1550. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, line 21, strike "$18,584,469,000" and insert "$18,581,369,000".

At the appropriate place, insert the following:

SEC. . PILOT PROJECT FOR CIVILIAN LINGUIST RESERVE CORPS.

(a) ESTABLISHMENT.—The Secretary of Defense (referred to in this section as the "Secretary"), through the National Security Education Program, shall conduct a 3-year pilot project to establish the Civilian Linguist Reserve Corps, which shall be composed of United States citizens with advanced levels of proficiency in foreign languages who would be available, upon request from the President, to perform any services or duties with respect to such foreign languages in the Federal Government as the President may require.

(b) IMPLEMENTATION.—In establishing the Civilian Linguist Reserve Corps, the Secretary, after reviewing the findings and recommendations contained in the report required under section 325 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306; 116 Stat. 2393), shall—

(1) identify several foreign languages that are critical for the national security of the United States and the relative priority of each such language;

(2) identify United States citizens with advanced levels of proficiency in those foreign languages who would be available to perform the services and duties referred to in subsection (a);

(3) cooperate with other Federal agencies with national security responsibilities to implement a procedure for calling for the performance of the services and duties referred to in subsection (a); and

(4) implement a call for the performance of such services and duties.

(c) CONTRACT AUTHORITY.—In establishing the Civilian Linguist Reserve Corps, the Secretary may enter into contracts with appropriate agencies or entities.

(d) FEASIBILITY STUDY.—During the course of the pilot project, the Secretary shall conduct a study of the best practices in implementing the Civilian Linguist Reserve Corps, including—

(1) administrative structure;

(2) languages to be offered;

(3) number of language specialists needed for each language;

(4) Federal agencies who may need language services;

(5) compensation and other operating costs;

(6) certification standards and procedures;

(7) security clearances;

(8) skill maintenance and training; and

(9) the use of private contractors to supply language specialists.

(e) REPORTS.—

(1) EVALUATION REPORTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter until the expiration of the 3-year period beginning on such date of enactment, the Secretary shall submit to Congress an evaluation report on the pilot project conducted under this section.

(B) CONTENTS.—Each report required under subparagraph (A) shall contain information on the operation of the pilot project, the success of the pilot project in carrying out the objectives of the establishment of a Civilian Linguist Reserve Corps, and recommendations for the continuation or expansion of the pilot project.

(2) FINAL REPORT.—Not later than 6 months after the completion of the pilot project, the Secretary shall submit to Congress a final report summarizing the lessons learned, best practices, and recommendations for full implementation of the Civilian Linguist Reserve Corps.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,100,000 for fiscal year 2006 to carry out the pilot project under this section.

SA 1551. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION D—CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS

TITLE XLI—MERGERS, ACQUISITIONS, AND TAKEOVERS

SEC. 4101. DEFENSE PRODUCTION ACT.

(a) IN GENERAL.—Section 721 of the Defense Production Act (50 U.S.C. App. 2170) is amended—

(1) by redesignating subsections (g) and (h) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (f) the following:

"(g) NOTIFICATION AND INVESTIGATION.—

"(1) NOTIFICATION.—

"(A) IN GENERAL.—Any entity described in subparagraph (B) shall notify the President at least 60 days before a proposed merger, acquisition, or takeover described in subparagraph (B)(ii).

"(B) ENTITY DESCRIBED.—An entity described in this subparagraph is an entity that—

"(i) is controlled by, or acting on behalf of, a foreign government; and

"(ii) seeks to engage in a merger, acquisition, or takeover of a United States entity that has energy assets valued at $1,000,000,000 or more, that could result in control of a person engaged in interstate commerce in the United States that could affect the national security of the United States.

"(2) INVESTIGATION.—A mandatory investigation under subsection (b) shall be required in the case of a merger, acquisition, or takeover described in paragraph (1)(B)(ii) by an entity described in paragraph (1)(B).

"(h) PRESIDENT'S DESIGNEE DEFINED.—In this section, the term 'President's designee' means the Secretary of Commerce, the Secretary of Defense, the Secretary of Homeland Security, the Secretary of State, the Secretary of the Treasury, the Attorney General, the Director of National Intelligence, and appropriate employees of the Executive Office of the President.".

(b) NOTIFICATION.—Section 721(i) of the Defense Production Act (50 U.S. C. App. 2170), as redesignated by subsection (a)(1), is amended—

(1) by striking "The President" and inserting "(1) REPORT ON ACTION.—The President"; and

(2) by adding at the end the following:

"(2) REPORT ON NOTIFICATION.—The President shall immediately transmit to the Secretary of the Senate and the Clerk of the House of Representatives written notification as soon as the President receives a notification under subsection (b) or (g).".

(c) FACTORS TO BE CONSIDERED.—Section 721(f) of the Defense Production Act (50 U.S.C. App. 2170(f)) is amended—

(1) by striking "and" at end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting ";"; and

(3) by adding at the end the following:

"(6) the robust and expanding defense capabilities of the country in which the acquiring entity is located; and

"(7) the nature of the bilateral relationship with the country in which the acquiring entity is located.".

SA 1552. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. INCLUSION OF VA HEALTH BENEFITS HOTLINE INFORMATION IN SOCIAL SECURITY BENEFIT DECISION AND ADJUSTMENT NOTICES AND ACCOUNT STATEMENTS.

(a) BENEFIT DECISION AND ADJUSTMENT NOTICES.—Section 205(s) of the Social Security Act (42 U.S.C. 405(s)) is amended—

(1) in the first sentence—

(A) by striking "(1)" and inserting "(i)";

(B) by striking "(2)" and inserting "(ii)"; and

(C) by inserting "(1)(A)" after "(s)";

(2) in the second sentence—

(A) by inserting "(B)" before "In"; and

(B) by striking "paragraph (2)" and inserting "clause (ii) of subparagraph (A)"; and

(3) by adding at the end the following:

"(2) The Commissioner of Social Security shall ensure that any such notice which is a notice of a decision regarding an application for benefits under this title, or a notice of an adjustment to benefits paid under this title, includes the following statement:

"If you are a veteran, you may be eligible for comprehensive health benefits (hospital care, outpatient services, prescription medications, and more) from the Department of Veterans Affairs (VA). For more information on eligibility, benefits, co-payments, and VA health care facilities, please call the VA, toll-free, at 1–877–222–VETS(8387).'".

(b) SOCIAL SECURITY ACCOUNT STATEMENTS.—Section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b–13(a)(2)) is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(F) the following statement:

If you are a veteran, you may be eligible for comprehensive health benefits (hospital care, outpatient services, prescription medications, and more) from the Department of Veterans Affairs (VA). For more information on eligibility, benefits, co-payments, and VA health care facilities, please call the VA, toll-free, at 1–877–222–VETS(8387).'".

(c) EFFECTIVE DATE.—The amendments made by this section apply to notices of decisions and benefit adjustments and social security account statements issued on or after the date that is 180 days after the date of enactment of this Act.

SA 1553. Mr. CONRAD (for himself, Mr. BAUCUS, Mr. BURNS, Mr. THOMAS, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. POLICY OF THE UNITED STATES ON THE INTERCONTINENTAL BALLISTIC MISSILE FORCE.

(a) FINDINGS.—Congress makes the following findings:

(1) Consistent with warhead levels agreed to in the Moscow Treaty, the United States is permanently modifying the capacity of the Minuteman III intercontinental ballistic missile (ICBM) from its prior capability to carry up to three independent reentry vehicles to a single reentry vehicle system, a process known as downloading.

(2) Through the downloading process and the elimination of the Peacekeeper (MX) intercontinental ballistic missile, the United States is now transitioning to a land-based intercontinental ballistic missile force of 500 Minuteman III missiles, each equipped with a single nuclear warhead.

(3) A series of Department of Defense studies of United States strategic forces has confirmed the need for 500 Minuteman III missiles with a single warhead, including the 1993 Nuclear Posture Review, the 2001 Nuclear Posture Review, and an ongoing assessment by retired General Larry Welch.

(4) In a potential nuclear crisis it is important that the nuclear weapons systems of the United States be configured so as to discourage other nations from making a first strike, and downloading Minuteman III missiles further reduces the likelihood of any country preemptively attacking the intercontinental ballistic missile force of the United States.

(5) The intercontinental ballistic missile force is currently being considered as part of the deliberations of the Department of Defense for the Quadrennial Defense Review.

(b) STATEMENT OF UNITED STATES POLICY.—It is the policy of the United States to continue to transition to an intercontinental ballistic missile force with 500 missiles each equipped with a single nuclear warhead.

(c) MOSCOW TREATY DEFINED.—In this section, the term "Moscow Treaty" means the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, done at Moscow on May 24, 2002.

SA 1554. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XIII, add the following:

SEC. 1306. COMPREHENSIVE STRATEGY FOR SECURITY AND ACCOUNTABILITY OF WEAPONS-USABLE NUCLEAR MATERIAL IN THE FORMER SOVIET UNION.

(a) FINDINGS.—Congress makes the following findings:

(1) On September 30, 2004, President George W. Bush stated that "the biggest threat facing this country is weapons of mass destruction in the hands of a terrorist network.".

(2) In a joint statement with President of Russia Vladimir Putin on February 24, 2005, President George W. Bush further noted that "[w]e bear a special responsibility for the security of nuclear weapons and fissile material, in order to ensure that there is no possibility such weapons or materials would fall into terrorist hands.".

(3) When the Soviet Union disintegrated, it left behind an estimated 30,000 nuclear warheads, as well as sufficient plutonium and highly enriched uranium to produce more than 40,000 additional weapons. Most of this material is not secure and is therefore vulnerable to theft by potential terrorists.

(4) In 1991, Congress adopted the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note; commonly referred to as "Nunn-Lugar") to assist the Soviet Union and "successor entities" with efforts to promptly and safely destroy its nuclear weapons arsenal and secure its stockpiles of weapons-usable nuclear materials.

(5) It is the stated goal of the Department of Energy to complete comprehensive security and accountability upgrades through

programs under the Soviet Nuclear Threat Reduction Act of 1991 for all of the former weapons-usable nuclear material in the Soviet Union by 2008. However, after 13 years of work, less than 50 percent of such nuclear materials and warheads have received basic cooperative security upgrades, and only 26 percent have received comprehensive upgrades.

(6) Acquiring fissile materials is the most difficult step for terrorists seeking to build a nuclear weapon, and also the easiest step for the United States and friendly nations to stop, making control over fissile material the first and best line of defense for preventing terrorist groups from using nuclear weapons.

(7) It has now been nearly 10 years since Congress first received testimony about the risk of theft of nuclear material in the former Soviet Union.

(8) Statements by Osama bin Laden and other terrorist leaders have made it clear that terrorists will stop at nothing to obtain nuclear weapons material and capability.

(9) In February 2005 Porter Goss, Director of the Central Intelligence Agency, testified that sufficient Russian nuclear material was unaccounted for to enable terrorists to build a nuclear weapon.

(10) The September 11, 2001, terrorist attacks on the United States highlighted the importance of preventing terrorists from obtaining nuclear weapons or materials, yet the pace of progress toward that goal has decreased when compared with the years immediately preceding those attacks.

(11) The National Commission on Terrorist Attacks on the United States (September 11th Commission) concluded that a "maximum effort" was required to keep nuclear weapons and fissile material out of terrorist hands.

(12) Securing only a portion of the loose nuclear material is insufficient because terrorists seeking nuclear weapons materials will likely seek out the worst defended site.

(13) A new report published by the Project on Managing the Atom of Harvard University, in conjunction with the Nuclear Threat Initiative, entitled "Securing the Bomb 2005", concluded that "a dramatic acceleration will be needed to meet [the Department of Energy's] stated goal of finishing upgrades less than 4 years from now.".

(14) In January 2001, a bipartisan task force chaired by Howard Baker, former Majority Leader of the Senate and Lloyd Butler, former White House counsel, concluded that "the most urgent, unmet national security threat to the United States today is the danger that weapons of mass destruction or weapons-usable material in Russia could be stolen and sold to terrorists or hostile nation states and used against American troops abroad or citizens at home," and recommended investing $30,000,000,000 over 10 years on Department of Energy programs to secure nuclear material. The pace of spending since then on all nonproliferation and threat reduction programs in the former Soviet Union has been only about $1,000,000,000 per year.

(15) Many reports, including the report referred to in paragraph (14), have called for a single, strategic plan to secure nuclear material in the former Soviet Union, but none has yet been produced.

(16) The urgency for this work is demonstrated by the fact that customs officials in Russia reported 200 potential attempts to smuggle nuclear or radiological materials out of Russia in 2004.

(17) While an increasing number of nuclear sites in Russia have been secured, the remaining unsecured sites include several very sensitive locations that hold vast stocks of nuclear weapons and materials.

(18) Concentrated attention to these sensitive sites is required, including an effort to increase the seriousness with which the Government of Russia and the public in Russia view the problem, in order to help overcome remaining issues of access, liability, and allocation of Russian resources which have long slowed progress on the objectives of the Soviet Nuclear Threat Reduction Act of 1991.

(19) The horrific terrorist attack on schoolchildren in Beslan may help to increase attention in Russia to problems of terrorism, including nuclear terrorism, making United States support for these efforts all the more crucial at this time.

(20) Eliminating onerous certification requirements for cooperative threat reduction programs with Russia, or providing permanent authority to waive those requirements on an annual basis, could significantly accelerate the pace of efforts to secure loose nuclear material and warheads.

(21) Recent developments with the G–8 Global Partnership and the Global Threat Reduction Initiative, as well as funding increases included in the fiscal year 2006 budget request, offer the potential for accelerated progress on this crucial objective.

(22) Russia has become a valuable partner in the war on terrorism and a full partner in efforts to secure nuclear weapons and weapons-usable nuclear material and to destroy strategic delivery systems, chemical weapons, and excess nuclear warheads.

(b) STATEMENT OF UNITED STATES POLICY.—

(1) STATEMENT OF UNITED STATES POLICY.—It shall be the policy of the United States that the Department of Defense and the Department of Energy shall seek to work with the Government of Russia and governments of other states of the former Soviet Union to complete comprehensive security and accountability upgrades for all of the weapons-usable nuclear material in the former Soviet Union by not later than September 30, 2008, in accordance with the stated goal of the Department of Energy.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the President should request, and Congress should appropriate, the funds necessary to ensure that the policy set forth in paragraph (1) is carried out.

(c) STRATEGY REQUIRED.—

(1) IN GENERAL.—Not later than the February 6, 2006, the Secretary of Defense, the Secretary of State, and the Secretary of Energy shall, in cooperation with the Director of the Office of Management and Budget, jointly submit to Congress a report setting forth a strategy for completing comprehensive security and accountability upgrades for all of the weapons-usable nuclear material in the former Soviet Union by not later than September 30, 2008.

(2) ELEMENTS.—The report shall include, in addition to the strategy—

(A) an assessment of the funding required to implement the strategy; and

(B) a description of any legislative or administrative actions required to facilitate implementation of the strategy.

SA 1555. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VIII, add the following:

SEC. 807. MODIFICATION OF REQUIREMENTS APPLICABLE TO CONTRACTS AUTHORIZED BY LAW FOR CERTAIN MILITARY MATERIEL.

(a) INCLUSION OF COMBAT VEHICLES UNDER REQUIREMENTS.—Section 2401 of title 10, United States Code, is amended—

(1) by striking "vessel or aircraft" each place it appears and inserting "vessel, aircraft, or combat vehicle";

(2) in subsection (c), by striking "aircraft or naval vessel" each place it appears and inserting "aircraft, naval vessel, or combat vehicle";

(3) in subsection (e), by striking "aircraft or naval vessels" each place it appears and inserting "aircraft, naval vessels, or combat vehicle"; and

(4) in subsection (f)—

(A) by striking "aircraft and naval vessels" and inserting "aircraft, naval vessels, and combat vehicle"; and

(B) by striking "such aircraft and vessels" and inserting "such aircraft, vessels, and combat vehicle".

(b) ADDITIONAL INFORMATION FOR CONGRESS.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) the Secretary has certified to those committees—

"(i) that entering into the proposed contract as a means of obtaining the vessel, aircraft, or combat vehicle is the most cost-effective means of obtaining such vessel, aircraft, or combat vehicle; and

"(ii) that the Secretary has determined that the lease complies with all applicable laws, Office of Management and Budget circulars, and Department of Defense regulations."; and

(2) by adding at the end the following new paragraphs:

"(3) Upon receipt of a notice under paragraph (1)(C), a committee identified in paragraph (1)(B) may request the Inspector General of the Department of Defense or the Comptroller General of the United States to conduct a review of the proposed contract to determine whether or not such contract meets the requirements of this section.

"(4) If a review is requested under paragraph (3), the Inspector General of the Department of Defense or the Comptroller General of the United States, as the case may be, shall submit to the Secretary and the congressional defense committees a report on such review before the expiration of the period specified in paragraph (1)(C).".

(c) APPLICABILITY OF ACQUISITION REGULATIONS.—Such section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f)(1) If a lease or charter covered by this section is a capital lease or a lease-purchase—

"(A) the lease or charter shall be treated as an acquisition and shall be subject to all applicable statutory and regulatory requirements for the acquisition of aircraft, naval vessels, or combat vehicles; and

"(B) funds appropriated to the Department of Defense for operation and maintenance may not be obligated or expended for the lease or charter.

"(2) In this subsection, the terms 'capital lease' and 'lease-purchase' have the meanings given those terms in Appendix B to Office of Management and Budget Circular A-11, as in effect on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006.".

(d) CONFORMING AND CLERICAL AMENDMENTS.—

(1) The heading of such section is amended to read as follows:

"§ 2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles".

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking the item relating to section 2401 and inserting the following new item:

"Sec. 2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles.".

SEC. 808. REQUIREMENT FOR ANALYSIS OF ALTERNATIVES FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Chapter 144 of title 10, United States Code, is amended by inserting after section 2431 the following new section:

"§ 2431a. Major defense acquisition programs: requirement for analysis of alternatives

"(a) No major defense acquisition program may be commenced before the completion of an analysis of alternatives with respect to such program.

"(b) For the purposes of this section, a major defense acquisition program is commenced when the milestone decision authority approves entry of the program into the first phase of the acquisition process applicable to the program.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by inserting after the item relating to section 2431 the following new item:

"2431a. Major defense acquisition programs: requirement for analysis of alternatives.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to major defense acquisition programs commenced on or after that date.

SEC. 809. MANAGEMENT CONTRACTS FOR MAJOR SYSTEMS ACQUISITIONS.

(a) REGULATIONS REGARDING MANAGEMENT CONTRACTS.—

(1) REGULATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations on management contracts for the acquisition by the Department of Defense of major systems.

(2) CONTENT.—The regulations prescribed under paragraph (1) shall—

(A) define the respective rights of the Department of Defense, management contractors, and other contractors that participate in the development or production of any individual element of the major weapon system (including subcontractors under management contracts) in intellectual property that is developed by the other participating contractors in a manner that ensures that—

(i) the Department of Defense obtains appropriate rights in technical data developed by the other participating contractors in accordance with the requirements of section 2320 of title 10, United States Code; and

(ii) management contractors obtain access to technical data developed by the other participating contractors only to the extent necessary for the management contractors to execute their obligations under such management contracts;

(B) include specific measures to prevent—

(i) organizational conflicts of interest on the part of management contractors; and

(ii) the performance of inherently governmental functions by management contractors;

(C) require that a management contractor in a management contract with system responsibility use competitive procedures for each subcontract in excess of the simplified acquisition threshold, unless one of the circumstances described in paragraphs (1) through (3) of section 2304(c)(b) of title 10, United States Code, applies to the award of such subcontract; and

(D) prohibit a management contractor in a management contract without system responsibility from having any financial interest in the development or production of any individual element of the major weapon system, unless the Secretary of Defense determines in writing that it is necessary in the interest of the national defense for the management contractor to participate in the development or production of a particular element of the major weapon system.

(b) REGULATIONS PROHIBITING PASS-THROUGH CHARGES.—

(1) REGULATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations prohibiting pass-through charges on contracts or subcontracts (or task or delivery orders) that are entered into for or on behalf of the Department of Defense that are in excess of the simplified acquisition threshold.

(2) SCOPE OF REGULATIONS.—The regulations prescribed under this paragraph shall not apply to any firm, fixed-price contract or subcontract (or task or delivery order) that is awarded on the basis of adequate price competition.

(c) DEFINITIONS.—In this section:

(1) The term "management contract" includes management contracts with system responsibility and management contracts without system responsibility.

(2) The term "management contract with system responsibility" means a Federal agency contract (or task or delivery order) for the development or production of a major system under which the prime contractor is not expected at the time of award to perform work constituting at least 20 percent of the cost of manufacturing the major system.

(3) The term "management contract without system responsibility" means a Federal agency contract (or task or delivery order) for the procurement of services, the primary purpose of which is to perform acquisition functions closely associated with inherently governmental functions with regard to the development or production of a major system.

(4) The term "management contractor" means the prime contractor under a management contract.

(5) The term "major system" has the meaning given such term in section 2302d of title 10, United States Code.

(6) The term "pass-through charge" means a charge by a covered contractor or subcontractor for overhead or profit on work performed by a covered lower-tier contractor (other than charges for the direct costs of managing lower-tier contracts and overhead and profit based on such direct costs).

(7) The term "covered contractor" means the following:

(A) A contractor that assigns work accounting for more than 90 percent of the cost of contract performance (not including overhead or profit) to subcontractors.

(B) In the case of a contract providing for the development or production of more than one weapon system, a contractor that assigns work accounting for more than 90 percent of the cost of contract performance (not including overhead or profit) for any particular weapon system under such contract to subcontractors.

(8) The term "covered lower-tier contractor" means the following:

(A) With respect to a covered contractor described by paragraph (7)(A) in a contract, any lower-tier subcontractor under such contract.

(B) With respect to a covered contractor described by paragraph (7)(B) in a contract, any lower-tier subcontractor on a weapon system under such contract for which such covered contractor has assigned work accounting for more than 90 percent of the cost of contract performance (not including overhead or profit).

(9) The term "functions closely associated with inherently governmental functions" has the meaning given such term in section 2383(b)(3) of title 10, United States Code.

(d) EFFECTIVE DATE.—The regulations prescribed under this section shall apply to contracts awarded for or on behalf of the Department of Defense on or after the date that is 90 days after the date of the enactment of this Act.

SA 1556. Mr. MCCAIN (for himself, Mr. WARNER, Mr. GRAHAM, and Ms. COLLINS) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term "cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and

Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

SA 1557. Mr. MCCAIN (for himself, Mr. WARNER, Mr. GRAHAM, Ms. COLLINS, and Mr. LEVIN) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) Limitation on Interrogation Techniques.—

(1) In General.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(2) Applicability.—Paragraph (1) shall not apply to with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(3) Construction.—Nothing in this subsection shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

(b) Prohibition on Inclusion of Certain Interrogation Techniques in Army Field Manual.—No interrogation technique may be included as an authorized interrogation technique within the United States Army Field Manual on Intelligence Interrogation if such technique constitutes torture or cruel, inhumane, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(c) Notice to Congress of Revision of Army Field Manual.—Not later than 30 days before issuing any revision to the United States Army Field Manual on Intelligence Interrogation, including an authorization of additional interrogation techniques, the Secretary of Defense shall submit to the congressional defense committees a report on such revision.

(d) Registration With International Red Cross.—Each individual described in subsection (a) who is a national of a foreign country shall be registered with the International Committee of the Red Cross.

SA 1558. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 269, after line 21, add the following:

SEC. 1009. REIMBURSEMENT FOR COSTS INCURRED IN PROVIDING GOODS AND SERVICES TO AGENCIES.

The Department of Defense shall be reimbursed on an annual basis by any executive agency for the total amount of the unreimbursed direct and indirect costs incurred during each fiscal year by the Department of Defense for providing goods and services to such agency.

SA 1559. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, between lines 10 and 11, insert the following:

SEC. 203. FUNDING FOR DEVELOPMENT OF DISTRIBUTED GENERATION TECHNOLOGIES.

(a) Increase in Funds Available to Army for Research, Development, Test, and Evaluation.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $1,000,000, with the amount of such increase to be available for research on and facilitation of technology for converting obsolete chemical munitions to fertilizer.

(b) Reduction in Funds Available to Navy for Research, Development, Test, and Evaluation.—The amount authorized to be appropriated by section 201(2) for the Navy for research, development, test, and evaluation is hereby reduced by $1,000,000.

SA 1560. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, between lines 10 and 11, insert the following:

SEC. 203. FUNDING FOR RESEARCH AND TECHNOLOGY TRANSITION FOR HIGH-BRIGHTNESS ELECTRON SOURCE PROGRAM.

(a) Increase in Funds Available to Navy for Research, Development, Test, and Evaluation.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $1,500,000.

(b) Reduction in Funds Available to Army for Procurement, Ammunition.—The amount authorized to be appropriated by section 101(4) for the Army for procurement of ammunition is hereby reduced by $1,500,000.

SA 1561. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, between lines 10 and 11, insert the following:

SEC. 203. FUNDING FOR DEVELOPMENT OF DISTRIBUTED GENERATION TECHNOLOGIES.

(a) Increase in Funds Available to Air Force for Research, Development, Test, and Evaluation.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $5,000,000, with the amount of such increase to be available for research and development of hybrid, fuel cell, hydrogen generation, wind, and solar power systems for distributed generation technologies at the dual use military/commercial airport in Albuquerque, New Mexico.

(b) Reduction in Funds Available to Air Force for Operation and Maintenance.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for the Air Force is hereby reduced by $5,000,000.

SA 1562. Mr. WARNER (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. DESIGNATION OF WILLIAM B. BRYANT ANNEX.

(a) Designation.—The annex to the E. Barrett Prettyman Federal Building and United States Courthouse located at 333 Constitution Avenue Northwest in the District of Columbia shall be known and designated as the "William B. Bryant Annex".

(b) References.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the annex referred to in subsection (a) shall be deemed to be a reference to the "William B. Bryant Annex".

SA 1563. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 357, strike line 20 and insert the following:

PART II—NAVY CONVEYANCES

SEC. 2851. LEASE OF UNITED STATES NAVY MUSEUM FACILITIES AT WASHINGTON NAVAL YARD, DISTRICT OF COLUMBIA.

(a) LEASE AUTHORIZED.—

(1) IN GENERAL.—The Secretary of the Navy may lease to the Naval Historical Foundation (in this section referred to as the "Foundation") facilities located at Washington Naval Yard, Washington, District of Columbia, that house the United States Navy Museum (in this section referred to as the "Museum") for the purpose of carrying out the following activities:

(A) Generation of revenue for the Museum through the rental of facilities to the public, commercial and non-profit entities, State and local governments, and other Federal agencies.

(B) Administrative activities in support of the Museum.

(2) LIMITATION.—Any activities carried out at the leased facilities under paragraph (1) must be consistent with the operations of the Museum.

(b) CONSIDERATION.—The amount of consideration paid in a year by the Foundation to the United States for the lease of facilities under subsection (a) may not exceed the actual cost, as determined by the Secretary, of the annual operation and maintenance of the facilities.

(c) USE OF PROCEEDS.—The Secretary shall use amounts received under subsection (b) for the lease of facilities under subsection (a) to cover the costs of operating and maintaining the Museum.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART III—AIR FORCE CONVEYANCES

SA 1564. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

SEC. 1205. EXCEPTION TO BILATERAL AGREEMENT REQUIREMENTS FOR TRANSFERS OF DEFENSE ITEMS.

(a) FINDINGS.—Congress makes the following findings:

(1) Close defense cooperation between the United States and each of the United Kingdom and Australia requires interoperability among the armed forces of those countries.

(2) The need for interoperability must be balanced with the need for appropriate and effective regulation of trade in defense items.

(3) The Arms Export Control Act (22 U.S.C. 2751 et seq.) authorizes the executive branch to administer arms export policies enacted by Congress in the exercise of its constitutional power to regulate commerce with foreign nations.

(4) The executive branch has exercised its authority under the Arms Export Control Act, in part, through the International Traffic in Arms Regulations.

(5) Agreements to gain exemption from the International Traffic in Arms Regulations must be submitted to Congress for review.

(b) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations and the Committee on Armed Services of the Senate; and

(B) the Committee on International Relations and the Committee on Armed Services of the House of Representatives.

(2) DEFENSE ITEMS.—The term "defense items" has the meaning given the term in section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(3) INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.—The term "International Traffic in Arms Regulations" means the regulations maintained under parts 120 through 130 of title 22, Code of Federal Regulations, and any successor regulations.

(c) EXCEPTIONS FROM BILATERAL AGREEMENT REQUIREMENTS.—

(1) IN GENERAL.—Subsection (j) of section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph (4):

"(4) EXCEPTIONS FROM BILATERAL AGREEMENT REQUIREMENTS.—

"(A) AUSTRALIA.—Subject to section 1205 of the National Defense Authorization Act for Fiscal Year 2006, the requirements for a bilateral agreement described in paragraph (2)(A) shall not apply to a bilateral agreement between the United States Government and the Government of Australia with respect to transfers or changes in end use of defense items within Australia that will remain subject to the licensing requirements of this Act after such agreement enters into force.

"(B) UNITED KINGDOM.—Subject to section 1205 of the National Defense Authorization Act for Fiscal Year 2006, the requirements for a bilateral agreement described in paragraphs (1)(A)(ii), (2)(A)(i), and (2)(A)(ii) shall not apply to a bilateral agreement between the United States Government and the Government of the United Kingdom for an exemption from the licensing requirements of this Act.".

(2) CONFORMING AMENDMENT.—Paragraph (2) of such subsection is amended in the matter preceding subparagraph (A) by striking "A bilateral agreement" and inserting "Except as provided in paragraph (4), a bilateral agreement".

(d) CERTIFICATIONS.—Not later than 30 days before authorizing an exemption from the licensing requirements of the International Traffic in Arms Regulations in accordance with any bilateral agreement entered into with the United Kingdom or Australia under section 38(j) of the Arms Export Control Act (22 U.S.C. 2778(j)), as amended by subsection (c), the President shall certify to the appropriate congressional committees that such agreement—

(1) is in the national interest of the United States and will not in any way affect the goals and policy of the United States under section 1 of the Arms Export Control Act (22 U.S.C. 2751);

(2) will be void if such country quantitatively or qualitatively increases the export of defense items to the People's Republic of China.

(3) does not adversely affect the efficacy of the International Traffic in Arms Regulations to provide consistent and adequate controls for licensed exports of United States defense items; and

(4) will not adversely affect the duties or requirements of the Secretary of State under the Arms Export Control Act.

(e) NOTIFICATION OF BILATERAL LICENSING EXEMPTIONS.—Not later than 30 days before authorizing an exemption from the licensing requirements of the International Traffic in Arms Regulations in accordance with any bilateral agreement entered into with the United Kingdom or Australia under section 38(j) of the Arms Export Control Act (22 U.S.C. 2778(j)), as amended by subsection (c), the President shall submit to the appropriate congressional committees the text of the regulations that authorize such a licensing exemption.

(f) REPORT ON CONSULTATION ISSUES.—Not later than one year after the date of the enactment of this Act and annually thereafter for each of the following 5 years, the President shall submit to the appropriate congressional committees a report on issues raised during the previous year in consultations conducted under the terms of any bilateral agreement entered into with Australia under section 38(j) of the Arms Export Control Act, or under the terms of any bilateral agreement entered into with the United Kingdom under such section, for exemption from the licensing requirements of the Arms Export Control Act (22 U.S.C. 2751 et seq.). Each report shall contain—

(1) information on any notifications or consultations between the United States and the United Kingdom under the terms of any agreement with the United Kingdom, or between the United States and Australia under the terms of any agreement with Australia, concerning the modification, deletion, or addition of defense items on the United States Munitions List, the United Kingdom Military List, or the Australian Defense and Strategic Goods List;

(2) a list of all United Kingdom or Australia persons and entities that have been designated as qualified persons eligible to receive United States origin defense items exempt from the licensing requirements of the Arms Export Control Act under the terms of such agreements, and listing any modification, deletion, or addition to such lists, pursuant to the requirements of any agreement with the United Kingdom or any agreement with Australia;

(3) information on consultations or steps taken pursuant to any agreement with the United Kingdom or any agreement with Australia concerning cooperation and consultation with either government on the effectiveness of the defense trade control systems of such government;

(4) information on provisions and procedures undertaken pursuant to—

(A) any agreement with the United Kingdom with respect to the handling of United States origin defense items exempt from the licensing requirements of the Arms Export Control Act by persons and entities qualified to receive such items in the United Kingdom; and

(B) any agreement with Australia with respect to the handling of United States origin defense items exempt from the licensing requirements of the Arms Export Control Act by persons and entities qualified to receive such items in Australia;

(5) information on any new understandings, including the text of such understandings, between the United States and the United Kingdom concerning retransfer of United States origin defense items made pursuant to any agreement with the United

Kingdom to gain exemption from the licensing requirements of the Arms Export Control Act;

(6) information on consultations with the Government of the United Kingdom or the Government of Australia concerning the legal enforcement of any such agreements;

(7) information on United States origin defense items with respect to which the United States has provided an exception under the Memorandum of Understanding between the United States and the United Kingdom and any agreement between the United States and Australia from the requirement for United States Government re-export consent that was not provided for under United States laws and regulations in effect on the date of the enactment of this Act; and

(8) information on any significant concerns that have arisen between the Government of Australia or the Government of the United Kingdom and the United States Government concerning any aspect of any bilateral agreement between such country and the United States to gain exemption from the licensing requirements of the Arms Export Control Act.

(g) SPECIAL NOTIFICATIONS.—

(1) REQUIRED NOTIFICATIONS.—The Secretary of State shall notify the appropriate congressional committees not later than 90 days after receiving any credible information regarding an unauthorized end-use or diversion of United States exports of goods or services made pursuant to any agreement with a country to gain exemption from the licensing requirements of the Arms Export Control Act. The notification shall be made in a manner that is consistent with any ongoing efforts to investigate and commence civil actions or criminal investigations or prosecutions regarding such matters and may be made in classified or unclassified form.

(2) CONTENT.—The notification regarding an unauthorized end-use or diversion of goods or services under paragraph (1) shall include—

(A) a description of the goods or services;

(B) the United States origin of the good or service;

(C) the authorized recipient of the good or service;

(D) a detailed description of the unauthorized end-use or diversion, including any knowledge by the United States exporter of such unauthorized end-use or diversion;

(E) any enforcement action taken by the Government of the United States; and

(F) any enforcement action taken by the government of the recipient nation.

SA 1565. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title X, add the following:

SEC. 1023. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN RECIPIENTS.

(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign recipients on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), as follows:

(1) GREECE.—To the Government of Greece, the OSPREY class minehunter coastal ship PELICAN (MHC-53).

(2) EGYPT.—To the Government of Egypt, the OSPREY class minehunter coastal ships CARDINAL (MHC-60) and RAVEN (MHC-61).

(3) PAKISTAN.—To the Government of Pakistan, the SPRUANCE class destroyer ship FLETCHER (DD-992).

(4) TURKEY.—To the Government of Turkey, the SPRUANCE class destroyer ship CUSHING (DD-985).

(b) TRANSFERS BY SALE.—The President is authorized to transfer vessels to foreign recipients on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761), as follows:

(1) INDIA.—To the Government of India, the AUSTIN class amphibious transport dock ship TRENTON (LPD-14).

(2) GREECE.—To the Government of Greece, the OSPREY class minehunter coastal ship HERON (MHC-52).

(3) TURKEY.—To the Government of Turkey, the SPRUANCE class destroyer ship O'BANNON (DD-987).

(c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis pursuant to authority provided by subsection (a) shall not be counted against the aggregate value of excess defense articles transferred to countries in any fiscal year under section 516 of the Foreign Assistance Act of 1961.

(d) COSTS OF CERTAIN TRANSFERS.—Notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1)), any expense incurred by the United States in connection with a transfer authorized under subsection (a) shall be charged to the recipient.

(e) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed before the vessel joins the naval forces of that country be performed at a shipyard located in the United States, including a United States Navy shipyard.

(f) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

SA 1566. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS AND PROCEDURES FOR TREATMENT OF PERSONS UNDER DETENTION BY THE DEPARTMENT OF DEFENSE.

(a) UNIFORM STANDARDS AND PROCEDURES REQUIRED.—The Secretary of Defense shall establish uniform standards and procedures for the detention and interrogation of persons in the custody or under the control of the Department of Defense.

(b) CONSISTENCY WITH LAW AND TREATY OBLIGATIONS.—The standards and procedures established under subsection (a) shall be consistent with United States law and international treaty obligations.

(c) APPLICABILITY.—

(1) IN GENERAL.—The standards and procedures established under subsection (a) shall apply to all detention and interrogation activities involving persons in the custody or under the control of the Department of Defense, and to such activities conducted within facilities controlled by the Department of Defense, regardless of whether such activities are conducted by Department of Defense personnel, Department of Defense contractor personnel, or personnel or contractor personnel of any other department, agency, or element of the United States Government.

(2) EXCEPTION.—The standards and procedures established under subsection (a) shall not apply with respect to any person in the custody or under the control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(d) CONSTRUCTION.—Nothing in this section shall affect such rights, if any, under the Constitution of the United States of any person in the custody or under the control of the Department of Defense.

(e) NOTICE TO CONGRESS OF REVISION.—Not later than 60 days before issuing any revision to the standards and procedures established under subsection (a), the Secretary of Defense shall notify, in writing, the congressional defense committees of such revision.

(f) DEADLINE.—The standards and procedures required by subsection (a) shall be established not later than 60 days after the date of the enactment of this Act.

SA 1567. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title V, add the following:

SEC. 509. APPLICABILITY OF OFFICER DISTRIBUTION AND STRENGTH LIMITATIONS TO OFFICERS SERVING IN INTELLIGENCE COMMUNITY POSITIONS.

(a) IN GENERAL.—Section 528 of title 10, United States Code, is amended to read as follows:

"§ 528. Exclusion: officers serving in certain intelligence positions

"(a) EXCLUSION OF OFFICER SERVING IN CERTAIN CIA POSITIONS.—When either of the individuals serving in a position specified in subsection (b) is an officer of the armed forces, one of those officers, while serving in such position, shall not be counted against the numbers and percentages of officers of the grade of the officer authorized for that officer's armed force.

"(b) COVERED POSITIONS.—The positions referred to in this subsection are the following:

"(1) Director of the Central Intelligence Agency.

"(2) Deputy Director of the Central Intelligence Agency.

"(c) ASSOCIATE DIRECTOR OF CIA FOR MILITARY SUPPORT.—An officer of the armed forces serving in the position of Associate Director of the Central Intelligence Agency for Military Support, while serving in that position, shall not be counted against the numbers and percentages of officers of the grade of that officer authorized for that officer's armed force.

"(d) OFFICERS SERVING IN OFFICE OF DNI.—Up to 5 general and flag officers of the armed forces assigned to positions in the Office of the Director of National Intelligence designated by agreement between the Secretary of Defense and the Director of National Intelligence shall be excluded from the limitations in sections 525 and 526 of this title while serving in such positions.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 32 of such title is amended by striking the item relating to section 528 and inserting the following new item:

"528. Exclusion: officers serving in certain intelligence positions.".

SA 1568. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title VIII, add the following:

SEC. 824. REPORTS ON CERTAIN DEFENSE CONTRACTS IN IRAQ AND AFGHANISTAN.

(a) QUARTERLY REPORTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of Defense shall submit to the appropriate committees of Congress a report that lists and describes each task or delivery order contract or other contract related to security and reconstruction activities in Iraq and Afghanistan in which an audit conducted by an investigative or audit component of the Department of Defense during the 90-day period ending on the date of such report resulted in a finding described in subsection (b).

(2) COVERAGE OF SUBCONTRACTS.—For purposes of this section, any reference to a contract shall be treated as a reference to such contract and to any subcontracts under such contract.

(b) COVERED FINDING.—A finding described in this subsection with respect to a task or delivery order contract or other contract described in subsection (a) is a finding by an investigative or audit component of the Department of Defense that the contract includes costs that are unsupported, questioned, or both.

(c) REPORT INFORMATION.—Each report under subsection (a) shall include, with respect to each task or delivery order contract or other contract covered by such report—

(1) a description of the costs determined to be unsupported, questioned, or both; and

(2) a statement of the amount of such unsupported or questioned costs and the percentage of the total value of such task or delivery order that such costs represent.

(d) WITHHOLDING OF PAYMENTS.—In the event that any costs under a task or delivery order contract or other contract described in subsection (a) are determined by an investigative or audit component of the Department of Defense to be unsupported, questioned, or both, the appropriate Federal procurement personnel may withhold from amounts otherwise payable to the contractor under such contract a sum of up to 100 percent of the total amount of such costs.

(e) RELEASE OF WITHHELD PAYMENTS.—Upon a subsequent determination by the appropriate Federal procurement personnel, or investigative or audit component of the Department of Defense, that any unsupported or questioned costs for which an amount payable was withheld under subsection (d) has been determined to be allowable, or upon a settlement negotiated by the appropriate Federal procurement personnel, the appropriate Federal procurement personnel may release such amount for payment to the contractor concerned.

(f) INCLUSION OF INFORMATION ON WITHHOLDING AND RELEASE IN QUARTERLY REPORTS.—Each report under subsection (a) after the initial report under that subsection shall include the following:

(1) A description of each action taken under subsection (d) or (e) during the period covered by such report.

(2) A justification of each determination or negotiated settlement under subsection (d) or (e) that appropriately explains the determination of the applicable Federal procurement personnel in terms of reasonableness, allocability, or other factors affecting the acceptability of the costs concerned.

(g) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committees on Appropriations, Armed Services, and Homeland Security and Governmental Affairs of the Senate; and

(B) the Committees on Appropriations, Armed Services, and Government Reform of the House of Representatives.

(2) The term "investigative or audit component of the Department of Defense" means any of the following:

(A) The Office of the Inspector General of the Department of Defense.

(B) The Defense Contract Audit Agency.

(C) The Defense Contract Management Agency.

(D) The Army Audit Agency.

(E) The Naval Audit Service.

(F) The Air Force Audit Agency.

(3) The term "questioned", with respect to a cost, means an unreasonable, unallocable, or unallowable cost.

SA 1569. Mr. NELSON of Nebraska (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 296, after line 19, insert the following:

SEC. 1205. APPLICATION OF THE GENEVA CONVENTION TO ENEMY COMBATANTS.

(a) FINDING.—Congress finds that the executive branch has the authority to detain enemy combatants.

(b) ENEMY COMBATANT DEFINED.—In this section, the term "enemy combatant" means an individual who—

(1) is held by personnel of the Department of Defense at a facility under the control of the Secretary of Defense, including the naval base at Guantanamo Bay;

(2) is accused of knowingly—

(A) planning, authorizing, committing, aiding, or abetting one or more terrorist acts against the United States; or

(B) being part of or supporting forces engaged in armed conflict against the United States;

(3) is not a United States person or lawful permanent resident; and

(4) is not a prisoner of war within the meaning of the Convention Relative to the Treatment of Prisoners of War, dated at Geneva August 12, 1949 (6 UST 3316).

(c) APPLICATION OF GENEVA CONVENTION.—The President shall treat each enemy combatant in accordance with all the terms of the Convention Relative to the Treatment of Prisoners of War, dated at Geneva August 12, 1949 (6 UST 3316).

(d) ANNUAL REPORT.—

(1) REQUIREMENT.—The Secretary of Defense shall submit to Congress an annual report on enemy combatants, including—

(A) for each enemy combatant detained by the United States on the date that is 30 days prior to the submission of such report—

(i) the name and nationality of the enemy combatant;

(ii) the period during which the enemy combatant has been so detained; and

(iii) a description of the specific process afforded to the enemy combatant and the outcome of those processes; and

(B) for each individual who was detained as an enemy combatant and released prior to the date referred to in subparagraph (A)—

(i) the name and nationality of the individual;

(ii) the terms of the conditional release agreement with respect to the individual;

(iii) a statement of the basis for the determination of the United States Government that individual's release was warranted; and

(iv) the period during which the person was so detained, including the release date of the individual.

(2) FORM OF REPORT.—Each report required by this subsection shall be submitted in unclassified form, but may include a classified annex.

SA 1570. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. PROHIBITION ON TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.

(a) IN GENERAL.—No person in the custody or under the physical control of the United States shall be subjected to torture or cruel, inhuman, or degrading treatment or punishment.

(b) DEFINITIONS.—As used in this section—

(1) the term "torture" has the meaning given that term in section 2340(1) of title 18, United States Code ; and

(2) the term "cruel, inhuman, or degrading treatment or punishment" means conduct that would constitute cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution of the United States if the conduct took place in the United States.

SA 1571. Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. ALLEN, Mr. GRAHAM, Ms. LANDRIEU, Mr. LEAHY, Mr. SARBANES, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. KERRY, Mr. SALAZAR, Mr. CORZINE, Mr. CHAFEE, Mrs. LINCOLN, Mr. BIDEN, Mr. KENNEDY, Mrs. MURRAY, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, add the following:

SEC. 1106. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.

(a) SHORT TITLE.—This section may be cited as the "Reservists Pay Security Act of 2005".

(b) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§5538. Nonreduction in pay while serving in the uniformed services or National Guard

"(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

"(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

"(2) the amount of pay and allowances which (as determined under subsection (d))—

"(A) is payable to such employee for that service; and

"(B) is allocable to such pay period.

"(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

"(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

"(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

"(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

"(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

"(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service on active duty to which called or ordered as described in subsection (a).

"(c) Any amount payable under this section to an employee shall be paid—

"(1) by such employee's employing agency;

"(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

"(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

"(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

"(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

"(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

"(f) For purposes of this section—

"(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

"(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

"(3) the term 'basic pay' includes any amount payable under section 5304.".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

"5538. Nonreduction in pay while serving in the uniformed services or National Guard.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act.

SA 1572. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, insert the following:

SEC. 1073. HEALTH SERVICE PROGRAMS.

Section 7901 of title 5, United States Code, is amended—

(1) in subsection (a), by inserting "or members of the components of the Armed Forces" after "employees"; and

(2) in subsection (b)(2), by inserting "or members of the components of the Armed Forces" after "employees".

SA 1573. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. NAVY HUMAN RESOURCES BENEFIT CALL CENTER.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, NAVY.—The amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy is hereby increased by $1,500,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy, as increased by subsection (a), $1,500,000 may be available for Civilian Manpower and Personnel for a Human Resources Benefit Call Center in Machias, Maine.

SA 1574. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, add the following:

SEC. 114. SECOND DOMESTIC SOURCE FOR PRODUCTION AND SUPPLY OF TIRES FOR THE STRYKER COMBAT VEHICLE.

(a) REQUIREMENT.—The Secretary of the Army shall develop a second domestic source for the production and supply of tires for the Stryker combat vehicle. The source shall be any source determined by the Secretary to best respond to the logistics and maintenance requirements of the Army.

(b) FUNDS.—Amounts authorized to be appropriated by section 101(3) for weapons and tracked combat vehicles for the Army may be available for activities under subsection (a).

(c) REPORT.—The Secretary shall submit to the congressional defense committees a report setting forth a plan to meet the requirement in subsection (a). The report shall include—

(1) an analysis of the capacity of the industrial base in the United States to meet requirements for a second domestic source for the production and supply of tires for the Stryker combat vehicle; and

(2) to the extent that the capacity of the industrial base in the United States is not adequate to meet such requirements, recommendations on means, over the short-term and the long-term, to address that inadequacy.

SA 1575. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction,

and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. HYFIRE REUSABLE LOX/LNG PROPULSION TECHNOLOGY.

(a) Additional Amount for Research, Development, Test and Evaluation, Air Force.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $2,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $2,000,000 may be available for Aerospace Propulsion Power Technology (PE #603216F) for HyFire Reusable LOX/LNG Propulsion Technology.

(c) Offset.—The amount authorized to be appropriated by section 102(a)(4) for other procurement for the Navy is hereby reduced by $2,00,000, with the amount of the reduction to be allocated to amounts available for Ordnance Support Equipment, Ship Missile Systems Equipment for the Phalanx SeaRAM.

SA 1576. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. NEXT GENERATION INTERCEPTOR MATERIALS.

(a) Additional Amount for Research, Development, Test and Evaluation, Army.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $3,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), $3,000,000 may be available for Army Missile Defense Systems Integration (Non-Space) (PE #6033055A) for Next Generation Interceptor Materials.

(c) Offset.—The amount authorized to be appropriated by section 102(a)(4) for other procurement for the Navy is hereby reduced by $3,00,000, with the amount of the reduction to be allocated to amounts available for Ordnance Support Equipment, Ship Missile Systems Equipment for the Phalanx SeaRAM.

SA 1577. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, add the following:

SEC. 573. ADDITIONAL LEAVE FOR MEMBERS OF THE ARMED FORCES IN CONNECTION WITH CERTAIN PRE-ADOPTION ACTIVITIES.

(a) Authority To Grant Additional Leave.—Section 701 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) The Secretary concerned may, under uniform regulations prescribed by the Secretary of Defense, grant a member of the armed forces adopting a child up to 21 days of leave to be used in connection with the legal placement of the child in the home of the member in anticipation of the finalization of the adoption.

"(2) In the event that two members of the armed forces who are spouses of each other adopt a child for which leave may be granted under this subsection, only one such member shall be granted leave in connection with such adoption under this subsection.

"(3) Leave under this subsection is in addition to leave provided under any other provision of this section.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 2006.

SA 1578. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VIII, add the following:

SEC. 807. REPORTS ON SIGNIFICANT INCREASES IN PROGRAM ACQUISITION UNIT COSTS OR PROCUREMENT UNIT COSTS OF MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) Initial Report Required.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the acquisition status of each major defense acquisition program whose program acquisition unit cost or procurement unit cost, as of the date of the enactment of this Act, has exceeded by more than 50 percent the original baseline projection for such unit cost. The report shall include the information specified in subsection (c).

(b) Additional Reports.—Not later than 90 days after the date on which the Secretary determines that the program acquisition unit cost or procurement unit cost of a major defense acquisition program has exceeded by more than 50 percent the original baseline projection for such unit cost, the Secretary shall submit to the congressional defense committees a report on such determination. Each report shall include the information specified in subsection (c).

(c) Information.—The information specified in this subsection with respect to a major defense acquisition program is the following:

(1) An assessment of the costs to be incurred to complete the program if the program is not modified.

(2) An explanation of why the costs of the program have increased.

(3) A justification for the continuation of the program notwithstanding the increase in costs.

(d) Major Defense Acquisition Program Defined.—In this section, the term "major defense acquisition program" has the meaning given that term in section 2430 of title 10, United States Code.

SA 1579. Mr. CORZINE (for himself, Mr. Kennedy, Mr. Lautenberg, Mr. Dodd, Mr. Jeffords, and Mr. Feingold) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title V, add the following:

SEC. 596. OPT OUT OF COLLECTION AND UTILIZATION OF PERSONAL INFORMATION BY THE DEPARTMENT OF DEFENSE FOR MILITARY RECRUITMENT PURPOSES.

(a) Establishment of Registry.—The Secretary of Defense shall establish and maintain a centralized registry of individuals who opt to prohibit the Department of Defense from obtaining, collecting, purchasing, storing, maintaining, analyzing, holding, or otherwise utilizing for military recruitment purposes the personal information with respect to such individuals, including (but not limited to) information specified in subsection (i). The registry shall be known as the "Student Privacy Protection Registry" (in this section referred to as the "Registry").

(b) Single Registry.—

(1) In general.—The Registry shall be the sole source of information on individuals described in subsection (a). The Secretary shall not maintain separate or local registries or databases of information on such individuals in addition to the Registry.

(2) Access.—In order to facilitate compliance with the requirement in paragraph (1), the Secretary shall ensure access to the Registry by all individuals engaged in military recruitment activities.

(c) Individuals Eligible To Enroll in Registry.—

(1) In general.—The following individuals may enroll in the Registry:

(A) Any individual who is older than 15 years of age but younger than 18 years of age.

(B) Any individual who is older than 17 years of age but younger than 26 years of age.

(2) Enrollment of certain individuals by parents.—An individual described by paragraph (1)(A) may enroll in the Registry or be enrolled in the Registry by a parent of such individual.

(d) Enrollment in Registry.—

(1) In general.—An individual shall be enrolled in the Registry through the submittal to the Secretary of a notice of enrollment in the Registry.

(2) Contents of notice.—A notice under paragraph (1) shall include only the full name (first, middle, and last name), date of birth, address, and telephone number of the individual covered by the notice.

(3) MECHANISMS FOR SUBMITTAL OF NOTICE.—The Secretary shall establish a variety of mechanisms for the submittal of notices under paragraph (1). Such mechanisms shall include—

(A) a toll-free telephone number (commonly referred to as an "800 number") established by the Secretary for purposes of this section;

(B) a prominently displayed Internet link from the Internet homepage of the Department of Defense to an Internet webpage for the submittal and receipt of notices;

(C) a physical address to which notices may be sent and will be received; and

(D) such other mechanisms as the Secretary considers appropriate.

(4) UTILIZATION OF NOTICE INFORMATION.—Any information received by the Secretary in a notice under paragraph (1) shall be utilized solely for purposes of the Registry, and may not be utilized for any other purposes.

(e) NOTICE OF REGISTRY.—The Secretary of Defense shall take appropriate actions to ensure that any individual eligible to enroll in the Registry, and any parent of such individual (in the case of an individual described by subsection (c)(1)(A)), who is given materials or who is contacted in any way for military recruitment purposes, receives immediate and prominent notice of the Registry, the consequences of enrollment in the Registry, and the procedures for submitting notice of enrollment in the Registry.

(f) DEPARTMENT OF DEFENSE RESPONSIBILITY FOR MAINTENANCE AND COLLECTION.—The Department of Defense shall be solely responsible for maintaining the Registry and for enrolling individuals in the Registry. The Department may not maintain the Registry or enroll individuals in the Registry by contract or through contractor personnel.

(g) PROHIBITION ON DISSEMINATION OF INFORMATION OBTAINED IN RECRUITMENT.—The Secretary may not disseminate or disclose to any individual not engaged in military recruitment activities any information obtained by the Department of Defense, or obtained by any contractor of the Department, for the purposes of military recruitment activities, including any such information maintained in the military recruitment databases of the Department and the Registry.

(h) COORDINATION OF LAWS RELATING TO INFORMATION FOR RECRUITMENT.—

(1) ENROLLMENT CAUSES OPT OUT OF ACCESS TO STUDENT RECRUITING INFORMATION.—The enrollment in the Registry of an individual described by subsection (c)(1)(A) shall be deemed to constitute the request of such individual's parents that information described by paragraph (1) of section 9582(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7908(a)) not be released without prior written parental consent in accordance with paragraph (2) of such section.

(2) OPT OUT OF ACCESS TO STUDENT RECRUITING INFORMATION CAUSES ENROLLMENT.—A request pursuant to paragraph (2) of 9582(a) of the Elementary and Secondary Education Act of 1965 by an individual described by subparagraph (A) or (B) of subsection (c)(1), or a parent of such individual, that information described by paragraph (1) of such section 9582(a) not be released without prior written parental consent shall be treated as an enrollment of such individual in the Registry.

(3) COORDINATION.—The Secretary of Defense and the Secretary of Education shall jointly take appropriate actions to ensure the implementation of and compliance with the requirements of this subsection.

(i) PERSONAL INFORMATION.—For purposes of this section, the personal information of an individual specified in this subsection is the following:

(1) The full name.

(2) The date of birth.

(3) The sex.

(4) The physical address, including city, State, and zip code.

(5) The social security number.

(6) The email address (if any).

(7) The ethnicity.

(8) The telephone number.

(9) In the case of an individual who has not graduated from secondary school—

(A) the name of the secondary school; and

(B) the anticipated graduation date.

(10) The grade point average at the most recently-completed level of education.

(11) The current education level.

(12) Plans (if documented) for post-secondary education.

(13) Plans (if documented) for service in the Armed Forces.

(14) In the case of an individual attending an institution of higher education—

(A) the number of the institution;

(B) the field of study (if determined); and

(C) the anticipated graduation date.

(15) In the case of an individual who intends to take the Armed Services Vocational Aptitude Battery (ASVAB), the scheduled date of the battery.

(16) In the case of an individual who has taken the Armed Services Vocational Aptitude Battery, the Armed Forces Qualifying Test Category Score.

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Chris Erikson and Dree Collopy of my staff be granted the privilege of the floor for the duration of today's session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that Dr. Jonathan Epstein, a legislative fellow in Senator BINGAMAN's office, be granted the privilege of the floor during the pendency of S. 1042 and any votes thereupon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REED. I ask unanimous consent that two fellows in my office, Tanya Weinberg and Elizabeth Winkelman, be granted the privilege of the floor for the remainder of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that privilege of the floor be granted to Monica Severson during the duration of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPRESSING SYMPATHY FOR THE PEOPLE OF EGYPT

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 210, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 210) expressing sympathy for the people of Egypt in the aftermath of the deadly terrorist attacks on Sharm el-Sheik, Egypt, on July 23, 2005.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, this evening the Senate will agree to a resolution expressing our condolences to the people of Egypt for the deadly terrorist attacks that swept the resort of Sharm el-Sheik this past weekend.

Hundreds were injured, and probably when it is all over, more than 100 will have died after terrorists detonated four large bombs in a crowded hotel in this seaside resort.

Among the dead was an American, Kristina Miller, of Las Vegas, NV. Kristina was a daughter of Nevada and a citizen of the world. A 1996 graduate of Durango High School, Kristina was remembered by her friends as goodhearted, popular, and always adventurous.

She was in London on July 7 when the terrorists struck the mass transit system of London. She survived those attacks unscathed and decided to go to Egypt on vacation when these tragic attacks occurred at the resort she chose to go to.

Acts of terror, such as that which took her life, are a tragedy no matter where they occur, but the loss of one of our own spreads personal sadness across Nevada and the entire country. They also generate a sense of resolve and solidarity to hunt down and to bring to justice the thugs responsible for these heinous acts.

I am glad the Senate will speak with one voice in condemning these barbaric acts, and I personally extend my deepest sympathy to the victims, especially the family and friends of Kristina Miller.

Mr. WARNER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 210) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 210

Whereas on July 23, 2005, terrorists struck the Red Sea resort city of Sharm el-Sheik, Egypt, detonating explosives in a crowded hotel that killed dozens of the people of Egypt and foreign tourists from around the world, including a citizen of the United States, and injured approximately 200 others;

Whereas the terrorist attacks on Sharm el-Sheik, Egypt were senseless, barbaric, and cowardly acts carried out against innocent civilians;

Whereas Egypt is a friend and ally of the United States and in the past has endured terrorism against its innocent civilians;

Whereas the people of the United States stand in solidarity with the people of Egypt in fighting terrorism;

Whereas President George W. Bush immediately condemned the terrorist attacks on Sharm el-Sheik, Egypt and extended to the people of Egypt his personal condolences and the support of the United States; and

Whereas Secretary of State Condoleezza Rice denounced the terrorist attacks on Sharm el-Sheik, Egypt and stated, "we continue, all of us in the civilized world, to face great challenges in terrorism, and we continue to be united in the view that terrorism must be confronted and that they will not succeed in destroying our way of life": Now, therefore, be it

Resolved, That the Senate—

(1) expresses deep sympathies and condolences to the people of Egypt and the victims and the families of the victims for the heinous terrorist attacks that occurred in Sharm el-Sheik, Egypt on July 23, 2005;

(2) condemns the barbaric and unwarranted terrorist attacks that killed and injured innocent people in Sharm el-Sheik, Egypt;

(3) expresses strong and continued solidarity with the people of Egypt and pledges to remain shoulder-to-shoulder with the people of Egypt to bring the terrorists responsible for the brutal attacks on Sharm el-Sheik, Egypt to justice; and

(4) calls upon the international community to renew and strengthen efforts to—

(A) defeat terrorists by dismantling terrorist networks and exposing the violent and nihilistic ideology of terrorism;

(B) increase international cooperation to advance personal and religious freedom, ethnic and racial tolerance, political liberty and pluralism, and economic prosperity; and

(C) combat the social injustice, oppression, poverty, and extremism that breeds sympathy for terrorism.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, upon the recommendation of the Majority Leader, pursuant to Public Law 105–292, as amended by Public Law 106–55, and as further amended by Public Law 107–228, appoints the following individual to the United States Commission on International Religious Freedom: Dr. Richard D. Land of Tennessee, for a term of two years (July 25, 2005—July 24, 2007).

ORDERS FOR TUESDAY, JULY 25, 2005

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Tuesday, July 26. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of S. 1042, as under the previous order. I ask unanimous consent that there be 2 minutes of debate equally divided between the stacked votes, and that following the first vote all votes be 10 minutes, and that the filing deadline for second-degree amendments be at 11 a.m. tomorrow.

I further ask unanimous consent that the Senate stand in recess from 12:30, or at the conclusion of the last vote, whichever is latest, until 2:15 to accommodate the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. WARNER. Mr. President, tomorrow, the Senate will resume consideration of the Defense authorization bill. Under the previous order, there will be 20 minutes of debate equally divided on the Collins and Lautenberg amendments, followed by a series of stacked votes.

We will have up to five votes beginning at approximately 10:15 a.m., and Senators should make sure they adjust their schedules accordingly.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. WARNER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:25 p.m., adjourned until Tuesday, July 26, 2005, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate July 25, 2005:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DARLENE F. WILLIAMS, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE DENNIS C. SHEA, RESIGNED.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

JENNIFER L. DORN, OF NEBRASKA, TO BE UNITED STATES ALTERNATE EXECUTIVE DIRECTOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF TWO YEARS, VICE ROBERT B. HOLLAND, TERM EXPIRED.

DEPARTMENT OF STATE

C. BOYDEN GRAY, OF THE DISTRICT OF COLUMBIA, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE EUROPEAN UNION, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

RICHARD HENRY JONES, OF NEBRASKA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ISRAEL.

FRANCIS JOSEPH RICCIARDONE, JR., OF NEW HAMPSHIRE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ARAB REPUBLIC OF EGYPT.

FEDERAL DEPOSIT INSURANCE CORPORATION

MARTIN J. GRUENBERG, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM EXPIRING DECEMBER 27, 2012. (REAPPOINTMENT)

EXTENSIONS OF REMARKS

A PROCLAMATION THANKING SPECIALIST ZACH MILLER FOR HIS SERVICE TO OUR COUNTRY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. NEY. Mr. Speaker:

Whereas, Specialist Zach Miller has served his nation in Baghdad, Iraq since January 21, 2005; and

Whereas, Specialist Zach Miller is to be commended for the honor and bravery that he displayed while serving our Nation in this time of war in Kuwait from December 27, 2004 until January 2005; and

Whereas, Specialist Zach Miller has demonstrated a commitment to meet challenges with enthusiasm, confidence, and outstanding service earning the Accommodation Medal while stationed at Anaconda Training Camp in Baghdad, Iraq.

Therefore, I join with the family, friends, and the entire 18th Congressional District of Ohio in thanking Specialist Zach Miller for his service to our country. Your service has made us proud.

* * *

IN HONOR AND RECOGNITION OF MARCIA LIEBERMAN

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Marcia Lieberman. A pillar of the community in Stamford, CT, Marcia was best known as Senator JOSEPH LIEBERMAN's mother. She became an iconic figure in the press while campaigning for her son in 2000 and 2004. A devout Jew, she was extremely active in the Jewish community and spoke fluent Yiddish. She often made care packages for reporters which included lip balm, an apple, bagel chips and postcards to send to their mothers. She was also known for pointing out reporters from her hometown newspaper, The Stamford Advocate, at press conferences.

Marcia married a bakery truck driver named Henry Lieberman in 1940 and the couple opened a small liquor store shortly afterward. During this time they had three children together: Joseph, Rietta and Ellen. She was also active in helping out the Boy Scouts and the Girl Scouts, Riverton Library, Jewish Family Services, and Hadassah.

Marcia touched the lives of everyone she came into contact with. This was most evident at her funeral, which was attended by more than 700 family members and friends. She was remembered most for her kindness, words of wisdom, and her sense of humor. In his eulogy, Senator LIEBERMAN recounted that after her pulse shot to 190, she asked her cardiologist what caused such palpitations. He told her, "Sometimes it's love," and she responded, "But I just met you."

Mr. Speaker and colleagues, please join me in honor and recognition of Marcia Lieberman, who came to be known as "America's Jewish grandmother" through her charm and wit on the campaign trail and in her everyday life. The infinite measure of her heart, combined with her courage, vision and integrity, defined her life. I extend my deepest condolences to her friends and family members, especially my friend, Senator JOE LIEBERMAN.

* * *

HONORING MRS. SUSIE QUINN

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. HENSARLING. Mr. Speaker, today I would like to honor Mrs. Susie Quinn for her outstanding commitment and service to the city of Rowlett, TX. Mrs. Quinn has been Rowlett's City Secretary for the past 3 years and was recently recognized for excellence in her profession. In June, she was named Municipal Clerk of the Year by North Texas Municipal Clerk's Association.

Mrs. Quinn was the City Secretary of Eastland, TX, and later the City Secretary of Tye, TX, before joining the City of Rowlett in 2002. Mrs. Quinn is a Texas Registered Municipal Clerk, a position that requires intensive and continual training to achieve and maintain certification. She has been a member of the North Texas Municipal Clerks Association, NTMCA, for 6 years, where she currently serves as Treasurer.

Mrs. Quinn was honored at the NTMCA Bluebonnet Chapter's 10th Anniversary banquet, where city representatives Mayor Shane Johnson, Council Member Becky Sebastian, then Acting City Manager George Harris and others were on hand to commend her outstanding work.

Mrs. Quinn is a positive example of an effective public servant working to make her community and her country a better place to live. Mrs. Quinn, on behalf of all of the constituents of the Fifth Congressional District of Texas, especially those in Rowlett, I would like to extend our most sincere thanks for a job well done.

A PROCLAMATION CONGRATULATING GUNNERY SERGEANT SCOTT STUBBS FOR RECEIVING THE NAVY AND MARINE CORPS COMMENDATION MEDAL

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. NEY. Mr. Speaker:

Whereas, Gunnery Sergeant Scott Stubbs has valiantly served in Iraq from August 2004 to February 2005 as a member of the United States Marines Wing Support Squadron 472; and

Whereas, Gunnery Sergeant Scott Stubbs is to be commended for the honor and bravery that he displayed while serving our Nation in this time of war; and

Whereas, Gunnery Sergeant Scott Stubbs has demonstrated a commitment to meet challenges with enthusiasm, confidence, and outstanding service earning the Navy and Marine Corps Commendation Medal for his outstanding actions;

Therefore, I join with the family, friends, and the entire 18th Congressional District of Ohio in congratulating Gunnery Sergeant Scott Stubbs of the United States Marine Corps for his service to our country. Your service has made us proud.

* * *

IN HONOR OF THE JULIA DE BURGOS CULTURAL ARTS CENTER'S PRESENTATION OF THE 37TH ANNUAL PUERTO RICAN PARADE AND LATINO FESTIVAL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor of the Julia de Burgos Cultural Arts Center's presentation of the 37th Annual Puerto Rican Parade and Latino Festival, held on July 22, 23 and 24, 2005, in Cleveland, Ohio.

Every year, the leaders of our Puerto Rican community have organized an event that promises to highlight the magnificent history and culture of Puerto Rico. Americans of Puerto Rican heritage are an integral facet of the rich diversity of Cleveland, providing immeasurable contributions within all aspects of American society.

This wonderful presentation of will once again include treasures of Puerto Rico, including culinary offerings, arts, novelties, crafts, dance and song. Clevelanders of all ages and of every ethnic background will gather in downtown Cleveland to share in the celebration of this joyous event.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker and Colleagues, please join me in honor and celebration of the leaders, members and participants of the 37th Annual Puerto Rican Parade and Latino Festival: This spirited event promises to create a bridge of celebration from Puerto Rico to Cleveland for all whom attend. The history and culture of the beloved island of Puerto Rico springs to life every summer as the sounds and sights of Puerto Rico rise in hope, joy and celebration in downtown Cleveland, enriching the diverse fabric of our entire Cleveland community.

RECOGNIZING THE GARLAND WELLNESS INITIATIVE

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. HENSARLING. Mr. Speaker, today I would like to recognize the City of Garland as well as the organizers and participants of the Garland Wellness Initiative pilot program. This innovative new program encourages healthy lifestyles and physical fitness in an effort to offset rising healthcare costs.

For several months, 30 participants have undergone physical exams, blood tests, and met weekly to discuss eating habits, nutrition, exercise, and preventative healthcare options. As a whole, the group lost over 700 pounds and several applicants were able to reduce or eliminate diabetes and hypertension medications. The group reported significant reductions in their sugar consumption and a large portion felt an overall increase in energy.

The Wellness Initiative pilot program proved to be a cost-efficient way to advocate healthy lifestyle choices. Participants in the program were able to see savings in their medical care drop by approximately $400 per person.

Today, I also want to provide special recognition to two outstanding individuals, Rick French, the Benefit Manager for the City's Human Resource Risk Management Department, and Marcia Upson, a family nurse practitioner, who came together to create the Garland Wellness Initiative and helped make the pilot program such a tremendous success.

A PROCLAMATION IN MEMORY OF DOLORES C. HORNER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. NEY. Mr. Speaker:

Whereas, I hereby offer my heartfelt condolences to the family and friends of Dolores C. Horner; and

Whereas, Dolores C. Horner was born on May 17, 1930, in Bridgeport, Ohio; and

Whereas, Dolores C. Horner was preceded in death by her husband, Robert W. Horner, to whom she was devoted and dearly loved; and

Whereas, Dolores C. Horner was an adoring daughter, sister, wife, and mother to the members of her family. She was the mother of six, a son Richard W. Horner and five daughters, Louise C. Matusik, Sharlene M. Howard, Phyllis J. Grubb, Judith R. Works, and Robyn L. Shaheen. Dolores C. Horner was a dedicated grandmother to seventeen and great-grandmother to thirty-four; and

Whereas, Dolores C. Horner was a faithful member of Riverview Bible Church in Wheeling, West Virginia; and

Whereas, the understanding and caring to which Dolores C. Horner gave to others will stand as a monument to a truly fine person. Her life and love gave joy to all who knew her.

Therefore, while I understand how words cannot express our grief at this most trying of times, I offer this token of profound sympathy to the family and friends of Dolores C. Horner.

IN HONOR OF DR. JULIUS ZOLTAN NADAS, LEADER OF THE HUNGARIAN WORLD CONGRESS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Dr. Julius Nadas, international advocate of human rights and freedom, and dedicated protector and preservationist of the history and culture of Hungary. I also rise in tribute and celebration of Dr. Nadas' upcoming centennial birthday. One hundred years young in November, his vitality and youthful spirit continue to radiate light, hope and possibility all around him.

Dr. Nadas was born in Kecskemet, Hungary in 1905. When he was 5 years old, the family moved to Transylvania, Hungary, now present-day Romania. His parents instilled in him a great love of culture, family, community, and above all, they taught their children to stand up for human ideals of freedom and human rights, regardless of the struggle inherent in the quest for liberty. Possessing a deep intellect and an unwavering search for knowledge and understanding, Dr. Nadas was awarded a Ph.D. in Political Economics from the Royal University of Political Economics. In 1945, Dr. Nadas and his new bride, Violet, fled Hungary because of the Russian communist invasion. They lost all of their possessions, including property they owned, and lived in exile in Austria, where Dr. Nadas took on menial jobs to support his family. In 1950, buoyed by the hope of freedom from oppression and the promise of opportunity, Dr. Nadas immigrated with his wife and children to America. From the age of 52 until age 70, Dr. Nadas worked as a tool and die maker for General Electric in Nela Park. Also during that time, until 2002, Dr. Nadas established Nadas Business Services, a retailer of fine Hungarian imports. Providing a good life for his family was always a priority. The center of family, Dr. Nadas is a devoted husband, father, grandfather and great-grandfather. His commitment to family reflects his dedication to the community, where Dr. Nadas' promotion of Hungarian culture, history and people, and their courageous fight for freedom, is kept alive through his leadership and involvement in numerous Hungarian American organizations, including the Hungarian World Congress and the Hungarian Association of Cleveland.

Mr. Speaker and Colleagues, please join me in honor and tribute of Dr. Julius Zoltan Nadas, for his immeasurable contributions to our country. His sacrifice, bravery and tenacity reflects the significant story of the immigrant—the story of those like Dr. Nadas, who endured great danger and sacrifice to escape the darkness of tyranny in search of freedom. Dr. Nadas continues to provide energy, inspiration and warmth to his family, and to the people of the Hungarian community of Greater Cleveland, and far beyond.

CONFLICT OVER THE BAKASSI PENINSULA OF CAMEROON

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to speak to the ongoing conflict over the Bakassi Peninsula of Cameroon.

Three years ago, the International Court of Justice ruled that the Bakassi Peninsula belonged solely to the Republic of Cameroon and President Obsanjo of Nigeria promised to abide by the court's ruling and remove his troops. However, I am concerned with the fact that this has not occurred. I support continued progress in Cameroon, both economically and politically. America must continue to remain active in the support of democracy and the rule of law around the world.

Mr. Speaker, I appreciate being able to bring this important situation to your attention and I look forward to working with my colleagues on a solution.

A PROCLAMATION IN MEMORY OF GUY SMITH

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. NEY. Mr. Speaker:

Whereas, I hereby offer my heartfelt condolences to the family and friends of Guy Smith; and

Whereas, Guy Smith was a loving father and grandfather to the members of his family. He will certainly be remembered by all those who knew him because of his upright character, honesty and loyalty; and

Whereas, Guy Smith was a veteran of the 95th Armored Field Artillery Battalion of the 5th Armored Division in World War II where he served his country bravely; and

Whereas, the respect and true friendship to which Guy Smith gave to others will stand as a monument to a truly fine person. He was the beloved five-time mayor of Dover. His dedication to the community gave joy to all who knew him.

Therefore, while I understand how words cannot express our grief at this most trying of times, I offer this token of profound sympathy to the family and friends of Guy Smith.

IN HONOR OF WILLIAM C. BOEHM, FOUNDER OF THE SINGING ANGELS

HON. DENNIS J. KUCINICH

OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Monday, July 25, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in tribute and recognition of William C. Boehm, admired conductor, tenor, mentor and founder of the Singing Angels, as he is honored today by the Early Settlers Association of the Western Reserve with the Herrick Memorial Award for Civic Achievement.

A nationally highly revered tenor, performer and award-winning choreographer and director, Mr. Boehm founded the Singing Angels in Cleveland, OH in 1964, to promote the energy and joy of singing, and specifically, to share the melodic and inspirational song of children. For many years, Mr. Boehm meticulously and lovingly choreographed and planned every note of each composition. Though he no longer arranges the music, he remains the heart, soul and song of the Singing Angels. Because of his direction and unwavering commitment, the Singing Angels, a self-sustaining organization, have achieved national and international acclaim, and have performed around the world, including traveling across three continents and 29 countries.

Equipped with natural-born musical gifts, passion for the arts and a deep concern for the children of the community, Mr. Boehm's musical vocation has served to enrich the lives of countless children and adults, and has inspired hundreds of children to pursue professions framed by music and song. Mr. Boehm's guidance and leadership has created a universal model of artistic excellence, framed by significant life lessons for the young participants—respect for others, personal achievement and working as a team.

Mr. Speaker and colleagues, please join me in honor, recognition and gratitude to Mr. William C. Boehm, for his continued leadership, dedication and energy as the founder and core source of inspiration for the Singing Angels. Mr. Boehm's work and promotion of the arts in Cleveland and beyond has served as a source of good will and joy since 1964. The impact the Singing Angels experience continues to have on the children who participate is immeasurable, and will forever provide a light of energy and song within their lives, and within the lives of all those who hear them sing. Mr. Boehm has provided the world with young ambassadors of song, their music soaring aloft and connecting the entire world with a universal language of hope, possibility, goodness and song.

STATEMENT RECOGNIZING THE 31ST ANNIVERSARY OF TURKEY'S INVASION OF CYPRUS

HON. JAMES R. LANGEVIN

OF RHODE ISLAND
IN THE HOUSE OF REPRESENTATIVES
Monday, July 25, 2005

Mr. LANGEVIN. Mr. Speaker, as a proud member of the Hellenic Caucus, I rise today to recognize the 31st anniversary of Turkey's invasion of Cyprus. On this occasion, we mourn those who lost their lives and remember the barrier created on July 20, 1974. Sadly, that barrier still exists today, and despite attempts for a reunification settlement, the island remains divided between the Turkish Cypriots and the Greek Cypriots. I thank Mrs. MALONEY and Mr. BILIRAKIS for their ongoing leadership in the Hellenic Caucus and for bringing much-needed attention to issues of importance to the Hellenic community.

On the occasion of this anniversary, in addition to mourning and remembering, let us also look forward to the promise of a peaceful settlement to the ongoing division in Cyprus, a goal that has eluded American and European leaders for more than 30 years. I have repeatedly called for a strong U.S. commitment to Cyprus as one of our Nation's top foreign policy priorities. As Americans, we must guarantee that our foreign policy reflects our values of justice, equality and responsibility, and promoting a lasting peace and stability in Cyprus illustrates those values. The United States holds a unique position of trust with both Greece and Turkey, and we must use our influence to work toward a solution that is acceptable and equitable to all of Cyprus's residents.

The European Union will also play an important role in charting the future of Cyprus. I was a strong advocate of Cyprus's accession to the EU because Cyprus, like the United States, shares a commitment to democracy, human rights, and the concept of equal justice under the law. Now that Cyprus is a member, it will benefit significantly from increased trade and economic investment while contributing its diversity and history to that of the EU.

Turkey's desire to enter the EU provides a prime opportunity for Cyprus. The international community must demand that Turkey demonstrate its support for reunification as a requirement to become a participant in the Europe of the future. If Turkey wishes to increase its global profile and to gain the world's respect, it must earn it by demonstrating its commitment to peace in Cyprus. By putting pressure on Turkish Cypriot leaders and reducing its military presence, Turkey can prove that it can work in the international framework to encourage a lasting peace in Cyprus.

Despite the obstacles and disappointments we have experienced in the past, we cannot abandon our vision of a Cyprus that is again unified and able to reach its fullest potential in the international arena. We should heed the words of the Greek Cypriot President Tassos Papadopoulus: "We are determined to try, until the end, in a peaceful manner and through negotiations, to end the invasion and occupation. The people should be brave, patient, and work hard." Patience in particular is tantamount to this endeavor. A lasting solution is not one that will be attained with the implementation of a rushed plan.

The United States has stood beside Cyprus in the past, and we will undoubtedly maintain this strong relationship for years to come. Again, I thank my colleagues on the Hellenic Caucus for their recognition of this important event.

HONORING THE 150TH ANNIVERSARY OF THE WAYNE COUNTY FAIR

HON. JAMES T. WALSH

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Monday, July 25, 2005

Mr. WALSH. Mr. Speaker, I rise today to recognize the 150th anniversary of the Wayne County Fair. The Wayne County Fair finds its origins back in 1849, when a group of citizens from Palmyra, NY, decided to hold a fair in Hathaway's Grove. Since that date, the Wayne County Fair has continued to be a special event for the people of central and western New York. During the 1930s and 1940s, the fair was known as one of the best county fairs in the State. As our Nation experienced the troublesome times of World War II, the Wayne County Fair did its part by dedicating that year's theme as "Food Fights for Freedom". Over the years, numerous dignitaries have visited the fair ranging from Governors and State senators to U.S. Congressman and State assemblymen. The Wayne County Fair means so many different things to many people, providing a place for families to meet old friends and make new ones.

On behalf of those who have experienced this wonderful fair, both past and present, the citizens of Palmyra, and the people of central and western New York, I extend my best wishes and many more successful years to the Wayne County Fair.

A PROCLAMATION HONORING MR. RICK DRISCOLL AND MS. TRACY WATSON ON THE OCCASION OF THEIR MARRIAGE

HON. ROBERT W. NEY

OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Monday, July 25, 2005

Mr. NEY. Mr. Speaker:

Whereas, Rick Driscoll and Tracy Watson will be united in marriage July 30, 2005, in Ashtabula, Ohio; and

Whereas, Rick Driscoll and Tracy Watson will dedicate their lives to each other; and

Whereas, Rick Driscoll and Tracy Watson will share their wedding day with family and friends; and

Whereas, Rick Driscoll and Tracy Watson have illustrated the love and commitment necessary to live a long and beautiful life together.

Therefore, I join with their family, friends, and the entire 18th Congressional District of Ohio in congratulating Rick Driscoll and Tracy Watson on the occasion of their marriage.

IN HONOR AND REMEMBRANCE OF TESS MANALO-VENTRESCA

HON. DENNIS J. KUCINICH

OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Monday, July 25, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Tess Manalo-

Ventresca, devoted wife, mother, dedicated community activist, environmentalist, child advocate and friend and mentor to countless people.

Mrs. Manalo-Ventresca was born and raised in the Philippines, and immigrated to San Francisco with the hope of a better life for herself and her three children. A single mother, Ms. Manalo-Ventresca worked full-time at a union trustfund, yet still found time to become deeply involved in the issues of her urban neighborhood, particularly, quality of life issues, environmental issues and concerns regarding the youth of the community.

Mrs. Manalo-Ventresca's tireless advocacy on behalf of the people of her community was framed by heart, personal strength and conviction. In 2000, she joined Experience Corps, a national organization that links volunteers with public schools. Her focus on uplifting the lives of the children of her neighborhood was unwavering, and she spent countless hours volunteering her time at Francis Scott Key Elementary School in the Outer Sunset neighborhood, even long after her own children were grown. She became a permanent source of hope and energy at the school, serving as a member of the PTA, and leading the effort to organize environmental projects and programs. Her efforts to protect and improve her neighborhood are numerous and significant. She organized her neighbors to rally against the intrusion of adult businesses into her neighborhood, and led a triumphant effort to stop an international coffee shop chain from establishing a store in her community, preventing a detrimental impact to independently owned businesses nearby.

Mr. Speaker and colleagues, please join me in honor and remembrance of Tess Manalo-Ventresca, an exceptional human being whose integrity, kindness and concern for others has instilled light, hope and justice throughout San Francisco. I offer my deepest condolences to her husband, Joel; her children, Mark, Michael and Aurelia; her eight grandchildren; and her extended family and many friends. Her journey through life has made our world a better place, and her legacy will live on, carried aloft by every tree she planted and everyone whose lives were changed forever by knowing her.

IN HONOR OF WADE BOGGS

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of Wade Boggs, who will be inducted into Baseball's Hall of Fame this weekend. Wade represents the latest addition to Tampa Bay's proud history of achievement in sports, particularly baseball.

Wade's success has come full-circle, from his beginnings in Tampa area Little League games, to the start of his pre-professional career at Plant High School, and finally the conclusion of his career with the Tampa Bay Devil Rays.

Wade has been a strong community leader for the Tampa Bay area. Currently he assists the coaching staff of Wharton High School's baseball team, where his son Brett looks to follow in his dad's footsteps.

Even a partial listing of Wade's career successes would be too lengthy, but one of Tampa's proudest moments is certainly when Wade got his 3,000th hit at home in a Devil Rays uniform. The Devil Rays will never forget Wade, as he hit the first home run in Tampa Bay's history.

Two of baseball's greatest rivals also share Tampa's pride in Wade's achievements. The Boston Red Sox gave Boggs his first chance at a career in baseball when they drafted him right out of high school. As a player in the team's minor league ranks, Boggs bounded from New York, to North Carolina, and New England. In 1992, Wade signed with the New York Yankees, whose spring training facilities in Tampa once more brought him home.

In 1998, as an expansion team, the Tampa Bay Devil Rays signed Wade to be a part of their inaugural season. There, Wade carried on his well-known idiosyncrasies such as eating chicken before every game and hitting exactly 150 ground balls during batting practice.

Wade Boggs personifies the values of baseball, both on and off the field, and serves as an inspiration to many. The Tampa Bay area is privileged to count Wade among its sons, and congratulate him on his latest success.

A PROCLAMATION IN MEMORY OF REUBEN RAY MILLER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. NEY. Mr. Speaker:

Whereas, I hereby offer my heartfelt condolences to the family and friends of Reuben Ray Miller of Dundee; and

Whereas, Reuben Ray Miller was a caring and loving son, brother, and uncle; and

Whereas, Reuben Ray Miller died while serving his country in Iraq; and

Whereas, Reuben Ray Miller will certainly be remembered by all those who knew him; and

Whereas, to the lives that he touched, the memory of Reuben Ray Miller will stand as a monument to a truly fine person.

Therefore, while I understand how words cannot express our grief at this most trying of times, I offer this token of profound sympathy to the family and friends of Reuben Ray Miller.

STATEMENT BY AMBASSADOR TONY HALL

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. WOLF. Mr. Speaker, I would like to share with my colleagues the attached statement by our former colleague Tony Hall, who now serves as U.S. ambassador to the World Food Programme. Ambassador Hall is concerned about the future of world food aid in light of current negotiations at the World Trade Organization.

In the past year, the world has been broadsided by tragedy. Mother Nature wreaked havoc in Indonesia, destroying lives and impairing the ability of tens of thousands of survivors to feed themselves. In Darfur, the constant need for food aid will not subside until people can safely return to their homes and begin to plant seeds. Ethiopia has once again found itself on the brink of famine. There, the causes are complex, but the need is simple. Food aid is helping Ethiopians stay alive.

I want to discuss another looming tragedy. But we can prevent this one. I'm talking about negotiations happening right now in Geneva at the World Trade Organization.

Some European members of the WTO are working to eliminate most in-kind food donations to humanitarian situations. There is a belief among some countries that the best way to insure minimal impact is to move to a cash only system for donations.

The U.S. is adamantly opposed to any proposal that would RESTRICT and therefore REDUCE the amount of donations to the world's hungry. There are 850 million people who don't have enough food to eat. And yet we are reaching only about 100 million of them with assistance. We need to be increasing our volumes of food aid worldwide but some of the wealthy WTO member states are pushing positions that will inevitably cut food aid back.

Eliminating in-kind assistance results in smaller amounts of food aid to the hungry of the world. For example, WFP'S own research found "a clear decline in European Union food aid after the EC and other European member nations moved from in-kind to cash."

It is inconceivable to me that a group of our colleagues meeting in Geneva would put already fragile lives at risk. Why is this conversation even happening, considering the humanitarian emergencies in the world today?

The U.S. has given $1.6 billion in 2005—that's half of total food aid—and emergency needs are still not being met.

The WTO should not be even be discussing food aid reform. FAO and WFP are the experts. The discussions of improving food aid deliveries should be taking place in Rome, not Geneva. The United States urges WTO to rely on UN food agencies for their expertise.

We have a moral obligation to the people of Darfur, Panda Aceh and Ethiopia and many more to protect the flexibility of our assistance programs. It would be costly mistake to limit our food aid. We are talking about people's lives—those with children, parents, sisters and brothers. People who are needed on farms, in schools, factories and churches. We have a moral obligation to do the right thing. Food aid saves lives.

A PROCLAMATION IN MEMORY OF ALBERT ASHBROOK

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. NEY. Mr. Speaker:

Whereas, I hereby offer my heartfelt condolences to the family, friends, and fellow officers of Albert Ashbrook; and

Whereas, Albert Ashbrook was a man committed to his family and a devoted husband to his wife; and

Whereas, Albert Ashbrook served as Licking County Commissioner for four terms beginning in 1988; and

Whereas, Albert Ashbrook held active positions with the state and county Soil and Water Conservation districts for over 22 years; and

Whereas, Albert Ashbrook helped in the establishment of the Domestic Relations Court, county morgue, Opportunity Links employment services center, one-stop auto license and title facilities in Newark and Pataskala, and probation and child support offices in the old Ohio Power building;

Whereas, Albert Ashbrook will be remembered. His example of strength and courage will be forever remembered by those who knew him.

Therefore, while I understand how words cannot express our grief at this most trying of times, I offer this token of profound sympathy to the family, friends, and colleagues of Albert Ashbrook.

IN HONOR OF LOS ANGELES TELEVISION NEWS LEGEND STAN CHAMBERS

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. BECERRA. Mr. Speaker, I rise today to honor and celebrate the distinguished career of Los Angeles television news legend Stan Chambers. Mr. Chambers is a mainstay of Los Angeles broadcast television who has reported the news for the same station, KTLA/WB, for 58 years. In those nearly six decades, Stan has covered every major news event in and around Los Angeles including the assassination of Robert Kennedy, earthquakes, the Los Angeles riots, and the 1984 Olympics. On Saturday, July 30, 2005, the Greater Los Angeles Chapter of the Society of Professional Journalists will pay tribute to Stan Chambers for his outstanding work and illustrious career in news journalism. It is with great pride that I congratulate Stan on receiving this honor that recognizes his illustrious body of work. And though his career journey is as impressive as it is unprecedented, perhaps most laudable has been Stan's commitment to family—and I am quite sure that his wife, Gege, his 11 children, his 33 grandchildren and his 4 great grandchildren would wholeheartedly agree.

A lifelong Angeleno, Stan was born in the City of Angels on August 11, 1923. He attended Loyola University and transferred to the University of Southern California following orders from the Naval Officers Training Corps, which he had joined during World War II. The seeds of Stan's journalistic passions were planted in college while working at the university's radio station.

Stan began his long and prestigious career with KTLA, the first commercially-licensed television station in the Western United States, in December 1947. At the time, only 300 or so Angelenos had television sets. He remembers fondly a time early in KTLA's existence when the station would consult every television viewer in Los Angeles on the quality of its programming.

In 1949, during a precedent-setting moment in television broadcasting, Stan helped build KTLA's reputation for on-the-spot news coverage. The tragedy of Kathy Fiscus, a four-year-old girl who fell into an abandoned well near her home, would be considered by many the most memorable story of his career. Stan began coverage of the rescue operation within minutes of its commencement. A career in television journalism was born.

Stan has reported a record 20,000 plus stories in his career. Think back, from every major natural disaster in Los Angeles since 1947, to tragic, high profile stories like the Manson Family murders and the case of the Hillside Strangler, Stan Chambers was there. When amateur photographer George Holiday filmed the beating of Rodney King in March of 1991, he turned to Stan Chambers to report what would be a seminal moment in Los Angeles history.

In addition to his coverage of breaking news in Los Angeles, Stan has been the face for the KTLA/WB signature broadcast of the Tournament of Roses Parade since 1949. Interviewing parade luminaries, capturing the reactions of parade enthusiasts, Stan has kept Angelenos entertained as we have watched procession after procession for over half a century. In 2002, the prestigious Tournament of Roses Association presented Stan with a special award for over 50 years of dedication to Rose Parade broadcast excellence on KTLA/WB.

Stan has been honored with several Emmy awards, a Golden Mike award, the "Governor's Award" from the National Academy of Television Arts and Sciences, and a coveted star on the Hollywood Walk of Fame. In January of 1998, the Stan Chambers Building at KTLA was dedicated as a tribute to Stan's 50 years of dedicated service to the station and community. The Mayor of Los Angeles at that time, Richard Riordan, even presented him with a street sign featuring his name that was posted just outside the KTLA studios, at the corner of Sunset Boulevard and Van Ness Avenue.

Mr. Speaker, it is with great pride that I ask my colleagues to join me today in recognizing Stan Chambers for his distinguished career in news broadcasting. His contributions to the world of news reporting and to the City of Los Angeles have been extraordinary and unforgettable. As Mr. Chambers' family, friends and colleagues gather with the Greater Los Angeles Chapter of the Society of Professional Journalists to honor his lifetime of achievement, I wish to add my voice and salute a true pillar of Los Angeles.

A PROCLAMATION IN MEMORY OF MARY ANN HENDERSHOT

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. NEY. Mr. Speaker:

Whereas, I hereby offer my heartfelt condolences to the family and friends of Mary Ann Hendershot; and

Whereas, Mary Ann Hendershot was a loving wife to her husband, Robert, for 51 years and mother to her two children; and

Whereas, Mary Ann Hendershot was active in her church, where she played the piano and organ for 45 years, and served as a district officer for the United Methodist Women; and

Whereas, Mary Ann Hendershot was a member of the Madison Homemakers Club, the Auxiliary of the Countryview Assisted Living Center, Golden Sixties, Cambridge Lioness Club, and was an honorary member of the Guernsey County Township Trustees and Clerks Association; and

Whereas, Mary Ann Hendershot was also an active member of Guernsey County Farm Bureau, Board of Elections, and the Extension Advisory Committee; and

Whereas, the leadership and compassion she showed towards others will stand as a reminder to a truly remarkable person. Her life and love gave joy to all who knew her.

Therefore, while I understand how words cannot express our grief at this most trying of times, I offer this token of profound sympathy to the family and friends of Mary Ann Hendershot.

RECOGNIZING SOUTHERN ILLINOIS AIRPORT AS THE 2005 RECIPIENT OF THE GENERAL AVIATION AIRPORT OF THE YEAR AWARD

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing Southern Illinois Airport for being awarded the General Aviation Airport of the Year for 2005 by the Illinois Department of Transportation.

Southern Illinois Airport is located between Carbondale and Murphysboro, Illinois and is among the busiest airports in the state, with 120,000 takeoffs and landings each year. In addition to the private and business customers who use the airport on a daily basis, Southern Illinois Airport is also home to the Aviation Management and Flight programs for Southern Illinois University Carbondale.

The airport is designed to accommodate aircraft from the smallest propeller airplanes to the small jets used in business fleets. Its proximity to the commercial, recreational and educational facilities of Southern Illinois make it convenient for the private or business traveler.

Location alone is not responsible for the success of Southern Illinois Airport. Airport Manager Gary Shafer and approximately 200 full and part-time employees have earned, through their hard work and commitment to excellence, not only the General Aviation Airport of the Year Award for 2005, but the continued respect and confidence of the flying public. This marks the fourth time that Southern Illinois Airport has been the recipient of this prestigious award, the second highest number among all the airports in the state of Illinois.

Southern Illinois Airport, like most general aviation airports, relies on federal funding assistance to maintain and improve their facilities. I was pleased to announce a Department of Transportation grant in April of this year for removal of obstructions to runway approaches.

Recognizing the impact of this facility on the regional transportation network as well as the local economy, I have worked with my colleagues to secure funding for other projects in recent years. These projects have included; rehabilitating the primary runway and resurfacing another runway, replacing taxiway lighting, upgrading the snow removal fleet, purchase of an aircraft firefighting vehicle and acquiring land in the runway approach. These improvements help to ensure the safety of those people who fly in and out of Southern Illinois Airport on a daily basis.

Under the leadership of Airport Manager Gary Shafer, Southern Illinois Airport has been successful in recent years that have been difficult for the aviation industry in general and particularly for general aviation airports operating in rural areas. At my request, Mr. Shafer testified before the Aviation Subcommittee of the House Transportation and Infrastructure Committee. In that testimony, he addressed the role of general aviation airports and the need for continued federal support.

Mr. Speaker, I ask my colleagues to join me in congratulating Airport Manager Gary Shafer, the Commissioners and staff of Southern Illinois Airport for this very well-deserved award.

A PROCLAMATION THANKING SPECIALIST KYLE EVERETT FOR HIS SERVICE TO OUR COUNTRY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. NEY. Mr. Speaker:

Whereas, Specialist Kyle Everett has served the United States in Operation Iraqi Freedom as a member of the United States Army Reserves; and

Whereas, Specialist Kyle Everett is to be commended for the honor and bravery that he displayed while serving our Nation in this time of war; and

Whereas, Specialist Kyle Everett has demonstrated a commitment to meet challenges with enthusiasm, confidence, and outstanding service.

Therefore, I join with the family, friends and the entire 18th Congressional District of Ohio in thanking Specialist Kyle Everett of the United States Army Reserves for his service to our country. Your service has made us proud.

TO HONOR GARY MICHALAK FOR BEING PROMOTED TO THE PROMFRET TOWN BOARD

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. HIGGINS Mr. Speaker, I rise today to recognize the appointment of Gary Michalak, resident of the Village of Fredonia, County of Chautauqua, to the position of Pomfret Town Board Member.

Mr. Michalak was appointed to this position by Town Supervisor Don Steger. Michalak has served in public office before, as Mayor of Dunkirk for 2 years in the early '80s. Since that time, he has been a guidance counselor at the Fredonia Central School District.

Mr. Michalak is an exemplary citizen, who is always ready to serve his community, and that is why, Mr. Speaker, I am proud to honor him here today.

A PROCLAMATION THANKING ARMY PRIVATE FIRST CLASS DAVID E. DAVISSON FOR HIS SERVICE TO OUR COUNTRY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. NEY. Mr. Speaker:

Whereas, Army PFC David E. Davisson is serving the United States in South Korea as an office administration specialist of the 35th Air Defense Artillery Brigade; and

Whereas, Army PFC David E. Davisson is to be commended for the honor and bravery that he displays while serving our Nation; and

Whereas, Army PFC David E. Davisson is demonstrating a commitment to meet challenges with enthusiasm, confidence, and outstanding service;

Therefore, I join with the family, friends and the entire 18th Congressional District of Ohio in thanking Army PFC David E. Davisson for his service to our country. Your service has made us proud.

TRIBUTE TO BRIGADIER GENERAL ABRAHAM TURNER

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to the outgoing Commanding General of the United States Army Training Center at Fort Jackson, SC, for his service to God and country, and his dedication to family and career. His leadership role at one of the military's largest training facilities has been greatly appreciated. BG Abraham Turner will be leaving his post this month to become Deputy Chief of Staff for Operations and Training in Fort Monroe, VA, and the men and women in uniform at Fort Jackson owe a great debt of gratitude to this model soldier.

Since receiving his commission through the Reserve Officers Training Corps at South Carolina State University in 1976, Brigadier General Turner has earned some of the highest accolades of any Army officer. His awards include the Defense Superior Service Medal, the Legion of Merit with Oak Leaf Cluster, the Bronze Star Medal with Oak Leaf Cluster, the Army Commendation Medal with Oak Leaf Cluster, the Combat Infantry Badge and the Expert Infantry Badge.

Brigadier General Turner previously served in numerous positions at Fort Bragg, Fort Benning and West Point, where he was a Regimental Tactical Officer. He also served as Assistant Chief of Staff, C3, Operations, Coalition Forces Land Component Command at Camp Doha, Kuwait. His numerous combat assignments have included a 1989 deployment in Operation Just Cause in Panama, a year-long deployment in Operation Desert Shield/Desert Storm that ended in 1991, and, most recently, a deployment to Operation Iraqi Freedom/Operation Enduring Freedom, where he served as part of C3, Coalition Forces Land Component Command.

Brigadier General Turner is a graduate of the Infantry Officer Basic and Advanced Courses, the United States Army Command and General Staff College, and the United States Army War College. He earned a bachelor's degree in Music from South Carolina State University and a master's degree in Public Administration from Shippensburg University. He and his wife Linda are the proud parents of three lovely children: April, Creighton and Jessica.

Mr. Speaker, I invite you and my colleagues to join me today in honoring Brigadier General Turner, who embodies all the virtues of individual courage and sacrifice in defending global freedom for which the U.S. Army is so well known. I know he will continue to build and enviable legacy at Fort Monroe with the same fortitude and charisma that led him to such a successful tenure in his native South Carolina. I thank him for his service—at home and abroad. I am proud and we are fortunate to have him in the top ranks of our armed forces.

TRIBUTE TO MONSIGNOR WILLIAM OGRODOWSKI

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate Monsignor William Ogrodowski, marking the 30th anniversary of his ordination to the Catholic priesthood.

This June, the Monsignor will celebrate the 30th anniversary of his ordination in 1975. For the last 30 years Monsignor Ogrodowski has been a symbol of strength and a source of inspiration for not only the congregations of Saints Peter and Paul and Saint Francis Cabrini, but the entire Beaver County community as well. In order to mark this special occasion, parishioners met at Saints Peter and Paul in Beaver for an anniversary mass, followed by a dinner reception at Saints Francis Cabrini in Center Township. The Monsignor, joined in celebration by 14 fellow priests, commented that his favorite part of the priesthood was interacting with people.

I ask my colleagues in the United States House of Representatives to join me in honoring the Monsignor. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute such a principled clergyman as Monsignor William Ogrodowski.

COMMITMENT TO IMPROVE SCIENCE AND INNOVATION

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. WOLF. Mr. Speaker, I have just read the very disturbing cover story from the most recent edition of Fortune magazine. The cover headline reads: "America the 97 Lbs. Weakling?" The cover shows a picture of a strong China punching a weak Uncle Sam.

The facts in the article should sound the alarm across our country.

America is falling behind.

As chairman of the appropriations subcommittee with jurisdiction over NASA, NSF, and the Office of Science and Technology Policy, I have had the opportunity to meet with leading groups of people who represent the science and technology sector in our nation.

Many will tell you that America is in a stall, and even more will tell you that America is in a decline, when it comes to global competition in science and technology.

None of these groups will tell you that America is doing well in this critical area.

The Fortune article points out that U.S. students have fallen behind.

America currently ranks 28th in the world in mathematical achievement among 15–year-olds.

The U.S. is graduating fewer and fewer engineers, with an estimated 70,000 this year, while China will graduate 600,000 and India 350,000. This is the generation we will look to to create a newer and better Internet, develop energy saving automobiles, or build a better i-Pod.

This is an issue directly tied to America's economy, and could well determine how—dare I say if—we maintain our quality of life and our very way of life.

Let me share with you a few more statistics: Patents awarded to U.S. companies/scientists—Down; Nobel prizes won by U.S. scientists—Down; scientific papers published by U.S. scientists—Down.

U.S. investment in research and development has stayed flat for the last three decades while growing significantly in places like China, India, Brazil and Israel. U.S. students are behind their counterparts in other countries in math and science, and some Asian countries are graduating more than four times as many engineers. U.S. 12th-graders ranked near the bottom of math and science testing scores, according to the third International Math and Science Study.

The proportion of U.S. graduates in science and engineering has declined 10 percent from 1994 to 2001 while the total number of undergraduate degrees awarded in the U.S. has increased 14 percentage points. The U.S. now awards more MBAs than math, science and engineering degrees. Ten years ago, Boeing produced nearly 60 percent of the world's commercial aircraft. Today, Boeing produces less than 40 percent.

This news should be the wake-up call to spur us into action to help America get back on track to keep our country as the world's innovation leader.

INVESTMENT IN INNOVATION

We must invest in innovation. Our Nation needs a commitment to fund its "Innovation Budget."

I have written the president about this issue and asked him to work to triple the Nation's innovation budget for Federal basic research and development over the next decade.

America needs to be mobilized, much like it was after Sputnik in the late 1950s.

The White House has to provide leadership. I believe Congress will support the effort.

Congress two years ago fulfilled the commitment to double NIH budget to jump-start work on medical research to help find cures to debilitating and fatal diseases. A similar commitment for the innovation budget should be made.

NATIONAL CONFERENCE ON SCIENCE AND INNOVATION

Congress has laid the groundwork for addressing the innovation deficit through a provision in the supplemental appropriations bill passed in May that directs the Department of Commerce to work with business and industry groups to hold a conference this fall in Washington on science and innovation, and where the United States is headed.

Among the participants will be the Council on Competitiveness, the Business Roundtable, the National Association of Manufacturers and the American Electronics Association.

EDUCATION IS KEY

Education is key to our Nation's commitment to innovation and technology prominence. I have been pleased to work with Representatives BOEHLERT and EHLERS—two members who have been leaders in Congress on promoting science and technology issues—on legislative solutions.

My proposal to forgive interest on student loans for math, engineering and physical science majors is in the higher education reauthorization bill now moving through the House.

Education and the Workforce Chairman BOEHNER and Representative MCKEON of the committee have been very supportive of efforts to advance the loan interest provision, and I thank them for their work.

The genesis for this legislation was from the book, Winning the Future, by former Speaker Newt Gingrich, who has done a good job of outlining America's challenge to remain the world's leader in innovation and technology.

I am hopeful that this legislation will attract more students into the science and engineering fields by offering to forgive the interest on their college loans. We must fill the critical shortage of math, science and engineering students in the United States.

The provision allows up to $5,000 in interest to be forgiven on federally backed government loans if science majors agree to work in their field for five years upon graduating.

RESEARCH IS ALSO KEY

The House, through passage of the FY 2006 Science-State-Justice-Commerce bill, has supported funding for science education and research: $4.38 billion for National Science Foundation (NSF) research and related activities, an increase of $44 million above the president's request.

This is the Nation's largest resource pool for basic scientific research across all fields: $807 million for NSF's education programs, which is $70 million above the request; $169 million for NASA education programs, which is $2 million above the request; $28.9 million for a new consolidated education program for the National Oceanic and Atmospheric Administration.

The measure also encourages the National Science Board to establish a commission to present recommendations for broad Federal action to address the crisis in science and math education.

Mr. Speaker, it is critical that administration's FY 2007 budget include a significant investment to respond to this crisis and I urge members to make their support known.

I also urge members to read the latest article in Fortune if they have not done so.

All is not lost, but America is at a crossroad.

It's time to roll up our sleeves and get to work on this issue, and respond to this challenge through the commitment of the administration and Congress and the American people. America's future is at stake.

GOOD HOPE PICNIC

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to the residents of Lone Star, SC who are coming together on Friday, August 12, 2005 for the 90th annual Good Hope Picnic. This historic event began on the second Friday of August in 1915, and has continued on the same day every year since.

The Good Hope Picnic was founded by black farmers in this Calhoun County town as a way to market their crops. It became a holiday for many black farm workers whose white employers gave them the day off to attend the picnic.

Today, the Good Hope Picnic is a family reunion for many Lone Star residents who have moved away. Over the years, this once thriving community has lost its vibrancy and its jobs. There are few opportunities for children who grew up here, and most must leave to find work and a better quality of life for their families. Yet Lone Star remains their home, and families plan their annual vacations to come home for the Good Hope Picnic swelling the population of that small community by as many as 400–500 people on that day.

I have spent a lot of time in Lone Star during my service in Congress. I am proud to have brought a new baseball field to the community, and am currently working on funding to build a new community center. Plans are moving forward on the Briggs-DeLaine-Pearson Connector that will bring new opportunities to this area in hopes that many of those who consider Lone Star home can reconnect with their families and once again find vibrancy in their native community.

Mr. Speaker, I ask you to join me in congratulating the members of the Good Hope Picnic Foundation, who are descendants of the picnic's original founders. They are continuing a proud tradition that reflects the heart and hope of the Lone Star community.

TRIBUTE TO STEPHEN C. BALMERT

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate Stephen C. Balmert of Cranberry Township, PA on receiving a Discover Card Tribute Award Scholarship, sponsored by Discover Card in cooperation with the American Association of School Administrations. Mr. Balmert has been honored for his exceptional community service and solid academic performance.

Stephen was one nine students statewide that was awarded a scholarship in the amount of $2,500. Each year Discover Card offers over $1 million dollars in scholarships to 459 high school students who have displayed strong dedication to academics as well as service to their respective communities. This scholarship is the largest of its kind in the entire country. The Discover Card Tribute Award Scholarship Program has been dedicated to enhancing American students' educational experience and opportunities by providing funds for students to help them pay for any form of higher education.

I ask my colleagues in the United States House of Representatives to join me in honoring Mr. Stephen C. Balmert. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute the achievements of citizens like Stephen whom make our District great.

CONDEMNING THE RECENT ARREST OF DISSIDENTS IN CUBA BY THE AUTHORITARIAN CASTRO REGIME

HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. MACK. Mr. Speaker, I rise today to express my strong support for freedom in the face of fascism on the island of Cuba. Last Friday, advocates of liberty who simply wanted to hold a peaceful demonstration against the Castro government, were surrounded and thrown into jail—all for expressing their personal views.

Mr. Speaker, our Nation was founded on the principle of freedom of speech. As Americans, we should find it particularly appalling when such a basic and fundamental human right is abridged by a tyrannical regime right here in our neighboring waters.

At a time when freedom is on the move around the world, it is a shame to see the flame of liberty snuffed out by such despots like Cuba's Fidel Castro and Venezuela's Hugo Chavez.

I call on our European allies to stand with the United States and condemn the egregious abuses of human rights in Cuba and the copycat abuses in Venezuela. Mr. Speaker, now is not the time to turn our backs on those who seek freedom and democracy. Now is the time to find ways to promote freedom, security and prosperity for all people and for the United States to continue to stand firm against totalitarian regimes.

IN HONOR OF DR. JOSE MANUEL RODRIGUEZ DELGADO

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. FARR. Mr. Speaker, August 8th is the 90th birthday of an outstanding American scientist who deserves to be recognized and remembered. I wish to recognize Dr. Jose Delgado's scientific achievements and contributions to our understanding of the brain and human behavior. He has been a pioneer in the exploration of brain function, including how our minds work based on electrical and chemical studies in many animal species.

Dr. Jose Delgado was born in Ronda, Spain. At the age of 22 he joined the Republican army fighting against Franco as a military doctor, and toward the end of the Spanish Civil War was interned in a concentration camp from which he escaped twice and was later released. He was invited to the United States by Professor John Fulton, as a Spanish Research Council Fellow, and later was a James Hudson Brown Fellow, and an Assistant, Associate and then Full Professor of Physiology and Psychiatry at the Yale University Medical School.

For 25 years Dr. Delgado taught and did breakthrough research at the Yale Medical School, and then returned to Spain and organized a brain research institute at the Ramon y Cajal Hospital in Madrid, bringing together an international group of over 100 scientists. His major methodological innovations include: Permanent implantation of electrodes in the brain; intracerebral Chemitrodes and Dialytrodes; Cardiac pacemaker implantation; brain pacemakers; brain radio stimulators; two-way radio communication brain-to-computer; time-lapse recording of social behavior in monkey colonies; and the design and application of non-invasive electromagnetic devices for the investigation of biological effects and application of therapeutical uses.

Dr. Jose Delgado's main goals have been to alleviate pain and diminish aggression and human suffering. His discoveries have resulted in over 500 research publications and 6 books, enriching our lives, knowledge of brain development, and how we can educate our children toward what he called a Psychocivilized Society. Among many others, he received the following honors: Countess of Maudes Prize (1944), Roel Prize (1945), Member Sigma Xi Society (1951), Ramon y Cajal Prize (1952), Fellow, New York Academy of Sciences (1955), Guggenheim Fellow (1963), Master of Arts, Yale University (1967), Salmon Lecturer, New York Academy of Sciences (1968), Gold Metal Exhibit Award, American Psychiatry Society (1971), Alfonso X El Sabio Medal (1972), Gold Metal Award, International Society of Biological Psychiatry (1974), Rodriguez Pascual Prize (1975), Adolf Meyer Lecturer, American Psychiatric Association (1979), Honorary Professor, Faculty of Medicine and Surgery, University of Santo Tomas, Manila (1980), Humanist Laureate, The Academy of Humanism (1985), Favorite Son of Ronda, Spain (1985), Academician, Royal Academy of Doctors, Madrid, Spain (1986), the name of 'Rodriguez Delgado' is given to Public School No. 2 in Ronda, Spain (1988), Favorite Son of Andalucia (1988), Author of the Year, "El Medico" Prize, Madrid, Spain (1989), Favorite Son of Malaga (1996), Century Award, International Organization of Psychophysiology (1998), Gold Medal, Ateneo of Malaga (1999), Doctor Honoris Causa, University of Granada, Spain (1999).

Dr. Delgado is now living in San Diego, California, and we celebrate his return to the United States. We wish him and his family a very happy 90th birthday celebration, and many more fruitful and rewarding years.

CORPORATE CHARITY AFTER TSUNAMI

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. HYDE. Mr. Speaker, we hear so many negative comments about big business, I thought it would be refreshing to talk about some of their magnanimous charitable actions following the tsunami in Indonesia. I read an article in the Washington Times on July 18th written by Michael Casey at Associated Press that bears repeating.

Hearing about the plight of so many in Indonesia after the tsunami, more than 400 U.S. companies gave over $561 million for tsunami relief according to the Center for Corporate Citizenship of the U.S. Chamber of Commerce. Dozens of them were Fortune 500 companies. $71 million in donations were made by employee matching contributions, with $71 million corporate contributions. American companies gave $721 million after the September 11 terrorist attacks and $70 million was given for Hurricane Mitch in 1998.

Rolls-Royce chartered an 800-ton ferry to deliver masks, body bags and gloves to Indonesia, they partnered with London's HSBC Holdings bank to build a $500,000 clinic in Calang, on the coast of Indonesia. Calang lost nearly 90 percent of its 7,000 residents in the disaster. The clinic was completed within 9 weeks. Rolls-Royce has agreed to pay operating costs for a year. HSBC also donated money for six boats in Aceh and sent 30 employees to help rebuild a school.

General Electric Co. shipped a water treatment plant to Aceh and along with CH2N Hill, ran the plant until April when they handed it over to UNIICEF and a local company.

Intel Corporation along with other companies is planning to wire the city of Banda Aceh. In Lamreh, a German cigar company donated a water filtration system.

Many companies gave cash to international aid agencies or governments, others donated in-kind products and services worth $139 million in goods including powdered milk, back hoes, computers, shirts, sandals, packaged meats, hauling services, linens, fuel, generators, tractor equipment and emergency response services. Employees teamed up with the U.N. and local governments on training projects and started "Adopt a Village" projects.

FedEx Corporation shipped 640 tons of medicine, supplies and water systems for aid groups. PricewaterhouseCoopers and Deloitte and Touche are working with the U.N. to protect tsunami donations.

Phillips Foods Inc., a Baltimore-based seafood company donated 20 boats to fishermen in three countries.

Some other major U.S. companies contributing were Coca Cola, Exxon Mobil, GlaxoSmith Kline, Microsoft, Citigroup, Merck, AIG/Star and Abbot Laboratories.

The American Chamber of Commerce of Indonesia established a Disaster Relief Center to coordinate donations and volunteer operations for rapid supply and logistics support.

Indonesian President Susilo Bambang Yudhoyono thanked U.S. business leaders for their contributions to relief efforts. I want to thank them as well for their generosity, both financially and for taking time out of their busy lives to personally reach out to help others in distress. Their humanitarian efforts deserve our attention and gratitude.

There are many others not mentioned in the Associated Press article that deserves our thanks. Their charitable efforts have not gone unnoticed.

HONORING THE MIGHTY SPARROW—THE CALYPSO KING OF THE WORLD

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. RANGEL. Mr. Speaker, I rise today to honor one of the most popular Caribbean entertainers in history, who has been singing the story of the Caribbean for over half a century. The man of which I speak is Slinger Francisco, known world-wide as The Mighty Sparrow, and it is a pleasure to recognize him today in celebration of his 70th Birthday.

With over seventy albums to his credit, the Mighty Sparrow is considered by many to be the undisputed King of Calypso. Calypso is the popular style of music which evolved on the islands of the Eastern Caribbean from African and French musical influences in the early 1900's. The art form is particularly associated with the nation of Trinidad and Tobago, and its pre-Lent Carnival celebrations.

World War II brought dramatic changes to Trinidad and the calypso scene, as the United States established several military bases on the island, which housed thousands of servicemen during the War. A vibrant entertainment scene developed to entertain the many visitors, and Calypso evolved to suit its audience. The influx of tourists to the island also helped modernize both the rhythm and themes of Calypso songs in the post-war years. Trinidad's independence from Great Britain in the 1950s also served to give calypso a more politically minded slant. The Mighty Sparrow came to the scene during this time of transition and modification in Calypso music.

Sparrow was born in Gran Roi, a rural fishing village on the island of Grenada in 1935, and migrated with his family to Trinidad and Tobago at the age of one. His childhood would have a major influence on his musical vocation. On his mother's advice, he joined his local Catholic Church choir as a young boy, where he learned the art of voice training. In church he would also learn various languages, such as Latin, Hindi, Spanish, French, Dutch, and Chinese—all represented on the culturally diverse island of Trinidad—which he would later employ in many of his songs. He was also influenced by the styles of American street quartets, and popular artists such as Nat King Cole, Sarah Vaughn, and Frank Sinatra, in addition to local calypso artists.

He started out singing in the local calypso "brigades" which would scour Trinidad competing in various singing competitions, especially during the Carnival season. At the age of twenty he released his first song entitled "Jean and Dinah." The song satirically chronicled the impact of American troop withdrawals from Trinidad at the end of WWII. The song became a hit and would typify The Mighty Sparrow style. In a country, which at the time, did not have developed forms of media, Sparrow's songs elicited public reflection on important issues—in an entertaining, if not dance-inspiring fashion.

In subsequent years the Mighty Sparrow rode his own talent and the changing dynamics of the Caribbean all the way to the top of the Calypso scene. With the influx of American and European tourists to the Caribbean starting in the 1950s, and the concurrent migration of Caribbean peoples to the United States and Europe, Sparrow's music would reach wider and wider audiences. He himself would establish a second home in New York City, where he became renowned among the region's large Caribbean community.

Just as Sparrow's music began to reach beyond the islands of the Caribbean, so too did the content of his songs. His 1964 classic "Martin Luther King for President" not only introduced many in the Caribbean to the greatness of Dr. King, but it also served to inform Caribbean peoples about the plight of their African American brethren in the United States. Indeed, many in the Caribbean at the time were unaware of the Civil Rights struggle occurring in the USA.

Throughout Sparrow's musical catalogue one will find such global thinking—from songs about Apartheid South Africa, to the implications of the Global AIDS epidemic. These types of songs were surpassed only by those he dedicated to the everyday struggles of the common Caribbean man and woman. It is hard to think of such themes in the vibrant, celebratory rhythms of Calypso, but therein lies the beauty of the Mighty Sparrow.

Only he could draw attention to the serious issues of his world and community, and still make you want to dance. In so doing, Sparrow truly embodies the spirit of the Caribbean—though they face obstacles, they face them with an almost joyous optimism which can never be broken.

As for Mr. Sparrow today, he shows no signs of letting up. Fifty years, 70 albums, and millions of fans later, he continues to record songs, and bring crowds to their feet with his live performances around the world. In his first song released in 1956, Sparrow confidently asserted, "Yankee gone, Sparrow take over now!" Fifty years later, it is safe to say that he delivered on his boast, as he is now the undisputed King of Calypso. I can only imagine what the next 50 years will bring.

HONORING PETTY OFFICER SECOND CLASS DANNY P. DIETZ OF LITTLETON

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. TANCREDO. Mr. Speaker, it is with deep regret and heartfelt admiration that I rise today to honor a fallen soldier from my district, 25-year-old Petty Officer Second Class Danny P. Dietz of Littleton. Petty Officer Dietz was killed in the line of action during recent fighting in Afghanistan.

Danny was part of an elite commando team conducting counterterrorism operations in the mountainous Kunar province. He was just 25 years old. Before being assigned to the SEAL Delivery Vehicle Team, Danny was a 1999 graduate of Heritage High School.

Mr. Speaker, my deepest sympathies and heartfelt condolences go out to his wife Maria, and indeed all of his family and friends. Danny served his country bravely, honorably and with distinction, fighting for freedom and democracy against the forces of tyranny and oppression. He will be missed by all who knew and loved him. Americans will not forget his service or the ultimate sacrifice he made—and our nation will forever owe a great debt of gratitude to Danny and his family.

PERSONAL EXPLANATION

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. HYDE. Mr. Speaker, on July 21, 2005, I was absent for two votes for personal reasons. Had I been present, I would have voted "yes" on rollcall 401 and "yes" on rollcall 402.

BLACK FAMILIES ARE IN A STATE OF EMERGENCY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. RANGEL. Mr. Speaker, I rise today to alert my colleagues of a dangerous condition that threatens the health of our society—the destruction of the black family.

The black family has yet to recover from the destructive effects of slavery. In 1712, British slave owner, Willie Lynch was invited to the colony of Virginia to teach his methods of keeping slaves under control to American slave owners. Almost three hundred years later, the techniques that he prescribed seem to have not only been successful in controlling slaves, but lasting as a means of weakening and destroying the black family. In slavery families were purposely divided with husband and wives separated from each other and their children. Black males were humiliated and whipped in front of their wives and children. Stripped of their power and pride, black men were seen as weak and black women had to be the strength of the household, distorting the traditional family structure.

Despite civil rights victories and the apparent improvement in socioeconomic status, the black community is suffering from the lack of families. Marriage has become virtually impossible as black men are disproportionately incarcerated, unemployed and victims of early death. Black women on the other hand, have a higher probability of graduating from high school and attending college. This disparity in qualifications renders the two highly incompatible. As a result, an alarming two-thirds of black children are born out of wedlock and a disturbing proportion of them grow up fatherless. Without a father in the home, where do girls find their model for a future husband? Where do boys find their model for being a father? Without such an example, children of fatherless homes are doomed to continue the cycle.

Fatherless children are more vulnerable to suffer from societal ills. According to the U.S. Department of Health and Human services, children who are raised without a father are more likely to be poor, have higher drop-out rates, are at a dramatically greater risk of drug and alcohol abuse, are more likely to commit criminal acts and are more likely to get pregnant as teenagers than those raised in two-parent homes.

Members of the Congressional Black Caucus have taken it upon themselves to address this problem. Representative DANNY K. DAVIS has sponsored National Dialogues on the State of the African American Male, discussing such topics as black male incarceration, drug addiction and community building. While efforts such as these are a step in the right direction, more has to be done. It is going to take more than a few members of Congress to save black families.

While it is easy to identify the reason for the decline of black families, finding solutions is not so simple. However, not knowing the remedy for a situation should not be an excuse to ignore it. Acknowledging that the black community is suffering from the destruction of the black family is a necessary step to confront the issue and begin the process to reverse the effects of this devastating cycle.

The following Washington Post article by William Raspberry discusses the state of the black family.

WHY OUR BLACK FAMILIES ARE FAILING

"There is a crisis of unprecedented magnitude in the black community, one that goes to the very heart of its survival. The black family is failing."

Quibble if you will about the "unprecedented magnitude"—slavery wasn't exactly a high point of African American well-being. But there's no quarreling with the essence of the alarm sounded here last week by a gathering of Pentecostal clergy and the Seymour Institute for Advanced Christian Studies. What is happening to the black family in America is the sociological equivalent of global warming: easier to document than to reverse, inconsistent in its near-term effect—and disastrous in the long run.

Father absence is the bane of the black community, predisposing its children (boys especially, but increasingly girls as well) to school failure, criminal behavior and economic hardship, and to an intergenerational repetition of the grim cycle. The culprit, the ministers (led by the Rev. Eugene Rivers III of Boston, president of the Seymour Institute) agreed, is the decline of marriage.

Kenneth B. Johnson, a Seymour senior fellow who has worked in youth programs, says he often sees teenagers "who've never seen a wedding."

The concern is not new. As Rivers noted at last week's National Press Club news conference, the late Daniel Patrick Moynihan sounded the alarm 40 years ago, only to be "condemned and pilloried as misinformed, malevolent and even racist."

What is new is the understanding of how deep and wide is the reach of declining marriage—and the still-forming determination to do something about it.

When Moynihan issued his controversial study, roughly a quarter of black babies were born out of wedlock; moreover, it was largely a low-income phenomenon. The proportion now tops two-thirds, with little prospect of significant decline, and has moved up the socioeconomic scale.

There have been two main explanations. At the low-income end, the disproportionate incarceration, unemployment and early death of black men make them unavailable for marriage. At the upper-income level, it is the fact that black women are far likelier than black men to complete high school, attend college and earn the professional credentials that would render them "eligible" for marriage.

Both explanations are true. But black men aren't born incarcerated, crime-prone dropouts. What principally renders them vulnerable to such a plight is the absence of fathers and their stabilizing influence.

Fatherless boys (as a general rule) become ineligible to be husbands—though no less likely to become fathers—and their children fall into the patterns that render them ineligible to be husbands.

The absence of fathers means, as well, that girls lack both a pattern against which to measure the boys who pursue them and an example of sacrificial love between a man and a woman. As the ministers were at pains to say last week, it isn't the incompetence of mothers that is at issue but the absence of half of the adult support needed for families to be most effective.

Interestingly, they blamed the black church for abetting the decline of the black family—by moderating virtually out of existence its once stern sanctions against extramarital sex and childbirth and by accepting the present trends as more or less inevitable.

They didn't say—but might have—that black America's almost reflexive search for outside explanations for our internal problems delayed the introspective examination that might have slowed the trend. What we have now is a changed culture—a culture whose worst aspects are reinforced by oversexualized popular entertainment and that places a reduced value on the things that produced nearly a century of socioeconomic improvement. For the first time since slavery, it is no longer possible to say with assurance that things are getting better.

As the Rev. Jesse Jackson said in a slightly different context, "What began as a problem has deteriorated into a condition. Problems require solving; conditions require healing."

How to start the healing? Rivers and his colleagues hope to use their personal influence, a series of marriage forums and their well-produced booklet, "God's Gift: A Christian Vision of Marriage and the Black Family," to launch a serious, national discussion and action program.

In truth, though, the situation is so critical—and its elements so interconnected and self-perpetuating—that there is no wrong place to begin. When you find yourself in this sort of a hole, someone once said, the first thing to do is stop digging.

IN HONOR AND RECOGNITION OF RICHARD CORDRAY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Richard Cordray, an outstanding public servant who has recently been named the 2005 County Leader of the Year. In his many years of service he has proven his dedication to the betterment of the constituents he serves, and as Treasurer of Franklin County, Ohio, he has redefined his post to accommodate the particular needs of the county and the people who belong to it.

A man full of ideas and enthusiasm, Richard is always ready to think outside the box to find a solution that works for everyone, and he never loses touch with the higher goal of improving the quality of life for all whom he serves.

Richard's ingenuity, combined with a sincere and determined desire to help people, has driven him to create numerous programs to help the citizens of Franklin County learn to help themselves. From providing public services to seniors in danger of losing their homes to foreclosures and back taxes to establishing educational programs to help high school students become financially responsible at a young age, Richard finds inventive solutions to many chronic problems faced by the community of Franklin County. With his ability to look beyond what is, to see what could be, Richard is a shining example of the kind of public servants who are really making incredible and lasting changes in their communities.

Richard frequently goes above and beyond the call of duty with programs that seek to improve financial literacy, but even within his conventional job description he shines. In the last year alone, he has collected over $77 million in unpaid back real estate and personal property taxes. Due to his interest in all aspects of county operations, he is able to help on both the micro and macro level and the positive effects of his programs and policies are truly improving the lives of the entire community.

Mr. Speaker and Colleagues, please join me in honor and recognition of Richard Cordray for his years of outstanding service to his community. His ability to seek out the greatest needs of his community and fill those needs is to be commended and admired. Through his energy and dedication he has had a tangible affect on the lives of many in Franklin County and deserves our sincere appreciation.

RESOLUTION HONORING THE CAREER OF LANCE ARMSTRONG

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. BLUMENAUER. Mr. Speaker, today I am introducing a resolution honoring and congratulating Lance Armstrong upon his retirement from professional cycling following his 7th successive victory of the Tour de France. One of the world's most grueling athletic events, this year's Tour de France bicycling race covered 2,254 miles in 21 days.

Aside from his many victories as a racer, Lance Armstrong has become a household name, vital to the promotion of cycling as a sport, a healthy fitness activity, and a pollution-free transportation alternative. These athletic accomplishments are even more dramatic considering his successful battle against widespread cancer. Lance has become a role model to cancer patients and his efforts through the Lance Armstrong Foundation have helped to advance cancer research, diagnosis, treatment, and after-treatment services.

The resolution being introduced today is a deserving tribute to Lance Armstrong and his Tour de France victory, commitment to cancer awareness and survivorship, and promotion of bicycling.

IN MEMORY OF COLONEL BENNIE HOWARD MANN

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. COX. Mr. Speaker, I rise today to pay tribute to a distinguished constituent of mine, Colonel Bennie Mann of Laguna Woods, California. Bennie Mann's recent passing follows an inspiring, 31-year career as one of the finest helicopter pilots in the United States Armed Forces.

Bennie was born in Yuma, Arizona, on May 31, 1928, to Mr. and Mrs. Bennie H. Mann, Sr. After Colonel Mann graduated from Yuma Union High School in 1946, he attended Arizona State University at Tempe. He joined the Navy in 1950, traveling to Korea aboard the U.S.S. *Essex*. He was selected for the Aviation Cadet Program the following year, and was commissioned a second lieutenant in the U.S. Marine Corps in 1953.

Following a second tour of duty in Korea and an assignment to instructor duty with the training command at Naval Air Station Pensacola, Florida, Bennie was transferred to the Marine Corps Air Station in Cherry Point, North Carolina. In 1960, he was ordered to the Second Marine Division, Camp Lejuene, North Carolina, for duty with the Force Communications Company.

Bennie, then a captain, received a military science degree from the University of Omaha. After attending the Junior Officers' Course at Quantico, Virginia, in 1962, Mann became a helicopter pilot based in Santa Ana, California. In December 1964, then-Major Mann departed for Vietnam, serving as operations officer and executive officer of Marine Medium Helicopter Squadron 163 before moving to Washington, DC, to serve in the policy analysis and career planning branches of the Marine Corps headquarters.

Mann returned to Vietnam in December 1969, serving as commanding officer of HMM–161 and as executive officer of MAG–16. After a year in Vietnam, he returned to Santa Ana, where he remained until 1972. In due course, Mann's leadership was rewarded with a promotion to the rank of colonel. He then received an MBA degree from Pepperdine University and joined the 3rd Marine Aircraft Wing, serving as assistant chief of staff before assuming command of MAG–16 in 1977. In June 1978, Colonel Mann became chief of staff of the Third Marine Amphibious Force, Okinawa, Japan.

Colonel Mann retired from the United States Marine Corps on December 23, 1981. He was the first Marine helicopter pilot in our Nation's history to be awarded the Navy Cross. Colonel Mann was the deserving recipient of a host of other awards, including the Distinguished Flying Cross, the Bronze Star, the Meritorious Service Medal, and 37 Air Medals. Colonel Mann recently passed away, and was buried at Arlington National Cemetery on July 7. He is survived by his wife Carroll of Laguna Woods, California, his sons George and Russ, his daughter Connie Lee Coln, his nine grandchildren, and his six great-grandchildren.

Mr. Speaker, on behalf of the California delegation and the people of Orange County, I am honored to salute Colonel Mann for his service to this great country and to extend my condolences to his friends and family.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. GUTIERREZ. Mr. Speaker, I was inadvertently absent from this Chamber on July 22, 2005. I would like the RECORD to show that, had I been present, I would have voted "no" on rollcall vote 402.

HONORING EMILIO NICOLAS, SR.

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. GONZALEZ. Mr. Speaker, I rise today to honor one of the pioneers of Spanish-language television and a tireless advocate for Latinos throughout the United States, Mr. Emilio Nicolas, Sr. He was instrumental in establishing KWEX, Ch. 41 as San Antonio's Spanish-language station and as the United States' first Spanish-language station. KWEX became the cornerstone of the network that would become Univision, and brought Spanish-language television to millions of Latinos. His life is a testament to the ethic of hard work and striving to reach seemingly impossible goals.

Born in Frontera, Coahuila, Mexico in 1930, Emilio Nicolas, Sr. came to the United States to learn English and attend St. Mary's University in San Antonio, Texas. Graduating in 1951 with a Bachelor's in biology and chemistry and a minor in math, Mr. Nicolas then turned his considerable focus to earning a Master's at Trinity University in San Antonio in 1952 before going to work for the Southwest Foundation as a researcher on arteriosclerosis and the polio vaccine.

In 1955, he left the field of science to enter the burgeoning world of television when he joined KCOR TV, America's first fulltime Spanish-language station, as a producer and director of news. By day, he oversaw the news department, and by night, he produced the live programming the station beamed into the homes across San Antonio. I find this career change remarkable since television was just beginning to earn its now dominant role in our society and he encountered a world of naysayers who told him a Spanish language station could never be as profitable or viable as English stations. Mr. Nicolas proved both Wall Street and Madison Avenue wrong.

In 1961, Emilio Nicolas, Sr. and his group of partners bought KCOR, renamed it KWEX, and used the station as one of the first building blocks of the Spanish International Network which was eventually sold and became Univision. As the station's president and general manager, Mr. Nicolas ensured that the station served the needs and interests of the local Mexican-American community. Through his leadership, he made Spanish-language broadcasting viable throughout the country by demonstrating it could be profitable. Mr. Nicolas took corporate responsibility seriously, using the broadcasting platform he built as a tool to champion the needs of the Hispanic community. His success in lobbying Congress in the 1960s to mandate that all television sets be equipped to receive both VHF and UHF signals, was an indispensable part of that effort.

Mr. Nicolas, who became president of SICC, the station group for the network, provided a cultural venue to Latinos at a time when images of our community were scarce and often negative. The big three networks dominated the airwaves and the inclusion promised to minorities during the 1960's had yet to occur. So, if television can be said to be a mirror for our nation, then the reflection Latinos saw at that time was distorted and unrepresentative. Mr. Emilio Nicolas, Sr. changed all that with KWEX.

Moreover, he served the community at large in a number of other ways. In 1975, Emilio Nicolas, Sr. started the Teleton Navideno, a televised drive to raise money for the less fortunate in San Antonio during the holidays, in which Archbishop Patrick Flores would eventually participate. He was Chairman of the National Association of Spanish Broadcasters and served on the boards of the University of the Incarnate Word, Southwest Foundation, the University of Texas College of Communications, the University of Texas Health

Science Center, the Mexican American Legal Defense and Education Fund, and the San Antonio Chamber of Commerce. As should be obvious, Mr. Nicolas's considerable time and energy affected numerous facets of life for Latinos in our community and throughout the United States. Moreover, his efforts and influence were crucial in the amnesty legislation of 1986 which made United States citizenship a reality for hardworking people from all over the world.

In this age of mass communication, some say if you can't see an event on television, it does not actually happen, so a pioneer like Mr. Emilio Nicolas, Sr. was crucial for Latinos. His years of service to the Latino community have changed our lot for the better and we owe him a debt of gratitude.

IN HONOR OF PAUL WINCHELL

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. NADLER. Mr. Speaker, I rise today to recognize the life and accomplishments of Paul Winchell, who passed away on Friday, June 24th.

Paul was born in Manhattan's Lower East Side on December 21, 1922. He studied ventriloquism from an early age, overcoming speech impediments and a difficult family life. He would go on to become one of the great pioneers of early television, bringing a smile to every household with his ventriloquism act on the Paul Winchell-Jerry Mahoney show in the 1950's.

To younger generations, Paul was best known as the voice of Tigger, the loveable tiger from Walt Disney's adaptation of "Winnie the Pooh." He also played numerous roles on children's programs such as the Jetsons, the Smurfs, the Brady Bunch, and the Beverly Hillbillies. But Paul was much more than an entertainer—he was also an innovative thinker and inventor with thirty patents.

In 1959, Paul decided to return to school and attended Columbia University. Later, he pursued graduate work in acupuncture and hypnosis. His education led to projects for the American Red Cross and the Leukemia Society. In 1963 he joined forces with Doctor Henry Heimlich, and together they developed and patented the first early artificial heart. Rather than use his invention for profit, he donated the heart to the University of Utah, where it served as the prototype for Dr. Robert Jarvik's first successful artificial heart implant in 1982.

Paul Winchell lived a life of unparalleled diversity. Whether making children smile or improving lives through innovation, he dedicated his talents to the betterment of his surroundings, and I request that we honor him for a life well lived.

HONORING THE MEMORY OF SPECIAL POLICE OFFICER DWAYNE REEVES

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. PAYNE. Mr. Speaker, I rise to honor the memory of a courageous and dedicated New Jersey law enforcement professional, Special Police Officer Dwayne Reeves, whose tragic loss in the line of duty is being mourned by our entire community. Family, friends, supporters, and members of the extended law enforcement family will gather tomorrow as Officer Reeves is laid to rest with full honors following a funeral service at New Hope Baptist Church in Newark.

At 35 years old, Officer Reeves made a positive impact during the four years he served with the Newark, New Jersey Police Department. He was proud to serve on the newly created Newark Public School Police Force, and worked diligently in that position. Tragically, on July 18, he was struck down outside his assigned school as he was carrying out his responsibilities as a law enforcement officer. As Newark School Superintendent Marion Bolton noted, had it not been for Officer Reeves' heroic action in containing the incident, the safety of students inside the school could have been put in grave jeopardy.

Officer Reeves' career with the Newark Police Force was meaningful and filled with promise. Respected and well-liked, he earned a reputation during his four years with the force as an officer who wanted nothing more than to serve his community honorably. Officer Reeves thrived on community outreach as he also worked a second job with the Newark Housing Authority Police Unit. His loss will be deeply felt by all who knew him and worked with him.

I ask my colleagues here in the U.S. House of Representatives to join me in paying tribute to the memory of this outstanding public servant and in offering our deepest condolences to his wife, Rahnisha Reeves; his children Ashley, K'Ya, Amaad, Amiir and Ta'ona, his mother, Delois Reeves-Garvin; his father, John Jackson and his stepfather, Henry Garvin.

A TRIBUTE TO PAUL RUSESABAGINA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mr. LANTOS. Mr. Speaker, in light of President Bill Clinton's statement this weekend regarding responsibility for the 1994 slaughter of innocent civilians in Rwanda, I would like to recognize the extraordinary courage of Paul Rusesabagina, whom I had the distinct pleasure of meeting with just last month. Mr. Rusesabagina's story is one of true heroism and the triumph of the human spirit over evil, and I was humbled to be in the presence of such a courageous individual whose actions saved the lives of more than 1,000 people in yet another dark period in the world's history.

The Rwandan genocide of 1994 is one of the greatest tragedies of our time, and a shameful chapter in human history. In the span of only 100 days, more than 800,000 Tutsis and moderate Hutus were systematically murdered by the Rwandan military and the Interhamwe militia, with the intent to annihilate the entire Tutsi population. With the exception of a handful of peacekeepers, the international community, fully cognizant of what was happening, failed to come to a consensus to authorize a humanitarian intervention to stop the genocide. The survival of countless Rwandans was left to the conscience of courageous individuals, such as Paul Rusesabagina (who heroically took a stand in the name of humanity), and a Tutsi rebel army attacking from neighboring Uganda.

While acting as manager of the Belgian owned Hotel Mille Collines during the April–July genocide, Paul Rusesabagina provided a safe-haven for over 1,200 Tutsis and Hutus who were defenseless and almost certainly marked for death, ensuring their safety through bribes, skillful negotiation, and diplomatic persuasion of Hutu military commanders. A Hutu himself, Mr. Rusesabagina, through his actions, put his own life in danger, as well as those of his Tutsi wife, Tatiana, and their young children. These selfless acts of heroism not only saved hundreds of innocent human beings, but also served as a beacon of light in a time of terrible darkness. Future generations of people around the world should find inspiration in his actions, and his story to be an affirmation of the resilience of human compassion.

Mr. Rusesabagina has spent his years since the Rwandan tragedy as an ardent champion of human rights around the globe, continuing to struggle selflessly for those who are voiceless and in the most need. In fact, he recently spoke on Capitol Hill about the plight of the over 17 million refugees worldwide, bringing needed attention to this much neglected issue. Mr. Rusesabagina was the recipient of Amnesty International's Enduring Spirit award and I would like to continue to honor him through this congressional recognition.

When I met with Paul Rusesabagina, we were joined by Hassan Jallow, the chief prosecutor for the International Criminal Tribunal for Rwanda. This was a truly historic meeting, bringing together a hero who struggled against tragic circumstances, with an advocate who is charged with seeking justice for victims of those same atrocities. Their interaction gave me hope in the triumph of peace and justice, and in the endurance of humanity.

Mr. Speaker, my wife Annette and I have been tireless in our mission to promote international human rights, and it was this sense of duty that led us in 1983 to create the Congressional Human Rights Caucus. The Congressional Human Rights Caucus, CHRC, is a bipartisan working group on international human rights of over 218 Members of the House of Representatives which works to promote international human rights around the world. Actions such as those of Paul Rusesabagina give us hope.

Mr. Speaker, I invite all my colleagues to join me in honoring Paul Rusesabagina, an extraordinary person who risked his life to save hundreds of others, and one who continues to devote his life to those in need.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 26, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 27

9:30 a.m.

Indian Affairs

To hold hearings to examine S. 1439, to provide for Indian trust asset management reform and resolution of historical accounting claims.

SH-216

Judiciary

To hold an oversight hearing to examine the Federal Bureau of Investigation.

SD-226

10 a.m.

Commerce, Science, and Transportation

Disaster Prevention and Prediction Subcommittee

To hold hearings to examine all-hazards alert systems, focusing on the need for a national all-hazards alert and public warning system.

SR-253

Finance

To hold hearings to examine the role of value-based purchasing relating to improving quality in Medicare.

SD-215

Agriculture, Nutrition, and Forestry

Forestry, Conservation, and Rural Revitalization Subcommittee

To hold an oversight hearing to examine the Conservation Reserve Program.

SR-328A

Homeland Security and Governmental Affairs

To resume hearings to examine the appropriate Federal role regarding chemical facility security.

SD-562

2:30 p.m.

Commerce, Science, and Transportation

To hold hearings to examine S. 1372, to provide for the accuracy of television ratings services.

SR-253

Homeland Security and Governmental Affairs

Federal Financial Management, Government Information, and International Security Subcommittee

To hold hearings to examine financial management at the Securities and Exchange Commission.

SD-562

Intelligence

To receive a closed briefing regarding intelligence matters.

SH-219

Aging

To hold hearings to examine the victimization of elderly through scams.

SD-106

3 p.m.

Energy and Natural Resources

Energy Subcommittee

To hold hearings to examine recent progress in hydrogen and fuel cell research sponsored by the Department of Energy and by private industry, including challenges to the development of these technologies.

SD-366

JULY 28

9:30 a.m.

Indian Affairs

To hold oversight hearings to examine the implementation of the Native American Graves Protection and Repatriation Act (P.L. 101-601).

SR-485

Judiciary

Business meeting to consider S. 1088, to establish streamlined procedures for collateral review of mixed petitions, amendments, and defaulted claims, S. 103, to respond to the illegal production, distribution, and use of methamphetamine in the United States, proposed Personal Data Privacy and Security Act of 2005, S. 751, to require Federal agencies, and persons engaged in interstate commerce, in possession of data containing personal information, to disclose any unauthorized acquisition of such information, S. 1326, to require agencies and persons in possession of computerized data containing sensitive personal information, to disclose security breaches where such breach poses a significant risk of identity theft, S. 155, to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, S. 1086, to improve the national program to register and monitor individuals who commit crimes against children or sex offenses, S. 956, to amend title 18, United States Code, to provide assured punishment for violent crimes against children, and S. 1197, to reauthorize the Violence Against Women Act of 1994.

SD-226

Veterans' Affairs

Business meeting to consider the nominations of James Philip Terry, of Virginia, to be Chairman of the Board of Veterans' Appeals, and Charles S. Ciccolella, of Virginia, to be Assistant Secretary of Labor for Veterans' Employment and Training, both of the Department of Veterans' Affairs, and S. 1182, to amend title 38, United States Code, to improve health care for veterans, S. 716, to amend title 38, United States Code, to enhance services provided by vet centers, to clarify and improve the provision of bereavement counseling by the Department of Veterans Affairs, S. 1234, to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and S. 1235, to amend chapters 19 and 37 of title 38, United States Code, to extend the availability of $400,000 in coverage under the servicemembers' life insurance and veterans' group life insurance programs.

SR-418

10 a.m.

Banking, Housing, and Urban Affairs

Business meeting to markup S. 190, to address the regulation of secondary mortgage market enterprises, S. 705, to establish the Interagency Council on Meeting the Housing and Service Needs of Seniors, and H.R. 804, to exclude from consideration as income certain payments under the national flood insurance program.

SD-538

Commerce, Science, and Transportation

Business meeting to consider S. 1408, to strengthen data protection and safeguards, require data breach notification, and further prevent identity theft.

SR-253

Homeland Security and Governmental Affairs

To hold hearings to examine NASA passenger aircraft.

SD-562

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine S. 584 and H.R. 432, bills to require the Secretary of the Interior to allow the continued occupancy and use of certain land and improvements within Rocky Mountain National Park, S. 652, to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin, S. 958, to amend the National Trails System Act to designate the Star-Spangled Banner Trail in the States of Maryland and Virginia and the District of Columbia as a National Historic Trail, S. 1154, to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, S. 1166, to extend the authorization of the Kalaupapa National Historical Park Advisory Commission, and S. 1346, to direct the Secretary of the Interior to conduct a study of maritime sites in the State of Michigan.

SD-366

Joint Economic Committee

To hold hearings to examine alternative automotive technologies and energy efficiency.

2226 RHOB

2:30 p.m.

Commerce, Science, and Transportation

To hold hearings to examine issues related to MGM v. Grokster and the appropriate balance between copyright protection and communications technology innovation.

SR-253

SEPTEMBER 20

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.

345 CHOB

POSTPONEMENTS

JULY 27

9:30 a.m.

Environment and Public Works

To hold hearings to assess the status of efforts to reduce greenhouse gases relating to the Kyoto Protocol.

SD-406

SENATE—*Tuesday, July 26, 2005*

The Senate met at 9:45 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord of life, high above all, yet in all, the challenges of our world are great and our hands are small. The mystery of life is deep, and our faith falters. The temptations of life are intense, and our wills are feeble.

Lord, guide our steps. Shower Your Senators with enduring blessings. As they deal with the swirling winds of change, be their ever present help. Give them patience to trust the unfolding of Your loving providence. Give each of us the wisdom to refuse to deviate from the path of integrity.

Lord, today we ask for You to comfort the grieving families of the Alaskan Boy Scouts.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1042, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 1042) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Frist modified amendment No. 1342, to support certain youth organizations, including the Boy Scouts of America and Girl Scouts of America.

Inhofe amendment No. 1311, to protect the economic and energy security of the United States.

Inhofe/Kyl amendment No. 1313, to require an annual report on the use of United States funds with respect to the activities and management of the International Committee of the Red Cross.

Lautenberg amendment No. 1351, to stop corporations from financing terrorism.

Ensign amendment No. 1374, to require a report on the use of riot control agents.

Ensign amendment No. 1375, to require a report on the costs incurred by the Department of Defense in implementing or supporting resolutions of the United Nations Security Council.

Collins amendment No. 1377 (to Amendment No. 1351), to ensure that certain persons do not evade or avoid the prohibition imposed under the International Emergency Economic Powers Act.

Durbin amendment No. 1379, to require certain dietary supplement manufacturers to report certain serious adverse events.

Hutchison/Nelson (FL) amendment No. 1357, to express the sense of the Senate with regard to manned space flight.

Thune amendment No. 1389, to postpone the 2005 round of defense base closure and realignment.

Kennedy amendment No. 1415, to transfer funds authorized to be appropriated to the Department of Energy for the National Nuclear Security Administration for weapons activities and available for the Robust Nuclear Earth Penetrator to the Army National Guard, Washington, District of Columbia chapter.

Allard/McConnell amendment No. 1418, to require life cycle cost estimates for the destruction of lethal chemical munitions under the Assembled Chemical Weapons Alternatives program.

Allard/Salazar amendment No. 1419, to authorize a program to provide health, medical, and life insurance benefits to workers at the Rocky Flats Environmental Technology Site, Colorado, who would otherwise fail to qualify for such benefits because of an early physical completion date.

Dorgan amendment No. 1426, to express the sense of the Senate on the declassification and release to the public of certain portions of the Report of the Joint Inquiry into the Terrorist Attacks of September 11, 2001, and to urge the President to release information regarding sources of foreign support for the hijackers involved in the terrorist attacks of September 11, 2001.

Dorgan amendment No. 1429, to establish a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism.

Salazar amendment No. 1421, to rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation.

Salazar amendment No. 1422, to provide that certain local educational agencies shall be eligible to receive a fiscal year 2005 payment under section 8002 or 8003 of the Elementary and Secondary Education Act of 1965.

Salazar/Reed amendment No. 1423, to provide for Department of Defense support of certain Paralympic sporting events.

Collins (for Thune) amendment No. 1489, to postpone the 2005 round of defense base closure and realignment.

Collins (for Thune) amendment No. 1490, to require the Secretary of the Air Force to develop and implement a national space radar system capable of employing at least two frequencies.

Collins (for Thune) amendment No. 1491, to prevent retaliation against a member of the Armed Forces for providing testimony about the military value of a military installation.

Reed (for Levin) amendment No. 1492, to make available, with an offset, an additional $50,000,000, for Operation and Maintenance for Cooperative Threat Reduction.

Hatch amendment No. 1516, to express the sense of the Senate regarding the investment of funds as called for in the Depot Maintenance Strategy and Master Plan of the Air Force.

Inhofe amendment No. 1476, to express the sense of Congress that the President should take immediate steps to establish a plan to implement the recommendations of the 2004 Report to Congress of the United States-China Economic and Security Review Commission.

Allard amendment No. 1383, to establish a program for the management of post-project completion retirement benefits for employees at Department of Energy project completion sites.

Allard/Salazar amendment No. 1506, to authorize the Secretary of Energy to purchase certain essential mineral rights and resolve natural resource damage liability claims.

McCain modified amendment No. 1557, to provide for uniform standards for the interrogation of persons under the detention of the Department of Defense.

Warner amendment No. 1566, to provide for uniform standards and procedures for the interrogation of persons under the detention of the Department of Defense.

McCain modified amendment No. 1556, to prohibit cruel, inhuman, or degrading treatment or punishment of persons under the custody or control of the United States Government.

Stabenow/Johnson amendment No. 1435, to ensure that future funding for health care for veterans takes into account changes in population and inflation.

Murray amendment No. 1348, to amend the assistance to local educational agencies with significant enrollment changes in military dependent students due to force structure changes, troop relocations, creation of new units, and realignment under BRAC.

Murray amendment No. 1349, to facilitate the availability of child care for the children of members of the Armed Forces on active duty in connection with Operation Enduring Freedom or Operation Iraqi Freedom and to assist school districts serving large numbers or percentages of military dependent children affected by the war in Iraq or Afghanistan, or by other Department of Defense personnel decisions.

Levin amendment No. 1494, to establish a national commission on policies and practices on the treatment of detainees since September 11, 2001.

Hutchison amendment No. 1477, to make oral and maxillofacial surgeons eligible for special pay for Reserve health professionals in critically short wartime specialties.

Graham/McCain modified amendment No. 1505, to authorize the President to utilize the Combatant Status Review Tribunals and Annual Review Board to determine the status of detainees held at Guantanamo Bay, Cuba.

Nelson (FL) amendment No. 762, to repeal the requirement for the reduction of certain

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

Durbin amendment No. 1428, to authorize the Secretary of the Air Force to enter into agreements with St. Clair County, Illinois, for the purpose of constructing joint administrative and operations structures at Scott Air Force Base, Illinois.

Durbin amendment No. 1571, to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

Levin amendment No. 1496, to prohibit the use of funds for normalizing relations with Libya pending resolution with Libya of certain claims relating to the bombing of the LaBelle Discotheque in Berlin, Germany.

Levin amendment No. 1497, to establish limitations on excess charges under time-and-materials contracts and labor-hour contracts of the Department of Defense.

Levin (for Harkin/Dorgan) amendment No. 1425, relating to the American Forces Network.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, we come back for a final week before our recess with a number of important items, many of which are the culmination of many months of work. It will be a challenging week in order to accommodate the range of issues. I will mention a number of those that will be addressed. I do hope all of our colleagues will consider the importance of addressing each of these and doing it in a timely way that respects people's schedules and gets us out at the end of this week. It is going to be a real challenge, but it can clearly be accomplished if we all work together in a collegial and civil way as we go.

This morning we will resume debate on the Defense authorization bill. Under the order, there will be 20 minutes remaining for debate to be used on the Collins and Lautenberg amendments on contracts. Following that time, we will proceed to a series of votes. We will be voting on the Collins amendment. Following that, we will vote in relation to the Lautenberg amendment. Following that, we will vote in relation to a Boy Scouts amendment. That will be followed by a cloture vote on the pending Defense authorization.

If cloture is invoked, we will stay on the Defense bill until that is completed, something I am very hopeful we will be able to do shortly. If cloture is not invoked, we would proceed to a cloture vote with respect to the motion to proceed to the gun manufacturers liability bill which we also will address this week. These cloture votes will allow the Senate to complete these two important measures.

In addition to that, we have a number of additional items, including the conference report on energy, the conference report on highways, and then there are a number of appropriations conference reports that may become available in addition to these measures. We are looking at the issue on Native Hawaiians and a death tax issue. We have a lot of work to do in a very short period of time. We clearly will be working through Friday of this week and, if it means going into the weekend to complete the work, we are prepared to do that.

THE BOY SCOUT JAMBOREE

Mr. FRIST. Mr. President, very briefly, I want to mention—I know the Senator from Alaska has a comment—our sympathy for the tragic events that have occurred at the Boy Scouts Jamboree. Our thoughts and prayers are with the many families who have been affected so directly. We will continue to reach out over the course of the day for the tragic event that occurred there.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

CLOTURE VOTES

Mr. REID. Mr. President, I would, through the Chair, ask the distinguished majority leader if the majority leader would agree that we would continue on the Defense bill, vitiate cloture on it and the gun bill, and finish the Defense bill by a time certain, say Thursday at 7 o'clock in the evening? We would try to work through our amendments. We would have time agreements on amendments. We would have the two managers of the bill set us up so we could vote on these, Republican and Democratic amendments, work through all these. I have a more extended statement I am going to give in a little bit, if we can't work something out on this. I will ask unanimous consent, but I would ask the distinguished Senator from Tennessee if he would consider a unanimous consent agreement that will allow us to finish this bill by a time certain on Thursday and, following that, in fact, what I think would be most appropriate is we finish the very important Defense bill this week, and the second we get back in September move to the gun legislation.

The PRESIDENT pro tempore. The majority leader.

Mr. FRIST. Through the Chair in response to the Democratic leader, we laid out a plan at the end of last week where we can stay on the Department of Defense authorization bill. We have filed cloture to bring some order to that process. We will have the opportunity to vote on cloture this morning. I expect cloture to be invoked. We should finish the Defense authorization bill. I have also made it clear from this desk and on the floor that we are going to finish the gun manufacturers liability bill before we leave. That makes it challenging because we have the very important Department of Defense authorization bill, but we have a plan and a way to finish that by invoking cloture this morning, finishing with that issue, and then moving directly to the gun manufacturers liability bill. Therefore, I do not believe we need—in fact, I know we don't need a unanimous consent agreement in order to accomplish that. So at this juncture we will stay on the plan, the Department of Defense cloture vote this morning—and I expect it would be invoked—finish that bill and then proceed to the gun liability bill.

Mr. REID. Mr. President, I ask through the Chair if the Senator from Tennessee, the distinguished majority leader, has a statement to make. Otherwise, I have a statement I am going to make this morning.

Mr. FRIST. I do not have a statement this morning. Following the Democratic leader's statement, I believe the Senator from Alaska has a brief statement to make as well.

Mr. REID. Mr. President, I heard the Senator from Alaska say he needed a minute or two. I would be happy, if he wants to do that at the present time, to allow the President pro tempore of the Senate, the most senior Member of the Senate, to give a statement. Then I will give mine.

Before the leader leaves the floor, I will use leader time. I don't think I will need to use more than the 10 minutes, but that would push the votes back 10 minutes. I think everyone should be entitled to the time they have. Is that OK with the leader?

Mr. FRIST. Yes.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Alaska is recognized.

BOY SCOUTS JAMBOREE TRAGEDY

Mr. STEVENS. Mr. President, let me thank the two leaders for their courtesy.

Last Thursday it was my privilege to meet on the Capitol steps with a group of Boy Scouts from my State, 71 young Scouts and 9 adults, which included 5 distinguished Boy Scout leaders. As we all know, we have heard the news, a tragic accident occurred at Fort A.P. Hill, and four of those leaders have passed away. Another is seriously injured. It has been a shock to the Alaska community, certainly a shock to the Jamboree. We are working with the Army. This occurred on an Army base, and there is a CID investigation going on, as well as a Virginia State investigation, to determine the cause of this tragedy. Clearly, there are 71 young men down there who are very shocked and very disturbed over this tragedy.

I want to thank the leader for his comments and the Chaplain for the mention of these men in his opening prayer. It is impossible for us to fathom a tragedy of this sort. In any event, I want to say to the Senate and to the Alaskan people we will do everything we can to help these young men and to comfort them and make certain they are cared for in this period of mourning the loss of these distinguished Boy Scout leaders.

I ask unanimous consent that statements that appeared in the Anchorage Daily News this morning about this incident and from the Washington Post reporting on the incidents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Anchorage Daily News, July 26, 2005]

Alaska Scout Leaders Die Near D.C.

(By Katie Pesznecker and Lisa Demer)

Four Boy Scout leaders were killed in Virginia on Monday, the opening day of the organization's national Jamboree, when a metal tent pole they were holding hit a power line and apparently ignited the canvas tent above them, according to Scout officials and witnesses.

Officials late Monday confirmed the leaders who died are Ron Bitzer, Michael Lacroix and Michael Shibe of Anchorage and Scott Powell, who moved to Ohio last year.

A fifth Alaska Scout leader, Larry Call, and an unidentified contractor were hospitalized with injuries, according to Boy Scout officials. Call is being treated at a Virginia hospital burn unit, said his wife, Paula Call.

No children were seriously injured, but about 30 Alaska Scouts saw the accident happen some time between 12:30 p.m. and 1 p.m. Alaska time at Fort A.P. Hill, an Army base about one hour south of the nation's capital.

Karl Holfeld, an Anchorage father, said his 15-year-old son, Taylor, witnessed the accident. Taylor was on his cell phone talking to his mother in Anchorage when the accident occurred.

"They all started screaming," Holfeld said. "He said, 'Oh my God, oh my God, the tent is on fire, they're being burned!' And she told him to stay away, to not touch anything, because there could be a live wire."

Paula Call spoke to her husband and others after the accident. The group of men was erecting a large tent, like a circus tent, she said. She didn't know what it was for.

"As they got it up, this pole started to lean and it touched a utility live wire," Paula Call said.

She hadn't heard about the fire but said her husband suffered electrocution burns on his hands, hips and feet. His condition improved during the day and he will recover, she said.

The Calls' son Kendell, 15, saw the accident but is too upset to talk about it in detail, Paula Call said. A second son was also there. Witnesses told her Kendell reacted quickly to help his father.

Her husband "was just concerned about the boys. It was the most horrific thing he knows they will ever witness," she said.

The Scouts were taken from their camp to meet with grief counselors and a chaplain, said Renee Fairrer, director of National News and Media for the Jamboree.

Seventy-one boys and nine adults were traveling with the Jamboree contingency representing the Western Alaska Council of Boy Scouts of America. Bill Haines, executive director of the council here, said others came from Juneau and Fairbanks.

Jamboree leaders are "the cream of the crop," he said. "They were the best we had."

Of the men who died, Shibe had two sons at the Jamboree, and Lacroix, who runs an Anchorage vending machine company, had one son in attendance, Haines said.

Holfeld had known both Bitzer and Shibe for years. Shibe and Holfeld earned their Eagle ranks together in the 1970s.

"We crossed paths at Scout things all the time," Holfeld said. "They were just phenomenally effusive and so dedicated to the youth. They were enthusiastic gentlemen that totally believed in the Boy Scouts and showed that through their efforts and commitment."

Bitzer and his wife, Karen, had recently sold their Anchorage home, and Haines said he believes they were preparing to move to Reno. He worked a couple of years as a Scout executive, Haines said. Bitzer was a retired administrative law judge and an assistant scoutmaster of Troop 129 in Anchorage, said family spokesman Ken Schoolcraft, the troop's scoutmaster.

Bitzer spent years running the Junior Leader Training Conference, a summer event at Camp Gorsuch on Mirror Lake, said Dylan O'Harra, 19, a former Anchorage Boy Scout who went to Bitzer's program.

"He was another guy who was dedicated to spending his time helping Scouts, helping kids advance and appreciate the outdoors," O'Harra said.

Powell was single and retired last year after a career in Boy Scouts. He had moved to Ohio but attended Jamboree at the last moment after a boy was unable to go, Haines said.

Powell had devoted years to Alaska Scouts, including more than 20 years as program director at Camp Gorsuch.

"For every kid who ever went to the camp, Scott Powell was the most inspirational and exciting guy that you've ever met," said O'Harra, who attended and worked at Camp Gorsuch. "When you wanted to be on staff, you wanted to be on staff so you could be on Scott's team. He's the reason a lot of kids came back to the camp as counselors for years and years."

Jamboree is a decades-old event and one of the biggest gatherings of Boy Scouts worldwide. The first, in Washington, D.C., in 1937, drew more than 27,000 people. Scout officials said attendance at this one, the 16th Jamboree, is expected to top 43,000 Scouts and leaders from the United States and 20 countries.

This is the seventh Jamboree at Fort A.P. Hill, nestled in the rolling hills of Caroline County, Virginia. Scouts swarm 3,000 acres. Within hours on Monday, cadres from various cities and states were expected to stake down some 17,000 tents and put up 3,500 patrol kitchens. The Scouts who attend are at least 12 years old and younger than 18.

Boys at the 10-day event do all things Scout-related—from biking to archery to kayaking. They earn merit badges and cook many of their own meals. Camp highlights include blow-out opening and closing arena shows that include Army Rangers parachuting in, fireworks exploding, folks singing and dancing. President Bush is scheduled to speak Wednesday night.

Alaska leaders split the kids into two groups: Troop 711 and Troop 712. They spent four days together touring Washington before arriving at Jamboree for opening day Monday.

Several adults from Alaska's group helped put up a large tent. It might have been a mess hall for the group or the sleeping quarters for the leaders, said Mike Sage, an Anchorage father who chaperoned Alaska Scouts at the last Jamboree four years ago.

The tent has a large metal pole as its center support and also poles at its corners. Men were reportedly holding on to those, Paula Call said.

It's unclear how the pole came in contact with the wire.

"They either hit the power line with the pole, or a truck went by and knocked the pole over," Holfeld said. "Either way, the pole hit the power line, electrocuted them, set the tent on fire, the tent fell on them, and they were trapped underneath," with Scouts watching.

In interviews and press releases all day, Boy Scout officials referred to the incident as "an electrical accident."

A statement on the official Jamboree Web site said: "Our prayers and sympathies are with the families of each of the victims. It is a tragic loss that is shared by everyone in the BSA. Counselors and chaplains are at the jamboree and available to any Scout or leader. A thorough investigation into this accident is under way."

Fairrer said Boy Scouts of America is leading the investigation and working with the military.

People have died or been seriously injured before at Jamboree, Fairrer said. But she could not recall a catastrophe of this magnitude.

"And any time there's a death, it hurts all of us," Fairrer said. "Within scouting, we are one big family."

Gov. Frank Murkowski said in a statement early Monday evening that he was "very saddened today to learn of the deaths of these four Scout leaders in such a tragic and unexpected accident. . . . These individuals were killed while serving Alaska's young people, and I admire and thank them for that service."

The three boys whose fathers died are returning to Alaska, Haines said.

"The other boys who didn't lose their fathers are going to make a decision with their leaders about what to do."

[From the Washington Post, July 26, 2005]

Four Scout Leaders Die in Va. Accident

(By Karin Brulliard and Martin Weil)

FORT A.P. HILL, VA.—Four adult Scout leaders from Alaska were killed Monday afternoon at the Boy Scout Jamboree in an electrical accident that apparently occurred when a pole from a tent they were setting up struck an overhead power line, officials said.

Three others, a Scout leader and two contract workers, were injured in the accident, which happened a few hours after the official noontime opening of the jamboree. The gathering draws thousands of Scouts every four years from across the United States and many foreign countries.

No Boy Scouts were injured.

The leaders were from the Anchorage area and represented the Scouts' Western Alaska Council, an official of that council said. Bill Haines said two of those killed and the injured leader had children with them at the jamboree, about 75 miles south of the District.

"It's a very tragic loss for all of us," Haines said.

The children, he said, were coping. "They are all being taken care of," he said.

Sheriff A.A. "Tony" Lippa Jr. of Caroline County said a preliminary investigation indicated that the pole had struck the power line but that authorities had not determined how it happened. "We're not sure if the poles shifted." he said.

Scout officials gave no details of how the accident occurred, other than to say that it was between 4:30 and 5 p.m. while the camp for the Alaskans was being set up. One person with knowledge of jamboree operations, who spoke on condition of anonymity because an investigation is underway, confirmed that a tent-support pole touched an electric line.

After the accident, witnesses saw a slender pole that protruded through the apex of a pyramid-shaped tent and appeared to be touching one or more overhead lines. The tent was one of two at the Alaskans' site that appeared to be intended for use as a group gathering place rather than for sleeping.

One of the two light-colored tents apparently had been fully erected. The other tent, where the accident apparently occurred, was cordoned off with yellow tape. The Scouts who might have stayed in that area had been moved.

Haines, in a telephone interview from Alaska, said the four men who died "were leaders in the Scouting community, longtime Alaskans. They were very instrumental in the council" It was the first jamboree for one of the men.

Lippa said the ages of three of the four were 42, 47 and 58.

All those injured were in stable condition at hospitals, the sheriff said. None of the men's names was released last night.

Officials said late last night that they expected the jamboree to continue but were not certain whether any adjustments to the schedule or participation might be made. Bob Dries, volunteer chairman of the event's national news and media operation, said: "I would expect the jamboree is going to carry on. Certainly, our sympathy is with the families. It's a sad day. The jamboree is about kids and having fun."

Renee Fairrer, director of national news and media for the jamboree also said the event would go on. She said the Alaska contingent had been separated from the others.

Gregg Shields, a spokesman for the Boy Scouts, said chaplains and grief counselors were meeting with the Scouts from the Western Alaska council. Those Scouts are "our primary concern right now," he said.

Haines said he did not know whether they would stay for the duration of the jamboree, which runs through Aug. 3. "We're going to do what the troop wants." Fairrer said.

Other Scouts from the general area in which the accident occurred appeared to be taking part late yesterday in planned activities. Some were seen setting up cots or reading. A Scout-run camp radio station interrupted its normal broadcast to report the accident.

Fairrer said the accident was being investigated by the Boy Scouts and the U.S. Army, which operates the base in Caroline County, about 10 miles east of Interstate 95 on Route 301, just south of the Rappahannock River.

She said late Monday that 32,000 Scouts and an additional 3,500 leaders had assembled to live for 10 days in what is essentially a huge tent city on the grounds of the base. President Bush is scheduled to address the gathering Wednesday night.

The accident, Fairrer said, occurred at the eastern edge of the campsite, which she estimated at seven to 10 miles from the fort's main gate. The base is about 76,000 acres: the Scouts are using about 5,000. Jamboree representatives said as many as 17,000 two-man tents might be pitched.

The site is supplied with electricity by the Rappahannock Electric Cooperative, Fairrer said. The utility last night said it was assisting in the investigation.

Over the past weekend, some of the Scouts have been in Washington, swarming over the Mall and through the monuments, a blur of khaki and neckerchiefs and patch-covered shoulders.

Hundreds of buses pulled into the military base yesterday to disgorge Scouts by the thousands. Officials said they came from 50 states and 20 foreign countries. At least 400 Scouts from the Washington region were scheduled to be on hand.

The jamboree has been held at the military base since the 1980s.

Mr. STEVENS. Again, I thank the Senate and the leaders for their courtesy.

The PRESIDING OFFICER. The minority leader is recognized.

CLOTURE ON DEFENSE AUTHORIZATION

Mr. REID. Mr. President, Members heard the colloquy between the distinguished majority leader and this Senator. I ask unanimous consent that the time I use not apply to any of the order now before the Senate with regard to the four votes that are pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I was in Chicago over the weekend at an event. I talked to a well-dressed, very articulate man. I didn't realize he was as old as he was, but I learned later he was 83 years old. His name is Green. He had served in the South Pacific for 3 years during World War II. All those islands we hear so much about, he was on all of them, carrying a rifle, fighting for our country.

This morning I thought about Mr. Green. In World War II, do you think the Senate would have spent a matter of a few hours on the Defense bill? I don't think so. During World War II. Senator Truman, among others, debated very vociferously whether there should be an investigation into how money was being spent by the military and the Government generally. It was controversial, but it was debated. Senator Truman's actions carried.

What are we doing here today? What are we doing here today? A bill involving 1.4 million active-duty men and women serving in uniform for our country and a million Guard and Reserve, approximately 2.5 million men and women serving this country in Iraq, Afghanistan, Korea, Germany, all over the world, a bill that is costing the American taxpayer during this year approximately $450 billion—that doesn't count the usual emergency supplementals that are not part of this process involving tens of billions of dollars—we are going to spend on this bill a few hours. To this point we have not had a single vote on a Democratic amendment. It is unconscionable to do this, to end debate on these amendments that help our country.

Just a few of them. Concurrent receipt is something I have worked on with the two managers of this bill for 4 years. What is concurrent receipt? Is it important to the military? It absolutely is. Prior to the 4 years this Senate worked on it, a person who retired from the U.S. military who was disabled could not draw his disability benefits and his retirement benefits. If you are retired from the military with a disability and you worked at Sears, you could draw both, or if you worked at the Department of Interior, you could draw both. But not from the military. We have changed it. We have not changed it enough, but we have changed it a lot and it is helpful. But we need to continue to work with these disabled American veterans to get them the money they have earned and they deserve and which this country is obligated, in my opinion, morally to pay them. We won't have an opportunity to do that on this bill because in an hour or so cloture will be invoked.

Senator NELSON from Florida wants to offer an amendment authorizing surviving spouses to receive both survivor benefit plan annuity benefits and indemnity compensation, and they should be able to get both.

Senator KERRY wants to make permanent the temporary authority, including the emergency supplemental for dependents of service members who die on active duty to remain in military housing for 1 year after the person has been killed in the line of duty. That is not asking too much. We would like that amendment to be offered. We want to improve this bill. We are not trying to tear the bill apart. We want to improve it.

Senator LIEBERMAN and others want to increase the size of the military by 20,000 a year for the next 4 years. I believe in this amendment, but we very likely will not have the opportunity to have that voted on.

Senator MURRAY has a childcare amendment that would help members of the U.S. military have their children taken care of while they are on active duty.

Senator DURBIN has an amendment to require Federal agencies to pay the difference between military and civilian compensation for National Guard and Reserve. This is something we very likely will not have the chance to vote on.

Senator LEVIN has an amendment that would provide $50 million to cooperative threat reduction to meet the new opportunity to provide security upgrades to 15 key Russian nuclear weapons sites.

Last week a report was issued by former Secretary Bill Perry that said the No. 1 problem the world faces is loose nukes. That is what this is all about.

This is a bill that is so vitally important. It is important in dealing with veterans health care benefits. It is important in dealing with Guard and Reserve, base closure, our war on terror.

impact of sustained military operations to our troops and their families, detainee abuse.

Republicans have joined with Democrats in saying let's take a look at what has gone on with how we treat prisoners of war—a bipartisan amendment. We can read in any paper in the United States that last week the Vice President of our country had been calling people at the White House, Members of the Senate, to tell them not to do that. Why? What are we afraid of? This is an open society. This is the United States. We won't be able to offer that amendment. Is that why this bill is being taken away from us? Because the administration has said we don't want you to look at what has gone on in Guantanamo, Abu Ghraib, and other such places? This majority leader, apparently under pressure from this administration, decided we were not going to deal with these important issues this year. Rather than putting our troops and our Nation's security first by letting the Senate work its will on these important issues, the majority leader and this administration decided to prematurely cut off debate.

It is unheard of to do what is being done here. The hue and cry will go forth from this majority we have here saying these awful Democrats are trying to hold up the Defense bill. Hold up the Defense bill for a couple of days?

We believe we have an obligation, we Democrats believe we have an obligation to face difficult issues and not run from them, including the embarrassment of what went on in our prisons at Guantanamo and Abu Ghraib. We believe it is important to deal with weapons of mass destruction in this bill. Unfortunately, that is precisely the choice the majority leader is forcing this body to make today. If we do not invoke cloture on this bill and forego our right to offer these important amendments, the bill is gone. We are not going to be able to take these things up.

This work period is ending. We are going to go home. We are going to come back in September. The fiscal year is on top of us. We have the Roberts nomination that will take a little time on the Senate floor after the Senate Judiciary Committee completes its important work. What are the Republicans afraid of?

There is more to this than the administration simply wanting to cut off debate because of embarrassment to them about talking to these issues. The Republican leadership is also engaged in a very cynical ploy here today. They have pitted the interest of a very powerful special interest group against this Nation's security needs. Rather than spending the time needed to carefully consider critical national security issues—and I think that is something that again we need to focus on, national security issues—the Republican leadership has decided it is more important that the Senate instead take up gun legislation. I support the legislation, but let's be realistic about this. Legislation that would trump the men and women of America who wear the uniform of our country? I don't think so. I don't think it is a fair match. No matter how you may feel about gun legislation, it is not a match to allowing us to proceed on the Defense bill as we have done traditionally in this body.

I recognize we have wasted a lot of time in the Senate, spending one-third—one-third—of the Senate's time on voting on three judges. Every one of the people who was made a judge had jobs already. One-third of the Senate's time was spent on three judges. So I know we are crimped for time around here because of that. But we are going to take gun legislation and compare it to the men and women who I visited out at Walter Reed laying in those hospital beds. Think of my friend, my new friend, Mr. Green from Chicago, World War II veteran, proud of the service he made to this country. He gave to this country. What we are doing here today, would it ever have happened during World War II? No. I think it would be unfortunate if the Senate were to vote to end debate today, but this is a position individual Senators can pick. I haven't twisted any arms. Senators can do what they want to do.

What would be the best of all worlds is we could have a bipartisan opposition to this invocation of cloture today. That is what should happen. There should be a revolt by my friends on the Republican side to cut off debate on this bill at this time.

This is an embarrassment to this body. It should be an embarrassment to the majority. This is something that is going to be around for a long time. What is going to be around for a long time is how we have been treated on this legislation. Who is we? The American people.

I have only mentioned a few. I don't know how many amendments we have pending—probably 30 amendments already that have been laid down. We have had several others. The last time cloture was invoked on this bill we had already acted on 80 amendments, after days and days of debate. That is what it is supposed to be. And we are not asking for days and days. We are saying we will finish the bill by Thursday. Today is Tuesday.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. REID. I am happy to yield to the Senator.

Mr. DURBIN. I would like to clarify what we face at this moment. If I understand what the minority leader has said to the Senate, we have pending amendments before the Senate on the Department of Defense authorization bill which will not survive, are not likely to survive, cannot even be considered because of this procedural decision by the majority leader, by Senator FRIST. And if I understand what the Senator from Nevada has said, he has said that included in the amendments which will fall, will not be considered this week, would be an amendment he wants to offer to help totally disabled veterans, an amendment by Senator NELSON of Florida to provide funds for the widows and orphans of those who die in combat, an amendment by Senator KERRY to provide for housing for 1 year for the family of a soldier who dies in combat, the amendment by Senator MURRAY to provide childcare for soldiers' families when the soldier is deployed overseas, and my amendment to make up the pay difference for National Guard and Reserve who are activated and lose money from their civilian pay. And if I understand the Senator from Nevada, he is saying these amendments, these five or six I have read, we have been told we won't have time to consider this week.

If I understand the Senator from Nevada, he has said we don't have time to deal with the totally disabled veterans, the widows and orphans of those who fall in combat, and those Guard and Reserve members who are activated, we don't have time for that because we have to move to a bill for the gun lobby, for the National Rifle Association.

If I understand what the Senator from Nevada says, it is more important for us to do our best for the gun lobbyists in their three-piece suits than for the men and women in uniform who are fighting and dying for our country. That seems to me to be the agenda and the priority of the majority leader who has come to the floor today.

Is that my understanding of what the Senator from Nevada has said?

Mr. REID. I say through the Chair to the distinguished Senator from Illinois, yes. We have been reasonable. I believe there is no jury you could have in the world that would think we are doing other than the right thing, asking for a couple days to improve a bill that will give benefits to 2½ million Americans serving in uniform and a bill that is going to cost the taxpayers $450 billion in 1 year. We want to spend a couple days on this bill and we are not being allowed to because the administration is pushing them and the gun lobby is pushing them.

Look, I am not opposed to everything the administration does. I am not opposed to everything the gun lobby does. But I am opposed to what the administration is doing in this instance and the gun lobby in this instance because it is wrong for the people of our country.

Mr. DURBIN. I ask further if I could ask a question of the Senator from Nevada through the Chair. Is it my understanding the Senator from Nevada came to the floor and gave the Republican leader his assurance that these amendments would be considered in a timely fashion and that we would agree that this bill, the Department of Defense authorization bill, would be passed from the Senate this week, no later than Thursday evening, in plenty of time so that it will be there for the administration and for the conference committee to consider, so there would be no delay, so we could take up in a timely fashion amendments to help the totally disabled veterans, amendments to help the widows and orphans of those who have fallen in combat, amendments to help the Guard and Reserve when they are activated so their families can stay together? Did the Senator from Nevada give that assurance to the Republican leader, Senator FRIST, that we are not trying to delay this unreasonably but want to move it through quickly, consider these amendments in a timely fashion, vote up or down and move to final passage this week?

Mr. REID. The answer is yes. I also say, Mr. President, so there is no problem later on, so everyone understands the quandary we are in—but we didn't get us there, we didn't spend a third of our time on three judges—here is the quandary we are in. As I understand the rules, if cloture is invoked on the Defense authorization bill, we will finish it sometime Wednesday evening. Then there will be a vote that will occur automatically on the gun handling bill legislation and then there will be 30 hours to debate the motion to proceed on the gun legislation. Senator REED from Rhode Island has told me he wants to use all that 30 hours, he or some combination of Senators, so that will end sometime around midnight on Thursday. And then if the majority leader wants to continue the presentation of the gun legislation, there would have to be cloture filed again for a Saturday vote or maybe even have a Friday vote if he does it Friday before midnight, and then there is another 30 hours to go forward on the gun legislation. And during that period of time no other business can be conducted.

I have spoken with the majority leader about this issue. There will be a small window of time on Wednesday between whatever time the 30 hours runs out at midnight, if he decides to continue on the gun legislation, that we can in the few hours do the Energy conference report, Interior conference report, highway conference report, legislative branch conference report, and whatever else is available.

The time spent on judges has put this Senate in a real difficult position, notwithstanding that the majority leader promised the Senators from Hawaii they can do the Native Hawaiian bill.

I want everyone to understand what they are walking into. The best would be to defeat cloture. Senators from the majority side should join with us to defeat cloture, finish the bill in the ordinary course, and do whatever would come naturally after that, which would be a motion to proceed to the gun liability legislation.

Ms. STABENOW. Mr. President, will the Senator yield for a question?

Mr. REID. Yes, I yield for a question.

Mr. WARNER. Will the Senator yield for a question?

Mr. REID. I have yielded to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, let me raise an issue and ask a question. We have spent time in this Chamber trying to address an immediate shortfall in veterans health care funding. Senator MURRAY has brought this to our attention. We have yet to see this resolved. We have gone back and forth about whether we are going to provide adequate funds now for our veterans.

Is it not true that one of the amendments—and I know this is true because I offered an amendment that would address this situation long term—where instead of coming back and forth constantly trying to figure out whether we are going to have the veterans funding year to year so our veterans do not stand in lines, wait months to see a doctor, and not receive what they need, isn't it also the understanding of the Democratic leader that my amendment that would address permanently the issue of veterans funding, therefore guaranteeing that when our brave men and women come home from the wars, end their service, and become veterans, that they would be assured we will keep our promise to them as it relates to full funding of veterans health care, is it the Senator's understanding that this amendment would also fall, we would not have the opportunity to address this issue in this bill?

Mr. REID. Mr. President, we have been told that this amendment would fall. This amendment, which has already been filed, would fall postcloture. People would not have an opportunity to vote on this amendment.

I will also say, one of the points I mentioned during my statement is the Interior bill is coming up. We promised that would come up before we leave because there is $1.5 billion in that bill for veterans' benefits for this fiscal year because they have been so shortchanged.

I yield for a question from my distinguished chairman of the Armed Services Committee.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished friend and Democratic leader. I ask a very narrow question. He has pointedly raised three or four amendments that address the benefits that could go to veterans or active.

The Senator from Nevada has been a leader every year that this bill has been brought up on a variety of issues, and no one takes the place to his fervor in trying to provide particularly for the concurrent receipt legislation. But I have to say to my good friend, and my question is, am I not correct that this bill came up Wednesday night, and Senator LEVIN and I were on the Senate floor into the evening, this bill was on the floor Thursday right up until early evening and again Friday morning? Every one of those bills—concurrent receipts, I remember specifically asking Senator NELSON of Florida: Could you not bring up that bill early? He said: No, I am going to wait until Tuesday. That is all he said.

I have to say, I believe I am correct that all of those pieces of legislation that were mentioned could have been brought up Wednesday, Thursday, Friday, and addressed by the Senate.

Mr. REID. Mr. President, I say to my distinguished friend, I have sat side by side with him in the Environment and Public Works Committee for many years now and have the greatest respect for him. In this instance, he is just absolutely wrong.

On Wednesday, this bill was taken up late in the afternoon, with time for opening statements. On Thursday, there were no votes after 6 o'clock in the evening. Friday, no votes. Monday, no votes. As has been mentioned here on the floor of the Senate by me, among others, on many different occasions, we cannot have work done here when we cannot have votes on amendments. Fridays have become no-work days. If there are no votes, we do not get anything done here. So I say to my distinguished friend, I don't know when they should have offered amendments. I don't know when Senator NELSON should have offered them. The point is, we have said we will finish this bill by Thursday at 7 o'clock. Pretty good time. It would give us today, tomorrow, and Thursday to complete this bill. This would be far shorter than the time we normally spend on this bill. Tuesdays, Wednesdays, and Thursdays is when we vote around here. I think we should vote on Fridays and Mondays, but we do not. The Monday vote is a meaningless vote, in my opinion, to get people back here.

Mr. LEVIN. Will the Senator yield for a question?

Mr. REID. I will be happy to yield.

Mr. LEVIN. Is it not also true that these amendments, plus many others, have been offered, and people would have been perfectly happy to have votes on them if they were permitted, but votes were not permitted, so they had to be temporarily laid aside so others could be offered? But the idea that those people who offered those amendments would not have been happy to have votes on those amendments is not right.

Mr. REID. I say to my friend through the Chair, not only is it true that those amendments have been filed, they were required by the rules of the Senate to have been filed because there was a 2 o'clock cutoff for the amendments to be filed.

Mr. LEVIN. And are pending; is that correct?

Mr. REID. Yes. I don't know how many.

Mr. LEVIN. Over 40.

Mr. REID. In addition to that, I think there are a couple hundred amendments filed by both sides. As happens here, with the cooperation of these two fine managers, we work down the number of these amendments and only go to the most important ones. That is what we said we would do. I think it is a shame that we are going to be taken off this bill in about an hour. It is not good for this body, it is certainly not good for this country, and it is certainly not good for the 2.5 million people we respect so much who serve our military.

AMENDMENT NO. 1377, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will be 20 minutes equally divided between the Senator from Maine, Ms. COLLINS, and the Senator from New Jersey, Mr. LAUTENBERG.

The Senator from Maine.

Ms. COLLINS. Mr. President, the Senator from New Jersey has shed much needed light on a disturbing problem, and that is the improper use of foreign subsidiaries by U.S. firms to conduct business in certain rogue nations where they might otherwise be barred from doing business by U.S. sanctions laws.

Like the Senator from New Jersey who has been a real leader on this issue, I have been very disturbed to read of allegations that foreign subsidiaries of some of the best known American corporations have been conducting operations in countries such as Iran and Syria, even though U.S. sanctions laws prohibit their U.S. parents from doing so directly. There are allegations that some of the subsidiaries in question are not even real companies but, rather, they are shell corporations that were created just for the purpose of evading the law.

These reports highlight that our sanctions laws are not as tough and as effective as they should be. In seeking a solution to this problem during the past year, I have consulted extensively with the Treasury Department, the State Department, and other experts. It turns out to be very complicated and presents a technical set of legal and foreign policy issues to accomplish the goals that both the Senator from New Jersey and I share.

Let me try to frame the choice that is now before our colleagues.

We have before the Senate two proposals designed to extend the reach of U.S. law, specifically the International Emergency Economic Powers Act, or IEEPA, to cover companies doing business with countries covered by U.S. sanctions laws.

Let me explain what my proposal would accomplish. It does four things. First, it would extend IEEPA to prevent U.S. companies from trying to evade the law by moving operations overseas.

Second, my amendment would prohibit U.S. companies from approving, facilitating, or financing actions that are illegal under IEEPA.

Third, it ratchets up the penalties for violations of the law from $10,000 per civil violation and $50,000 per criminal violation to $250,000 and $500,000 respectively.

And fourth, it ensures that the Treasury Department has the subpoena power it needs to enforce the new sanctions.

Let me explain what it would not do. Most important, my proposal would not jeopardize our working relationships with key allies by attempting to assert U.S. jurisdiction on companies that operate and are incorporated elsewhere.

Second, it will not provide yet another incentive for American companies to move their jobs overseas through corporate inversions.

These are the main problems with the approach of my colleague from New Jersey. Again, I emphasize that I share the same goal as my colleague from New Jersey, and I salute him for focusing much needed attention on a very real problem.

Let me explain further. My colleague's amendment attempts to impose sanctions on businesses operating and incorporated in foreign countries. So, for example, if a U.S. firm has a subsidiary in Great Britain, my colleague's amendment proposes to extend U.S. law to that subsidiary, even if U.S. law is inconsistent with British law.

This is a dangerous and imperious approach to foreign policy. If other countries tried to impose similar rules on us, imagine how we would respond. For example, imagine if Saudi Arabia tried to impose criminal and civil penalties on a Saudi firm's U.S. subsidiary operated and incorporated under the laws of our country because that firm was doing business in Israel, or imagine if Germany attempted to impose sanctions on a German firm's American subsidiary, again operating here under our laws and regulations, for not meeting German labor laws that are inconsistent with our laws.

Moreover, my colleague's amendment would create the perverse incentive for American firms to invert or move overseas in order to avoid the onerous and extraterritorial application of our sanctions laws. We must not choose that path.

There is a very real problem here with some American companies exploiting an exception that is in the current law, but I believe that the proposal I have advanced would greatly strengthen our laws, would provide new tools for enforcement, and would enormously increase penalties for violations.

It would make crystal clear that a U.S. company is prohibited from in any way approving, facilitating or financing actions of a subsidiary that would be illegal under the sanctions law.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I extend my thanks to the Senator from Maine for her graciousness, in terms of describing an effort we are both very much interested in, in solving a problem that exists before us. Very soon, the Senate is going to vote on the two amendments, both of them aimed at foreign subsidiaries doing business with terrorist nations. But only one of these amendments—and it may not come as a surprise, mine—gets the job completely done.

I have great respect for the Senator from Maine. She works very hard to chair a committee on which I sit, the Homeland Security and Governmental Affairs Committee, and accomplishes a lot. But unfortunately, in this case, the amendment she offered will not close the loophole we are concerned about, nor will it stop American businesses from doing business with terrorist nations such as Iran.

It recognizes the seriousness of the problem but unfortunately, as it is presented, does not solve the problem. Iran is one of the world's largest state sponsors of terrorism. Nobody doubts that. Every year, the Iranian Government funnels tens of millions of dollars to Hamas and Hezbollah and Islamic Jihad, to name a few. These organizations turn around and use that money to murder Americans and others who are trying to live their lives. No American company should be permitted to help them in any way, either directly or with a sham corporation.

Iran also uses its oil revenues to fund its nuclear weapons program. Once again, through sham corporations, American companies are helping them develop those oil revenues. Revenues, for what purpose? The purpose is to attack our people and other innocents across the world. That is why we do subject Iran to one of the strongest sanction regimes that we have. But some American companies exploit a loophole in our sanctions laws. They go offshore, open a sham foreign subsidiary and use that foreign subsidiary to do business with the Iranian regime with impunity and help create profits for them to be used for any purpose they choose.

This has to stop. In the past, I believe the Senator from Maine agreed with me that this has to stop. In fact, last year she supported my amendment. So I am hopeful that she will once again vote for my amendment. I am going to vote for hers.

I want to be clear. I have no objection to the Collins amendment, and I am going to vote for it, as I said, as a signal that we must do something to stop supporting these avowed enemies of America. The Collins amendment is not a bad amendment, but it only codifies existing regulations that, frankly, are not enough. It confirms what we have now and permits companies to escape sanctions.

In the case of Cuba, we do not allow, any American company to use a sham to do business there. We ought not permit Iran to do the same things.

If we want to close this loophole, my amendment is the only one that accomplishes it. Under the Collins amendment, the scenario on this placard is still possible. Here is a U.S. corporation. Here is a foreign subsidiary of the U.S. corporation. They can do business with Iran, who then sends funds to Hezbollah, Hamas, and other terrorist organizations. They have their subsidiaries operating in other places. But they should not have subsidiaries that are allowed to do business in this way.

We want to strengthen existing law. The way we do it is to explicitly say that any foreign subsidiary, controlled by an American company, must obey our sanctions.

The senior Senator from Michigan pointed out last week that the standard we have, the sanctions standard, already applies to foreign subsidiaries that do business in Cuba. I repeat what I said before. My amendment simply applies the same rules to terrorist states such as Iran.

I ask my colleagues, is fighting al-Qaida really less important than fighting Castro? If you vote no on this amendment, that is what you are saying.

My amendment is simple and straightforward. It makes clear we will not allow foreign subsidiaries of U.S. companies to provide funds to Iran. It is common sense. That is why a conservative group, the Center for Security Policy, supports my amendment. Frank Gaffney, who is president of the Center for Security Policy, said in the Washington Times today:

> If the Senate is serious about truly closing this loophole, it must adopt the Lautenberg amendment.

That is from Frank Gaffney, president of the organization.

We have to stop U.S. companies from doing business with terrorists when they intend to murder innocent Americans. I ask my colleagues, please support my amendment. Families across this country do what they can to protect their loved ones and we can do no less. Every day we wait to close this loophole, more and more money flows into the hands of terrorists. For the sake of our troops, for the sake of our citizens, we have to shut down this source of terrorist funding.

I again restate my intent. My intent is to support the Collins amendment because it does open our eyes a little bit further to the problem. But I hope, if we really want to solve this problem, the Lautenberg amendment is the one that will finally be voted for.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, again I commend the Senator from New Jersey for focusing attention on what is a very real problem, and that is that the current law is not tough enough and there are reports that subsidiaries of some very well-known American corporations are doing business in states where U.S. sanctions laws apply. But I think when you deal with this area, you need to be very careful to not craft a proposal that has unintended consequences.

Moreover, my colleague's amendment does not do what the Treasury Department's Office of Foreign Asset Control, OFAC, has specifically named as the legislative step that would be of most benefit to them, and that is substantially increasing the penalties in the current law.

My proposal would do that. Senator LAUTENBERG does not include increases in the penalties.

In addition, my proposal explicitly grants the Treasury statutory subpoena power to ensure that it has all of the enforcement tools it needs.

But let me go back to the underlying issue. The Collins amendment would be very specific in barring any action by a U.S. firm in approving, facilitating or providing financing for any action by its foreign subsidiary that would be unlawful for the parent company to engage in.

It would also prevent U.S. companies from evading the law by setting up a subsidiary overseas, a shell corporation. So I think the proposal that I have set forth greatly strengthens the current law.

We do not, however, want to create a perverse incentive that would encourage American companies to invert and reincorporate overseas, and I fear that could well be the result of the amendment of Senator LAUTENBERG.

I am concerned about something else, and I have given these examples. We don't want to open the door to foreign governments trying to impose on the American subsidiaries of firms incorporated in their countries, their countries' laws.

Let me give the example again. What if the Saudi Government tried to impose a restriction on doing business in Israel on the American subsidiary of a Saudi firm? We would be outraged about that.

This proposal raises many complex technical questions, and that is why the Treasury Department and the State Department have urged caution and much prefer the approach embodied in the Collins amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. How much time remains?

The PRESIDING OFFICER. The time of the Senator from Maine is expired. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. I appreciate that clarification.

I ask the Senator from Maine, under your amendment, is it possible for a foreign subsidiary owned and controlled by a U.S. company to do business with Iran?

Ms. COLLINS. Mr. President, if the Senator would yield from his time, I would be happy to answer that question.

Mr. LAUTENBERG. I respect the Senator from Maine and do allow time for an answer, if it is a short answer, please.

Ms. COLLINS. Mr. President, under my amendment, it is very clear that an American parent could not in any way be involved in a subsidiary's decision to do business in a prohibited nation. It could not approve it. It could not facilitate it. It could not direct it. It also could not set up a subsidiary for the purpose of evading the law.

Mr. LAUTENBERG. If the Senator would yield for a question on my time. Can a subsidiary do business with Iran?

Ms. COLLINS. The subsidiary could not do business if it were in any way directed to do so, approved, financed, in any way, by the American parent. The language is very clear on that.

Mr. LAUTENBERG. I think the conclusion is in error. Rather than have the debate about the precision with which the Collins amendment is drawn, I point out two things. AIPAC and the Cuban American National Foundation support my amendment. That is very specific.

In the reference used about a Saudi company doing business with Israel, Saudi Arabia already boycotts Israel, so that question is taken care of.

I fail to see, I must say, why we are going through these gyrations explaining a perverse effect when, in fact, what I want to do is stop any—by the way, the practice is taking place, currently.

What the Senator from Maine has done is codify regulation. I want to stop any possibility for a sham corporation that wants to evade our laws to do business. That is where we are.

I hope my colleagues will support my amendment.

The PRESIDING OFFICER. All time has expired on the amendment.

Mr. LAUTENBERG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The first question is on the amendment of the Senator from Maine.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Idaho (Mr. CRAIG).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER (Mr. SUNUNU). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—98

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—2

Craig
Rockefeller

AMENDMENT NO. 1351

The PRESIDING OFFICER. At this time, there will be 2 minutes equally divided on the Lautenberg amendment, amendment No. 1351, on which the yeas and nays have been ordered.

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, we have just had a vote on the Collins amendment that confirms we have a problem. There is no denying there is a problem out there, but there is only one way to solve it; and that is to say that any American company cannot form a sham corporation and do business with Iran as is presently being done. We do not permit it in Cuba, and we should not permit it in any other place in the world. So I hope now I will get the same kind of support we have just seen because we want to cure the problem. This is the best way to do it.

The PRESIDING OFFICER. Who seeks time in opposition?

The Senator from Maine.

Ms. COLLINS. Mr. President, I respect the intentions of my colleague from New Jersey, but his proposal is overbroad. It is strongly opposed by the administration. I urge opposition to the Lautenberg amendment.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Idaho (Mr. CRAIG).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—47

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Ensign
Feingold
Feinstein
Harkin
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—51

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Crapo
DeMint
DeWine
Dole
Domenici
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Isakson
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—2

Craig
Rockefeller

The amendment (No. 1351) was rejected.

Ms. COLLINS. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, will the Chair advise the Senate as to the pending business.

AMENDMENT NO. 1342, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, a vote will now occur on the Frist amendment No. 1342. There will now be 2 minutes equally divided for debate. This will be a 10-minute vote. The subsequent cloture vote that has been scheduled will also be a 10-minute vote.

Who seeks time?

The Senator from Virginia.

Mr. WARNER. Mr. President, on behalf of the majority leader, who is participating in a ceremony in the Rotunda, the Support Our Scouts Act of 2005—and I am a cosponsor—is a very important piece of legislation, particularly in the wake of the tragic events that occurred last night. It will help ensure that the Defense Department continues to provide the Scouts the type of support it has lawfully provided in the past, to include supporting the Scouts at their jamborees.

In this context, I thank Senator DURBIN for helping to refine the amendment's language to provide flexibility to the agencies that provide like support.

This amendment also ensures the Scouts have equal access to public facilities, forums, and programs that are open to other youth and community organizations. Boy Scouts, like other nonprofit organizations, depend on the ability to use public facilities and participate in these programs.

The Scouts are a youth organization, well known to every Member of this body, that is committed to developing qualities such as patriotism, integrity, honesty, and other values in our Nation's boys and young men. The amendment by the distinguished majority leader makes that goal clear.

As such, the amendment of the majority leader also makes clear that Congress believes the Boy Scouts should be treated the same as other national youth organizations.

I hope that all of my colleagues will join the 50-plus cosponsors of this legislation and vote with me and other supporters of Scouting.

Yesterday, July 25, tens of thousands of Scouts from around the country began arriving at Fort A.P. Hill in Virginia. Tennesseans, such as Bill and Diane Goins from Soddy Daisy, TN, have traveled great distances to participate. Vote for this amendment and let them know that Congress wants the Pentagon's support to the Scouts at their jamborees to continue.

Let's also let them know that not only is Defense Department participation helpful to the Scouts, it is also beneficial to the training of our armed forces.

Mr. President, I urge all of my Senate colleagues to vote for the young boys and girls who are following in the worthy Scouting tradition. A vote for this amendment is a vote for them.

Mr. DURBIN. Mr. President, as I noted earlier when the majority leader offered this amendment, I support the Boy Scouts, Girl Scouts, and other youth organizations. The Frist amendment seeks to ensure that government resources are not arbitrarily denied to youth organizations, while, at the same time, not limiting judicial review of the constitutionality of government actions.

I want to thank the distinguished majority leader for working with me to address my concerns regarding section 2, in which his amendment had provided a guaranteed funding level for youth organizations.

Together, we now have added flexibility to address cases where youth organizations no longer deserve the funding level they had previously received. For example, if a youth organization is convicted of a criminal offense or a senior officer of a youth organization is convicted of a criminal offense relating to his or her official duties, under this modification, the head of a Federal agency would be able to waive the guaranteed funding level. Federal agencies also would have the ability to waive this funding level if the youth organization is the subject of a criminal investigation relating to fraudulent use or waste of Federal funds. It is my expectation that Federal agencies will use ths discretion wisely.

Our modification also clarifies that the support that a Federal agency is required to provide youth organizations is subject to the availability of appropriations, which Congress can revisit each year.

I also want to take this opportunity to reaffirm the importance of our Nation's strong tradition of religious liberty, our tolerance of the religious beliefs of all people, and our respect for those who do not believe in God or a higher authority. This amendment respects the significance of religious liberty by not limiting the jurisdiction of Federal courts in determining the constitutionality of government support for youth organizations.

Therefore, I support this amendment, as modified.

Mr. FRIST. Mr. President, yesterday, tens of thousands of Scouts began arriving at Fort A.P. Hill in Virginia to attend the National Scout Jamboree.

Held every 4 years at the Army base, the jamboree draws Scouts, leaders, and volunteers from around the world.

The Scouts will spend the next 10 days participating in outdoor activities like archery; fishing; and geocoaching, a GPS-based scavenger hunt.

One Scout told the Washington Post:

> It's just a lot fun. There's so much to do here. You get to see so many people from all around and they have all sorts of activities.

For the local community, the jamboree has been a great financial boost. Just this year alone, the event has pumped $26 million into the community. The Scouts have spent $20 million on base improvements, including road paving and plumbing upgrades.

Unfortunately, this great summer Scouting tradition may come to an end. The reason? Because the Scouting oath includes an oath of duty to a higher power. Despite decades of public support for Scouting, one Federal judge has ruled that the Pentagon can no longer provide its facilities as a matter of church and state.

Because of this lawsuit by the ACLU, 40,000 Scouts are in danger of being denied permission to hold their jamboree at Fort A.P. Hill, or any other publicly supported venue.

That is why I am offering the Support Our Scouts Act of 2005. These young people need our help and our voices to protect a great tradition.

Since 1910, Scouting has taught and enriched millions of boys and girls, and drawn generations of Americans together.

Boy Scout membership has totaled more than 110 million young Americans—including myself, my three boys, and over 40 current Members of the Senate.

Today, more than 3.2 million youths and 1.2 million adults are members of the Boy Scouts and Scout organizations such as the Tiger Cubs and Cub Scouts.

These Americans are all dedicated to fulfilling the Boy Scouts' mission of instilling in our young people solid values such as honesty, integrity, patriotism, and character.

The Support Our Scouts Act of 2005 will help ensure that the Defense Department continues to support the Scouts, as it has lawfully done for years, including the summer National Scout Jamboree.

This amendment also ensures the Boy Scouts have equal access to public facilities, forums, and programs that are open to a variety of other youth or community organizations.

Boy Scouts, like other nonprofit youth organizations, depend on the ability to use public facilities and participate in these programs and forums. My amendment ensures the Scouts have fair and equal access to these facilities.

My amendment also makes clear that the Congress regards the Boy Scouts to be a youth organization and that the Boy Scouts—and the Girl Scouts—should be treated the same as other national youth organizations.

I hope that all of my colleagues will join the 50-plus cosponsors of this legislation and vote with me and other supporters of Scouting.

I want to thank Senator DURBIN for helping to refine the amendment's language. The Durbin modification will allow agencies to waive the "mandatory floor of support" included in my proposal—but not necessarily the support itself—if some senior officer of a youth organization or the organization itself is convicted of a serious criminal offense.

We would expect agency heads to use this waiver sparingly and judiciously, and only for the most serious of offenses that are connected to their official duties.

And once an organization has remedied the problem, we expect the baseline of support to be fully restored by the federal agency to its previous level.

The Scouts are committed to developing the best qualities in our Nation's young people—qualities such as patriotism, integrity, honesty, and compassion. This long-honored organization helps prepare our young people to be leaders in the communities, and leaders of the future.

A vote for the Support Our Scouts Act will let them know that Congress continues to support this worthy endeavor.

Mr. President, I urge all of my Senate colleagues to vote for the young boys and girls who are following in the great Scouting tradition. A vote for this amendment is a vote for them.

The PRESIDING OFFICER. Who seeks time in opposition?

Without objection, the Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, we support this amendment, as modified. It has been modified to address a problem it had which did not relate to the Boy Scouts but which had to do with the wording which made it overly broad. The language clearly depends upon an appropriate agency making either a grant or an appropriation. We support the amendment. We thank Senator DURBIN, particularly, for his modification.

The PRESIDING OFFICER. Without objection, all time is yielded back.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

Is there a sufficient second?

There appears to be a sufficient second.

All time having been yielded back, the question is on agreeing to amendment No. 1342, as modified. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Idaho (Mr. CRAIG).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER (Mr. BURR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—98

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Crapo
Dayton
DeMint
DeWine
Dodd

Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—2

Craig
Rockefeller

The amendment (No. 1342), as modified, was agreed to.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CLOTURE MOTION

Under the previous order and pursuant to rule XXII, the clerk lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows.

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Bill Frist, John Warner, Michael Enzi, John Cornyn, Jon Kyl, Richard Burr, Kit Bond, Lindsey Graham, John E. Sununu, Chuck Grassley, Mike DeWine, Lamar Alexander, James Talent, Pat Roberts, Johnny Isakson, Conrad Burns, Richard G. Lugar.

The PRESIDING OFFICER. Under the previous order, there is 2 minutes equally divided for debate before the vote on cloture.

Who yields time?

The minority leader.

Mr. REID. Mr. President, I want to make sure the record is spread with the fact that we have offered everything. All we want is to finish this bill tomorrow at 11 o'clock at night. We even backed it off to 10:30. And the only amendments that would be in order would be those that are within the jurisdiction of the Armed Services Committee. We would have a Republican amendment, Democratic amendment, and we would go through the process by these two fine managers.

What is wrong? What picture am I missing? Why can't we go forward and do at least a little bit of work for the men and women in uniform of our country, namely 2½ million of them, plus taxpayers dollars, $450 billion for 1 year? Could not we at least spend 1 extra day on that?

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, very briefly, both sides have talked about the importance of the Defense authorization bill. We both feel the importance of that bill. Cloture being invoked here shortly, which I believe it will, will allow us to have a Defense authorization bill in about 30 hours. So we will complete our objective of having a bill if cloture is invoked, and I encourage people to vote for cloture.

Mr. REID. Mr. President, I would just say briefly we would finish the bill at the same time if we entered into the agreement that I submitted to Senator WARNER and the Republicans. Time is of no difference.

Mr. KERRY. Mr. President, it is vital that we complete action on the National Defense Authorization Act. It is an important piece of legislation that we must pass with all due haste to meet the needs of the men and women of the U.S. military.

Defense bills are always serious matters—but this year Congress works against a background of prolonged combat in Iraq and Afghanistan, worrying indicators of a force under strain, and with obligations to care for a new generation of combat veterans and their families.

By virtually any measure, the American military is a force under strain. It is a simple statement of fact—and a fact every one of us must acknowledge and address so that this most magnificent military is not irreparably harmed. Just 2 months ago, General Richard Myers, Chairman of the Joint Chiefs of Staff, reported to Congress that the American military is not as ready as it could be to meet new contingencies beyond Iraq and Afghanistan. Units and personnel are facing repeated deployments to Iraq and Afghanistan. So-called "low-density-high-demand" units and personnel are maxed-out. The Army has a dwindling number of Army Reserve and National Guard personnel available to perform combat support roles such as military police and civil affairs.

In recent weeks, two reports—one by the GAO, the other by RAND—highlighted shortages in the Army Reserve. It is becoming increasingly difficult for the Army Reserve to continue to provide ready forces in the near term due to worsening personnel and equipment shortages. There are three primary causes for these shortages: the practice of not maintaining Army Reserve units with all of the personnel and equipment they need to deploy, personnel policies that limit the number of reservists and the length of time they may be deployed, and a shortage of full-time staff to develop and maintain unit readiness. As of March 2005, the number of Army Reserve eligible for mobilization under current policies had decreased to about 31,000 soldiers, or about 16 percent of Army Reserve personnel. But numbers don't tell the whole story as those still available for mobilization may not have the skills and ranks needed to support ongoing operations. We must all be concerned that the Army Reserve be able to provide forces that are ready and relevant to ongoing operations.

But these issues—as serious as they are—will not be addressed by simply rubber-stamping an important piece of legislation. I will vote against cloture because there are too many important amendments that would improve this legislation and help the men and women of the American military and their families. If we do invoke cloture, dozens of amendments that deserve a vote—up or down—would fall away, including amendments to protect the pay of mobilized reservists employed by the Federal Government and to create mandatory funding of veterans healthcare. My own amendments to extend survivor housing benefits beyond the end of the fiscal year, to increase funding for a vital weapons system sought by commanders in Iraq, and to begin the process of improving the GI Bill of Rights would never have received a vote.

I urge my colleagues to complete the defense authorization bill as quickly as possible and to consider the amendments which Members have offered.

Mr. FEINGOLD. Mr. President, I want to express my disappointment that the majority leader has decided to postpone further action on this year's Defense authorization bill. This is an extremely important piece of legislation that deserves the Senate's full and careful consideration right away. I have several worthy amendments to the bill, as do many of my colleagues from both sides of the aisle. We have an obligation to our men and women in uniform and to the American people to thoroughly debate these important amendments and come up with the best legislation possible for our Nation's security. If cloture is invoked on this bill prematurely, the Senate will not have been able to take up many of the essential amendments on which the Senate should be spending time, addressing such issues as pay and benefits for military personnel, nonproliferation, and our detention policies. I am therefore hopeful that the Senate will reject attempts to cut off debate on this bill prematurely. Unfortunately, rather than allowing debate and action on the Defense authorization bill to continue, the majority leader has decided to move to a special interest bill instead. I am hopeful, however, that the Senate will soon be able to go back to working on a bill that is so important to our national security.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived. The question is, Is it the sense of the Senate that debate on S. 1042, the Defense authorization bill for fiscal year 2006, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Idaho (Mr. CRAIG).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER. Is there any Senator in the Chamber who desires to vote?

The yeas and nays resulted—yeas 50, nays 48, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—50

Alexander
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chafee
Chambliss
Coburn
Cochran
Coleman
Conrad
Cornyn
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lugar
Martinez
McConnell
Murkowski
Nelson (FL)
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Vitter
Voinovich
Warner

NAYS—48

Akaka
Allard
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Collins
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Graham
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
McCain
Mikulski
Murray
Obama
Pryor
Reed
Reid
Salazar
Sarbanes
Schumer
Snowe
Stabenow
Thune
Wyden

NOT VOTING—2

Craig
Rockefeller

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Democratic leader.

Mr. REID. I have a parliamentary inquiry. I would be happy to yield to my friend from Virginia.

Mr. WARNER. I was just going to ask the Presiding Officer the regular order.

Mr. REID. That is what I was going to do. I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. REID. Now that the Senate has defeated cloture on the Defense bill, will the Senate remain on this bill, which is the bill that is to pay for our troops and protect our troops and our country, the Defense bill?

The PRESIDING OFFICER. The Senator would be informed that under the previous order—under the regular order, the Senate is to proceed to a motion to invoke cloture on the motion to proceed to S. 397.

Mr. REID. Mr. President, then I have a unanimous consent request. That request is that the cloture vote on the motion to proceed to the gun liability bill be vitiated and that the Senate remain on the Defense bill and complete the Defense bill this week and the Senate begin the very minute it gets back on September 6 with the gun liability bill, on cloture on the motion to proceed.

The PRESIDING OFFICER. Is there objection to the unanimous consent?

Mr. FRIST. Mr. President, reserving the right to object, I made it clear about 3 weeks ago to this body that we had a number of issues we were going to address before leaving for recess. We listed a number of them this morning. One of them was the gun liability bill. There are lots of roadblocks right now, barriers being thrown up to prevent us from addressing a very important bill that I believe we will show here shortly we have over 60 votes for. Thus, I will say one more time that we intend to complete the gun liability bill before we leave, complete addressing it. I am very disappointed in the last vote, the fact that we are not going to be proceeding with the Department of Defense authorization bill. I do look forward to coming back and looking at that bill and passing that bill. It is a very important bill, and that is why we filed cloture to complete that. In all likelihood, what will happen, we will proceed to the bill on gun liability, and the objective will be to complete that this week, and thus I do object.

Mr. REID. Mr. President, another parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. REID. When we finish the gun legislation, do we automatically come back to the Defense bill?

The PRESIDING OFFICER. The Senator should know that if the motion to proceed is passed, it displaces the Defense authorization bill.

Mr. REID. But that does not respond to my question. It is put back on the calendar, is that right?

The PRESIDING OFFICER. If the Senate proceeds to the gun liability bill motion, then it would displace the DOD bill and place it back on the calendar.

Mr. FRIST addressed the chair.

Mr. DODD. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. I would ask unanimous consent that at any time determined by the majority leader, the Senate resume the Department of Defense bill at that time.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. Will the Senator restate it.

Mr. FRIST. I ask unanimous consent that at the time determined by the majority leader, we will return to the Department of Defense authorization bill.

Mr. KENNEDY. Reserving the right to object.

Mrs. BOXER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank you. The majority leader said something here today that really surprised me. He said he is going to prove that the gun liability bill was one of the most important things we were going to do, and I want to know from the majority leader, does he think that bill is more important than the Defense authorization bill?

Mr. SANTORUM. Regular order.

Mrs. BOXER. Does he think that the Defense authorization bill is not as important as gun liability?

Mr. BUNNING. Regular order, Mr. President.

The PRESIDING OFFICER. The majority leader has the floor.

Is there objection to the unanimous consent request?

Mr. REID. Mr. President, I would suggest and ask if the distinguished leader would modify his request to say that when we finish the gun legislation, we would return to the Defense bill.

The PRESIDING OFFICER. Does the majority leader——

Mr. FRIST. I object and I once again state my request that at a time determined by the majority leader, we return to the Department of Defense authorization bill.

Mr. KENNEDY. Parliamentary inquiry.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Mr. KENNEDY. Reserving the right to object, Mr. President, if we go to cloture and cloture is invoked, do we not displace the Defense authorization bill for consideration in this Chamber this afternoon and for the next days, if we pass it? Is that not the case?

The PRESIDING OFFICER. If cloture is invoked on the motion to proceed, we will remain on the motion to proceed until time is used or yielded back.

Mr. KENNEDY. So the answer is affirmative, that we are displacing the Defense authorization bill by voting on cloture on the motion to proceed. Am I not correct?

The PRESIDING OFFICER. If the motion were to pass, the Senate would continue on that motion.

Mr. REID. Mr. President, I hope the distinguished majority leader will bring this bill back at the earliest possible time. This is such an important piece of legislation. It should not be added to the tail end of things we do around here.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. The objection is heard.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

> We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 15, S. 397: A bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.
>
> Bill Frist, George Allen, Larry E. Craig, Craig Thomas, Michael B. Enzi, Jeff Sessions, Christopher Bond, Lamar Alexander, Mitch McConnell, Sam Brownback, Tom Coburn, Richard Burr, John McCain, Richard Shelby, Saxby Chambliss, John Ensign, Chuck Hagel.

The PRESIDING OFFICER. Under the previous order, 2 minutes are equally divided on each side.

Who yields time?

Mr. FRIST. We yield back our time.

Mr. SCHUMER. Mr. President, I urge my colleagues to vote no on the motion for cloture. Whatever Members feel about gun liability, and there are many divided opinions here, nothing could be more important than returning to the DOD bill, supporting our troops, supporting our veterans. It is a $440 billion bill. The fact that we cannot debate it for more than a few hours says something is wrong with this Senate. We can do both. We should not leave the DOD bill until we finish. I urge a "no" vote on cloture, whatever your view is on the gun liability provision.

Mr. KYL. Parliamentary inquiry, Mr. President: Under the rules of the Senate, would it not be possible to debate the Defense authorization bill for 30 hours if we had voted for cloture or if we do vote for cloture?

The PRESIDING OFFICER. There would have been up to 30 hours if approved.

Mr. KYL. So we would have the opportunity if we were to invoke cloture to debate the Defense authorization bill for 30 hours.

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD. Parliamentary inquiry: Is it not also true in a postcloture environment, had cloture been invoked, many of the amendments dealing with veteran benefits and other issues would have been denied consideration?

The PRESIDING OFFICER. It would be difficult for the Chair to determine that at this point.

Mr. FRIST. Regular order.

The PRESIDING OFFICER. Regular order.

Mr. LEVIN. Parliamentary inquiry: Following up on that, is it not true that even though amendments are relevant in a postcloture situation, if they are not technically germane, they fall?

The PRESIDING OFFICER. The Senator is correct.

Ms. LANDRIEU. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the Motion to Proceed to S. 397, Protection of Lawful Commerce in Arms Act, be brought to a close?

The yeas and nays are mandatory under the rule.

The Senator will state the inquiry.

Ms. LANDRIEU. Mr. President, parliamentary inquiry: Would the Thune amendment that was pending on a review of the BRAC closings that are going on around the country would have been germane after cloture on the Defense bill?

The PRESIDING OFFICER. The Chair would inform the Senator that there are several Thune amendments that relate to BRAC.

Ms. LANDRIEU. I will ask specifically by number if the clerk will give me the Thune amendment on the postponement of BRAC. We had several, but there was one on postponement.

I suggest the absence of a quorum.

Mr. FRIST. Regular order.

The PRESIDING OFFICER. The Senator does not have the floor.

Mr. FRIST. Regular order.

The PRESIDING OFFICER. Regular order has been called for.

Mr. DURBIN. Parliamentary inquiry.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Idaho (Mr. CRAIG).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 66, nays 32, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—66

Alexander
Allard
Allen
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Burr
Byrd
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Crapo
DeMint
Dole
Domenici
Dorgan
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kohl
Kyl
Landrieu
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (FL)
Nelson (NE)
Pryor
Reid
Roberts
Salazar
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—32

Akaka
Bayh
Biden
Bingaman
Boxer
Cantwell
Carper
Clinton
Corzine
Dayton
DeWine
Dodd
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Obama
Reed
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—2

Craig
Rockefeller

The PRESIDING OFFICER. On this vote, the yeas are 66, the nays are 32. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The majority leader.

Mr. FRIST. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ISAKSON). Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, we are now proceeding to S. 397, after a very strong cloture vote with 66 Senators voting to move forward on this legislation. It is something we have had taken up quite a number of times. It has broad support in terms of business groups, gun owners, law enforcement, labor unions, and sportsmen. There is nothing in it that is harmful or damaging to our legal system. There is nothing in it that provides any special interest protection to gun manufacturers. But it is a legitimate response to a growing concern that our legal system is being abused in such a way that could actually take legitimate businesses and put them out of business.

I think it is something that is of great concern to us, and this Senate has a majority that is ready to move forward with it. In the great spirit of our Senate, we will have a lot of debate. There are those who don't approve. I know Senator REED of Rhode

Island is a strong opponent of this legislation and he will certainly have a great opportunity to express his concerns on it. That is part of what we do. I note, however, this is not the first time the words will have been spoken on this issue. This bill has been up for some years now and has come close to becoming law on several occasions, but has not yet done so.

It is important that we note that this legislation has the potential to impact our economy adversely. We need to look at how these proposed novel legal theories adversely affect our economy. Someone will be making firearms in the world. People are not going to stop buying firearms. They have a constitutional right to do so. It would be the height of stupidity if we were to create laws and a legal system that put our firearm manufacturers out of business so that we have to buy imported firearms. That would not make good sense.

Our ultimate obligation is to the public. This body should take no steps that would provide improper immunity for defective practices or defective firearms that could be sold. That absolutely must not be done. With that said, it is essential that we refrain from developing a legal system, however, where lawyers are able to create causes of action and steer public policy through litigation—a public policy they have not been able to win at the ballot box, and not been able to win through their State legislatures and the Congress. So since they have not been able to win in the legislative branches, what we have had is a group of activist anti-gun people trying to accomplish the same goal through litigation.

We also need to remember in all we do regarding litigation that personal responsibility is an important American characteristic. Individual responsibility must not be stripped from all our expectations, where plaintiffs are suing third parties on an almost strict liability theory. Many trial lawyers are attempting to invent new causes of action, with hopes of striking a litigation oil well. As a result, industries such as arms manufacturing and the food industry are facing enormous insecurities. These industries have great reason to be insecure. Everyone knows how detrimental runaway verdicts can be and one major verdict can bankrupt an industry. Huge costs arise from simply defending an unjust lawsuit. Indeed, such lawsuits, even if lacking any merit and ultimately unsuccessful, can deplete an industry's resources and depress stock prices.

Defendant industries must hire expensive attorneys and have their employees spending countless hours responding to the lawyers, providing them information and so forth, and meeting with them. Industries, in addition, must purchase liability insurance which takes away from funds necessary for expanding their new jobs, safety, research and development that they might otherwise be able to spend it on, which is important. No other nation must compete in the world marketplace carrying such a huge litigation cost as American businesses do and particularly gun manufacturers. Eventually, these costs are passed on to the consumer. Product prices increase and availability of the products becomes scarce.

In 1998, individuals and municipalities began filing dozens of novel lawsuits against members of the firearms industry. These suits are intended to drive the gun industry out of business by holding manufacturers and dealers liable for the intentional and criminal acts of third parties over whom they have absolutely no control. The firearms industry is particularly vulnerable to lawsuits.

In his testimony before a House subcommittee in 2003, the general counsel of the National Shooting Sports Federation stated:

> Industry-wide cost of defense to date [against these lawsuits] now exceed $100 million. This is a huge sum of money for a small industry like ours. The firearms industry taken together would not equal a Fortune 500 company. The National Shooting Sports Foundation now believes litigation expenses have exceeded $150 million, Mr. President.

The danger that these lawsuits can destroy the gun industry is especially ominous because our national security and liberties are at stake. First, the gun industry manufactures firearms for American military forces and law enforcement agencies. Unlike many foreign countries, the United States doesn't have a government armory, but relies on private industry to make our firearms. Due in part to Federal purchasing rules, these guns are made in the United States by American workers. Successful lawsuits can leave the U.S. at the mercy of foreign small arms suppliers.

Second, by restricting the industry's ability to make and sell guns and ammunition, the lawsuits threaten the ability of Americans to exercise their second amendment rights. I can imagine the impact the ruin of the gun manufacturing industry would have on my home State of Alabama, which is one of the premier States in the Nation for hunting whitetail deer and eastern wild turkey. Hunting is a part of the way of life for nearly 500,000 Alabamans. That is about 1 in 9 of our citizens. Imagine if they were unable to obtain hunting rifles or ammunition. What would happen to the hunting industry, which brings close to $45 million a year in revenues into the State and provides nearly 16,000 jobs?

Additionally, if the arms industry must continue to hash out massive legal fees or eventually goes under, thousands of workers will lose their jobs. Manufacturers are already laying off workers to pay the legal bills. Secondary suppliers to gun makers have also suffered. This is why it is not surprising that the labor unions representing workers at major firearms plants, such as the International Association of Machinists and Aerospace Workers of East Alton, IL, support this bill. This union's business representatives stated the jobs of their 2,850 union members "would disappear if the trial lawyers and opportunistic politicians get their way."

Insurance rates for firearms manufacturers have skyrocketed since these suits began. I am going to talk about these suits and why they are fundamentally wrong in a minute. These suits have caused the insurance to go up and some manufacturers are being denied insurance and seeing their policies cancelled, leaving them unprotected and vulnerable to bankruptcy.

Thirty-three State legislatures have acted to block similar lawsuits, either by limiting the power of localities to file suit or by amending State product liability laws. However, one lawsuit in one State could bankrupt the industry, making all of those State laws inconsequential. That is why it is essential that we pass this law.

The lawsuits we are talking about—the kind of lawsuits we will be discussing today are the kind of lawsuits that do not have merit. They are not the kind of lawsuits that ought to be brought. Many of them eventually get dismissed by judges. Most of them do eventually. But the costs are huge and, who knows, some day an activist court may start allowing these lawsuits to be successful.

The anti-gun activists, at their base philosophy, want to blame violent acts of third parties—that is violent, illegal acts by criminals—on manufacturers of guns, because they manufactured the gun, and they want to be able to sue the seller who sold the gun simply for selling them. This doesn't make sense. Should a car dealer be sued if someone intentionally runs down a pedestrian because the car dealer sold the car that was used by a third party to commit a crime, a homicide? What about the car manufacturer? What an absurd thought. But that is the equivalent of what these plaintiffs are arguing to recover from gun manufacturers and sellers.

Guns can be dangerous in the wrong hands, but so can cars. Why would the manufacturer or seller of a gun who is not negligent, who obeys all of the applicable laws—we have a host of them—be held accountable for the unforeseeable action of some criminal third party? They should not, and this bill would simply prohibit that.

If you buy a gun and someone comes into your house and attempts to attack you or your family and you pull out that gun and attempt to use it and it fails to work because it was defective, and that criminal harms you or your family, you should be able to sue the gun manufacturer for a defective product. But if it fires as it is supposed to, as it was designed to, it operates like whatever widget is made in this manufacturing world we are in, and it does what it is supposed to do and it is a lawful product, you should not be able to be sued.

I don't understand how these lawsuits are being maintained. But we have major cities in this country that have taken it as a policy to sue the manufacturers for creating a product that works precisely as it is supposed to work, that is designed according to the laws of the United States, and it is sold according to the laws of the United States, and they still want to sue them for an intervening criminal act. That is contrary to our classical law of lawsuits and plaintiff lawsuits. It is something that I sense is being eroded, these classical principles of litigation today. I think that is one reason we are beginning to have movements to have court reform, lawsuit reform, around the country because courts have allowed things to go beyond what traditionally they were ever allowed to do.

So it sort of makes these gun manufacturers a guarantor, a person who would pay for all damages that might occur for a gun they manufactured. That cannot be the law and must not be the law. These plaintiffs are demanding colossal monetary damages and a broad range of injunctive relief; that is, orders from the court concerning this. These injunctions would relate to the design, manufacture, distribution, marketing, and the sale of firearms. We already have laws that cover all of that.

By the way, we have had laws about all of that. We have debated other laws the Congress and State legislatures have chosen not to pass. So the attempt, in a very real sense, is to put pressure on these companies to do things the elected representatives have decided they should not do or should not be required to do.

Some of the demands that are being made are the kinds of demands that legislatures, not courts, should be deciding: one-gun-a-month purchase restrictions not required by the State law, requiring manufacturers and distributors "to participate in a court-ordered study of demand for firearms and to cease sales in excess of lawful demand," prohibition on sales to dealers who are not stocking dealers with at least $250,000 in inventory, a permanent injunction requiring the addition of a safety feature for handguns that will prevent their discharge by "those who steal handguns."

That will be a pretty ingenious device, if you can make it work. It is going to be on every gun that is sold? It may be within the power of this Congress to vote such a restriction if it can be done. It seems like somewhere in my memory we voted on something such as that.

But to have a judge who is supposed to be a neutral arbiter in a lawsuit start entering injunctions to require these kinds of things is beyond legitimate principles of law.

One of the most amusing demands was a prohibition on the sale of guns near Chicago "that by their design are unreasonably attractive to criminals." Guns could not be sold near Chicago that are "by their design unreasonably attractive to criminals."

What would that mean? What kind of responsibility does a manufacturer have? Should each court make that determination? Is that what they were elected to do? Is that the role of the court? No. It is a legislative requirement.

These lawsuits are part of an anti-gun activist effort to make an end run around the legislative system. That is the fact. Because their efforts to pass restrictive legislation have only partially succeeded, they want to do more. So they are taking their cause to the judicial system hoping they will land in court before an activist judge who will somehow allow their view of how guns should be sold and manufactured to become a part of a judge's order. Just impose it. One judge who may not be elected—if it is a Federal judge, he has a lifetime appointment—just impose this by a court order. That is why people are concerned. So far they have not been successful in winning these cases.

The Ohio Court of Appeals held that allowing this type of liability would—they were correct about this—"open up a Pandora's box. For example, the city could sue manufacturers of matches for arson, or automobile manufacturers for traffic accidents, or breweries for drunk driving."

That is the same principle. I believe that judge in Ohio was correct. In the city of Bridgeport v. Smith & Wesson Corporation, Judge Robert McWeeny aptly stated that "plaintiffs must have envisioned such settlements as the dawning of a new age of litigation during which the gun industry, liquor industry and purveyors of junk food would follow the tobacco industry." It is clearly an attempt to build on and expand those kinds of theories of tobacco lawsuits to go even further than what we are dealing with here.

The Florida Supreme Court summed up the issue nicely when it refused to hear a plaintiff's appeal against the firearms industry in a lawsuit.

The plaintiff did not prevail in an appeal to the higher court in Florida, and the court held this:

> The power to legislate belongs not to the judicial branch of Government, but to the legislative branch.

Hallelujah, Judge. I am glad you get it. Judges ought to be neutral umpires, not activists. They should not be setting public policy. They should not allow their courts to be used as a tool to further a political agenda, an agenda that has been rejected in the State legislature or Congress.

However, all it will take is one activist judge or activist court to destroy an entire industry in reality. So that is why the legislation is important.

Let me mention what this bill does and does not do. The bill is incredibly narrow. It only forbids lawsuits brought against lawful manufacturers and sellers of firearms or ammunition if the suits are based on criminal or unlawful misuse of the product by a third party.

I know it is hard to believe, but that is the theory of these lawsuits. That theory is you sold a gun lawfully, OK. You followed the complex Federal regulations that have a huge host of requirements. You followed the State legislature's requirements, often very complex, also, to the T, and it comes in the hand of a criminal, and they use it for a crime. Now the manufacturer and the seller are liable. What kind of law is that? We do not need that. These lawsuits are happening, and so all this would say is that those kinds of lawsuits cannot be brought.

Manufacturers and sellers are still responsible for their own negligent or criminal conduct and must operate entirely within the complex State and Federal laws. Therefore, plaintiffs are not prevented from having a day in court. Plaintiffs can go to court if the gun dealers do not follow the law, if they negligently sell the gun, if they produce a product that is improper or they sell to someone they know should not be sold to or did not follow steps to determine whether the individual was properly subject to buying a gun.

The plaintiff can still argue that actions such as negligent entrustment, breach of contract, or warranty, or normal product liability involving actual industries caused by an improperly functioning firearm can be legitimately brought as a lawsuit and should be able to be brought. Furthermore, any allegation that the bill burdens law enforcement is completely false. Gun manufacturers and sellers are already heavily regulated by hundreds of pages of statutes and regulations. The Government requires that all gun manufacturers, importers, and dealers receive licenses. They have to have those licenses. And they must keep all their records by serial number, and each gun has to have a distinct, separate serial number recorded before entering or leaving their inventory. That is, if they are manufactured in Massachusetts or someplace and they are shipped to Alabama, they ship it by each one's serial number and it is recorded. If it is received by a distribution center in Alabama, it is recorded there, and if it is moved off to a gun store or a Wal-Mart where they sell guns, it is entered there. When it is sold, it is entered. That serial number is recorded against the name of the person who bought it. That person who bought it must produce identification, must sign a sworn statement that they have not been convicted of a crime, that they are not under the influence of drugs, and a number of other things. They sign it. It is a Federal offense if they lie about it. And they do a background check.

So there are a lot of regulations set forth. The records have to be open for inspection by the Bureau of Alcohol, Tobacco and Firearms without a warrant and at any time. They don't have a warrant. They can go into these licensed dealers any time, any day, and examine their records. That is the burden we put on gun dealers.

They can also do annual inspections without a specific investigation or obtain a warrant as any other law enforcement agency can.

Mr. President, I think I overstated it. The ATF can without a warrant any time do an inspection if it is related to an investigation of a gun that has been traced there, and they have an opportunity to do annual inspections at any time through the year as part of their enforcement dealings, and they do that. That guns are not heavily regulated is a complete myth. Gun dealers are carefully managed.

As a former U.S. attorney, I participated in the prosecution of a gun dealer for bad recordkeeping. He was most offended. Over a number of years we have created even more regulation. He really felt put upon, but he wasn't filling out the forms. He wasn't making people sign. He was telling people not to put down that they lived out of State because that affected whether the gun could be sold. He would tell them, don't fill that out, and things of that nature. He was not complying, and we prosecuted him. He went to jail and lost his ability to sell guns.

Licensed dealers have to conduct a Federal criminal background check on their retail sales either directly through the FBI, through its National Instant Criminal Background Check, NICS, or through State systems that also use NICS. All retail gun buyers are screened to the best of the Government's ability.

Additionally, the industry has voluntary programs to promote safe gun storage and to help dealers avoid selling to potential illegal traffickers in guns. Manufacturers also have a time-honored tradition of acting responsibly to issue recalls and make repairs if they become aware of defects. Law-abiding manufacturers and dealers of firearms are not threats to our society. They have not committed crimes by supplying our citizens with lawfully acquired firearms. It is essential that the people who are guilty, people who commit the crime, who deserve punishment, receive the punishment. More importantly, this legislation is needed so that people who have suffered a real injury from a real cause of action can be heard and taken seriously while those who are trying to improperly spread the blame will not.

Mr. President, it is the responsibility of Congress to review our civil litigation system, our court system, and see how it is working. If over a period of years tactics and techniques are developed that exploit weaknesses or loopholes or gaps in that system or allow the system to be abused, then I think everybody would recognize that we ought to take action to fix it. Every day, attorneys file lawsuits under laws that we pass and the court's interpretation of those laws. Congress has every right to monitor this, and we have a duty once we determine a type of litigation is so legally unsound and detrimental to lawful commerce that it should be constrained to enact meaningful legislation to constrain it and to stop abuse.

In the past, Congress has found it necessary to protect the light aircraft industry, community health centers, aviation industry, medical implant makers, Amtrak, computer industry members affected by Y2K problems, and good Samaritans.

Senator McCONNELL offered a bill to protect a person who tried to save another person, who was the victim of an accident, from dying. He believed that a person trying to do the best they can to protect someone else should not be sued, if they are somehow found to be faulty in a good Samaritan act.

Congress may enact litigation reforms when lawsuits are affecting interstate commerce, and many of these lawsuits are trying to use State courts to restrict the conduct of the firearms nationally. They are trying to create legal holdings by the courts that would impact the entire industry nationally. In fact, it is the stated purpose of many of these groups. And a single verdict, even a single verdict, large verdict of an anti-gun plaintiff, could bankrupt or in effect regulate an entire segment of our economy and of America's national defense and put it out of business.

I do not know when there has been a better example of when this type of legislation is needed. We must pass this bill. It is long overdue. It has 60 cosponsors. It is time for us to move forward and get it done.

It is simply wrong when we as a Congress have approved the sale of firearms in America and, through the Constitution, allowed the manufacture and sale of firearms, to allow those manufacturers who comply with the many rules we have set forth—they comply with those rules, to be sued for intervening criminal acts. They sell a gun and it ends up in the hands of a criminal, unbeknownst to them. If they knew, if they had reason to know, if they were negligent in going through the requirements of the law or failed to do the requirements of the law, they can be sued. But if they do it right and it goes into the hands of someone who uses it for a criminal purpose, the manufacturer of that gun absolutely should not be subject to a lawsuit. It is a political thing that is going on out there, the filing of these lawsuits all over the country in an attempt to crush an industry that this Congress and our Constitution have stated to be a legitimate industry.

I know Senator REED has many wise comments on this, able Senator that he is. We will disagree, but I certainly respect his views.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Rhode Island.

Mr. REED. Mr. President, I rise in strong opposition to S. 397, the so-called Protection of Lawful Commerce in Arms Act. Like its predecessor which the Senate soundly rejected last year, this bill is one of the most blatant special interest giveaways that I have seen during my time in the Senate. At a time when more than 7.5 million Americans are unemployed and our Nation faces a deficit of $333 billion, war in Iraq and Afghanistan, inadequate homeland security funding, and now a Supreme Court vacancy, to me the Republican leadership choosing to devote our precious time to a bill that would deny victims of gun violence their day in court and protect the gun industry is a travesty.

The gun lobby argues that this legislation would put an end to frivolous lawsuits that claim gun companies should be liable simply because their guns are used in crimes. In fact, the bill would bar virtually all negligence and product liability cases in State and Federal courts while throwing out pending cases as well as preventing future cases. The bill would provide this sweeping immunity to gun dealers, gun manufacturers, and even trade associations. Interestingly, the NRA modified the bill so that this year they don't appear to be granting themselves legal immunity as they did the last time around.

The track record for this bill in the last two Congresses has, thankfully, been one of failure. We can only assume that the gun lobby is hoping that the third time will be the charm. The gun lobby and its allies in Congress had to abandon their effort to pass similar legislation in the 107th Congress, after the Washington area sniper attacks terrorized an entire region. Then last year, in one of the more bizarre twists in recent Senate history, the National Rifle Association instructed the Republican leadership to kill the bill after a majority of Senators voted to add reasonable gun safety measures—to require background checks at gun shows, renew the assault weapons ban, and require child safety locks to be sold with handguns.

It is a good thing that the Senate defeated this bill because it would have thrown out the civil lawsuits filed by the families of the victims of the sniper attacks, even though the Washington State gun dealer who had the Bushmaster sniper rifle in his inventory could not account for that weapon or more than 230 others. Instead, the families of the victims won a $2.5 million settlement from Bull's Eye Shooter Supply and Bushmaster, the assault weapons maker who negligently supplied Bull's Eye despite its abysmal record of missing guns and regulatory violations.

At the heart here is not activist courts making law. The heart of this is people who have been harmed by weapons, innocent people, people such as the victims of the Washington sniper—someone walking to their car from the Home Depot and being shot and killed; a bus driver waiting to take his rounds in the morning, having a cup of coffee, reading the paper, with a wife and children at home, shot by snipers. Where did they get those weapons? They got them through the negligence of a licensed gun dealer. This legislation would effectively prevent those families from recovering damages, compensation for the loss of a husband and father, the loss of a wife. This is not about activist judges making law. This is about shutting the doors to the courts of America, mostly State courts, to prevent those who have been harmed by the negligence of others to be made whole. That is what this is about. That is why it is so wrong.

With respect to the sort of activism of public policymaking, we all recognize in this body that Federal law is one aspect, but State law is also important. In fact, most tort law is based upon State law. State assemblies make up State laws. They decide causes of action. They decide defenses. They do a lot of those things in conjunction with litigation in their courts. This legislation preempts all 50 States. This says to the State of Georgia, the State of Alabama, the State of Rhode Island, the State of Michigan, you can't have the ability of your citizens to go to court. Even if you believe it is appropriate and right in your State courts, we are preempting you. That is also wrong.

In addition to the monetary settlement for the victims of the families that were the victims of the snipers, in the settlement, Bushmaster agreed to inform its dealers of safer sales practices that should prevent other criminals from obtaining guns, something Bushmaster had never done before. What you have is a situation of negligence, and this negligence can extend not only from the dealer but to the manufacturer. This legislation not only would deny the right of a victim to come forward and ask for compensation, but also to reform the system.

We have to recognize, too, that there are elaborate rules for the governance of weapons and firearms and tobacco, an agency of the Federal Government. But this is one industry that is virtually not subject to any product liability, any consumer product safety rules, any other type of regulation. This legislation would undercut ways in which a court could do justice. Because the Senate rejected this legislation last year, these victims and their families had their day in court, and at least one manufacturer's commercial practices were improved in ways that benefit all Americans. What could be more helpful to all of us if a manufacturer takes the time and the effort, appropriately, to inform his dealers about appropriate practices in selling weapons, about avoiding selling weapons to those people who might be trafficking in weapons, avoiding selling weapons to those people who might be irresponsible and reckless in the use of those weapons? That can only benefit all of us.

But despite all of these things, we find ourselves again in a familiar situation, one in which the NRA's pet project is again being granted a virtually direct, nonstop ticket to the Senate floor. The Senate Judiciary Committee has held no hearings on this legislation, and no committee markups were ever scheduled. The bill's supporters knew it would be difficult to withstand the kind of scrutiny that might result in careful, deliberate, and thorough committee hearings, so they brought it straight to the Senate floor. Here we are today. Now it is up to us make sure that there is a full and vigorous debate, including not only amendments to deal directly with aspects of this legislation but also to address other issues with respect to violence in America and gun safety.

If we are going to grant blanket legal immunity to the firearms industry, it is imperative that we address inadequacies in other areas with respect to gun safety legislation. Mothers and fathers across America go out of their way every day to protect themselves and their children from harm. How unsettling it must be for these families to think that the gun industry, which is already exempt from Federal product safety regulations that apply to children's toys, pharmaceuticals, and virtually every other product in this country, may now receive legal protection that no other industry enjoys.

I listened closely to the Senator from Alabama talking about this as if a car manufacturer was being held responsible for the actions of others. Well, they could be in certain situations. If a car dealer leaves his cars unlocked with keys in the ignition at night and someone comes and takes that car, drives it away, causes damage, certainly the issue arises, was that car dealer using good common sense? Certainly, that would be a case that would at least get to the notion of filing the case.

This bill would prevent such a similar case from the gun manufacturers and the gun dealers, but there is no attempt, at least today, to limit those types of liability to other manufacturers. I believe that shows how narrow this is and how it is focused to a very special interest. That is unfortunate.

As with any other business, there are good actors and bad actors with respect to the gun industry. There are those who carefully follow the law and those who ignore it. But granting unprecedented legal immunity to the entire industry without requiring any additional responsibilities to protect the public from reckless behavior would be a grave mistake. It will only encourage those who already engage in questionable conduct.

I urge my colleagues, as we work through this debate, to listen closely and to try to recognize that we are taking unprecedented action with respect to undermining the traditional system of common justice. First, we are usurping authority for State law that is traditionally the purview of State assemblies and legislatures. Then we are granting an unprecedented immunity to one very particular industry. That might be a precedent, unfortunately, for other industries that come forward, which would be a severe unraveling of the protections we all have.

All of this, again, begins not with someone going out to stage a lawsuit by being shot. That is the last thing that happens. The victims of this gun violence, who are the subject of these suits, didn't want to be victims. They didn't want to be in court. The bus driver waiting there to start his run was not thinking, Oh, boy, someone is going to shoot me so we can start a case and change public policy. He was shot by a sniper who obtained a gun through the negligence of others. Yet that family would have been denied their relief in court if this bill had passed last year.

There was discussion about personal responsibility. There is personal responsibility. It is important. It is fundamental to everything we do. What about the responsibility of the gun dealer to know how many weapons he has on hand, where they are, not to leave it out so it can be taken? Apparently the youngest sniper, who was barely of age, just picked it up off a counter and walked out of the store with it, a rifle that was used later to shoot and kill several people. Where is that personal responsibility? And if you are the victim of that lack of responsibility, how can you have your day in court if this legislation passes?

Now, we have a lot of work to do in this Congress. We should get on with it. That is why it is amazing that we have left the Defense bill that would provide the resources to protect our soldiers, sailors, marines, airmen and airwomen across the globe to move to this very narrow, special interest bill. I think it is extremely unfortunate.

A part of the rationale for this bill advanced by the proponents is that there is a crisis. There is a crisis with respect to the industry. They are about to lose their ability to manufacture. They are going to go bankrupt. We won't have any weapons for our national security. That is not substantiated by any of the facts before us.

The gun lobby says it needs protection because it is faced with a litigation crisis. The facts tell precisely the opposite story. There is no crisis. There is a crisis in Iraq. There is a crisis in Afghanistan. There is a crisis across the globe with international terrorists. That is a crisis. But it is not a crisis with respect to gun liability in this country. Yet we move from legislation dealing with these huge crises, some of which have existential consequences to us, particularly if terrorists ever get their hands on any type of nuclear material, to a situation where there is no crisis.

Mr. LIEBERMAN. Will the Senator from Rhode Island yield?

Mr. REED. I am happy to yield to the Senator from Connecticut.

Mr. LIEBERMAN. I would like to yield the hour allotted to me to the floor manager, the Senator from Rhode Island.

Mr. REED. I thank the Senator from Connecticut.

The only two publicly held gun companies that have filed recent statements at the Securities and Exchange Commission contradict the claim that they are threatened by lawsuits. Smith & Wesson filed a statement with the SEC on June 29, 2005, stating that:

> We expect net product sales in fiscal 2005 to be approximately $124 million, a 5% increase over the $117.9 million reported for fiscal 2004. Firearms sales for fiscal 2005 are expected to increase by approximately 11% over fiscal 2004 levels.

That is their SEC report which they have to file subject to severe penalties for misstatement and mistruth. I believe that. It appears to be a banner year for Smith & Wesson. There is no crisis.

They go on and say in another filing on March 10, 2005:

> In the nine months ended January 31, 2005, we incurred $4,535 in defense costs, net of amounts received from insurance carriers, relative to product liability and municipal litigation.

What they said is—this company, with a banner year of increased sales, with projections for better sales—they incurred $4,535 in out-of-pocket costs to defend product liability and municipal litigation claims and suits. That is a crisis? Sales are up. Litigation costs in this particular area—out-of-pocket costs, to be accurate, of $4,500. That is what they are telling the Federal regulators, under severe penalties for misstatements and even inaccurate statements. There is no crisis.

In that same period for which they incurred $4,535 in out-of-pocket costs, Smith & Wesson spent over $4.1 million in advertising. Maybe the real crisis is they have to spend a lot on advertising. But that is not a crisis situation. That is not sufficient to bring the Senate here to debate a bill to give them protections from these types of suits.

Meanwhile, gun manufacturer Sturm, Ruger told the SEC in a March 11, 2005 filing:

> It is not probable and is unlikely that litigation, including punitive damage claims, will have a material adverse effect on the financial position of the Company.

Essentially, what these two publicly reporting companies have said, despite all of the discussion by others that they are on the verge of bankruptcy, is: There is no material adverse effect on our financials based on this type of litigation. There is no crisis.

So at the same time the gun makers are reporting to the SEC that litigation costs are not likely to have a material adverse effect on the businesses, their trade associations have been rapidly inflating the unsubstantiated estimates of litigation costs. Gun lobby claims of alleged litigation costs have risen in $25 million increments, with no data of any kind to support these claims because most of these companies in the industry are privately held. But I would suggest if the publicly held companies are offering their truthful admissions to the SEC—unless the privately held companies are woefully unmanaged or are unusually involved in this type of litigation—then these estimates have to be widely suspect.

Here are the claims of increased costs: April of 2003, estimated litigation has cost the industry $100 million in the last 5 years; July of 2004, estimated litigation costs of $150 million; November of 2004, estimated litigation costs of $175 million; February of 2005, some estimates talk about $200 million.

Now, it does not seem to track when you have major companies saying they have no material impact, paying out of pocket $4,500, and then you have these wildly inflated estimates.

Number of lawsuits faced by the gun industry is, if anything, far less than many other industries. From 1993 to 2003, 57 suits were filed against gun industry defendants, out of an estimated 10 million tort suits, according to the State Court Journal published by the National Center for State Courts—57 out of 10 million. That is not a record of litigants out of control.

The actual monetary awards faced by the gun lobby are even less. The gun lobby's record in court is far worse than the tobacco industry's, which for decades won every case brought against it. But the gun lobby has not lost them all either. In fact, many of the cases my colleague from Alabama was citing were some appeals court cases that were turning down plaintiffs who were unsuccessful at the trial court level. The results of these cases are what one would expect as suits against any industry: Some cases are dismissed, some cases are won by plaintiffs, some are on appeal, others are the result of a settlement between the parties.

Now, the fact is, most of the legal defense costs faced by gun industry participants have been covered by product liability insurance, with very little funding coming out of pocket. Again, every industry in the country has to insure itself against these risks. It seems to me there is nothing to indicate the insurance claims against these gun lobbies and gun manufacturers are out of line with those. In this respect, the gun lobby is no different than any other industry. Moreover, the power of the gun lobby to protect itself from litigation and promote its views is illustrated by the war chest it has put together for this specific purpose over the past several years.

In 1999, the National Shooting Sports Foundation and others in the gun lobby created what is known as the Hunting and Shooting Sports Heritage Fund by setting aside a small percentage of industry revenues. The fund supports lobbying activities as well as industry public relations initiatives emphasizing the positive aspects of firearms, and it helps cover the cost of retaining internal memos and other sensitive documents with a law firm in California so the gun lobby can avoid the kind of unwanted leaks and exposure that plagued the tobacco industry for many years. Some reports indicate the fund has raised as much as $100 million.

We are going to be talking about a lot of victims of gun violence over the next few days, and I can tell you that none of them has access to a $100 million war chest to protect their legal interests or promote their point of view.

In any case, the purpose of lawsuits filed on behalf of victims is not to bankrupt the industry. In fact, some of the cases filed have sought only injunctive relief, including reforms of industry trade practices that would make the public safer. This is not always about money. In some cases it is about safety for the general public.

It is telling that the new Senate version of the gun industry immunity bill has been changed specifically to ban suits seeking injunctive relief. The argument, of course, is there is a crisis, and the crisis is the financial crisis of the gun manufacturers and the gun dealers, but yet this legislation was altered this year to avoid injunctive relief, which has very little direct impact in terms of awards, punitive or otherwise.

Even when plaintiffs seek commonsense reforms in the industry that could save lives, rather than have money damages, the gun lobby and its allies in Congress seek to shut the courthouse door in the face of these victims.

The findings section of the bill states:

> [T]he possibility of imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system.

That sounds reasonable until you consider that the very essence of the cases the bill seeks to eliminate is that the harm suffered by victims of gun violence is often not solely caused by others, but that specific negligent conduct by defendants in the industry contributed to that harm. That is a key point here. This is not a situation as to anyone in the industry—a manufacturer or dealer—who has followed all the rules and has done everything correctly, and then someone else did something wrong. In order to bring a suit for negligence, you have to point out, allege at least negligent activities on behalf of the defendant, be he or she a manufacturer or dealer. So the core here is the allegation that the defendant—those people this legislation seeks to immunize—did something wrong. Liability attaches if a court finds they did something wrong.

Moreover, the bill would exclude many cases that do not seek to hold the entire industry liable but instead focuses on specific dealers or manufacturers based on their negligent contribution to specific instances of harm to victims of gun violence. This is not just a situation where the whole industry is sued. This is a situation where anybody in the industry who is sued gets the benefit of these protections.

Unfortunately, this bill would overturn longstanding, widely accepted principles of civil liability law, which generally holds that persons and companies may be liable for the foreseeable consequences of their wrongful acts. By throwing out common law standards established throughout our Nation's history by State courts, and substituting new standards for negligence and product liability actions conceived by attorneys of the gun lobby, this bill would deprive Americans of their legal rights in cases involving a wide range of industry misconduct.

Even if we concede, for the sake of argument, that some cases against the industry might be frivolous, this bill applies the legislative equivalent of a weapon of mass destruction where a surgical strike would be sufficient. The bill proposes a sweeping Federal intrusion into traditional State responsibilities for defining and administering State tort law, yet there is no evidence that the State courts are not handling their responsibilities competently in this area of law. There has been no rash of questionable jury awards, and not a single decision or final judgment of any court that justifies this unprecedented legislation.

Nevertheless, the bill's proponents seek to preempt the law of 50 States to create a special, higher standard for negligence and product liability actions against gun manufacturers, gun dealers, and trade associations.

We are being asked to do this for an industry that already enjoys an exemption from the Federal health and safety regulations that apply to virtually every other product made in this country. There is no crisis. There is no showing that the gun lobby is in danger of extinction as a result of lawsuits.

We must look at the facts and not the rhetoric. Again, as to a company that spends out of pocket $4,500 a year, when their sales are increasing by about 11 percent, that is not a crisis. There is nothing, I think, substantiated to suggest otherwise.

Now, Mr. President, we are going to engage in a series of discussions over the next several days here. But I think we have to be very clear, this legislation would undercut State laws and State court practices that have existed for as long as the country has existed. It would do so for the benefit of a very special interest group. It would deny access to courts for people who have been harmed, really harmed.

Let's take some of these cases. Take the case of Denise Johnson, the wife of the late Conrad Johnson. Conrad Johnson was the bus driver who was the final sniper victim of the Washington area snipers. The snipers' Bushmaster assault rifle was one of more than 230 guns that disappeared from the Bull's Eye Shooter Supply gun store in Washington State. The gun store's careless oversight of firearms in its inventory raised serious questions of negligence that fully deserved to be explored by the civil courts.

Two hundred thirty misplaced weapons—if that is not at least a suggestion of some negligence, I do not know what is. This legislation, had it been enacted last year, would have denied the Johnson family their rights in court, their rights to go to that alleged negligent dealer and say: Without your action, without your negligence, my husband, our father, would be alive today.

But in addition to that, the manufacturer's actions also were questionable. Despite questionable control activities in relation to their inventory at Bull's Eye—serious and well-known problems at the gun store—they were still able to acquire weapons from the manufacturer. As I indicated before, the Johnsons were able to settle their claim in court. But if this legislation had passed last year, they would have been thrown out.

Now, there are other examples that are prevalent that also would have been dismissed by this legislation had it been passed, and future cases if, in fact, we pass it in this session.

There is the case of David Lemongello and Ken McGuire, former police officers of Orange, NJ. On January 12, 2001, Mr. Lemongello and Mr. McGuire were shot several times by a violent criminal who should never have had a gun. Because of the injuries he suffered, Mr. Lemongello will never be a police officer again. The gun used in the shooting was one of 12 guns purchased by 2 individuals on a single day from Will Jewelry & Loan, a gun dealership in West Virginia.

Mr. James Gray, a felon, used a woman with a clean record to purchase all 12 guns at once with cash. He and the woman came into the gun shop with thousands of dollars, and Gray pointed out guns he wanted, and then had the woman purchase them in a clear example of a "straw purchase" to evade the law. In fact, the gun dealer was so concerned about the suspicious transaction that, after taking the money and giving him the gun, he called the ATF. But it was too late: the guns were already destined for the illegal market. The actions of the gun dealer—who failed to follow sales guidelines recommended by the National Shooting Sports Foundation—raise serious questions of negligence.

The manufacturer of the gun, Sturm, Ruger, is a member of NSSF, yet it failed to require its dealers and distributors to follow the guidelines. At one point in the proceedings, the West Virginia gun dealer and the manufacturer of the gun asked Judge Irene Berger of Kanawha County, West Virginia, to dismiss the case. She heard the gun seller's legal arguments and rejected each of them, applying the general rule of West Virginia law to allow the case to proceed.

Here is a classic example. Someone comes in with another person, purchases 12 guns at once, selects the guns, and pays with cash, but making sure the other person is the one whose name is run through the FBI records check, and then drives away. Doesn't that raise suspicion in your mind if you are a conscientious dealer? Don't you do anything other than call ATF? That is negligence in many respects. Certainly a victim of that crime eventually should have the right to take that case to court.

The gun industry bill would have overridden that judge's decision in West Virginia and thrown out the case of the police officers. Again, the Senate rejected this legislation last year, and in June 2004 Officers Lemongello and McGuire won a $1 million settlement to compensate them for their career-ending injuries. After the lawsuit, the dealer and two other area pawnshops agreed to implement safer practices to prevent sales to traffickers, including a new policy of ending large-volume sales of handguns. These practices go beyond the law and are not imposed by any manufacturers or distributors.

So here is another situation. It is not only the immediate compensation to these police officers whose whole lives and careers have been changed irrevocably; it is also making it safer for other people so the next time someone wanders into this particular gun shop of this dealer, they won't be selling 12 or so handguns without seriously checking who is buying.

Today, as we face another attempt in the Senate to take away the rights of innocent victims of gun lobby negligence, there are still many legitimate pending cases that will be thrown out by the bill before the Senate. We can always anticipate additional situations. In fact, there is a very strong likelihood that if this legislation passes, whatever steps are taken today by gun dealers and manufacturers will be abandoned or lessened because effectively they have a free pass. No one can sue them. They don't have to worry about the litigant going to court and saying, your sales practices or your behavior were negligent. We have given them immunity. In fact, one might even anticipate more incidents.

But there are cases pending today that could be affected. For example, in another case, Guzman v. Kahr Arms, a lawsuit was filed by the family of 26-year-old Danny Guzman of Worcester, MA, who was fatally wounded when a 9 mm gun stolen from a gun manufacturer's plant was stolen by a drug-addicted employee who had a criminal record. The manufacturer, Kahr Arms, operated the factory without basic security measures to protect against thefts, such as metal detectors, security mirrors, or security guards. Guns were routinely taken from the factory by felons it had hired without conducting background checks. The gun used to kill Danny Guzman was one of several stolen by Kahr Arms employees before serial numbers had been stamped on them, rendering them virtually untraceable. The guns were then resold to criminals in exchange for money and drugs.

The loaded gun that killed Mr. Guzman was found by a 4-year-old behind an apartment building near the scene of the shooting. Had Kahr Arms performed drug tests or background checks on the prospective employees or secured its facilities to prevent thefts, Danny Guzman might be alive today. A Massachusetts judge has held that the suit states a valid legal claim for negligence. But this bill would throw the case out of court, denying Danny's family their day in court.

That is the reality of this legislation. That is what we are protecting. We are protecting manufacturers who take no care in hiring employees, yet give them access and proximity to weapons, and who employ no effective security measures. That, at least, is negligence. At least they should be tried in court. This legislation would immunize that.

Ask yourselves again, What incentive would manufacturers such as Kahr Arms have to spend any money on background checks, to spend any money on security? None at all because, frankly, they have a free ride, a pass. No one can touch them. And in this legislation we are not about to start regulating the manufacturing practices of gun manufacturers in the United States.

Now, every industry has good actors and bad actors and the firearms industry is no exception. There are manufacturers that produce high-quality products that feature necessary devices to make the firearms as safe as possible. There are other manufacturers that create poorly designed, poorly constructed firearms that are favored by criminals, that have no place in the home, at the shooting range, or on hunting grounds. Likewise, there are licensed dealers who comply with both the letter and the spirit of our gun laws and do everything in their power to ensure firearms are sold only to lawful buyers. There are other dealers who routinely sell guns regardless of the age or criminal background of the buyer. Essentially, they wink and look the other way.

This small minority of bad apple dealers has a significant impact on gun violence on our streets throughout the country. According to the Federal data from 2000, 1.2 percent of dealers account for 57 percent of all guns recovered in all criminal investigations; 57 percent of the guns recovered in criminal investigations pass through their hands. Does that suggest there are some gun dealers who are negligent, who are not following the letter or the spirit of the law? And the gun manufacturers know who the problem dealers are because when guns are recovered at crime scenes, they receive firearm tracing reports that show which dealers sell disproportionally to criminals. But in too many cases, the gun industry refuses to police itself.

If this legislation passes, there will be less incentive to take precautions, to take steps to prevent guns from getting in the hands of those people who would use them irresponsibly.

The national crime gun trace data from 1989 through 1996 gathered by the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives indicates the following gun dealers sold the highest number of crime guns in America and exhibited crime gun tracing patterns indicative of drug trafficking. Whereas most gun dealers have been associated with zero gun traces, guns sold by these suspect gun dealers turn up in the wrong hands over and over again.

For example, in Badger Outdoors, Inc., of West Milwaukee, Wi, the dealer sold 554 guns traced to a crime, and 475 of those guns had a "short time to crime" as defined by ATF. The guns were involved in at least 27 homicides, 101 assaults, 9 robberies, and 417 additional gun crimes. The dealer also sold at least 1,563 handguns in multiple sales. From 1994 to 1996, straw purchaser Lawrence Shikes bought 10 guns from Badger. In one case, he immediately sold the gun to an undercover Federal agent who told Shikes he was a felon. Several weapons Shikes purchased have been recovered from a killer, a rapist, a convicted armed robber, a man who shot a police officer, and three juvenile shooting suspects.

So, again, a very small percentage, but still we are immunizing these people also. This legislation doesn't make any distinction between competent, conscientious gun dealers. It is everyone. And we know everybody is not following the rules as scrupulously as they should.

To put a check on the behavior, if you are harmed and injured by this negligence, go to court and say, I have been harmed, this defendant contributed to my injury and I seek compensation, this legislation will tell that victim, go away; the courts are closed to you.

There are other cases. Realco Guns of Forestville, MD; Southern Police Equipment, Richmond, Va; Atlantic Gun & Tackle, Bedford Heights, OH; Colosimo's of Philadelphia, PA; Don's Guns & Galleries in Indianapolis, IN. Throughout the country, the exception to the rule, and the rule is generally conscientious individuals follow the laws. But this legislation protects these individuals as well as the conscientious dealers. Again, it is inappropriate, unfortunate, unsubstantiated.

Where is the crisis? All the public records we have of the gun manufacturers say there is no material impact on the financial well-being. Those are reports submitted to the SEC, not press releases from lobbying groups. We are going to upset the traditions of tort law throughout this country for a situation where no crisis exists.

Again, we have moved from consideration of one of the most significant pieces of legislation we consider every year, the Armed Forces authorization, to deal with this issue—no crisis, no substance, but an industry-political motivation by the NRA and the gun lobby to protect their members from bona fide allegations of negligence in certain cases.

There is no explosion of suits. These are minimal, a fraction of the tort suits in this country. Yet we are here today to devote a huge amount of time after moving away from the Defense bill to consider this legislation. Procedurally, it is terrible. We should be talking now, as we all hoped we would, about further benefits for our military personnel, about improving their quality of life, improving their equipment, giving them the resources to defend us. Yet we are now staked out, literally, to try to provide benefits for the negligence of a few people in an industry that has no financial crisis and is in no danger of going away.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, there still remains a very serious problem and a very serious threat to gun manufacturers in the United States. Sure, a lot of these cases have not been successful because they are so bogus, so contrary to classical rules that a person is not liable for an intervening action done by a criminal, an intervening criminal act.

I will add, when I was a U.S. attorney, an individual walked off a veterans hospital grounds and was murdered. They sued the VA hospital for wrongful death. I defended on the theory that the hospital could be liable under certain circumstances, but there was a strong principle of law which I cited that an intervening criminal act is not foreseeable. You are not expected to foresee that someone will take a lawful product and use it to commit a crime or that they would commit a crime. This is a settled legal principle.

We are eroding these things and we end up with all kinds of problems. That is one of the things disrupting our legal system, particularly if there is a political cause here, a group of people who absolutely oppose firearms in any fashion. Mayors in major cities are encouraging these lawsuits and pushing them. We end up with some real problems.

Let me share with our colleagues this letter from Beretta Corporation. It was mailed out in 2005 by Mr. Jeff Reh, general counsel, written to the Vice President of the United States. He says a few weeks ago the District of Columbia Court of Appeals issued a decision supporting a DC statute that those manufacturers of semi-automatic pistols and rifles are held strictly liable for any crime committed in the District with such a firearm.

It had not been used until the District of Columbia recently filed a lawsuit against the firearm industry in an attempt to hold firearm makers, manufacturers, importers, and distributors liable for the cost of criminal gun misuse in the District.

The court of appeals, sitting en banc, dismissed many parts of the case but did rule that:

> Victims of gun violence can sue firearm manufacturers simply to determine whether that company's firearm was used in the victim's shooting, and if so, they become liable.

He goes on to say that such a decision "will make firearm manufacturers liable for all costs attributed to such shootings, even if the firearm involved was originally sold in a State far from the District of Columbia and to a lawful customer."

If you sell a gun to somebody in Minnesota and they bring it to DC and some criminal uses it to shoot somebody, the gun manufacturer now becomes liable for that Beretta or Smith & Wesson or whoever made it. They go on to say this decision "has a likelihood of bankrupting not only Beretta, but every maker of semiautomatic pistols and rifles since 1991." There are hundreds of homicides committed with firearms each year in DC, and others are injured. And the defendants, under this bill, would have no defense that they originally sold the pistol or rifle to a civilian customer. So they ask that this legislation be supported.

> Without it, companies like Beretta, Colt, Smith & Wesson, Ruger, and dozens of others, could be wiped out by a flood of lawsuits emanating from the District. This is not a theoretical concern.
>
> The instrument to deprive the United States citizens of the tools through which they enjoyed a second amendment freedom now rests in the hands of trial lawyers in the District. Equally grave, control of the future supply of firearms needed by our fighting forces and law enforcement officials and private citizens throughout the country also rests in the hands of these attorneys. We will seek Supreme Court review of this decision, but the result of a Supreme Court review is not guaranteed. Your help might provide our only chance of survival.

It is the principle of the thing we are concerned about, first and foremost. Do we believe that a manufacturer who complied with the law and who sold a gun in Minnesota or in Kansas and sold it lawfully, according to the rules of the State of Alabama or Minnesota and Federal Government rules, and that gun ends up in the District of Columbia, they now become liable for an intervening criminal act? That is not a principle of law that can be defended, according to justice or fairness. But we are in that mode now of using the courts to effect a political agenda that goes beyond what the Congress and elected representatives are prepared to vote. In effect, it would bankrupt these companies and may be able to prohibit people from even having firearms or certainly denying them a place to go buy a new firearm and ultimately denying them the right to purchase firearms.

So that is what we are concerned about. We are not trying to overreach here. We are trying to eliminate this political abuse of the legal system to effect a policy decision not subject to being won in the legislative branch.

Under this bill, I think it is very important to note that you can sue gun sellers and manufacturers who violate the law. It is crystal clear in the statute that this is so. To start off, one of the first things it says is an action can be brought against a transferer—that is, a seller—of a gun by any party directly harmed by the product of which the transferee is so convicted for violating the law. It also says this in paragraph 2:

> These are actions that are allowed to be maintained by this legislation and are not constricted.—An action brought against a seller of the gun for negligent entrustment for negligence per se.

It is some sort of negligent act that gave the gun to the customer. We will leave it at that.

No. 3, an action can be brought against a manufacturer or seller of a qualified product, or gun, who knowingly violated a State or Federal statute applicable to the sale or marketing of the product when that was the proximate cause of the injury, such as the 12 guns being sold and mentioned by Senator REED earlier. I suspect that violated a law. It is certainly a violation of the law for a person to knowingly or negligently entrust a gun to someone when they believe or have reason to believe that it is a straw purchase. That would be a violation of the law. You have to produce an ID, sign a statement, say it is your gun, say you have not been convicted of a crime, say you are not a drug addict, where your residence is, and other laws that States and communities may have, such as waiting periods, before you can pick it up. You have to wait for the background check to see if those statements you made are valid.

So you can still bring those lawsuits if you don't comply with that. Lawsuits can be brought whenever the manufacturer or seller knowingly made any false entry or failed to make, negligently or otherwise, an appropriate entry in any record required to be kept under Federal or State law with respect to the qualified product or if they aided or abetted or conspired with any person in making any false or fictitious oral or written statements with respect to any material fact to the law necessary in the sale or other disposition of the qualified product. And if they can maintain a lawsuit also, if you aided and abetted or conspired to sell or dispose of a qualified product, knowing or having reasonable cause to believe the buyer of the qualified product was prohibited from possessing or receiving a firearm, which would include a straw purchase, if you know you are selling it to this person and you know it is going to that person, then you would know that would be improper and it would be a negligent entrustment or violation of the statute.

I think those are important exceptions, as are many others. So it doesn't give immunity to gun dealers. That much we can say for sure. Now, it has been said that, well, these dealers—this little gunshop down here did something wrong and they would have insurance and the insurance company would pay. It is not so bad on them. But, Mr.

President, that is a slippery slope, an unwise public policy argument that I think we use too much. One of the things that raises questions in my mind about the effectiveness of a lot of litigation today is it is argued that it is going to punish this person who did something wrong. But in truth, the insurance company pays all of it probably—maybe all of it, maybe a small deductible is paid by the wrongdoer, and insurance company pays the cost of defending the lawsuit. It is not the wrongdoer. So the juries are told they are punishing this wrongdoer who made an error, but really the insurance company pays it. What happens? They raise the rates on everybody. So if one gun dealer has messed up and he gets sued, as he should be, and he has to pay a verdict, the weird way our system is working today is the insurance company pays the verdict, and everybody's rates go up—every gun dealer who complies with the law, their rates go up too. It is something that has been bothering me as time goes by.

They are stating, as legal theories, broad powers and requesting broad relief, similar to some of the things I mentioned here in the District of Columbia in the Beretta letter. Sometimes the plaintiffs have argued that the very sale of a large number of guns and pistols, when a manufacturer knows that some of those "might" end up in the hands of criminals, means that they become liable. What kind of law is that? It is a stretch beyond the breaking point that if you comply with the law, you sell a firearm to a lawful customer in your shop and they have the proper identification, and you take all the proper steps, somehow that you become liable if that person utilizes it unlawfully or sells it or gives it to somebody who utilizes it unlawfully.

That is not the way the American legal system works. Those are the kinds of lawsuits being pushed, I submit, for political reasons because people are frustrated that they have not been able to get the legislatures to eliminate firearms. Who should be liable? The person who commits the crime. John Malvo—if he commits a crime using a gun, he should be the one that pays and is sued in our system but, of course, people say Malvo doesn't have any money, so we will sue Wal-Mart because Wal-Mart sold the gun to somebody and it eventually went through somebody's hands and they got it, or whatever store sold the gun. Or we will even sue Smith & Wesson in Boston because they sold the gun and somebody was injured with it. What kind of law is that? I am very concerned about this theory. We have moved so far from our principle of liability. That is why it is quite appropriate here. And there may be other instances with other businesses around the country that are being unfairly held liable for actions that should not be their responsibility.

I will make a point about the serial number. I raised an issue I am personally aware of. The manufacturers have to put a serial number on every gun, which has to be recorded every step of the way as it moves from the manufacturer, to the distributor, to the subdistributor, to the retail store, to the customer. They are recorded and kept up with. A statement is filed including the name, address, phone number, driver's license, and a number of other things that are required by State and Federal law before it can ever be sold. It is now, and has been for many years, a crime to produce a gun that does not have that serial number, and it is a crime to erase it. It is a crime to sell a gun that doesn't have a serial number on it or has a number that has been erased. When I was a Federal prosecutor, I prosecuted many cases—30, 40, or 50 cases—in which criminals, thinking they could somehow avoid detection, would file off the serial number or somebody filed it off for somebody and delivered it to them, and both of them have committed a crime at that point. That is because we want to be able to identify that weapon and not have it subject to moving around without being able to be identified.

I would just say, there are a lot of laws that we pass in our legal system to clamp down on the sale of guns because they are, indeed, a dangerous instrumentality. But our Constitution provides the right of citizens to keep and bear arms. Our State and local laws provide that protection to our citizens, and we set many restrictions on it. The problem we are dealing with is the possibility that courts will create legal liability on a manufacturer of a lawful product, a lawful product that has been sold according to the strict requirements of Federal and State law, and that they somehow become an insurer of everything wrong that occurs as a result of the utilization of that lawful product.

All we are trying to do is bring some balance. I think the statute has been gone over for many years now. People on both sides of the aisle understand; there are probably 60-plus votes of people who are prepared to vote for this legislation. One reason it has that kind of broad support is that the bugs have been worked out of it. Things that would have gone too far have been eliminated. People have had many months to review it. I think we have a good piece of legislation.

I respect my colleagues who differ, but I strongly think it would be in the interest of good public policy to pass this legislation, and that is why I support it.

I offer the letter from the Beretta Corporation and ask unanimous consent it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BERETTA U.S.A. CORP.,
Accokeek, MD, May 11, 2005.
Hon. RICHARD B. CHENEY,
Vice President of the United States, Eisenhower Executive Office Building, Washington, DC.

DEAR MR. VICE PRESIDENT: A few weeks ago, the Washington, D.C. Court of Appeals issued a decision supporting a D.C. statute that holds the manufacturers of semiautomatic pistols and rifles strictly liable for any crime committed in the District with such a firearm.

Passed in 1991, the D.C. statute had not been used until the District of Columbia recently filed a lawsuit against the firearm industry in an attempt to hold firearm makers, importers and distributors liable for the cost of criminal gun misuse in the District. Although the Court of Appeals (sitting en banc in the case D.C. v. Beretta U.S.A. et al.) dismissed many parts of the case, it affirmed the D.C. strict liability statute and, moreover, ruled that victims of gun violence can sue firearm manufacturers simply to determine whether that company's firearm was used in the victim's shooting.

It is unlawful to possess most firearms in the District (including semiautomatic pistols) and it is unlawful to assault someone using a firearm. Notwithstanding these two criminal acts, neither of which are within the control of or can be prevented by firearm makers, the D.C. strict liability statute (and the D.C. Court of Appeals decision supporting it) will make firearm manufacturers liable for all costs attributed to such shootings, even if the firearm involved was originally sold in a state far from the District to a lawful customer.

Beretta U.S.A. Corp. makes the standard sidearm for the U.S. Armed Forces (the Beretta M9 9mm pistol). We have long-term contracts right now to supply this pistol to our fighting forces in Iraq and these pistols have been used extensively in combat during the current campaign, just as they have seen use since adopted by the Armed Forces in 1985. Beretta U.S.A also supplies pistols to law enforcement departments throughout the U.S., including the Maryland State Police, Los Angeles City Police Department and to the Chicago Police Department. We also supply firearms used for self-protection and for sporting purposes to private citizens throughout our country.

The decision of the D.C. Court of Appeals to uphold the D.C. strict liability statute has the likelihood of bankrupting, not only Beretta U.S.A., but every maker of semiautomatic pistols and rifles since 1991. There are hundreds of homicides committed with firearms each year in D.C. and additional hundreds of injuries involving criminal misuse of firearms. No firearm maker has the resources to defend against hundreds of lawsuits each year and, if that company's pistol or rifle is determined to have been used in a criminal shooting in the District, these companies do not have the resources to pay the resultant judgment against them—a judgment against which they would have no defense if the pistol or rifle was originally sold to a civilian customer.

When the D.C. law was passed in 1991, it was styled to apply only to the makers of "assault rifles" and machineguns. Strangely, the definition of "machinegun" in the statute includes semiautomatic firearms capable of holding more than 12 rounds. Since any magazine-fed firearm is capable of receiving magazines (whether made by the firearm manufacturer or by someone else later) that hold more than 12 rounds, this means that such a product is considered a machinegun in the District, even though it is semiautomatic and even if it did not hold 12 rounds at the time of its misuse.

The Protection of Lawful Commerce in Arms Act (S. 397 and H.R. 800) would stop this remarkable and egregious decision by the D.C. Court of Appeals. The Act, if passed, will block lawsuits against the distributors and dealers of firearms for criminal misuse of their products over which they have no control.

We urgently request your support for this legislation. Without it, companies like Beretta U.S.A., Colt, Smith & Wesson, Ruger and dozens of others could be wiped out by a flood of lawsuits emanating from the District.

This is not a theoretical concern. The instrument to deprive U.S. citizens of the tools through which they enjoy their 2nd Amendment freedoms now rests in the hands of trial lawyers in the District. Equally grave, control of the future supply of firearms needed by our fighting forces and by law enforcement officials and private citizens throughout the U.S. also rests in the hands of these attorneys.

We will seek Supreme Court review of this decision, but the result of a Supreme Court review is also not guaranteed. Your help in supporting S. 397 and H.R. 800 might provide our only other chance at survival.

Sincerest and respectful regards,
JEFFREY K. REH,
General Counsel,
and Vice-General Manager.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, this is an important debate and discussion, but I ask unanimous consent to speak on a different topic and have it count against the 30 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

GUARANTEED VETERANS HEALTHCARE

Ms. STABENOW. Mr. President, I had hoped at this time to come to the floor to vote on an amendment that I introduced with Senator TIM JOHNSON and other colleagues, to make sure that veterans health care funding is, in fact, secured and stable for the future through an amendment which was supported by the American Legion—by many groups—the Disabled American Veterans, Blind Veterans of America, Jewish War Veterans of the USA, AMVETS, Veterans of Foreign Wars, Paralyzed Veterans, Military Order of the Purple Heart, Vietnam Veterans—all of whom want us to pass the Stabenow amendment which would make veterans health care funding mandatory, reliable, rather than having the situation we are in with the VA coming to us with a shortfall right now and asking for emergency funding, then a debate on what we are going to do for next year.

This is a very important amendment. It was pending prior to the vote on whether to invoke cloture, or to bring one level of debate to a close. If cloture had been invoked, this amendment would not be in order to be voted on. It would not have been in order, which is why, among other reasons, I voted not to proceed to invoking cloture.

There are a number of very important amendments that address the needs of our troops and their families, and other important issues about keeping us safe, securing nuclear materials, and other critical issues that were brought forward by colleagues on both sides of the aisle. These are amendments that need to be debated and included, in many instances, I would say, in the Defense reauthorization bill.

I am deeply disappointed that instead of proceeding with that work and getting it done in the next day or two, which we on this side of the aisle committed to do—our leader indicated we would commit to stay here and get that work done—instead of doing that, we saw the leadership put this aside and go to another issue that is of concern, I know, to the gun industry.

But we are at war. We are at war. We have men and women who need our best efforts, both those who are our troops serving us, as well as those who have a veteran's cap on right now who have served us in other wars or come home from Iraq and Afghanistan.

I want to speak to the Defense authorization bill which I strongly support, as well as the amendment that I hope we will return to when we come back to the Defense bill. I hope it will be very quickly because our men and women in the armed services are counting on us to get the work done and make it the best product we can possibly make it in terms of our national defense and the Defense reauthorization.

I do support the 2006 Defense authorization bill. I believe providing the equipment and resources our service men and women need to do their jobs is one of our most important responsibilities, which is why I wish we were debating that right now. This duty is especially important, as I said before, in a time of war. As everyone knows, our men and women in uniform are under tremendous stress as they either prepare to deploy or are currently serving their country in Iraq and Afghanistan. I am pleased the Defense reauthorization bill will authorize a 3.1-percent pay raise for military personnel and provide $70 million in additional funds for childcare and family assistance services for our military families.

I know Senator MURRAY has an additional amendment that relates to supporting families and childcare, which I think is very important.

Foremost in the minds of the men and women in uniform with whom I visit is the safety and security of their families. The bill that was pulled in order to have this debate on gun manufacturers is a bill that also authorizes $350 million in additional funding for up-armored vehicles, and $500 million for the Improvised Explosive Device Task Force.

It also continues our strong support for the Nunn-Lugar cooperative threat reduction programs that work to keep weapons of mass destruction out of the hands of terrorists—an incredibly important effort that needs to be fully funded and receive our full commitment in every way.

These and other important provisions of this legislation will help make our country safer, make our troops safer and more capable as they serve us abroad.

I met with men and women from Michigan and across the country who are recovering at Walter Reed Army Medical Center. Some have suffered minor injuries that will not have a dramatic impact on the rest of their lives. Others, because of their injuries, will need years of rehabilitation and will face considerable obstacles as they return to their civilian lives. We owe these men and women our continued support so they can recover from their injuries and lead productive lives.

Today's soldiers are tomorrow's veterans. America has made a promise to these brave men and women to provide them with the care they need and deserve. They deserve the respect and support of a grateful nation when they return home. We also owe it to the men and women who have fought America's prior conflicts to maintain a place for them in the VA system so they can receive the care they need. We need to keep our promises to our veterans, young and old.

Today, I was privileged to participate in a press conference before the question came up about closing debate on these kinds of amendments. I was pleased that the current National Commander, Tom Cadmus, who is from Michigan, was there representing the American Legion. There were numerous other veterans organizations represented, as I listed earlier in my comments. All of them were saying to us: Let's stop this taking from one pocket to put in the other, taking from Peter to pay Paul, with our veterans. Let's keep the promise of veterans health care, period, and put veterans health care into a category that will allow that to happen on an ongoing basis.

I believe we must consider the ongoing costs of medical care for America's veterans as part of the continuing costs of national defense. The long-term legacy of the wars we fight today is the care for the men and women who have worn the uniform and been willing to pay the ultimate price for their Nation.

Senator JOHNSON and I and other colleagues are offering this amendment, which is currently still pending on the Department of Defense reauthorization, to provide full funding for VA health care to ensure that the VA has the resources necessary to provide quality health care in a timely manner to our Nation's sick and disabled veterans. The Stabenow-Johnson amendment provides guaranteed funding for

America's veterans from two sources. First, the legislation provides an annual discretionary amount that would be locked in future years at the 2005 funding level. Second, in the future—and importantly—the VA would receive a sum of mandatory funding that would be adjusted year to year based on changes in demand from the VA health care system and the rate of health care inflation. In other words, it would depend on the number of veterans rather than this arbitrary debate now on inflationary increases.

We know the current formulation has not worked because the VA tells us that they are over $1 billion short now in funding for health care services for our veterans. I think that is absolutely inexcusable, and it needs to be fixed permanently. The amendment that we have offered creates a funding mechanism that will ensure that the VA has the resources it needs to provide a steady and reliable stream of funds to care for America's veterans, and it will also ensure that Congress will continue to be responsible for the oversight of the VA health care system, as it does with other Federal programs that are funded directly from the U.S. Treasury.

In fact, this amendment would bring funding for veterans health care into line with almost 90 percent of the health care funding that is provided by the Federal Government. Almost 90 percent of federally funded health care programs are in the mandatory category, not discretionary. Why in the world would we say to our veterans they don't deserve the same kind of treatment in terms of the Federal budget for mandatory spending that other programs receive, such as Medicare and Medicaid?

The amendment also requires a review in 2 years by the Comptroller General to determine whether adequate funding for veterans health care was achieved. Depending on the outcome of this review, Congress would have the opportunity to make changes to the law to ensure that veterans receive the care they deserve.

The problem we face today is that resources for veterans health care are falling behind demand. In other words, we are creating more veterans than we are covering under our health care system. Shortly after coming into office, the President created a task force to improve health care delivery for our Nation's veterans. The task force found that historically there has been a gap between the demand for VA care and the resources to meet the need. The task force also found that:

> The current mismatch is far greater . . . and its impact potentially far more detrimental, both to the VA's ability to furnish high-quality care and to support the system to serve those in need.

The task force released its report in May of 2003, well before we understood the impact of our men and women fighting in Iraq and Afghanistan, and what that would mean to our veterans' health care system. If this mismatch between demand and resources was bad in May of 2003, imagine what it is today. That is why we see this gap. That is why we need to address—and the Senate has now passed, twice—$1.5 billion for emergency spending for veterans health care.

Over 360,000 soldiers have returned from Iraq and Afghanistan, and over 86,000 have sought health care up to this point from the VA.

There are an additional 740,000 military personnel who served in Iraq and Afghanistan. They are still in the service. This next generation of veterans will be eligible for VA health care and will place additional demands on a system that is already strained.

In addition, each reservist and National Guardsman who has served in Iraq is eligible for 2 years of free health care at the VA. I support that. The administration has in its own way admitted that they do not have sufficient resources to provide adequate care for America's veterans. While they would not until recently admit that there was a shortfall, they have for years attempted to ration care and cut services at the expense of our Nation's veterans. This is just not acceptable.

In 2003, the VA banned the enrollment of new priority 8 veterans. For the past 3 years I fought attempts by the administration to charge our middle-class veterans a $250 enrollment fee to join the VA health care system, and a 100-percent increase in prescription drug copays.

This year the administration also proposed slashing Federal support for the State veterans homes from $114 million to $12 million. The heads of the Grand Rapids Home for Veterans and the D.J. Jacobetti Home for Veterans in Marquette tell me these cuts would be devastating to them in serving our veterans in Michigan. The fiscal year 2005 and 2006 VA health budgets are a case study in why Congress should guarantee reliable and adequate resources through direct spending. Last March, the President submitted an inadequate fiscal year 2005 budget request for VA health care to Congress. That fell $3.2 billion short of the recommendation of the Independent Budget, which is an annual estimate of critical veterans health care needs by a coalition of leading veterans organizations. In fact, in February 2004, Anthony Principi, then the Secretary of the VA, testified before Congress that the request the President submitted to Congress fell $1.2 billion short of the amount he had recommended. It then fell to Congress to again increase the amount provided to VA for health care. The final amount Congress provided to the VA for health care was $1.2 billion over the President's request. While above the President's request, it was still not enough to meet the immediate needs.

In April of this year, I supported an amendment by Senator MURRAY to the fiscal year 2005 supplemental to Iraq and Afghanistan to provide $1.9 billion for veterans medical care, specifically for those veterans returning from Iraq and Afghanistan.

During the debate on the amendment, we were again told that the President's budget was sufficient. In fact, on April 5, Secretary of Veterans Affairs Jim Nicholson sent a letter to the Senate that said:

> I can assure you that the VA does not need emergency supplemental funds in the 2005 budget to continue to provide timely quality service. That is always our goal.

Mr. President, since April the story has changed, and we now know the truth.

On June 23, 2005, the VA testified before Congress that they forecasted a 2.5-percent growth in demand—in other words, more veterans, as we have all been saying, more veterans coming into the system—when in fact the increased demand this year is 5 percent. They said 2.5 percent; it actually was 5 percent. This has left the VA with a $1 billion shortfall. I was proud to support an amendment the following week to the Senate's Interior appropriations bill that provided an additional $1.5 billion for veterans health care. The following day, on June 30, the House passed emergency supplemental legislation that would cut this by $575 million, in line with the President's request.

At the time, our friends in the House suggested that the Senate was making up numbers. In fact, we wanted to be sure that the VA had enough funds to cover the shortfall and to cover any potential shortfall of next year. As it turned out, we received more bad news from the administration a couple weeks ago, on July 14, when the administration requested another $300 million for this year and a whopping $1.7 billion for next year. The total shortfall for this year and next now stands at nearly $3 billion.

The Interior appropriations bill is currently in conference. I am hopeful that the bill will include $1.5 billion for this year, as the Senate has twice unanimously supported. Further, last week the Senate Appropriations Military Construction and Veterans Affairs Subcommittee, under the able leadership of Senator HUTCHISON and Senator FEINSTEIN, included extra funding to cover the 2006 shortfall in VA health care.

Mr. President, I recall all of these events to make two points. First, it is clear that the demand for VA health care is increasing, and a good portion of this increase can be attributed to men and women seeking care after they have returned from Iraq and Afghanistan. Second is to show that despite the best intentions of the VA and

Congress, the VA does not have a reliable, and dependable stream of funding to provide for veterans health care needs. We should not have to pass an emergency funding bill to give our veterans the health care they have earned.

Imagine that. It is not acceptable. It has been over a month and Congress has still not resolved the $1.3 billion shortfall in VA medical services for this year. We owe our service men and women more than that.

In 1993, there were about 2½ million veterans in the VA system, and there are more than 7 million veterans enrolled in the system, over half of which receive care on a regular basis today. Despite the increase in patients, the VA has received an average of a 5-percent increase in appropriations over the last 8 years. At last count, at least 86,000 men and women who have returned from Iraq have sought health care from the VA, and we can safely assume this number will reach hundreds of thousands. This bill gives the resources our troops need to prepare and defend our country in Iraq. We must not forget them when they come home. We have an obligation to keep our promises to our veterans.

Mr. President, I am very hopeful that we will quickly return to the Defense reauthorization bill and have the opportunity to show our veterans all across America that we will permanently keep our commitment to them by passing the Stabenow-Johnson amendment. There are other important amendments that remain in front of us now because we have discontinued the opportunity for us to improve on this bill, a bill I support, but a bill that needs to be the very best that we can do for our men and women serving us today and for our veterans. I hope we will quickly return to it and that we will get about the business of continuing to work on these critical amendments and quickly bring this to a close. And we can do it this week if there is the will to do it so that we provide the very best to our men and women in service and those who have come home and put on the veterans cap.

Mr. President, I yield the remainder of my time under the 30 hours to Senator REED.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. First, let me thank the Senator for yielding the time. I appreciate that very much. I want to make some brief comments.

My colleague and friend from Alabama made reference to the Beretta Company and apparently their concern about legislation in the District of Columbia. I want to make a few points to clarify what I believe the context of this letter from Beretta is. First, the District of Columbia Council apparently passed strict liability legislation which is an example of an elected body, not a judge, making up laws. We might disagree with them, but the point is that this is an elected body doing this: this is not judge-made law. As I understand it, the Court of Appeals for the District of Columbia simply upheld the statute. They acted appropriately, procedurally correct, and the statute is in force. I do not know if this is the intent of the suggestion, but a lot of the debate today has been about letting legislators and legislatures do their jobs without defying the court. In this situation of Beretta, that is exactly what happened. The DC Council acted, the court of appeals said we have no reason to disagree substantively with what you have done and the law stands.

But I think there are much more important points to be made in the context of this legislation. The proposed legislation is not simply attempting to eliminate claims of strict liability against gun manufacturers, gun dealers, and trade associations. It goes all the way to wiping out a broad array of negligence claims. And the essence of negligence is that the defendant, or the one who is being accused of negligence, must fail to perform some duty, the duty to the injured party.

There has to be some personal action, not simply doing something that has been legislatively ruled to be wrong. In that context, one can look at the concerns of the Beretta Company about strict liability much differently than in this legislation, and I think it would be wrong to assume and argue that because they are concerned about strict liability applied entirely to the legislation before us.

Now I assume they oppose the legislation. But the issue is much broader than strict liability: it is negligence. It is not a situation where a manufacturer or an individual will be held liable for something they never did. The essence of negligence is you have to fail to perform a duty, and that is at the heart of the legislation before us, providing broad exemptions and immunities for gun dealers, gun manufacturers, and trade associations whose own conduct would at least lead to allegations in court of negligent behavior.

I wanted to make those two points, and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I ask to speak on a nongermane topic for approximately 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, reserving the right to object, the time would be counted against the 30 hours; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SESSIONS. No objection.

Mrs. MURRAY. I thank the Chair.

BRIAN HARVEY

Mr. President, I rise this afternoon to honor Brian Harvey. He is a loving husband, father, grandfather, teacher, advocate, and a hero in the fight to protect Americans from deadly asbestos.

Anyone who has followed the debate over asbestos in Congress will immediately remember Brian for his booming voice, for the way he could capture the attention of every person in a packed committee hearing room and for his commitment to saving lives and bringing victims the justice they deserve.

This picture shows him doing what he did best: urging Congress to ban asbestos and to protect victims. Brian Harvey is my hero.

Mr. President, it is my sad duty today to report to the Senate that Brian passed away on Friday, July 22. Today, I want to extend my condolences to his entire family, including his wife Sue, his daughter Valerie, his stepchildren Ethan, Anne, and Amy, and his three grandchildren. But mostly I want to share my thanks that Brian was given more time on this Earth than many asbestos victims and that he used that time to help others.

I was very lucky to work with Brian over the past 3 years. We came together at an important time in both our lives and in the history of congressional action on asbestos. Back in 2002, Brian was defying the odds in fighting mesothelioma and looking for a way to share his experience and to help others. At the same time, I was 1 year into my effort in the Senate to ban asbestos.

I was surprised and horrified to learn that asbestos was still being put in lots of commonly used consumer products on purpose. In my research, I learned about the deadly toll of asbestos diseases and about the lack of prevention, research, and treatment. I wrote a bill to address those critical needs. I was very proud to have Brian Harvey at my side and at the podium as I introduced that bill in June of 2002.

Brian Harvey is my hero because he never hesitated to stand up and speak truth to power. Whenever we had a hearing or press conference, whenever Senators needed to understand the horror of asbestos disease, whenever my legislation needed a little boost or a powerful push, Brian Harvey was the first person on a plane from Washington State all the way here to Washington, DC.

Like so many asbestos victims, Brian was exposed to asbestos through no fault of his own. Brian grew up in Shelton, WA, and like me he attended Washington State University. During his summers back in college, Brian worked at a paper products mill in Shelton, WA. That is where he was exposed to asbestos fibers, but the damage of that exposure would not be revealed until three decades later.

In September of 1999, Brian experienced shortness of breath and fatigue. He was diagnosed with mesothelioma, and the odds were stacked against him. Most people diagnosed with mesothelioma who do not receive treatment die within 8 months. Those who do receive treatment increase their life expectancy to an average of only 18 months. Overall, a person's chance of surviving 5 years is 1 in 20. Brian lived 6 years after being diagnosed. He was truly one in a million.

Brian Harvey was lucky in many ways. He was diagnosed early. He got experimental treatment at the University of Washington. He had skilled doctors and medical professionals, and he had the support of his entire family and many friends. Many asbestos victims are not that lucky. Brian recognized that, and he used the time he was given to speak up for others whose lives and families have been torn apart by asbestos.

Brian Harvey is my hero because he did not despair about his own personal challenges. Instead, he shared those challenges with all of us, helping us to understand the threat and to inspire change in our public policy. And he did it with an actor's presence and a deeply human personal touch. Brian used to say to me that the left side of his body was made of Gore-Tex. And it was. But that did not explain Brian's toughness or his determination.

That came solely from his heart.

Brian Harvey is my hero because he made a difference. He pushed Congress to treat victims fairly and to ban asbestos. While that work is still a work in progress, Brian's voice and passion echo as loudly today as they did that day 3 years ago when he stood beside me as we introduced the bill for the first time. Brian Harvey is my hero because in the face of so many challenges that could have drained his energy, he found the strength inside to fight the good fight.

Every time I stood up for asbestos victims, Brian Harvey was at my side. He was there on June 28, 2002, when I first introduced my bill. He was by my side in June of 2003 when we stood together to call for fairness for asbestos victims. On March 5, 2003, Brian testified before the Senate Judiciary Committee, and with his passion and power he called for increased detection and fair compensation for asbestos victims. Three months later, on June 24, 2003, the Judiciary Committee included my ban in its reform bill. On March 25, 2004, at a press conference to call for passage of my bill, Brian Harvey was there as well.

It is very hard for me to picture the next hearing or press conference without Brian standing by my side. But I will continue the fight. When Brian and I met 3 years ago, the odds were against both of us. The medical odds were against Brian. Every day for him was a triumph. And the legislative odds, the chance we could pass a bill, were against both of us. We have made progress, but we are not there yet. I know it will be harder without Brian's advocacy, but I also know he has done so much to bring that goal now within reach. I know eventually we will ban asbestos, we will ensure victims are treated fairly, we will find new treatments for asbestos disease, and we will protect future generations from this epidemic. When that day comes, all of us will have Brian Harvey to thank.

Again, I extend my thoughts and my prayers to Brian's lovely family and his many friends. Last week, when Brian was in the hospital, I spoke to his wife Sue and his daughter Anne. Brian was not well enough for me to speak with him, but I talked to the nurse at his bedside. I asked her to tell Brian something that I have always wanted him to know: You are my hero. Brian Harvey was given extra time on this planet to help other people. That is exactly what he did. Brian Harvey will always be my hero.

I yield the rest of my time to the Senator from Rhode Island.

Mr. SESSIONS. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MARTINEZ). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRAGEDY AT THE BOY SCOUT JAMBOREE

Ms. MURKOWSKI. Mr. President, when people ask me what is the best thing about Alaska, I can talk about the mountains, I can talk about the trees, I can talk about our great salmon. They are all very wonderful, very special. But the very best thing about Alaska is its people. The spirit of voluntarism and civic engagement is what makes Alaska one of the best places in the Nation to live and to raise families.

Alaskans not only invest their time and energy in their own children, they also invest it in the development of their neighbors' children. This spirit of giving manifests itself in the thousands of hours that adult volunteers contribute to youth activities, such as Scouting.

Scouting enriches the lives of young people in many parts of my State because adult volunteers give generously of their time to work with our young people. My two boys have proudly participated in Scouting in the Mat-Su Western District as members of Troop 176 in Anchorage. I am very proud of the opportunities they have through Boy Scouts.

Now, as we know, last evening there were four adult volunteers who were associated with the Western Alaskan Council of the Boy Scouts of America who lost their lives at the Boy Scout Jamboree which is taking place at Fort A.P. Hill near Fredricksburg, VA. Accounts in the newspapers this morning back home in Anchorage were riveting, tragic, and I think they hit all of us in a place in our heart we are always going to remember.

Mr. President, the four gentlemen who were killed last evening were:

Ron Bitzer of Anchorage. Ron and his wife Karen had just recently made the decision to move out of State. They were selling their home, and they were going to be moving out of State.

Michael LaCroix, who I had the privilege of working with on the Boys & Girls Club board. Mike was a small businessman and owned a very successful business in Anchorage. He was with his son here in the jamboree.

Michael Shibe of Anchorage was also here with two of his sons, twin boys.

The fourth individual was Scott Powell. Scott moved from Alaska, as I understand, just last year. He had served for more than 20 years as the program director of Camp Gorsuch, which is the Boy Scout camp in Alaska.

In my office today, we were talking about Scott Powell and the recognition that just about every Boy Scout in Alaska and the moms and dads who go either to help out at the camp or go there for the end-of-camp ceremonies knew, recognized, and loved Scott Powell. He touched the lives of countless Alaskan youth.

All of these gentlemen are going to be terribly, terribly missed.

Another Alaskan volunteer, Larry Call, of Anchorage, was injured in the incident. We understand he is hospitalized. Of course, we are praying for his speedy recovery.

I do not intend to dwell this afternoon on the tragic details of what has happened. The fact is, these men are heroes and should not be remembered for the way they lost their lives but for how they lived their lives. This is a phrase that was coined by Vivian Eney, the widow of a U.S. Capitol Police officer, who lost her husband in a sudden and unexpected training accident.

The four Scout leaders who we pause to think about today will be remembered for the way they lived their lives. They will be remembered as heroes for the service they gave to the young people of Alaska.

At this time, Mr. President, I ask unanimous consent that the Senate observe a moment of silence so we may reflect upon the events that occurred last evening and so we may also express our love and our support for the Scouts and their family members.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Moment of silence.)

Ms. MURKOWSKI. Mr. President, my message to the families of these five outstanding leaders and to all of the Boy Scouts in Alaska and around the world is simple: Please know that the Senate and, indeed, the Nation grieves with you on this very difficult day.

I thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank Senator MURKOWSKI for her eloquent remarks and for taking this opportunity to reflect on the contribution of these Boy Scout leaders to the moral and spiritual and emotional and psychological maturation of young boys.

The truth is, young boys today are having a harder time than girls in relation to their graduation rate from college, their crime rate, their imprisonment rate. There are other problems occurring in boys. Boys are struggling in our society today.

I am a strong believer in the Boy Scouts. I thank so much the Senator from Alaska for her kind remarks. I had the honor to be an Eagle Scout. Every Thursday night, a group of us from Hybart, AL, met in Camden, AL, which was 15 miles north of Hybart. Hybart was just a little crossroads community. My father had a country store. There were a couple little stores. People were farmers and carpenters and worked at the railroad or whatever.

There were nine boys there. Of those nine boys, eight became Eagle Scouts. I don't think a single one had a parent who graduated completely from college. One became a Life Scout, he almost became an Eagle Scout. And as I think of those kids with whom I grew up, they did well. One is a Ph.D. now, teaching at the University of South Carolina. One is a dentist in Charleston. One is a medical doctor, Johnny Hybart from Hybart. He is in Pensacola now, working at the hospital there. Bob Vick is a CPA. Pete Miles is an engineering graduate and a former plant manager at a major corporation. And Andy and Greg Johnson both graduated from college, one in engineering and one in business, and are very successful. Mike Hybart graduated with a horticulture degree from Auburn and is in the real estate business now.

It was a great pleasure for me to participate as a member of Troop 94 in Camden. As the Senator from Alaska read the names of Michael Shibe and Michael LaCroix and Ronald Bitzer and Scott Edward Powell, who were killed serving their boys, I thought of people who meant so much to me: John Gates and Peyton Burford and Billy Malone and Dean Tait, and quite a number of others, and Rev. Frank Scott, my Methodist preacher who traveled with us on trips, and how much that meant to me and us as a community and how it shaped our lives in ways that are really unknowable.

I also remember the most exciting trip I ever took: it was with Troop 94 and we stayed at Fort A.P. Hill, Camp A.P. Hill, I believe it was called at the time. As our troop came to Washington, I do not think a single member of the troop had ever been to Washington. We were from rural Alabama. Our leaders decided it would be a big trip, and everybody planned it for a year or more, and we came up.

Our Scoutmaster, Mr. John Gates, was quite a leader, and Peyton Burford and the team of adults made it a highly successful trip. It was in the springtime, as I recall, and I do not think they had hot water at A.P. Hill. It was cold water, but they made you take a shower. We stayed in the old barracks that were vacant at the time. The Army was very helpful to us in making that facility available. We were able to use it as a base to come in to Washington and to tour the area during a trip that was very, very, very meaningful to me and to others.

I have on my mantlepiece in my office here in Washington, on this very day, a picture of that troop with all those kids—60 or more, I guess it was. A big chunk—maybe 12 or 14—at that time were Eagle Scouts, and more than that became Eagle Scouts.

It was a very, very important part of our lives. The key to it was good leadership. Our leaders, as those leaders in Alaska, gave untold hours to make those events meaningful. If you were not a good leader, you would not be able to maintain a troop, and you would not be able to bring them from Alaska all the way down to A.P. Hill in Virginia as part of a Jamboree.

There are 32,000 Scouts at that Jamboree, I understand, with over 3,000 leaders present. It is a very important and good thing that at this very moment we think about the thousands and thousands of leaders in the Scouting program all over America who have meant so much to young people and have shaped their lives in so many positive ways that would not have happened otherwise.

When you go to your Scout meeting—every Thursday night, as we did—you say that oath: On my honor, I will do my best to do my duty to God and my country, to obey the Scout laws, to help other people at all times, to keep myself physically strong, mentally awake, and morally straight.

Some find that offensive. I can't imagine why. What kind of objection could somebody have to ideals such as that. Every week you also recite the Scout laws. A Scout is trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty—you don't hear that word much anymore—brave, clean and reverent. Those are good qualities. I don't see anything in those qualities that violates the Constitution or should in any way cause them to not be able to be supported by the military on their bases.

I am thankful that the majority leader, BILL FRIST, offered legislation to make crystal clear that Scouts will be able to participate actively on our military facilities as they have for so many years. Along with Senator REED—a graduate of West Point he is—I serve on the board of West Point with him. Senator REED chairs that board. I remember one of the briefings we had about the young people who graduate from West Point and go on to a military career. They said the two groups of graduates that had the highest reenlistment rate, the two groups that made the Army a career in the highest percentage, were children of former military parents and Eagle Scouts.

There is some connection there, a connection in terms of duty and honor and commitment to country and to our creator in a way that is special. The Scouts and our military do share some ideals.

I thank the Chair for allowing me to share these remarks. I appreciate the Senator from Alaska so much for her tribute to these fine leaders who gave their lives in service to the young men under their supervision.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Texas.

Mr. CORNYN. Mr. President, I know we are currently debating the motion to proceed on S. 397, the Protection of Lawful Commerce in Arms Act. I am supportive of this legislation. I am happy to see 65 of my colleagues join me in invoking cloture today so we can reach resolution on the bill later this week. This is critical legislation for gun manufacturers, some of whom work in my State and employ hardworking Texans. It is important for our economy and for our national security. I plan to speak about this issue in greater detail later, but I wanted to take a few moments to address another urgent matter.

I ask unanimous consent to speak as in morning business, and that the time be discounted against the 30 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION REFORM

Mr. CORNYN. Mr. President, earlier today, Chairman SPECTER of the Senate Judiciary Committee convened a very important hearing addressing one of the most urgent matters confronting our Nation; that is, the need to fix our broken immigration system. I want to speak a few minutes about a proposal that I have made, along with my colleague from Arizona, Senator KYL, together representing two border States, ones that perhaps have the most experience with this issue because of our proximity to the border with Mexico.

In summary, this bill strengthens our border enforcement while it comprehensively reforms our immigration system. Unfortunately, the ongoing immigration debate has too often divided Americans of goodwill into two camps—those who are angry and frustrated by our failure to enforce the law, and those who are angry and frustrated that our immigration laws do not reflect reality. I have learned that those two groups, both of whom deeply care about America and are committed to building a system that works, share more in common than they or many other people actually realize. The only groups who benefit from the current system are human smugglers, unscrupulous employers, and others who profit at the expense of people who are trying to come into this country and work through illegal channels. Unfortunately, we know that those channels are being investigated and potentially exploited by those who want to come here to do us harm.

The reality is we need both stronger enforcement and reasonable reform of our immigration laws. It is my opinion that we, in the past, have not devoted the funds, the resources, or the manpower necessary to enforce our immigration laws or to protect our borders. No discussion of reform is possible without a clear commitment to—and a substantial escalation of—our efforts to enforce the law.

Over a series of months now, as chairman of the Immigration Subcommittee of the Senate Judiciary Committee, I have come to believe that increased enforcement alone cannot solve the problem. Any reform proposal must both serve our national security and our national economy. It must be capable of securing our country, but it must also be compatible with our growing economy.

As I mentioned a moment ago, as chairman of the Subcommittee on Immigration, I have worked closely with Senator KYL, who chairs the Terrorism Subcommittee of the Senate Judiciary Committee, to conduct a thorough review of our Nation's immigration laws. We have covered a wide variety of subjects, and we have had the opportunity to hear from a diverse group of experts. From an analysis of how the immigration system failed on 9/11, to the role of our neighboring countries in raising living standards in their home countries, our hearings have laid a foundation upon which we have developed a comprehensive solution, one that will not result in yet another immigration crisis some 10 or 20 years down the road.

We all know our immigration system has been broken for many years. First, the volume of illegal immigration continues to increase. According to the Pew Hispanic Center, there has been a dramatic increase in illegal immigration since 9/11, approximately 30% since 2000. That same organization estimates there are approximately 10.3 million illegal aliens in the United States currently.

Over the course of the 1990s, the number of illegal aliens increased by half a million a year, almost matching the number of visas that Congress has made available for legal immigrants. Last year alone, the Border Patrol detained roughly 1.1 million aliens who had come across the border. Professionals I have talked with on my travels to Texas and along the border, people whose experience and professionalism I trust, estimate that we are only detaining perhaps one out of every three or one out of every four people who are coming across our borders illegally.

Second, and for me the most alarming, is the information that suggests that terrorists and other criminals, including smugglers, are aware of the holes in our system. They may be—and I am confident that they are—looking at ways to exploit these weaknesses.

In recent visits in McAllen, TX, and Laredo, TX, I learned from people who have been long familiar with the movement of people back and forwards across our borders that the nature of illegal immigration has changed dramatically. The number of aliens from noncontiguous countries, sometimes called OTMs—in other words, people from countries other than Mexico—has doubled in the last year alone. Already this year the Department of Homeland Security has apprehended about 100,000 aliens across the southern border who are from noncontiguous countries.

While many of these individuals are coming from countries that you would expect, countries in Central and South America, many come from countries that have direct connections with terrorism. For example, we know that the Border Patrol has apprehended at least 400 aliens from countries with direct ties to terrorism.

Former Deputy Secretary of the Department of Homeland Security, Admiral James Loy, stated that "entrenched human smuggling networks and corruption in areas beyond our boarders can be exploited by terrorist organizations." He went on to state that "several al-Qaeda leaders believe operatives can pay their way into the country through Mexico and also believe that illegal entry is more advantageous than legal entry for operational security reasons."

I believe the vast majority of the people who come to this country, even those who come outside of our laws, come here for understandable reasons. That is, people who have no hope and no opportunity where they live see this tremendous beacon of opportunity that America represents, and they want to come here to work and provide for their families.

At the same time, we have to acknowledge that our porous borders represent a national security vulnerability which can also be exploited by international terrorists. We know the current system benefits smugglers and all too frequently leads to the deaths of immigrants whose only crime was trying to find a better life for themselves and their families. Indeed, the greatest hazard to people who come to this country to find work is the fact that they have to, under current law, resort too often to an illegal entry into the country. They turn their lives over to people who care nothing about them and who are willing to leave them to die under the most extraordinarily bad circumstances. They must work for employers who can exploit them because they know they can't report labor law violations to the authorities. And they suffer criminal acts, such as domestic violence, and they must endure these acts because they believe they can't report the crime to law enforcement authorities or else they risk deportation.

I believe a reform proposal must encourage aliens to participate in the legal process, to live within the law. Ultimately, after they have completed their time of work in this country, most will return home to their countries and to their families and to contribute to their societies in their homeland. And those who decide to live permanently must enter through the legal process.

When people who come to this country live outside of the law, they are vulnerable to exploitation and violence. They risk their lives, sometimes just to visit their families. I believe we must take away this black market from smugglers and others who exploit these vulnerable immigrants by addressing deficiencies in our current system.

Identifying problems, of course, is not the most difficult part of our jobs. If this were easy, someone would have already done it. It is not easy, but it merits our best efforts. The challenge that Senator KYL and I have assumed is to find a solution, to find workable results.

Last Wednesday, we introduced the Comprehensive Enforcement and Immigration Reform Act of 2005, a bill that we believe will restore America's faith in lawful immigration and will meet the needs of our country, both from a security perspective and from the standpoint of our growing economy which needs the work provided by many immigrants.

The bill is based upon certain principles. First, we have to reestablish the rule of law. Second, we have to enact laws that are capable of strong enforcement. That means they have to be realistic. Third, and most importantly, the law must be fair. If we address deficiencies in the current immigration process, then we must require that everyone who is here, even those who have come here just to provide for their families, must go through normal legal channels.

The good news is that our bill provides them a direction and a way to do that in a way that is not overly disruptive of their employment or of their family life. We believe it provides a path so that they can regain their status as legal temporary workers or, if eligible, as legal permanent residents.

The men and women who secure our borders at the ports of entry, and frequently at remote locations, should be commended for the job they do every day. But we have not provided them with the resources they need to be able to give them any reasonable chance of success.

Last week, the Senate approved the Department of Homeland Security appropriations bill, which, to the credit of the Senator from New Hampshire, Senator GREGG, included increases for border security and immigration enforcement.

Senator KYL and I have introduced a bill that we believe builds on that foundation. First of all, it authorizes 1,250 new Customs and border protection officers over the next 5 years. It calls on the Department of Homeland Security to hire 10,000 new Border Patrol agents over that same 5-year period. That same amount was authorized by Congress in the Intelligence Reform Act of 2004. It calls for the expansion of a process called expedited removal, which is a fair and effective system for quickly removing those who are ineligible to enter our country. Right now, we only use expedited removal in a few locations along the border. But our bill calls for the Department of Homeland Security to expand that process to all Border Patrol sectors, and we also provide for additional safeguards for aliens by requiring a supervisory official with the Government sign off on any removal.

Let me say a quick word about expedited removal. Right now, because of a lack of detention facilities, we have what is commonly called a "catch and release" program. For those we catch coming across the border illegally, a criminal background check is done to determine whether they are a threat to the American people; but if they don't appear on one of these watch lists or criminal background databases, they are released into the U.S. and asked to return for a hearing. It should not surprise any of us that this "catch and release" program results in more people not showing up than do show up, and those who show up for their hearing and are ordered removed then do not show up later when they are asked to report for their deportation process.

So that is the problem that we simply have to remedy. And I believe that expansion of the expedited removal process will deal with it in a way that is consistent with our laws and our values and our need for an effective border security program.

Our bill also addresses the release of aliens who come into the country from countries other than Mexico. It raises the minimum bond amounts for these aliens from $1,500 to $5,000. That means that fewer people from countries other than Mexico will be released, and those who are released will have a greater incentive to appear for their hearings.

Another important component of immigration reform is interior enforcement. We also need to deal with those who make it past the border and into the interior of our Nation. Tackling illegal immigration cannot be done in a piecemeal fashion. If we increase our ability to apprehend illegal aliens at the border, we must have a place to put them. Once detained, lawyers and judges are necessary to ensure that these people receive timely and fair hearings. Reform, therefore, must evaluate the whole enforcement process, and we must remove obstacles that appear anywhere in the process.

The goal is simple: If we apprehend someone who has no legal right to be in this country and is not entitled to any claim of asylum, then we must have an effective and efficient means to remove them from the U.S.

The bill Senator KYL and I have introduced will restore confidence in the system. First, it authorizes an additional 10,000 detention beds. Currently, there are only 23,000 detention beds. You will recall that a moment ago I said last year alone immigration control authorities apprehended 1.1 million people coming across our border illegally. Yet we only have 23,000 detention beds. That leads to what I described earlier as the "catch and release" program, which has proven to be completely unworkable.

The intelligence reform bill called for an additional 40,000 beds over the next few years. The bill that we have introduced increases the total amount to 50,000 detention beds. Still, that is not enough to detain everyone who comes across the border illegally. That is where expedited removal comes into play—a process to remove aliens quickly so that we reduce the need for bed space.

Our bill also increases penalties for alien smuggling, document fraud, and gang violence by aliens. We know, as I said a moment ago, that the nature of the people coming across our border, through our porous southern border, has changed. We are seeing many people who are violent gang members coming from places in Central America. We know that people are coming from Asia and from Europe, all around the world, and they are transiting through Mexico.

Alien smugglers are the people that make that happen. We have learned that they consider human beings to be just another commodity. They are just as likely to smuggle arms, drugs or anything else that will make them money. We need to make sure that we crack down on these alien smugglers that facilitate this intrusion into our country illegally and show that we are committed to tough punishment. Our bill accomplishes that.

We provide greater tools for the Department of Homeland Security and the Department of State to require that countries accept their own citizens back if they violate our immigration laws and they come into our country illegally.

Our bill also clarifies the authority of State and local officials to enforce immigration laws and authorizes the reimbursement of local and State officials for costs they incur in enforcing Federal immigration law.

Recently, I traveled to Victoria, TX, and met with a group of sheriffs down there. It so happened that the Minutemen who first organized in Arizona were organizing in Goliad, TX, and local law enforcement officials were concerned about having these citizen volunteers engage in what essentially is a law enforcement process. They said to me:

> If the Federal Government would provide us additional resources, we would be glad to help. We need some training, but we would be glad to be cross-designated, if that is important, to enforce both Federal immigration laws as well as State and local laws. We would be glad to detain them in our local jail facilities pending their hearings, if necessary, but it is going to take a little help from the Federal Government.

I told them that I welcomed their offer to assist because I believe interior enforcement performed by many of these local law enforcement officials is an important part of this puzzle.

Our bill also creates a new senior-level position at the Department of Justice committed to immigration enforcement.

The third piece of the enforcement puzzle deals with the employment of undocumented immigrants. The Congressional Research Service estimates that out of the roughly 10 million people who have come into our country in violation of our laws, about 6 million are currently in the workforce. I believe that a vast majority of employers simply want an effective, user-friendly way to comply with the law. In other words, they want a way to determine whether the person who shows up in their place of business saying "I would like to work for you" is in fact legally authorized to work in the United States. We must ensure that we provide them an efficient, easy-to-use system that is airtight.

The example I often use is the following: if I show up at a convenience store and buy something, I can present my debit card or Visa or Master Card. In a matter of seconds, the clerk can swipe the card and it can authorize that purchase using modern technology. Why can we not use something similar—maybe with a few more bells and whistles—to allow employers to determine whether a person they want to hire is in fact eligible to work?

Since 1996, the Government has been testing an electronic verification system that provides instantaneous confirmation of an individual's authorization to work in the United States. Our experience with this program tells us that it can work but only if we give it sufficient resources. Our bill calls for an expansion of this electronic verification system and requires all employers to participate.

But while we make sure that there is a way for employers to check, we also have to make sure we crack down on employers who continue to operate in the black market of illegal labor. We have to crack down on the criminals who sell and who create fake identity documents and Social Security cards, which can also be exploited by terrorists.

Because our bill will create bright-line rules for employers, companies will be able to know whether they are in compliance or not. That is an obligation we owe them. If we are going to ask them to comply with the law, we have to give them a clear and simple way to do so. Our bill will further reduce identity theft and fraud by increasing the penalties for false claims to citizenship or for filing false information with the Social Security Administration. It requires Social Security cards to be more secure and it imposes standards for the issuance of birth certificates, so someone may not simply counterfeit these documents and make a false claim to citizenship.

Our bill also imposes certain obligations on countries who would like to make their citizens eligible to participate in this program. This would address another big challenge that we have, and that is the development gap between the United States and other countries.

We, along with those other countries, have an interest in ending the one-way flow of workers, which only results in the drain of highly motivated workers from those countries and further impedes their development. Our proposal would not only require the sending countries to assist with border security, but it will require them to cooperate with the United States in bridging the development gap between our country and theirs. Foreign Minister Derbez of Mexico has said that "[T]he Mexican government has to be able to give Mexicans . . . the opportunity to generate the wealth that today they produce in other places."

I could not agree more. Other countries need for their young, energetic risk-takers and hard workers to ultimately return home, to bring back to their countries the savings and skills they have acquired in the United States.

The bill we have introduced will require countries to enter into an agreement in which each country agrees to cooperate on border enforcement, to work to reduce gang violence and smuggling, to provide information on criminal aliens and terrorists, and to accept the return of nationals whom the United States has ordered removed.

Lastly, let me cover the temporary worker program. I mentioned a moment ago that out of the 10 million or so people who have come to this country illegally, about 6 million are in the workforce. I believe the fact is many of these immigrants have come here to provide for their families, something all of us as human beings can empathize with and understand. Who among us would not do anything in our power, risk life itself, to provide for our families, even if it happened to be outside of our laws?

We know many jobs being performed by immigrants in this country are jobs American citizens are reluctant to fill. I can only think about roofers working with hot asphalt in south Texas during August as the one example of that kind of job. Whether it is that or picking agricultural products, there are a lot of jobs, unfortunately, that Americans simply are reluctant to fill. We know we have a need for the work provided by many immigrants.

What we provide for in our bill is a temporary worker program. That is something I believe can best be characterized as a work-and-return program, not a work-and-stay program.

Some have said that is unrealistic, that you will never get people who come to the United States to agree to return. I guess we can all have opinions, but I have something even better than my opinion. The Pew Hispanic Center, a nonpartisan, impartial think-tank that looks at some of these matters, has done a survey of almost 5,000 Mexican immigrants who applied for matricula consular card, a Mexican identity card, at Mexican consulates in the United States. They asked migrants to fill out a 12-page survey, and one of the questions they answered was this: Would you agree to work in a temporary worker program in the United States if it was legally authorized, even though at the end of that time period you would have to return home to your country of origin?

By a ratio of 4 to 1, 71 percent to 17 percent, these immigrants said they would. I think that is solid evidence that people who are currently working in the shadows realize that they operate without the protection of our labor laws, without the protection of our criminal laws, and all too frequently they view law enforcement with suspicion rather than as an ally. They are looking for an opportunity to come out into the sunshine and to secure the protection our laws provide.

Our bill does create a new temporary worker category that allows workers who have a job offer from a U.S. employer to enter the country for a period of up to 2 years to work in the United States. Before the employer can hire the worker, the employer must advertise a position, offer it to any qualified American worker, and agree to pay at least minimum wage. The worker will go through background screening, will be issued secure biometric documentation, that they are who they say they are and are coming here to work and not for some other nefarious purpose.

We also create some financial incentives so that the worker, after the period of their temporary visa expires, will return home with the savings and skills they have acquired while working in the United States.

I talked moments ago about the Pew Hispanic survey. Circular migration is important both for the United States and for countries such as Mexico and the countries of Central America who are losing their young risk takers and the potential entrepreneurs, the people who are essential to the development of their own economy.

What economy could withstand the loss of the young men and women, the people who are going to be the engines of those economies and the prosperity of those countries? The public officials in Mexico and Central America with whom I talked do understand they need to have these people come back with the savings and skills they have acquired in the United States, so they can develop a way forward for their own people. In the end, it will benefit the United States because it will take a lot of pressure off illegal immigration if people can find hope and opportunity and good jobs in their own country.

Finally, let me address what perhaps is the hardest issue: the people who are here now who have come here outside of our laws.

According to the Pew Hispanic Center again, about a third of these individuals have been here for more than 10 years. So we do know that some have established roots in the United States, but we also know we have to find some way to transition this population into legal status. It must not, however, create a new path for people who have come here outside our laws. Our bill allows them to get back in line so they can return to the United States in a temporary worker program or, should they choose, as legal permanent residents.

But we do it in a way that is premised upon fundamental fairness. I believe there are many people in America who would be deeply offended if we said: if you come to this country through legal channels, that is nice, but we are going to allow people who have come here illegally to have a preference, and we are going to let them jump ahead of you in line.

Our bill provides a path for people to return to their country of origin and then, on an expedited basis, return to the United States. It will not be disruptive. To secure their participation, it may be necessary for them to know by the time they leave that they will be eligible to come back immediately once they secure the proper documentation. And we need to address processing delays so that they can obtain that proper documentation in a matter of days. If disruption is the only concern, then I see no reason why the model cannot minimize or eliminate that disruption.

This bill is a comprehensive bill, and I know my colleagues are as concerned as I am about finding a workable solution to this problem. I speak today to share with all of our colleagues, not just the people who sit on the Judiciary Committee and who participated in the hearing this morning, an overview of our proposal which I think has some real promise in achieving results.

I believe our constituents sent us here to represent them to solve problems, not to engage in partisan or otherwise divisive rhetoric designed to pick a fight. Our proposal is one idea about how we can find our way through this thicket, how we can thread the needle in a way that does not provide amnesty. I think our colleagues across the Rotunda in the House of Representatives will be open to discussing our proposal, for it is consistent with their principles of reform.

I thank the Chair. I thank the indulgence of my colleagues. I yield the remainder of my hour to the Senator from Alabama.

I yield the floor.

The PRESIDING OFFICER. The Senator has that right.

Mr. CORNYN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I am glad I had an opportunity to be presiding this afternoon and to hear Senator CORNYN speak. I appreciate his assuming the Chair for a moment so I could step down here and compliment him and Senator KYL for their work on this legislation.

They have introduced a comprehensive bill to improve our immigration system, focusing, as the Presiding Officer said in his remarks, on border security, on interior security, on employment accountability, and on a legal status for temporary workers.

I am glad they have taken the time to work on this program. We have talked about it many times over the last several months, and I know the hours they spent on this. I have not had an opportunity yet to see all the specifics of the bill, but I know the principles they are working on and I heard the speech. I believe in what they are trying to do, and I think it is terribly important that we as an entire Senate take this issue up and begin to deal with it.

We need to stop thumbing our nose at the rule of law and decide which persons from other countries should be allowed to work and study and live in our country and create a legal status for them, and then enforce the law. We must do that. It is hypocritical for us to go around the world preaching about the rule of law to other countries when 10 million people or so are living illegally in this country.

Our failure to solve the problem also unloads huge health and education costs on State and local governments and puts the immigrant population at risk.

So the Cornyn-Kyl bill stands for the rule of law by enforcing our borders and creating a solid temporary worker program so that we know who is here, and that they are here within a clear legal framework.

The people of this country expect us to deal with this issue. This is a difficult issue, but it is what we are sent here for: We are sent here to deal with the major issues facing our country, and I can think of no more important issue for us to deal with than upholding the rule of law by securing our borders, protecting our interior, and making sure that people we welcome to live here and work here are here legally, and that we then enforce the law.

But, as important as the Cornyn-Kyl bill is, we can do more. This bill enforces the borders and welcomes temporary workers. But we also need to do a couple of other things. One of the other things we need to do is to welcome foreign students, not just foreign workers. A second thing we need to do, with a half million to a million prospective citizens who come to our country legally every year, is to help them become Americans. We need to help them to become a part of this country whose most important accomplishment is admitting and welcoming people from all over the word, of every background, and helping those new citizens become something new—Americans who are proud of where they came from but prouder to say they are all Americans.

Foreign students who come to the United States to study at our colleges and universities are a boon not only to our educational system, but also to our economy and to our foreign policy. But after September 11, in an effort to increase our security—which is appropriate—we have been making it harder for international students to come to the United States. Earlier this year, the administration removed one important hurdle by extending the Visa Mantis process, which clears foreign students and researchers who are studying advanced sciences.

The Presiding Officer, Senator LUGAR, Senator COLEMAN, and I, and others have spent some time over the last year working with the administration on the question of foreign students coming to the United States. There were 570,000 foreign students who attended classes in the United States last year. Sixty percent of the postdoctoral students in the United States last year were foreign students. One-half of the students in our graduate programs in computer sciences and in engineering are foreign students. Many of these students are here working to help increase our standard of living. Many will return to their home countries after 4 years with a fresh perspective on our country and on what their own country could become.

When I visited the country of Georgia last March, which recently became a pro-Western democracy, I was reminded that most of the top officials there had been students in the United States of America. They were doing things there we could have never encouraged them to do. They were doing them because they came here and learned what it meant to be an American and were using those principles in their own country of Georgia.

Many other foreign students will stay here and, thanks to their studies, they will invent new products or start new businesses, and that creates jobs here at home. So we need to welcome these students when they are legally here in the United States.

Finally, we also need to do more to welcome and support legal residents who are working to become American citizens. Each year we welcome about 1 million new permanent legal residents, many of whom go on to become citizens of the United States. To become an American is a significant accomplishment. First, you must live in the United States for 5 years. Next, you must speak some English. Next, you must learn about our history and government. Next, you must be of good character. Next, you must swear an oath to renounce the old government from where you came and swear allegiance to the United States of America and its Constitution. That is no small thing.

Between 500,000 and 1 million new citizens each year come in and complete that process and take that oath.

Earlier this year, Senator SCHUMER and I introduced a bill to codify that oath of allegiance that new citizens swear to when they become citizens. It is hard to believe that while the Pledge of Allegiance, the National Anthem, and the American Flag are all prescribed by law, we have been allowing the oath of allegiance, a binding pledge for new citizens, to be determined merely by Federal regulators. We can do more to welcome these new citizens.

In the near future, in September, I hope to introduce legislation that perhaps could become part of a comprehensive immigration bill. This legislation would provide new incentives and support for legal immigrants to learn English, our common language, and to learn about our Nation's history and government and values. I hope that effort to welcome new legal immigrants and to help them become a part of our American community will become a part of the Senate's overall approach to immigration reform.

Our country is unique in the world. We are not defined by common ethnic background or origin. We and our ancestors came from every corner of the world to be a part of this country because it was founded on something much bigger, much grander than ethnic heritage or a tie to the land. In the Declaration of Independence, our Founders wrote:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

This is what binds us together as Americans: a belief in our common values, values such as equal opportunity, the rule of law, and liberty. That is why we welcome immigrants who swear allegiance to our country and to those values as new citizens. That is why our Nation of immigrants has always succeeded and can succeed in the future.

If we are to continue to succeed, we must pass along these values that comprise our American identity—pass them on to posterity—both to our children and to those new citizens who come to our shores from distant lands.

In the coming months, this Senate will have a chance to reform our Nation's immigration policy. The Cornyn-Kyl legislation is a tremendously important first step toward a comprehensive immigration bill. It is one whose principles I support. I look forward to working with its authors as it moves through the Senate. I hope as we write this comprehensive immigration legislation, though, we also remember to welcome foreign students who add so much to our economy and spread our values to the world, and that we remember to welcome legal immigrants who wish to join the American family and help them learn our common language, learn our values, and become American citizens.

I hope the legislation that I will offer in September can help us along that track.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I join with Senator ALEXANDER in complimenting you and Senator KYL for the legislation that you have just described for us. The Senator from Texas, as I know, has taken the lead on this very important and complex subject. I salute you for it.

Some would say it is a thankless task, it can't be done, and will make nobody happy. But I believe you have the right principles. If the right principles are applied with the right prescriptive language, we can make great progress in this area, and I salute you for it.

Frequently have I quoted Senator ALEXANDER in the phrase he has used: No child should grow up in America who doesn't know what it means to be an American.

I think that is good for immigrants, too, as the Senator just said so eloquently. I salute him.

I also thank the Senator from Texas for considering a critical component of this legislation he has proposed, and that is the part that deals with State and local law enforcement. I have just written a Law Review article for Stanford University to deal with that area of the law. Suffice it to say, local law enforcement does have complete authority to detain people who are violating the criminal laws of the United States. But that has been confused. Clearing this up more, setting up a mechanism so that they can participate if they choose, would be helpful to enforcing the law. That is so because we have 700,000 State and local law enforcement officers at every street corner and town in America. We have only 2,000 INS immigration officers inside the border—not those on the Border Patrol and on the border, but those inside the border. So obviously we are not very serious about ultimately reaching a lawful system if we exclude them.

I thank the Senator from Texas.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAMBLISS). Without objection, it is so ordered.

Mr. THUNE. Mr. President, I ask unanimous consent to proceed as if in morning business and I be allowed to speak for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

BRAC

Mr. THUNE. Mr. President, last week I offered an amendment to suspend the 45-day congressional review of the President's final BRAC recommendations pending completion of several vital studies pertaining to long-range security needs in the implementation of BRAC and redeployment of many units presently deployed in Iraq and Afghanistan back to bases in the United States.

I also introduced a similar amendment yesterday that would allow Congress discretion to remove individual bases from the closure list based upon the findings of these studies and results of the redeployments.

There are two separate options, one of which I hope comes to the Senate for a vote. I underscore the assertions I made last week. The underlying purpose of the Base Realignment and Closure Commission, or BRAC, is not only good for our Armed Forces, it is good for American taxpayers. We all want to eliminate waste and reduce redundancy in the Government, but when Congress modified the BRAC law in December of 2001 to make way for the 2005 round of base closings, it failed to envision this country involved in a protracted war involving stretched manpower resources and the burden of large overseas rotational deployments of troops and equipment. This is not the time to begin a new round of domestic base closures and massive relocations of manpower and equipment.

I am aware, hearing that coming from a Member of Congress with a major base on the chopping block, that assertion may sound like another pitch to defend a home State parochial interest. Regardless of the outcome for my base, I am very concerned about how this BRAC round will affect our Nation's overall military posture, not only in South Dakota but around the country and around the world. This BRAC, in particular, has serious implications both in the short term, because we are engaged in a war, and in the longer term because of the need to preserve critical infrastructure as we enter a very uncertain future.

In essence, we cannot lose sight of the imperative of, in addition to saving money, perhaps the most critical goal of BRAC should be to maximize our Nation's warfighting capability. If we fail to follow that fundamental principle, the BRAC process will fail us and ultimately put this country at risk.

This BRAC, in particular, not only has serious implications, it raises serious questions, especially in terms of its timing. In the short term, our war in Iraq and Afghanistan has put great logistical strain on our Active military and Reserve Forces in terms of both manpower and resources. The rotational deployment of personnel and assets to overseas areas of operation has disrupted normal training and maintenance cycles and left military families with uncertainty.

The drain of resources also raised questions as to our ability to respond to additional flashpoints if a crisis should arise elsewhere in the world. Yes, the military is performing its ongoing missions remarkably well under the circumstances, but is this the time to add to those commitments by initiating a massive reshuffle of personnel, equipment, and missions between bases all over the country?

In the long term, these recommendations may pose an even more serious risk to our security. As the DOD itself points out in the National Defense Strategy, published earlier this year:

> Particularly troublesome is the nexus of transnational terrorists, proliferation and problem states that possess or seek WMD, increasing the risk of WMD attack against the United States.

We simply do not know what dangers may emerge from military powers such as North Korea, China, Iran, or various rogue states in the next 20 years or more. The threat of terrorism directed against targets in this country should be indisputable after September 11.

There have been four prior BRAC rounds in the last 20 years. I believe it is readily apparent that the Pentagon's 2005 BRAC recommendations go beyond reducing excess infrastructure and would, instead, reduce critical infrastructure needed to fight the wars of the 21st century.

Prior rounds have been successful in pulling much of the low-hanging fruit and in reducing waste.

This round begins to cut into the muscle. I want to show you a chart from 1958, for example. You see there was a large number of Air Force bases in the northern region of this country. Air Force bases were dotted all across the northern tier of the United States: Up in the Northeast, North Central Plains, areas such as that—1, 2, 3, 4, 5, 6, 7, 8, 9, 10—a dozen Air Force bases or more in the northern tier of this country.

Today, take a look at how that has changed. One can plainly see how dramatically that number has been reduced and will be further reduced in the 2005 BRAC round.

You saw the previous chart from 1958. All those bases have been wiped out. There are three left in the northern tier of the country. This BRAC round would eliminate Ellsworth Air Force Base in South Dakota and make Grand Forks Air Force Base essentially a "warm" base, hopeful of an emerging mission but for all intents and purposes removes the principal mission that has been housed there for some time and leaves literally only one major Air Force base in the northern tier of this country.

Of course, one of the flaws I see in this BRAC is not only the stripping of our air and naval bases in the northern tier, but I seriously question what I believe to be one of the Pentagon's most apparent errors in judgment; and that is to consolidate high-value assets in fewer locations.

In light of the potential threats we face, I wonder whether we really want to discard a tenet of military doctrine that we have lived by for the past 60 years. It is called "strategic redundancy." Put simply, it is the doctrine of dispersing high-value assets at different locations in order to prevent their complete destruction in a single attack.

If you look at the statement here, this is from the Air Force doctrine document, dated November 9, of 2004. It says:

> . . . it is easier and more effective to destroy the enemy's aerial power by destroying his nests and eggs on the ground than to hunt his flying birds in the air.

If you look at what the potential threats are we face going forward, and what it means to this Nation to have strategic redundancy, to have those assets dispersed in several locations around the country, and if you look at how that fits in with the Defense Department's own military strategy, you have to ask a question about some of the decisions that have been made in this particular BRAC round.

Let's look at what it says right here. Again, this is the Department of Defense, in its March 2005 National Defense Strategy, when it stated its goal of "developing greater flexibility to contend with uncertainty by emphasizing agility and by not overly concentrating military forces in a few locations."

I want to put up another chart. It has to do with principles and imperatives. Even in the Pentagon's deliberative briefing materials that outline those "principles and imperatives" of this BRAC round, it stated that the Department needed secure installations optimally located, that support power projection, sustain the capability to mobilize and "that ensure strategic redundancy."

Now, unfortunately, Secretary Rumsfeld's recent BRAC recommendations to consolidate some of the Nation's most valuable U.S. air and naval platforms at single installations would apparently abandon that basic tenet in favor of cutting costs.

Hopefully, we have not forgotten the shortsightedness we once had as a Nation before Pearl Harbor. Now, folks might dismiss such lapses as distant events from another time and another place that are not applicable to today's threats. See on this chart a scene from Pearl Harbor that took place 60-some years ago. Even in the DOD's Strategy for Homeland Defense and Civil Support, released a few weeks ago—and, incidentally, this is a partial completion of one of the amendment's conditions—it notes that "a significant element of mission assurance is continuity of operations—maintaining the ability to carry out DOD mission essential functions in the event of a national emergency or terrorist attack."

It also goes on to state that "an attack on DOD facilities could directly affect the Department's ability to project power overseas." One well-positioned crater in a runway could ground the entire fleet of this Nation's B-1 bombers during an emergency, if they are all stationed at one location. It should always come back to the intuitive logic possessed by most Americans, and that is that we simply cannot allow analytical cost models to trump sound and proven security precautions.

Strategic redundancy, obviously, still has a place in our planning, as demonstrated in the Pentagon's own planning documents. Why was it not reflected in its BRAC recommendations?

Additionally, the risk of natural disasters is a constant reminder that we should not put all our assets in a single location. This chart shows a tornado that passed within 1,000 feet of the F-16s and B-1 bombers stationed at McConnell Air Force Base back in 1991. Tornadoes have wreaked havoc on Air Force bases in the past. The one I am going to show you in a moment is Carswell Air Force Base in Texas. We simply cannot afford to risk our Nation's security on the whims of a single deadly tornado that could destroy or damage an entire fleet of aircraft.

Finally, the GAO has also questioned the potential for cost savings estimated by the DOD, calling into question whether we want to risk our national security for questionable cost savings. want to read to you what it says from the GAO study:

> There are clear limitations associated with DOD's projection of nearly $50 billion in savings over a 20-year period. Much of the projected net annual recurring savings (47 percent) is associated with eliminating jobs currently held by military personnel. However, rather than reducing end-strength levels, DOD indicates the positions are expected to be reassigned to other areas.

As this implies, much of these cost savings are apparently illusory. To quote the distinguished chairman of the Armed Services Committee, Senator WARNER, during his testimony before the BRAC Commission, he said:

> Since 32 percent of BRAC savings come from personnel reductions, this calls into question the entire savings estimate—particularly since we are not reducing any meaningful force structure.

I want to show another GAO chart. The GAO questions, one, the lengthy payback periods; inconsistencies in how DOD estimated costs for BRAC actions involving military construction projects; and uncertainties in estimating the total costs to the Government to implement.

GAO estimates upfront costs of an estimated $24 billion to implement this round of BRAC. To again quote the distinguished chairman of the Armed Services Committee before the BRAC Commission, he said this:

> My observations are consistent with the testimony of witnesses and Congressional

> delegations around the country to date who have presented the Commission firm evidence supporting similar observations of questionable data and an internal collapse of the quantitative analytical foundation in lieu of other guidance provided by senior defense officials. These observations are also consistent with issues raised by the Government Accountability Office in its July 1, 2005, report to the Commission and to Congress.

Last week, when I was offering my amendment, the distinguished chairman, Senator WARNER, made what I believe was a reasonable argument, that by suspending the 45-day review period until these conditions are met would cause anxiety among some communities by not knowing their ultimate fate or delaying the process of redeveloping the base to civilian use.

Now, this may be the case for some communities, but I believe most communities desperately want to retain their bases because they are the lifeblood of their local economy. They would do anything—exhaust every possibility—to have these bases remain open. If anything, knowing that this Congress has done all it could to have all the answers before making such a decision I think is tremendously important to these communities.

I also challenge the perception made by many that these communities will have many opportunities to develop these closed bases and quickly restore their economy. This will probably not be the case in rural areas around bases like Ellsworth Air Force Base and Cannon Air Force Base.

Some communities may actually prosper from a base closing, where land for business or home development comes at a high premium and sells for thousands of dollars per square foot. Bases like Oceana, in Virginia, will have no difficulty putting the land to profitable use.

As you can see in this picture, Oceana is surrounded by a sea of development and prosperity. The base is up here. The entire area around it is completely developed. The land is worth lots of money.

But other bases, like Ellsworth, in my State, as you can see in this aerial photograph, are surrounded by miles and miles and miles of empty rangeland and have scant hopes of a booming development taking hold of the former base. There is little doubt that the nearby community of Rapid City would have no problems with the delay if it means ensuring the right decision has truly been made.

There are too many unanswered questions regarding our Nation's long-term security needs and the circumstances in which our military may have to operate in the future to make irreversible decisions for which we could pay a terrible price later. We will not be able to easily replace or position these installations and units once this BRAC is fully implemented and we discover we have made a colossal mistake.

Let's take a breath and slow down. My two amendments, offered as options, merely allow this Nation to have the full benefit of all the information we need before moving ahead to implement BRAC. The risk is too great.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, if you could tell me the parliamentary state of affairs.

The PRESIDING OFFICER. The Senate is postcloture on the motion to proceed to S. 397.

Mr. HATCH. Thank you, Mr. President. I rise in strong support of S. 397, the gun liability bill.

Now, this legislation is a necessary response to the growing problem of junk lawsuits filed, no doubt, in part with the intention of driving the firearms industry out of business.

These ill-advised suits attempt to hold manufacturers and dealers liable for the criminal acts of third parties, actions totally beyond the control of the manufacturer. These types of lawsuits continue to be filed in multiple States, seeking a vast array of remedies concerning the marketing of guns and alleged design flaws. And they continue to be flawed.

The White House, in its Statement of Administration Policy, summarized the current problem well. This is what they said:

> The possibility of imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system, erodes public confidence in our Nation's laws, threatens the diminution of a basic constitutional right and civil liberty, sets a poor precedent for other lawful industries, will cause a loss of jobs, and burdens interstate and foreign commerce.

That is a heck of a good statement because that is exactly what will happen if we allow these types of suits to continue.

This bill does nothing more than prohibit—with five exceptions—lawsuits against manufacturers or sellers of guns and ammunition for damages "resulting from the criminal or unlawful misuse" of nondefective guns and ammunition.

Now, let me repeat that: "resulting from the criminal or unlawful misuse" of nondefective guns and ammunition.

This bill is not a license for the gun industry to act irresponsibly. If a manufacturer or seller does not operate entirely within Federal or State law, it is not entitled to the protection of this legislation.

Listen to a few comments from one judge who dismissed some of these suits. In Ohio, a judge dismissed a gun liability lawsuit, and the court of appeals affirmed this decision saying:

> to do otherwise would open a Pandora's box. For example, the city could sue manufacturers of matches for arson, or automobile manufacturers for traffic accidents, or breweries for drunk driving.

Now, there is no reason the gunmakers should have to continue to defend these types of meritless lawsuits. We must protect against the potential harm to interstate commerce here. The gun industry has already had to bear over $200 million in defense costs thus far. That is ridiculous. It is immoral. It is wrong.

This legislation is not without precedent. In the 106th Congress, legislation was introduced to address the possibility of junk lawsuits related to the Y2K computer problems. This bill sought to "lessen the burdens on interstate commerce by discouraging insubstantial lawsuits." It sought to do so by preempting State law to provide a uniform standard for such suits. This bill merely seeks the same type of remedy using the same reasoning.

In the past, some have thrown out red herrings arguing against this bill and suggesting that negligent entrustment will be immunized. This is pure bunk. It is untrue. That argument doesn't deserve to see the light of day. Those who make it ought to be ashamed of themselves. The bill provides an explicit exception for anyone who supplies a gun to someone they reasonably should have known was likely to use that gun in a way that would injure another person.

Let me state that again. The bill provides an explicit exception for anyone who supplies a gun to someone they reasonably should have known was likely to use the gun in a way that would injure another person. The bottom line is that this is a reasonable measure to prevent a growing abuse of our civil justice system. We have had far too many abuses of that system. This is a chance for Members of this body to stand up and do something about it.

If we allow these kinds of suits to go forward with guns, then what is next? Holding manufacturers of knives responsible for stabbings? Holding manufacturers of baseball bats liable for beatings? We simply should not force a lawful manufacturer or seller to be responsible for criminal and unlawful misuse of its products by others.

Individuals who misuse lawful products should be held responsible, but not those who make lawful products.

We have had through the years a desire by some to put gun controls on all kinds of guns, even though the second amendment gives us the freedom to keep and carry arms. To be honest with you, it is an explicit provision of the Constitution. We should not allow any misuse of guns, but we should not allow a change in the Constitution by mere statute that takes away our right to keep and bear arms. That is a God-given right, in my book, especially in some of the areas of the country where people have to defend themselves. In my area of the country, we had to defend ourselves in tremendous ways throughout the whole history of the West.

To make a long story short, we should not be abusing honest, decent, law-abiding people who want to collect, shoot, target practice, hunt, and own guns. We have been through it before. It is time to stand up and realize that the people who misuse guns are criminals. Those criminals should be prosecuted. But to make gun manufacturers responsible for the irresponsible acts of others, over which the gun manufacturers had no control, is just plain wrong.

I hope we can pass this bill. It would set a good standard to stop the frivolous and abusive lawsuits that are occurring in this country in so many ways, but especially in this particular way.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask to be recognized to speak on the pending business.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DURBIN. Mr. President, it is amazing how we have reached this point in Senate business today. We started this day debating the Department of Defense authorization bill. It is hard to imagine a more important bill for this Senate to consider and conclude this week. We are going to be gone for 4 or 5 weeks. The idea was, we would take the important amendments and decisions to be made about our military, our men and women in uniform, their benefits, their equipment, and make the decision this week before we went home. Then a decision was made by the Republican leadership to interrupt the debate on the Department of Defense authorization bill and move to the pending bill.

What is this bill? It is a bill that is characterized as "the gun industry immunity bill." What does it mean? It means that those who are pushing for this bill want to carve out one industry in America and say that the people who run the businesses that make the firearms and sell the firearms cannot be held personally responsible for their wrongdoing. That's right. If you and I get in an automobile going home from work, are negligent in our driving the car in any respect, and there is an accident, we are held personally responsible. If the business down the street from where you live sells a product that is defective or dangerous, the person who owns the business, the person who made the product can be held personally responsible. It is really part of life that we are responsible for our wrongdoing. The legal system of America says even people who are powerless have their day in court to hold accountable the businesses and people who have been guilty of wrongdoing.

Now comes to the floor the proposal by the Republican leadership that we take one industry in America and say that it cannot be held personally responsible for its wrongdoing. Why in the world would we be doing this? How powerful must the group be that pushes through the legislation that says they will be treated as an exception in the whole American body of law? You know the group. They are well known. The gun lobby, the National Rifle Association. They are so powerful that they pushed the Senate away from the Department of Defense authorization bill in the middle of a war. Think about that. How could you move the Senate from considering a bill to help the men and women in uniform in the middle of a war? The only way you can do it is if you are a powerful lobby that snaps and Senators jump. That is what this is all about.

Before we adjourn at the end of the week, the Republican leadership wants to make certain that if we can't keep our word to our troops in the field, we keep our word to the lobbyists downtown for the gun lobby. We carve out a piece of American law and say they cannot be held personally responsible. Their businesses can't be held responsible for wrongdoing.

Is it because there is some huge problem in the gun industry? Are there businesses that sell guns that are about to go bankrupt because of all the lawsuits that are being filed against them? Not at all. Listen to this. On June 29, 2005, the huge American gunmaker Smith & Wesson said in a press release:

> We expect net product sales for fiscal year 2005 to be approximately 124 million dollars, a 5 percent increase over the $117.9 million reported for the last fiscal year. Firearms sales for the next fiscal year are expected to increase by approximately 11 percent over the last year.

Then March of 2005, Smith & Wesson also said:

> In the nine months ended January 31, 2005, we incurred $4,535 in legal defense costs, net of amounts received from insurance carriers relative to product liability and municipal litigation.

Four thousand five hundred thirty-five dollars? Does that sound like a crisis in the gun industry that would cause us to move away from considering the Department of Defense authorization bill?

Listen to this from another gunmaker. This is a filing with the Securities and Exchange Commission, March 11, 2005, from the gunmaker Sturm, Ruger:

> It is not probable and is unlikely that litigation, including punitive damage claims, will have a material adverse effect on the financial position of the company.

These companies are doing very well. They are making a lot of money. They are selling a lot of guns. They aren't being sued. It isn't costing them a heck of a lot of money when they are sued. Why are we doing it? Why would we give this unprecedented sweeping immunity to any industry in America, let alone an industry that makes firearms?

This bill closes the courthouse doors to victims with legitimate lawsuits. It says: If you are a victim of a gun dealer or a gun manufacturer who sold a gun in commerce, where they might have known or should have known that it was going to be used for bad purposes, you can't go to the courthouse. The door is closed. Sorry. That is the way it is going to be. The gun industry is going to be treated like royalty. They are above the law.

During the debate on this bill during the last Congress, the supporters said a lot of cases about victims were frivolous. We were told all these companies were on the verge of bankruptcy. None of that turned out to be true. Two high-profile cases settled. These settlements would not have occurred had this bill been enacted last year. One of them, Bull's Eye Shooter Supply, was the dealer and Bushmaster was the assault weapon maker in the DC sniper case. I remember that case. These crazy snipers ran around town, killing people willy-nilly, innocent victims. When it was all over, the company that made the sniper rifle, the assault weapon, ended up settling with the families, paying over $2.5 million because of their wrongdoing. And Bushmaster agreed to inform its dealers of safer sales practices to prevent other criminals from obtaining guns.

It was only right that the victims had their day in court. It was only right that a jury of fellow citizens decided their fate. It was only right that this company was held accountable for sales practices that ended up endangering the lives of innocent people. Had this bill now on the floor been passed, there would have been no day in court for the families who were killed by these DC snipers.

Is that justice, fairness, or is that what we should be doing on the floor of the Senate instead of working to help the men and women in uniform who are engaged in a war across the ocean, risking their lives?

Listen to this case. Will's Jewelry and Loan, a West Virginia pawn shop, settled with Police Officers McGuire and Lemongello in June 2004 for $1 million and agreed to change its practices to prevent sales to underground traffickers, which includes instituting a policy of avoiding large-volume sales. Will's had sold the gun used to shoot the two police officers to a straw purchaser.

It is not only the innocent victims filing who were shot in DC who would be stopped from suing. This bill will stop policemen and their families from suing those who were selling guns, putting them into commerce and endangering the lives of the men and women in uniform who get up every morning and try to protect us in our communities.

Not surprisingly, law enforcement officials in our Nation oppose this bill, such as the International Brotherhood of Police Officers and the Major Cities Chiefs Association, as well as police officers from around the country have signed a letter begging Congress: Don't pass this bill. It will make America more dangerous. It will endanger the lives of policemen.

Newspapers in 19 different States have editorialized against this bill. What is troubling to me is that we could go from a bill designed to help protect America by helping our men and women in uniform to a bill that makes America less safe, a bill that allows companies to make guns, which are junk, Saturday-night specials, destined to be used in a holdup or a killing by some crazed drug addict. We can protect those companies, but we cannot protect our men and women in uniform, whether they are serving in our military or serving as our policemen. What a dramatic distortion of priorities.

The Senate should be embarrassed that we have done this. This is a week that the Republican leadership will never be able to explain—that they would leave that bill in the midst of a war in order to do this grand favor for the gun lobby, the National Rifle Association. It is not fair. It is not fair that all we do around here is carve out special treatment and special exceptions for a lot of people who, frankly, don't need them. We started off with the bankruptcy bill so credit card companies could make sure that those who end up in bankruptcy carry the credit card debt to the grave. We passed the class action bill so individuals filing environmental class actions would have a difficult time going to court. We have a bill waiting in the wings that says to 10,000 asbestos victims a year, you victims who never dreamed you would be dying from exposure to asbestos are going to be limited when you go to court too. There are bills pending dealing with the victims of medical malpractice.

And now comes this bill—the absolute icing on the cake—that we would give to the gun lobby immunity from their own wrongdoing, that when they make guns that end up killing people, that should not have been made, without the appropriate warnings, the appropriate safety devices, when they sell guns by the carload to people who were clearly destined to sell them on the street, to be used by drug gangs, they cannot be held accountable.

There is no personal responsibility under this law. That is not American. That is not what the system of justice is all about. It certainly doesn't speak to the fairness that we believe is essential to the American system of justice. When you think of all the things we could be doing, instead of finding another special interest group to give their lobbyists such good news that we passed their big bill—we could be passing a bill that says we are going to stop giving tax credit to companies that run jobs overseas. We could have done that this week. No, we didn't have time. We had to help this special interest group, the NRA. They could have been changing the Medicare drug prescription bill so they would be able to bargain for lower prices for seniors. No, that is not on the priority list of the Republican leadership. We could have been making certain that we don't privatize Social Security, and instead make it last. That is not a high priority for the Republican leadership. The gun lobby is the highest priority this week—higher than our service men and women. They could have protected the pensions and retirements of Americans who are scared they won't have anything to rely on. No time for that. No time this year to deal with it. We could have been dealing with portability of health insurance and the availability of health insurance for small businesses. No, we have to deal with helping the NRA. We could have been helping people with college loans, figuring out new ways that families can finance the education of their children. Sorry, if you don't have a big lobby with a lot of power such as the gun lobby, we cannot do that. We could have been talking about the outsourcing of medical and financial records, destroying the privacy of individuals and families. No way. We could have talked about credit card companies, giving more disclosures on credit cards such as when they increase your interest rate. No, we don't have time. We have to protect the gun makers and gun sellers from being held personally responsible in court. We could have increased our energy availability, it could have been part of our energy bill. You can hardly find it.

The list goes on. When you talk about the values of the Republican leadership in the Senate, you know the values today. To think that the Republican leadership would move away from the Department of Defense bill for our troops to a special interest bill for the gun lobby, so that they are not held accountable for selling Saturday-night specials that kill policemen and innocent people. That is the priority of the Republican leadership. It is not the priority of the American people.

I look forward to voting against this bill. I hope a majority of my colleagues will join me in that effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, a majority of the Senate is going to vote for this bill. We have 61 cosponsors. It ought to have already been passed a long time ago. We will be pleased to get this bill done. It is something that is needed.

Mr. President, there will be more opportunity tomorrow. What happened today was that I voted to invoke cloture on the Defense bill so we can complete the Defense bill, and that was not passed by the votes on the other side. So when cloture was not invoked, we went to this bill, which has strong bipartisan support and which will be passed.

However, some on the other side did choose to filibuster the motion to proceed, as they have a right to do. That is what we are doing today. Then we will have a filibuster of the bill and we will have cloture, which I believe will be invoked. Certainly the votes appear to be there for it. I think we will get this bill done. There are other things we need to do this week that can still be done.

Mr. President, does Senator REED have any comments?

Mr. REED. Yes, Mr. President, we have had a long discussion today about the legislation. I think some of the points the Senator from Illinois made are very pertinent.

First, there is the erroneous presumption that people who would be sued would be sued because of the actions of others, when in fact the negligent suits lie in showing that first an individual had a duty to someone else—a victim—and that duty was not fulfilled. Essentially, that is the essence of negligence. If you cannot show that, you cannot get into court. This is not about somebody being punished or imposed upon for the actions of others. It goes right to the actions of the individuals—the seller, manufacturer or, in this case, trade associations.

There is a perception also, I think, that has been given that the legislation as drafted actually provides exceptions that will cover the meritorious suits, the ones that should be before the court and eliminate the frivolous suits. In fact, that is not the case. As Senator DURBIN pointed out in the situation with respect to the Washington, DC snipers, there a gun dealer in Washington State was grossly negligent. He had 230 unaccounted for weapons and they should have been accounted for. He allowed a teenage boy to walk in and pick up a sniper rifle off the counter and walk out and didn't know it was missing until it was discovered to be the weapon of the assassins here in Washington, DC. That suit would have been barred by this legislation if it had passed. The two police officers—Lemongello and his partner—responded to a call and they were in a shootout. They were seriously hurt, both of them. It turns out that the criminal firing that gun got it from a gun trafficker who walked into a store, a gun dealership, with another woman as a straw purchaser and acquired 12 weapons for cash and walked out the door. In fact, they were so obvious that the gun dealer called ATF and said he sold them the weapons, but watch out for them, which is negligent to me. Both cases were settled. Those cases would be thrown out.

The lives of all of the families in Washington, DC, have already been totally changed because of the loss of their loved ones. Conrad Johnson was a bus driver, waiting to go on his bus run, and he was shot, leaving a wife and children. They would have been out of luck because they could not have brought a suit like this. And there were others. We all lived in fear ourselves. We drove around here looking over our shoulders wondering whether the assassins were out here in Washington, DC. One woman who was an employee of the FBI and was walking in the parking lot of Home Depot in suburban Virginia was shot. Those families, those victims, could not have come to the court of justice if this bill passed.

There are other suits that are pending today. There is a case in Massachusetts, where a young man, Danny Guzman, an innocent bystander, was shot and killed in front of a nightclub in Worcester. Six days later, police recovered a 9 mm Kahr Arms handgun without a serial number behind an apartment building, near where Mr. Guzman was shot. In fact, I am told a 4-year-old child discovered the weapon first. Ballistic tests determined that the gun was the one used to kill Danny Guzman.

This gun was one of about 50 guns that disappeared from Kahr Arms' manufacturing plant. Some of the guns were removed from the plant by employees that Kahr Arms hired despite criminal records and histories of drug addiction. The case is being pursued now. The issue is not what Mr. Guzman did. It is what this company failed to do. They failed to have background checks on employees who handled weapons. They failed to have security devices that would monitor if these weapons would be taken out of Kahr Arms. I am told, interestingly enough, Kahr Arms is owned by a holding company for the benefit of the Reverend Sun Myung Moon's Unification Church. So one of the beneficiaries of this bill, if it passes, will be Reverend Moon's financial enterprises because they will be protected from allegations of recklessness, not just negligence.

Now, the first exception to the bill is title 18 United States Code section 924(h). This simply permits cases against sellers who sell guns they know will be used to commit a violent or drug trafficking crime. First, in the Kahr case, the guns were not sold; they were taken surreptitiously out of the factory. This exception would not apply.

Second, you have to show they knew that the guns would be used to commit a violent or drug trafficking crime—not that they were negligent in allowing guns in circulation, but that they had to know they would be used in a violent or drug trafficking crime.

The next exception is negligent entrustment. This applies where a gun dealer knows, or should know, that a purchaser will shoot someone with the gun, and that individual shoots a person. This exception only applies to a gun "seller." Once again, Kahr Arms was not, in this situation, a seller. Moreover, Kahr Arms did not entrust its guns to its employees. Rather, Kahr's employees removed the guns from the plant because of Kahr's negligent security, inventory tracking, and hiring of employees with histories of criminal conduct and drug addiction. So that exception doesn't apply.

There is another exception, negligence per se. Under this provision, gun sellers whose negligence causes injury could not be liable unless, at a minimum, they also violated a law or regulation which the court found an "appropriate basis" for a negligence per se claim and which proximately caused the injury. The exception only applies to a gun seller, and the bill defines sellers to include only importers or dealers, not manufacturers.

Moreover, in many States—and Massachusetts is one—negligence per se claims are not allowed under their practice and, therefore, the exception would not apply.

Knowing violation of the law exception: This exception applies where a gun seller or manufacturer knowingly violates a State or Federal statute when it makes a sale that leads to an injury. Here, Kahr Arms did not violate statutes related to the sale or manufacturing of a gun. Rather, Kahr's employees surreptitiously took the guns out.

Breach of contract or warranty exceptions once again do not apply. It merely allows gun purchasers to sue if the seller or manufacturer did not provide the product or service it promised in its sales contract. This exception clearly does not apply.

Defective design is a narrow exception for actions for some deceptive design or manufacturing cases. But that exception does not apply.

Rather than being legislation that allows the good suits through and the frivolous ones out, this legislation effectively denies people, such as the family of Danny Guzman, their day in court, and many others. It would have denied the two police officers from New Jersey their day in court. It would have denied the victims of the snipers their day in court.

For these reasons and many others, I am opposed to the legislation and join others who are and look forward to continuing our discussions in the hours and days ahead.

Mr. SESSIONS. Mr. President, I thank my able colleague and will say, it is such a state we are in America that a company whose employees steal the guns and go out and shoot somebody with them gets sued for it. That is a fact of what my friend is saying, that these companies ought to be sued as a result of the theft of a gun by their employees.

If the law required them to do a background check and they failed to do so, they clearly would be liable under this act. The fact of filing off a serial number is, in fact, a criminal offense for which I have prosecuted quite a number of criminals. In addition, it would trigger, of course, a civil liability.

Gosh, we can talk about it a lot, and I will be glad to continue to discuss it, but the basic fact is a lot of these lawsuits are claiming that if they know, if manufacturers or distributors or sellers either know or should know that some guns will be used illegally, they should be responsible for it. That is not good law. This is against what we are about in this country.

All this legislation does is say if you sell the firearm according to law, if you manufacture it according to law and somebody commits an intervening criminal act with it and shoots somebody, you should not be sued. But we have this anti-gun crowd which doesn't care about general principles of law that have stood us in good stead for hundreds of years. They have learned to manipulate the matter as effectively as they can to maintain lawsuits. The letter from Beretta I read earlier indicates that in the District of Columbia, the gun manufacturers who sold a gun in Minnesota and it was transported some way to Washington, DC, and was used in a crime and somebody was shot, the gun manufacturer is liable for that. And, in fact, that one jurisdiction that allows that kind of lawsuit can be enough to take down every gun manufacturing company in the United States. They have had some tough years and a lot of litigation going on.

Mr. President, I have spoken again, and unless my colleague would like to reply, we will close. It has been a good debate, and I have enjoyed it.

MORNING BUSINESS

Mr. SESSIONS. Mr. President, on behalf of the leader, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO MAJOR GENERAL JOHN W. HOLLY

Mr. STEVENS. Mr. President, I come to the floor today to recognize the service of an outstanding leader and public servant. After more than 32 years in uniform, MG John W. Holly will soon retire and move into private life.

Four years ago, Major General Holly was appointed Program Director of the Joint Program Office of Ground-Based Midcourse Defense. For the past year he has also served as the Deputy Director of the Missile Defense Agency, overseeing the direction of all other ballistic missile defense programs in the agency.

The Ground-Based Midcourse Defense System is not your run-of-the-mill weapons program. It is virtually global in scope, spanning 12 time zones, from the United Kingdom to the outer reaches of the Aleutian Islands. It has required upgrades to early warning radars from the Cold War era and the development of the most advanced seagoing X-band radar ever built; this equipment was then linked with communication centers throughout the United States and firing sites in Alaska and California. This effort has also involved the development, testing, and deployment of an interceptor-and-kill vehicle that closes in on its target at speeds of up to 18,000 miles an hour and hits within centimeters of its aim point.

Each of the major systems involved in this effort and many of their component parts were built under different contracts, often by different manufacturers, at different times, and with different technologies. The entire system is being developed and acquired by nontraditional methods, which ensure we deploy effective defensive capabilities to our troops as fast as possible. And, of course, all of these pieces must work together as one, flawlessly, every time and on very short notice.

Since the 1960s, Americans have dreamed of having this type of capability, and in the past 3 years we have made remarkable progress. None of this would have been possible if President Bush had not withdrawn the United States from the Anti-Ballistic Missile Treaty in June 2002. And much of our success can be attributed to the dedication and leadership of Major General Holly.

Major General Holly was ideally prepared for his responsibilities at the Missile Defense Agency. His experiences at the platoon through corps levels gave him an understanding of what it means to support our men and women in uniform. His management experience in research, development, and acquisition—especially in rocket propulsion and guidance—honed his ability to integrate complex systems and move all of the essential parts through development at the same time.

In short, Major General Holly was the right man, in the right place, at the right time for our missile defense needs. Americans are deeply indebted to him for answering the call to serve.

Like many of my Senate colleagues, I often had the opportunity to meet with Major General Holly. Many of those visits took place in Alaska. And like many of my Senate colleagues, I have always been impressed with his integrity, commitment, and leadership skills.

Under Major General Holly's leadership, we have cut a new path through uncharted territory. He personally oversaw the emplacement of silos and interceptors at Fort Greely, Alaska and Vandenberg Air Force Base, California. He showed what could be done if you provided the right guidance, tools, and motivation.

Americans owe Major General Holly a debt of gratitude for a lifetime of selfless service and for his profound contributions to our Nation and our security. Those of us in the Senate will miss his leadership and his counsel. We wish him and his family all the best in the years ahead.

DEMOCRACY IN ETHIOPIA

Mr. McCONNELL. Mr. President, I want to bring to the attention of my colleagues an op-ed in today's edition of the Taipei Times by Berhanu Nega, the chairman of Ethiopia's main opposition political party.

While the op-ed sheds light on the opposition's viewpoint throughout the controversial elections, I want to second the author's call for everyone in Ethiopia to commit themselves to a peaceful resolution of this crisis. Simply put, such a commitment is in the national interests of that country.

Let me close by indicating that the Senate continues to follow events in Ethiopia. I ask that a copy of the op-ed be printed in the RECORD following my remarks.

[From the Taipei Times, July 22, 2005]

ETHIOPIA IS STRUGGLING FOR DEMOCRACY

(By Berhanu Nega)

When we in Ethiopia's political opposition agreed to participate in the election that the government called in June, we were under no illusion that the process would be faultless. After all, Ethiopia has never known democracy. The dictatorship of Mengistu Haile Mariam was Africa's most blood-curdling Marxist regime, and was replaced by today's ruling EPRDF, whose "Revolutionary Democracy" is but a more subtle variation on the same theme.

So we knew that there would be problems with the election, that voting would not be clean in the way Western countries take for granted. Yet we nonetheless believed that the opposition, led by the Coalition for Unity and Democracy (CUD), would have room to maneuver and campaign, owing to the government's desire for international legitimacy. So we decided to test the waters and push for a real political opening and a genuinely competitive vote. Many Ethiopians appear to have agreed with this strategy.

The government did make some media available and engaged in more than 10 live televised debates. So, at least at first, there seemed to have been some intention on the government's part to open up the process—if not completely, then somewhat.

Now, however, it appears that the authorities wanted only a small, managed opening, on the assumption that they could control the outcome.

About a month before the election, the government began to shut down the political space it had opened. Its election campaign took on a vilifying tone, charging that the opposition was bent on destroying ethnic groups through genocide. Indeed, it called the opposition "interahamwe," invoking the memory of the Hutu militia that slaughtered 800,000 Rwandan Tutsis in 1994. The government also began to harass opposition parties, especially in rural areas.

This was unpleasant, but tolerable. So we continued campaigning. But things became nastier a week before the vote. Attendance at an official pro-government rally in the capital, Addis Ababa, was dwarfed by our rally the following day, when millions of demonstrators peacefully demanded change and showed their support for us. At that point, the government realized that its democratic opening was slipping out of its control.

Two days before the vote, our poll watchers and supporters were searched, arrested, and given one-day trials, with most sentenced to one or two months in jail. We feared that the voting would take place without the presence of our poll watchers. So we gave a press conference—all the opposition parties together—the day before the vote, demanding that the government release our party workers and allow people to vote freely.

Although the government met neither of these demands, the early results clearly showed that the opposition was gaining a large number of seats. It became obvious that we were winning in many constituencies and that we had won in Addis Ababa, as well as in most of the major cities and the rural areas.

What was surprising was the magnitude of the victory. In Addis Ababa, top government officials, including the ministers of education and capacity building, lost, as did the speaker of the House of People's Representatives. In rural constituencies, opposition candidates defeated such EPRDF heavyweights as the ministers of defense, information, and infrastructure, along with the presidents of the two largest regions, Oromia and Amhara.

The government wasted little time in responding: the next day, it declared itself the winner, with not even half of the constituencies reporting their results.

No surprise, then, that the public erupted in anger. When university students protested, the police moved in, killing one. In demonstrations the following day, 36 more people were killed. Soon after, our office workers were detained, and Hailu Shawel, Chairman of the CUD, and senior CUD official Lidetu Ayalew were put under house arrest. One hundred staff members were taken from our head office in Addis Ababa alone, and many more from regional offices. Up to 6,000 people were jailed—CUD members and even ordinary citizens.

My fear is that the will of Ethiopia's people will be stifled by government hard-liners. Doubts about the authenticity of the final results will create a danger of instability. Everyone—the government, the opposition, and the public—must commit themselves to a peaceful resolution.

To restore calm before a recount can be held, confidence-building measures are needed. The military must be taken off the streets. The ban on public demonstrations must be lifted. Those in jail must be released or given a fair trial. Those held simply because they do not support the government must be freed and allowed to participate in the democratic process. The government-controlled media must be open to diverse opinions; in particular, opposition access must be guaranteed.

Equally important, the international community must send observers—and thus a clear signal to the government that any attempt to maintain power by force or intimidation is unacceptable. The world must keep watching, just as it watched in Georgia, Ukraine, Lebanon, and Palestine.

For the first time in our ancient history, we Ethiopians have voted our conscience. Our people have played their part with courage and discipline. They deserve the opportunity to build a genuine democratic political system. That is their only guarantee to live in peace and to achieve prosperity.

ASEAN AND BURMA

Mr. McCONNELL. Mr. President, I welcome the good news from Southeast Asia this morning that the illegitimate Burmese junta—the misnamed State Peace and Development Council, SPDC—has deferred its 2006 chairmanship of the Association of Southeast Asian Nations, ASEAN.

I appreciate and recognize the individual and collective efforts of certain ASEAN member states for their support of substantive political reform in Burma.

This deferral serves as evidence that the illegitimate military junta does indeed respond to international pressure, particularly from its neighbors. In the wake of this news, I renew my calls for countries in the region to pressure the junta to immediately and unconditionally release Aung San Suu Kyi and all prisoners of conscience in Burma and to continue their calls for political reform in that country; the United Nations Security Council to discuss and debate the threat the junta poses to its own people and the entire region; and the community of democracies to continue to keep freedom in Burma a top priority.

The assertion by the SPDC that the deferral will allow the generals to focus on the "democratization process" in Burma is as hollow as it is false.

The international community—especially the United States and the United Kingdom—must be clear that the junta will be judged not by what it says but by what it does. So long as Suu Kyi and other innocent Burmese remain imprisoned and without a voice in the political deliberations in Burma, there simply can be no credible democratization process in Rangoon.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

VOTE EXPLANATION

ADA'S 15TH ANNIVERSARY

Mr. ROCKEFELLER. Mr. President, I was not able to make the roll call vote on this resolution commemorating the 15th anniversary of the Americans with Disabilities Act. I had a family commitment that I had to keep, and I knew that this resolution would pass overwhelmingly, and I needed to be with my family.

I did want to take time to hail this special occasion and I want to reaffirm my strong support for the Americans with Disability Act. This historic legislation has helped to ensure that people with disabilities can have access to a wide range of programs and policies to help them fully participate in public life and culture. Over the years, I am proud of the progress our country has made in including people with disabilities in public places and events. This sweeping legislation is perhaps one of the most significant pieces of legislation since the 1964 Civil Rights Act. Under this bold law, people with disabilities were ensured nondiscrimination in employment and public accommodations, including transportation and telecommunications. Implementation has not been easy, and it is still ongoing. While meaningful progress has been made, there is still a great deal of work to do to achieve the bold goal of the Americans with Disability Act.

We must continue to push hard to end discrimination and fully embrace inclusion, but today we should also celebrate the strides made since 1990 on behalf of people with disabilities.

15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

Mr. KENNEDY. Mr. President, today we celebrate the enactment of the Americans with Disabilities Act in 1990—one of the greatest civil rights laws in our history. Fifteen years ago, the Nation adopted the fundamental principle that people should be measured by what they can do, not what they can't. The Americans with Disabilities Act began a new era of opportunity for millions of disabled citizens who had been denied full and fair participation in society.

For generations, people with disabilities were pitied as people who needed charity, not opportunity. Out of ignorance, the Nation accepted discrimination for decades, and yielded to fear and prejudice. The passage of the ADA finally ended these condescending and suffocating attitudes—and widened the doors of opportunity for all people with disabilities.

The 15th anniversary of this landmark legislation is a time to reflect on how far we have come in improving the "real life" possibilities for the Nation's 56 million people with disabilities. In fact, the seeds were planted long before 1990.

In 1932, the United States elected a disabled person to the highest office in the land. He became one of the greatest Presidents in our history. But even Franklin Roosevelt felt compelled by the prejudice of his times and hid his disability as much as possible. The World War II generation began to change all that.

The 1940s and the 1950s introduced the Nation to a new class of Americans with disabilities—wounded and disabled veterans returning from war to an inaccessible society. Even before the war ended, rehabilitation medicine had been born. Disability advocacy organizations began to rise. Disability benefits were added to Social Security. Each decade since then has brought significant new progress and more change.

In the 1960s, Congress responded with new architectural standards, so we could have a society everyone could be a part of. No one would have to wait outside a new building because they were disabled.

The 1970s convinced us that greater opportunities for fuller participation in society were possible for the disabled. Congress responded with a range of steps to improve the lives of people with mental retardation, to support the right of children with disabilities to attend public schools, to guarantee the right of people with disabilities to vote in elections, and to insist on greater access to cultural and recreational programs in their communities.

The 1980s brought a new realization, however, that when we talk about helping people with disabilities, we can't just rely on government programs. We need to involve private industry as well. Congress guaranteed fair housing opportunities for people with disabilities, required fair access to air travel, and made telecommunications advances available for people hard of hearing or deaf.

The crowning achievement in these decades of progress was passage of the Americans with Disabilities Act in 1990 and its promise of a new and better life to every disabled citizen, in which their disabilities would no longer put an end to their dreams.

As one eloquent citizen with a disability has said, "I do not wish to be a kept citizen, humbled and dulled by having the State look after me. I want to take the calculated risk, to dream and to build, to fail and to succeed. I want to enjoy the benefits of my creations and face the world boldly, and say, this is what I have done."

Our families, our neighbors, and our friends with disabilities have taught us in ways no books can teach. The inclusion of people with disabilities enriches all our lives. My son Teddy continues to teach me every day the greatest lesson of all that disabled does not mean unable.

As the saying goes, when people are excluded from the social fabric of a community, it creates a hole—and when there is a hole, the entire fabric is weaker. It lacks richness, texture, and the strength that diversity brings. The fabric of our Nation is stronger today than it was 15 years ago, because people with disabilities are no longer left out and left behind. And because of that, America is a greater and better and fairer nation.

Today in this country we see the signs of the progress that mean so much in our ongoing efforts to include persons with disabilities in every aspect of life—the ramps beside the steps, the sidewalks with curb-cuts to accommodate wheelchairs, the lifts for helping disabled people to take buses to work or the store or to a movie.

Disabled students are no longer barred from schools and denied an education. They are learning and achieving at levels once thought impossible. They are graduating from high schools, enrolling in universities, joining the workforce, achieving their goals, enriching their communities and their country.

They have greater access than ever to the rehabilitation and training they need to be successfully employed and become productive, contributing members of their communities.

With the Ticket to Work and Work Incentives Improvement Act, we finally linked civil rights closely to health care. It isn't civil and it isn't right to send a disabled person to work without the health care they need and deserve.

These milestones show us that we are well on the way to fulfilling the promise of a new, better, and more inclusive life for citizens with disabilities—but we still have a way to go. Today, as we rightly look back with pride, we also need to look ahead.

We still face many challenges, especially in areas such as health care and in home-based and community-based services and supports. Many people with disabilities still do not have the health care they need.

A strong Medicare prescription drug benefit is essential for all people with disabilities. Today, about one in six Medicare beneficiaries—over six million people—are people with disabilities under age 65. Over the next 10 years that number is expected to increase to 8 million.

These persons are much less likely to be able to obtain or afford private insurance coverage. Many of them are forced to choose between buying groceries, paying their mortgage, or paying for their medication.

Families raising children with significant disabilities deserve health care for their children. No family should be forced to go bankrupt, stay in poverty, or give up custody of their child in order to get needed health care for their disabled child. They deserve the right to buy in to Medicaid, so that their family can stay together and stay employed.

People with disabilities and older Americans need community-based assistance as well, so they can live at home with their families and in their communities. We need to find a way to ensure this support is available, without forcing families into poverty. This is today's challenge to the Nation, and we need to work together to meet it.

The Americans with Disabilities Act was an extraordinary milestone in the pursuit of the American dream. Many disability and civil rights leaders in communities throughout the country worked long and hard and well to achieve it.

To each of you, I say thank you. It is all of you who are the true heroes of this achievement, and who will lead us in the fight to keep the ADA strong in the years ahead.

Sadly, the Supreme Court is not on our side. In the past 15 years, it has restricted the intended scope of the ADA. Imagine you are a person with epilepsy in a job you love and you get excellent personnel reviews. You are taking medicine that controls the seizures and you have no symptoms. But your employer finds out you have epilepsy and fires you. Should you be able to sue your employer for discrimination? Congress intended you should—but the Supreme Court ruled you can't.

The Court continues to carve out exception after exception in the ADA. But discrimination is discrimination, and no attempt to blur that line or write out exceptions into the law should be tolerated. Congress wouldn't do it and it is wrong for the Supreme Court to do it.

The ADA was a spectacular example of bipartisan cooperation and success. Passed by overwhelming majorities in both the House and the Senate, Republicans and Democrats alike took rightful pride in the goals of the law and its many accomplishments.

I know that the first President Bush, Senator Bob Dole, and many Members of Congress from both sides of the aisle consider their work on the ADA to be among their finest accomplishments in public service. It is widely regarded today as one of the true giant steps in our ongoing two-centuries-old civil rights revolution.

The need for that kind of bipartisan cooperation is especially critical today, as the Senate considers the nomination of John Roberts to fill Justice O'Connor's vacancy on the Supreme Court. Many people are generally aware of Justice O'Connor's role in a number of landmark decisions on reproductive and civil rights. Few know, though, that she cast the deciding vote in Lane v. Tennessee in 2004, the 5–4 ruling on the constitutionality of the ADA and whether Congress has the power to prohibit the exclusion of people with disabilities from public facilities in communities across the country.

The four dissenting Justices, in the name of States' rights, believed that Congress had no authority to do so. The case was brought by a paraplegic who complained that he was forced to crawl up the steps of the local courthouse to gain entry to the building. Justice O'Connor's swing vote upheld the ADA and the right of Congress under the Constitution to pass this landmark law to protect persons with such disabilities and guarantee their access to courts and other public facilities.

The Senate's decision on the confirmation of Judge Roberts to the Supreme Court may very well determine whether the ADA will survive as we know it. His views on a wide range of issues are little known, but some of his views raise serious questions about his position on the rights of those with disabilities, and Senators have a clear responsibility in the coming hearings to determine his views on these basic issues.

Hopefully, the new Supreme Court will continue to support the right of Congress to act in this important area, so that the extraordinary progress of the past 15 years will be sustained, not undermined. I intend to do all I can to see that it is.

Today, more than ever, disability need no longer mean the end of the American dream. Our goal is to banish stereotypes and discrimination, so that every disabled person can realize the dream of working and living independently, and being a productive and contributing member of our community.

That goal should be the birthright of every American—and the ADA opened the door for every disabled American to achieve it.

A story from the debate on the ADA eloquently made the point. A postmaster in a town was told to make his post office accessible. The building had 20 steep steps leading up to a revolving door at the only entrance. The postmaster questioned the need to make such costly repairs. He said, "I've been here for 35 years, and in all that time, I've yet to see a single customer come in here in a wheelchair." As the Americans with Disabilities Act has proved so well, if you build the ramp, they will come, and they will find their field of dreams.

So let's ramp up our own efforts across the country. We need to keep building those ramps, no matter how many steps stand in the way. We will not stop today or tomorrow or next month or next year. We will not ever stop until America works for all Americans.

I ask all Senators to join me today in committing to keep the ADA strong. It is an act of conscience, an act of community, and above all, an act of continued hope for the future.

Mr. CORZINE. Mr. President, I rise today to speak on a topic that has great importance to me and to the citizens of New Jersey. Fifteen years ago, Congress passed historic civil rights legislation based on the fundamental principle that this great Nation of ours benefits from the talents of every citizen. The passage of the Americans with Disabilities Act (ADA) began an era of opportunity for 54 million Americans. In the 15 years since, this landmark legislation has thrown open doors and provided equal opportunities for people with disabilities. The ADA has brought the American dream within reach of millions of Americans.

I regret that I was unable to mark the fifteenth anniversary of the ADA with my Senate colleagues. Last night, I joined the family of Dwayne Reeves, a Newark school police officer killed in the line of duty, for the officer's wake. My deepest sympathies and my prayers are with his family as they grieve this senseless and tragic loss.

In the 15 years since the passage of the ADA, we have witnessed dramatic changes throughout the Nation—from greater public accommodation at places of business and commercial establishments to the expansion of government services for disabled citizens and the stunning advances in transportation and telecommunications technology. Citizens who could not fully participate in their communities are now able to go to the park, visit a movie theater, or attend a ballgame. In my home State of New Jersey, beach communities from Sandy Hook to Cape May have installed wheelchair access ramps and provide beach wheelchairs for disabled individuals, ensuring that all citizens can join family and friends for a relaxing day at the beach. These steps have enabled many citizens to contribute to their communities, make the most of their abilities, and live their lives to the fullest.

Yet we must not be content to stop here. There is still much work to be done to ensure that all Americans, especially those who were discriminated against until 15 years ago, are given an equal chance at using all of America's tools for success. This is why I, along with my colleague Senator HARKIN and so many others, have worked to improve and expand the Ticket to Work, Workforce Investment Act, and Vocational Rehabilitation programs. These programs provide unparalleled opportunity to Americans with disabilities by equipping them with the skill sets necessary to work in education, science, business, government and other fields that weren't previously accessible. In addition, I plan to continue my efforts to defend and strengthen the Individuals with Disabilities Education Act because equal opportunity does not exist without equal access to education.

The ADA is about ensuring that every American can participate fully in all of the daily activities that many of us take for granted. Whether it is using the phone, going out to dinner, or commuting to work on public transportation, the ADA ensures that all citizens have the ability to carry on their personal affairs. Fifteen years ago, we said yes to inclusion, yes to independence, and yes to integration into every aspect of society for people with disabilities. We have made a lot of progress since that day. Let us make sure we continue down this path by providing equal opportunity and ensuring that our Nation benefits from the unique abilities of all Americans.

Mr. HARKIN. Mr. President, today marks the 15th anniversary of the Americans with Disabilities Act, a truly momentous occasion that the Senate marked yesterday by voting 87–0 in support of a resolution recognizing and honoring this anniversary. On this anniversary, we celebrate one of the great, landmark civil rights laws of the 20th century—a long overdue emancipation proclamation for people with disabilities.

We also celebrate the men and women, from all across America, whose daily acts of protest, persistence and courage moved this law forward to passage 15 years ago.

We have made great progress in America in the last 15 years, and evidence of that progress can be found all around us. It has changed lives—and changed our Nation. It has made the American dream possible for tens of millions of people with disabilities.

But, our work is not yet complete in fulfilling the four great goals of the Americans with Disabilities Act: equal opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities. I cannot think of a better way to celebrate the anniversary of the ADA than by rededicating ourselves to these goals. I look forward to working with my fellow Senators and the disability community to building on the progress that we have made over the past 15 years. Toward that end, I ask unanimous consent to print in the RECORD a "Statement of Solidarity" from over 700 disability rights and civil rights organizations, led by the American Association of Persons with Disabilities and the National Council on Independent Living, that highlights the many challenges we face as we continue on the path that leads to liberty and justice for all. I hope that my fellow Senators will review this document carefully, as I believe it raises a number of important issues that we should consider as we once again rededicate ourselves to realizing the full promise of the ADA.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SOLIDARITY ON 15TH ANNIVERSARY OF AMERICANS WITH DISABILITIES ACT

JULY 26, 2005

Fifteen years ago today, with bipartisan support in Congress and broad endorsements from the civil rights coalition, President George H. W. Bush signed into law the Americans with Disabilities Act (ADA), calling for the "shameful wall of exclusion" to come tumbling down. As we mark this significant anniversary, we celebrate improvements in access to polling places and the secret ballot, government services and programs, transportation, public places, communication and information technology. Parents pushing strollers, workers delivering packages, and travelers pulling roller bags have grown accustomed to curb cuts, ramps, and other accessibility features less common in 1990. Our country is more accessible today thanks to the ADA, and all Americans are better off.

Although substantial progress has been made, we are reminded every day of the significant remnants of the "shameful wall of exclusion" that continue to prevent this great country from realizing the full promise of the ADA.

The majority of Americans with disabilities continue to live in poverty and unnecessary isolation.

Most adults with disabilities are either not working or not working to their full potential, robbing the economy of the contributions of tens of millions of would-be workers.

Children and youth in special education continue to drop out of school in alarming numbers before obtaining a regular high school diploma.

The promises of higher education, accessible and affordable housing and transportation, quality affordable healthcare, and a living wage continue to elude many adults with disabilities and their families.

The ADA is slowly driving policy changes that have enabled more people with significant mental and physical disabilities to live independently in the community, but the ongoing institutional bias in the Medicaid program keeps too many people trapped in nursing homes and other institutions, unable to enjoy the freedoms and personal choices about where and how to live that other Americans take for granted.

New technologies are increasing the independence and productivity of many Americans. Yet, advances in technology alone are not guaranteed to improve the lives of people with disabilities. As we develop applications like Voice-over-Internet-Protocol (VOIP) telephony, wireless telecommunications, widespread broadband internet connectivity, new medical devices, new computer applications, and a plethora of new genetic tests, it is critical that these technologies be designed and used in a way that increases the inclusion, independence, and empowerment of Americans with disabilities as well as America's growing senior population.

The ADA has begun to change the landscape of our cities and towns, but a civil rights law alone does not create the kind of transformation of attitudes that Americans with disabilities, their families, and allies are fighting to achieve. This kind of change requires widespread discussion, education, and consciousness-raising.

In 2005, how do fears, myths, and stereotypes continue to artificially limit understanding and acceptance of disability as a form of human diversity?

What role do the mass media and entertainment industries play in forming public perceptions of disability, and how can decision makers in these important fields be influenced to produce more content that depicts the actual life experience and first person perspectives of people with disabilities?

What can be done to further improve accessibility at the design stage of new products and programs?

How can disability awareness and disability-friendly practices create more productive places of business and learning?

What concrete actions can worship communities and sports and recreation programs take to foster full participation of children, youth, and adults with disabilities in these activities?

Why do so many Americans continue to view disability as a fate worse than death, and how do these views affect surrogate medical decisionmaking and the application of new genetic testing technologies?

These questions form the basis of an American conversation that still needs to take place.

Widespread social change cannot simply be legislated, and it will not occur without bold leadership from all sectors of American society.

Public and private employers, in particular, must make a serious, concerted effort to recruit and advance qualified workers with disabilities within their labor force.

Election officials must take the necessary actions to ensure that every adult is able to enter his or her polling place and cast a secret and independent vote.

School administrators and university presidents must embrace their responsibility to deliver a world-class education to all their students.

It is time for leaders across America—business owners, little league coaches, moms and dads, sheriffs and clergy—to reject exclusion, paternalism, and segregation and to take personal responsibility for removing barriers to full participation that still exist in every community in this country.

With the aim of making America work better for everyone, the undersigned organizations pledge to build on the progress of the last 15 years and join together to promote the full participation and self-determination of the more than 50 million U.S. children and adults with disabilities. We believe that disability is a natural part of the human experience that in no way should limit the right of all people to make choices, pursue meaningful careers, live independently, and participate fully in all aspects of society. We encourage every American to join us in this cause, so that our country may continue on the path that leads to liberty and justice for all.

Signed by 743 organizations.

Mr. BROWNBACK. Mr. President, I rise today to remember an important occasion that represents 15 years in our Nation's history and welcome the opportunity to speak on these issues which are near and dear to my heart. On July 26, 1990, President George H.W. Bush signed into law the Americans with Disabilities Act, ADA, with bipartisan support in Congress under the leadership of then-Senate Minority Leader Bob Dole, my predecessor from Kansas, and thanks in large part to the dedication and hard work of my current colleague, the good Senator from Iowa, TOM HARKIN, as well as current Senators CHARLES GRASSLEY of Iowa and DANIEL INOUYE of Hawaii.

Today we must continue to dismantle, brick by brick, the "shameful wall of exclusion" that existed in the United States previous to the existence of the ADA. And, building on our 15 years of experiences in tearing down the wall of exclusion, we must continue to bring to realization the full promise of the ideas entailed in the ADA. To carry on this significant legacy, we must recognize that, today, we face new challenges and new policy considerations.

It is estimated that there are now in America 50 million citizens with some sort of disability. An amazing individual from Kansas who visited D.C. last week to tell his story is 7-year-old Matthew Whaley. Matthew was denied access to the local recreation department's baseball league because he happened to have cerebral palsy. However, because of the Americans with Disabilities Act, he is now showing off his All-Star baseball skills as an outfielder.

When I think about what Congress needs to accomplish for people with disabilities over the next few years, to continue to achieve the dream that should have been, and that the ADA began to make possible, I consider what policies we need to change to ensure that Matthew, and others with disabilities, can continue to make a positive difference in this world.

We must consider America's aging population. According to the U.S. Census, by the year 2050, 21 percent of America's total population will be age 65 and over. It is understood that the probability of having a disability increases with age. This means that America's population with disabilities will continue to grow.

It is imperative that we look for ways to meet the needs of this population and ensure that they can continue to live independent, fulfilling lives. Just recently, I spent time with a constituent of mine who embodies this idea—a man named Rick Davidson from Olathe, KS. Rick is a motivational speaker for at-risk youth, has traveled across the country meeting with lawmakers on disabilities' policy issues, and is attending college for an associates degree in Web design. Rick has lived a healthy and active life as a quadriplegic for almost 18 years—doctors initially estimated that Rick had just 16 years to live.

Another way we can make a positive impact for the future is through supporting endeavors such as the New Freedom Initiative—a comprehensive program to promote the full participation of people with disabilities in all areas of society by increasing access to assistive technologies, expanding educational and employment opportunities, and promoting increased access to daily community life.

In the context of changing public policy, we must also examine how effectively government programs, such as Medicare and Medicaid, are serving the needs of individuals with disabilities. For example, the Medicare Program's benefit for mobility devices has an "in the home" restriction which limits coverage to only those mobility devices that are necessary within a patient's home. Unfortunately, this does not address the needs of a patient who would use this device to obtain access to his or her community, work, school, physician's office, pharmacy, or place of worship. In view of this, I recently signed on a letter requesting that Medicare's mobility device "in the home" restriction be modified to improve community access for Medicare recipients with disabilities. I am also a cosponsor of legislation that would offer lower income families who have children with disabilities the opportunity to acquire health care coverage through the Medicaid Program.

Along these lines, Congress must address the issue of accessibility to long-term care for the elderly and those with disabilities. Currently, we have a Medicaid system that spends approximately two-thirds of its dollars on institutional care and approximately one-third on community services. This antiquated policy effectively removes disabled and elderly individuals from their community, family, and friends. Even from a cost perspective, this system does not make sense. According to the National Association of Insurance Commissioners, the cost of nursing home care ranges from $30,000 to $80,000 per year, while the annual cost of home and community care is much lower.

The bottom line is that Congress must work to align the Medicare and Medicaid Programs with goals of the Americans with Disabilities Act. After all, we live in America and in this country we celebrate independence, self-determination, uniqueness, and a sense of community. We must maintain these ideals for our children as well. This year, I introduced the Prenatally Diagnosed Conditions Awareness Act. For some conditions that can be detected in the womb, we are aborting 80 percent or more of the babies who test positive. The effect of this type of "weeding out" is the creation of a sort of new eugenics, a form of systematic, disability-based discrimination. The latter process is to the detriment of our society.

In addition to the many abilities that persons with disabilities have, these individuals so often have a perspective the rest of us don't have. We learn compassion, heroism, humility, courage, and self-sacrifice from these special individuals—and their gift to us is to inspire us, by their example, to achieve these virtues ourselves.

In our discussion of fostering independence, we must keep in mind the importance of guaranteeing all individuals their right to vote. Our citizens with disabilities deserve equal access and an equal voice in our democratic process. Initiatives such as the Help America Vote Act, enacted in 2002, created vital grant programs ensuring electoral participation by persons with disabilities and making polling places accessible to persons with disabilities. Congress must continue to look for ways to expand access to our electoral system for persons with disabilities.

While we can change public policy to reflect the ideas embodied in the ADA, it is just as important to seek change at the individual level. Every human being has the ability to change their own ideas and actions in their daily life as they meet an elderly person or a person with disabilities. As Americans, we have a God-given duty to love each and every person, and treat them, not as a means to an end, but as an end in and of themselves. As a Nation, we are so blessed with the presence of individuals who are different than us, and who have the ability to teach us; to teach us about love, about compassion, and about what it means to have strength and courage from within.

My vision for America is to continue to build on the momentous legacy of the ADA, where we as citizens continue to celebrate the breadth of experience and life lessons that persons with disabilities offer us.

Over 137,000 individuals with disabilities reside in my State of Kansas. My hope for them is the same as my hope for all Americans who have disabilities: that we as a society and as a government do everything in our power to foster their independence, to nurture their soul and to embrace their contributions to society.

NATIONAL DEFENSE AUTHORIZATION ACT

Mr. JOHNSON. Mr. President, I rise today in support of Senate amendment No. 1389 to postpone the current round of domestic military base closures.

The threats confronting the United States today are vastly different from those during the Cold War, and we must shift our defense posture to address new and emerging enemies. I do not dispute that closing and realigning excess military capacity is critical to that endeavor. However, I fear we are rushing to conclude this process before having all pertinent national security information to make a well-informed decision. In short, I believe we have put the cart before the horse.

While I support delaying this base closure round, I do not dismiss the important work of the Base Realignment and Closure Commission. The Commissioners and their staff should be commended for their diligent efforts to carefully review and evaluate each recommendation made by the Pentagon.

Having said that, I believe closing military installations without thoughtful consideration is shortsighted. Before implementing this round of base closures critical issues should be resolved to ensure we have not irrevocably damaged our ability to confront threats at home and abroad. The amendment requires specific benchmarks be fulfilled before the current round of domestic base closures is completed. I believe these requirements are logical and necessary in light of the threats facing the United States.

The ongoing conflicts in Iraq and Afghanistan are our most urgent national security concern, but the United States must be prepared to address other potential enemies. According to a recent Defense Department report, China has expanded its military reach enabling them to threaten Taiwan, Japan, and the U.S. military in the Pacific. Furthermore, China continues to both improve and expand its nuclear arsenal and has the capacity to field advanced missiles able to strike the United States.

China is not our only national security concern, as both Iran and North Korea have refused to relinquish their nuclear weapons programs. U.S. intelligence experts agree North Korea has developed multiple nuclear weapons, while Iran, an active state sponsor of terrorism, continues to pursue chemical and biological weapons.

Before completing this round of base closures, I believe it is prudent and sound policy to analyze all pertinent information that may impact our national security. For instance, the Department of Defense is undertaking a monumental shift in overseas deployments, which is long overdue. However, the Commission on Review of Overseas Military Facility Structure of the United States, commonly referred to as the Overseas Basing Commission, has indicated the Pentagon's plan to rotate soldiers back to the United States from overseas installations may be flawed. The Overseas Basing Commission argues if a crisis arises abroad, the military does not have enough sea and air transportation to rotate forces rapidly enough to respond. Furthermore, the Commission believes the Pentagon has understated the costs to redeploy troops to American soil. Finally, and most troubling, the Commission argues the plan could result in extended and more frequent rotations, which could strain U.S. military personnel and their families to the point where the United States is incapable of maintaining an all-volunteer force.

In addition, currently tens of thousands of brave men and women are serving in Iraq and Afghanistan, and like all Americans, it is my sincere hope that these soldiers return home as soon as possible. Having said that, I recognize immediately withdrawing American troops from Iraq could result in chaos and undermine the tremendous efforts made by all our service members. However, I question the timing of this round of base closures given that our Nation is at war and so many of our soldiers are supporting this effort. Until these troops have finished their important mission, and have returned home safely, it does not make sense to close military installations at home.

Finally, we should not move forward with this round of base closures until the Defense Department completes the Quadrennial Defense Review and presents its findings to the President and Congress. The QDR is integral to U.S. military strategy as it assesses our future military capabilities and identifies emerging threats. It makes little sense to restructure our defenses until Congress has access to this vital piece of information.

I believe that these questions must be answered before we proceed with closing domestic military installations. We must reorganize our military force in order to respond to the threats of the 21st century. The challenge is to do so in a manner that is not detrimental to our national security and the men and women who proudly serve our country.

Mrs. FEINSTEIN. Mr. President, I rise today in support of an amendment to the fiscal year 06 National Defense Authorization Act, S. 1042, that authorizes the Navy to convey approximately 230 acres of open space land along the eastern boundary of Marine Corps Air Station Miramar to the county of San Diego in order to provide access to the historic Stowe Trail.

The Stowe Trail at one time functioned as the primary road leading to the historic town of Stowe, and now links the Goodan Ranch and Sycamore Canyon Preserves in the north with the Mission Trails Regional Park and Santee Lakes Regional Recreation Area further south.

According to county records, up until the 1930s when access to this portion became restricted for military use, the Stowe Trail had served for some 80 years as the principle thoroughfare between the towns of Santee and Poway.

The 230 acres of land that would be conveyed by the Navy under this provision include diverse plant and animal life and environmentally-sensitive habitats and would provide a natural wildlife corridor between the two preserves, as well as with the Santee Lakes Recreation Area.

Under the control of the County of San Diego, this land will become part of an extensive open space trail system that will not only increase recreational opportunities in the region, but will also provide a buffer zone that will mitigate against potential encroachment that could impact the essential military missions at Marine Corps Air Station Miramar.

It is important to point out that this proposed land conveyance is the fruition of a process set in motion jointly by the San Diego County Board of Supervisors and Marine Corps Air Station Miramar in 2002.

Both sides have worked together closely since that time to ensure that the result will be a win-win situation for both county and the Marines.

For example, as part of the land conveyance process, the County of San Diego has fully committed to compensate the Navy by paying the full fair market value for this property.

I would therefore ask unanimous consent that it be in order for the Senate to consider this amendment, and that the amendment be agreed to.

I would also ask that this statement and the relevant amendment be placed together in the CONGRESSIONAL RECORD.

AMENDMENT NO. 1406

Mr. LUGAR. Mr. President, I rise in support of amendment No. 1406 that authorizes the Secretary of Defense, in the event of an overseas emergency, to transfer $200 million in defense articles, services, training and other support to the State Department to address the crisis. The funding would be used by the Office of Stabilization and Reconstruction at the State Department, a new office that has been created to organize the civilian side of the military/civilian response in post-conflict situations. The authority provided is permissive. It does not require such a transfer.

The Secretary of Defense requested the authority contained in this amendment in his submission of legislation to be considered by the Congress. The Department of Defense needs a capable civilian partner that is prepared to go into hostile environments to assist the military in stabilizing a post-conflict situation. It also needs to be able to hand off a stabilized situation to civilian leadership. Without such a capacity, the military ends up performing tasks that civilians could and should be carrying out. As a consequence, the resources of the Armed Services are stretched thin and deployments of military personnel have to be extended beyond expectations.

The Senate Foreign Relations Committee has for some time been deeply involved in building the capacity of the State Department to play a leadership role in this area. Through legislation, hearings, and meetings of a policy advisory group of experts, we have called for the organization of a corps of civilians who are willing and able to undertake difficult missions in wartorn countries. The Office of Stabilization and Reconstruction, led by a Coordinator, Ambassador Carlos Pascual, is now up and running and doing an excellent job.

My amendment reflects continued Senate Foreign Relations Committee attention to the issue. On June 16, we held a hearing on stabilization and reconstruction entitled "Building Peace in a Hostile Environment." Ambassador Pascual participated as did two witnesses from the Defense Department, Ryan Henry, Principal Deputy in the Office of the Under Secretary of Defense for Policy and LTG Walter Sharp, Director of Strategic Plans and Policy at the Joint Staff. James Kunder, Assistant Administrator for Asia and the Near East, testified on behalf of USAID.

Both Defense Department witnesses urged the committee to support the transfer authority contained in my amendment. Mr. Henry stated that it is in the Defense Department's interest to help the Stabilization and Reconstruction office "fill the gap in its ability to deploy in a crisis." General Sharp said that General Myers, the Chairman of the Joint Chiefs, supports such a request because it would "greatly improve Ambassador Pascual's ability to rapidly deploy in a crisis."

As most Members know, the foreign affairs budget is under considerable pressure. The Senate has just finished debating H.R. 3057, the State-Foreign Operations Appropriations bill. The 302(b) allocations for this bill were some $1 billion below the President's request. On the House side, the corresponding amount is some $3 billion below the President's request. When conferenced, the appropriated funding levels for foreign affairs will once again fall short of the amount that the President of the United States says he needs to conduct a strong foreign policy at a time of great complexity and danger.

Tight budgets yield painful compromises. During consideration of H.R. 3057, Senators CORZINE and DEWINE offered an amendment to appropriate $50 million to support African Union peacekeeping efforts in Sudan. They took the funding from the Conflict Response Fund that is to be used in emergencies by the new Office of Stabilization and Reconstruction. The amendment was accepted.

That development has made the passage of this amendment to the Department of Defense bill even more crucial. The amendment does not make the transfer of services and other support automatic. Rather, the Secretary of Defense is authorized to transfer the support only if he determines that an emergency exists that requires the immediate provision of such assistance. He must also determine that such assistance is in the national security interests of the United States.

The Department of Defense has asked for the authority. It recognizes that coordination between the State Department and USAID during international emergencies can actually save money and lives. It reflects a new kind of cooperation between the military and the civilian component of our Government that a number of Members have spent much time and effort trying to promote. I urge my colleagues to vote in favor of the amendment.

AMENDMENT NO. 1407

Mr. President, I rise in support of amendment 1407 that strikes section 1008 from the bill under consideration.

The purpose of the amendment is to allow the Defense Department to pay its fair share of the costs of building safer embassies. Section 1008 allows Defense Department participation in the program only to the extent that unreimbursed services provided by State to DOD exceed unreimbursed services provided by DOD to State. It is a complicated formula that, in the end, will probably result in no contributions from the Department of Defense. There is no other agency that has similar legislation.

More than 61,000 American Government employees from 30 agencies work at our embassies and consulates. The Departments of Justice, Homeland Security, Commerce, Treasury, Health & Human Services, Agriculture, and every other agency that has personnel overseas are contributing to the cost-sharing program. After an interagency negotiation, all executive branch departments, including the Defense Department, agreed to contribute to the cost-sharing program. But section 1008 would essentially vitiate that agreement on the part of the Department of Defense.

The Senate has a deep interest in the safety and well-being of our citizens working overseas. Defense Department employees are second in number only to the State Department in many of our embassies. We all know that U.S. facilities are a prime target for terrorists. The 1998 bombings of two American embassies in Africa made it clear that the threat can erupt in unexpected places.

The United States has some 251 embassies and consulates overseas. Many of them do not meet security standards. They are not set far enough back from busily traveled streets, and they are not constructed to minimize damage if attacked. The capital construction program focuses on replacing 150 embassies, prioritized according to a formula that encompasses the threat they face. New embassy compounds are being built on a construction schedule that can be cut almost in half if the cost-sharing program is fully implemented.

The cost-sharing program allocates construction expenses among agencies on the basis of future occupancy and the need for space specially designed for security purposes. After the State Department, the military ranks among the top contributors expected to participate in the program. Defense Department nonparticipation would stretch the embassy construction timetable by several years, prolonging the risks to embassy workers from all agencies.

President Bush has designed an interagency cost-sharing program with a rapid construction timetable. He understands the risks and is working to address them. The cost-sharing program has been embraced by all Cabinet officers, including Secretary Rumsfeld. We in the Congress should not agree to a measure that will disrupt this timetable. We should not slow a process that directly addresses the threat of terrorism toward embassies, which are the most visible and accessible U.S. targets overseas.

I ask my colleagues to support this amendment.

Mr. KENNEDY. Mr. President, our military is first in the world, because of the quality and training of our personnel and because of the technological sophistication of our equipment and weaponry. A large portion of the best civilian scientific minds in the Defense Department are nearing retirement age—yet the legislation before us cuts funding for the military's basic research in math and science.

Amendment No. 1401 that I am offering with the Senator from Maine and others will ensure that the Department maintains its support for scientific research and development. It includes $10 million, to double the funding for the Department's current "SMART Scholars" program, which is essentially an ROTC program for the agency's civilian scientists. It increases by $40 million the Department's funding of basic research in science and technology, to ensure that its investment in this field is maintained and our military technology remains the best in the world. The $50 million total cost of the amendment is offset by a $50 million reduction in Department-wide administrative funding.

Our amendment provides sufficient funding for the full cost of college scholarships and graduate fellowships for approximately 100 science, technology, engineering, and math students. It increases basic research on an equal basis in the Army, Navy, Air Force, DARPA, and National Defense Education Program. It is supported by more than 60 of the most prestigious institutions of higher education in America.

Defense Department-sponsored research has resulted in stunningly sophisticated spy satellites, precision-guided munitions, stealth equipment, and advanced radar. The research has also generated new applications in the civilian economy. The best known example is the Internet, originally a DARPA project.

Advances in military technology often have their source in the work of civilian scientists in Department of Defense laboratories. Unfortunately, a large percentage of these scientists are nearing retirement. Today, nearly one in three DOD civilian science, technical, engineering, and mathematical employees is eligible to retire. In 7 years, 70 percent will be of retirement age.

Another distressing fact is that the number of new scientists being produced by our major universities at the doctoral level each year has declined by 4 percent over the last decade. Many of those who do graduate are ineligible to work on sensitive defense matters, since more than a third of all science and engineering doctorate degrees awarded at American universities go to foreign students.

It is unlikely that retiring DOD scientists will be replaced by current private industry employees. According to the National Defense Industrial Association, over 5,000 science and engineering positions are unfilled in private industry in defense-related fields.

The Nation confronts a major math and science challenge in elementary and secondary education and in higher education as well. We are tied with Latvia for 28th in the industrialized world today in math performance, and that is far from good enough. We have fallen from 3rd in the world to 15th in producing scientists and engineers. Clearly, we need a new National Defense Education Act of the size and scope passed nearly 50 years ago.

At the very least, however, the legislation before us needs to do more to maintain our military's technological advantage. The pending bill irresponsibly cuts science and technology research by 17 percent. It increases funding for the SMART civilian ROTC science program but to only one-third of the Defense Department's request. Last year, over 100 "highly rated" SMART Scholar applications were turned down because of insufficient funding. Our amendment has sufficient funds to support every one of those talented young people who want to learn and serve.

It also increases the investment in basic research in science and technology. Investments by DOD in science and technology through the 1980s helped the United States win the Cold War. But funding for basic research in the physical sciences, math and engineering has not kept pace with research in other areas. Federal funding for life sciences has risen four-fold since the 1980s. Over the same period, appropriations for the physical sciences, engineering, and mathematics have remained essentially flat. Funding for basic research fell from fiscal year 1993 to fiscal year 2004 by more than 10 percent in real terms.

The Defense Science Board has recommended that funding for Science and Technology reach 3 percent of total defense spending, and the administration and Congress have adopted this goal in the past. The Board also recommended that 20 percent of that amount be dedicated to basic research, but the pending bill would cut funding for such research by 17 percent. We must do better, and this amendment does that.

The amendment's offset reduces the defensewide administrative fund under the Secretary of Defense. It does not affect operations and maintenance funding for the Army, Navy, or Air Force. For example, it would reduce by 2½ percent the $2 billion that the bill gives the Secretary for his "business and financial management" transformation proposal—an area that the Government Accountability Office has deemed at "high-risk" for waste.

We can't afford not to pass this amendment, and I urge my colleagues to support it.

ASSOCIATION HEALTH PLANS

Mr. KENNEDY. An important new study issued last week finds that exempting association health plans from State oversight will lead to increased health insurance fraud against small businesses and their workers.

The author of the study, Assistant Professor Mila Kofman at Georgetown University, is one of the Nation's leading experts on private health insurance fraud, and the report provides evidence of the potential harm that the pending association health plan legislation will have on patients and working families.

It finds that exempting association health plans from State oversight will "create a regulatory vacuum" and have the "unintended consequence of widespread fraud threatening the coverage and financial security of millions of Americans."

The report notes the 30-year history of health insurance scams involving associations and multiemployer arrangements after the Congress exempted such arrangements from State oversight in 1974. Widespread fraud resulted from the exemption, and Congress acted to restore State authority and oversight in 1982. In the years when the Federal Government was responsible for oversight of the plans, widespread fraud took place and large numbers of businesses and workers victimized.

Insurance fraud involving such plans continues, but without State oversight and enforcement, the numbers would have been much worse. States have shut down many illegal arrangements, and saved millions of dollars for consumers in recent years. We can't afford to take away State authority now, and give plans broad exemptions from oversight.

According to a study by the Government Accountability Office, the most common way for insurance scams to proliferate is by selling coverage through associations—many of which are the same bona-fide professional and business associations that would be shielded from oversight under this legislation.

The pending bill would create large loopholes and shield plans from oversight. It relies largely on self-reporting and self-regulation, and makes it far more difficult for regulators to shut down fraudulent plans.

The bill's convoluted regulatory structure would also create widespread confusion about who actually regulates association plans—the Federal Government or States, and this confusion will invite scams to proliferate.

We need to make affordable health insurance for working families a top priority, but this study shows the serious consequences of exempting association health plans from State and oversight and enforcement. The result is predictable: mounting medical bills, greater bankruptcy, medical care denied or delayed, and coverage lost. It is wrong for Congress to turn back the clock to the days of widespread fraud against small businesses and their employees by exempting association plans from appropriate oversight and enforcement, and I urge my colleagues not to take this damaging step.

MEDICAL DEVICE USER FEE STABILIZATION ACT OF 2005

Mr. KENNEDY. Mr. President, I strongly support the Medical Device User Fee Stabilization Act of 2005.

The bill makes needed corrections in the Device User Fee Act we passed in 2002. Most important, it extends this worthwhile program beyond September 30. It ensures stable growth for individual user fees by limiting increases to 8.5 percent a year in 2006 and 2007, and it raises the threshold for businesses to be eligible for the reduced small business fees from $30 million to $100 million.

The user fee program has provided much needed support for the Food and Drug Administration over the past 3 years to expedite its review of medical devices. The FDA has improved its ability to review devices more quickly, and laid the groundwork for further progress as well. Unfortunately, however, fees on individual applications have climbed rapidly in the past 3 years—much faster than anticipated.

Our bill maintains this valuable program and limits the rate of growth in fees. It strikes a fair balance between the competing interests of FDA and the various industries. The agency is not guaranteed the growth in fees that it received under the original legislation to meet the need to expedite its reviews. It makes sense to limit fee increases in response to the concern that the fees have climbed too quickly and are discouraging innovation in these valuable devices. That is why we call the bill the User Fee Stabilization Act.

The bill also clarifies the provision in current law on the identification of the makers of single-use medical devices. Adverse event reports should not be inaccurately attributed to the wrong company, and doctors should not be misled about the source of the device.

Since many so-called single-use devices are often reprocessed and used again, the legislation requires reprocessors of single-use devices to identify their role in preparing the device. When the manufacturer of the original device is identified on the device, the reprocessor must do so as well. When the manufacturer of the original device has not done so, the bill permits the use of detachable labels on the package of the reprocessed device, so that the label can be placed in the patient's medical chart.

These provisions will become effective 12 months after the date of enactment, and they are a reasonable compromise of the interests of the FDA, the original manufacturers, and the reprocessors.

I commend Chairman ENZI for his leadership in producing this much-needed legislation, and I welcome the strong, bipartisan support for the bill in our Health Committee. I urge all my colleagues to support this important legislation, so that this valuable medical device program can continue effectively beyond September 30.

CHANGING LIVES: THE IMPACT OF SPECIAL OLYMPICS

Ms. LANDRIEU. Mr. President, I rise today to say a few words on the impact of Special Olympics. As many of you know, individuals with intellectual disability face an array of challenges in their efforts to secure opportunities to lead quality lives. These challenges affect every aspect of their lives, including their ability to participate in a meaningful way in their communities and society at large.

The Special Olympics were created to address the use of sports as a vehicle for demonstrating the dignity and capability individuals with intellectual disability can achieve. Over the 37 years of Special Olympics history, there is extensive documentation of competition waged, medals won, and barriers overcome around the world. Athletes, families, coaches, volunteers, and spectators have witnessed many small and large miracles through Special Olympics.

One such miracle is Rose Marie Garrett of Baton Rouge, a three-time participant in Special Olympics World games who in 2001 was named Louisiana's Special Olympian of the Year. At age 49, Rose Marie was diagnosed with Dandy-Walker syndrome, a congenital brain malformation that impairs motor development due to a blockage of spinal fluid to the brain. Despite her lifetime of struggle with the physical problems caused by Dandy-Walker syndrome, Rose Marie was able to rise above this barrier and take charge of her life. Not only did she successfully participate in the Special Olympics, but did so while holding a job at the YMCA. However, Rose Marie did not stop her lifetime of hard work with her achievements in the Special Olympics. She has become a strong advocate for this valuable program, and teaches bowling to children, disabled and non-disabled alike. Her message to those working to overcome difficult hurdles is "Work hard and go for your goal. If at first you don't succeed, try, try again. Never give up. I didn't.

Rose Marie is just one of the many success stories in the Special Olympics. In 2004, they commissioned a study of the impact of Special Olympics programs on the lives of its athletes in the United States. This study included survey research of current and former athletes, coaches, and family members from a representative sample of U.S. athletes and coaches. It is the most comprehensive assessment to date of the impact of the Special Olympics experience on the lives of people with intellectual disabilities. In the Special Olympics Impact Study and the Special Olympics Athlete Participation Survey, we see that Special Olympics has enabled athletes to not only train for sporting events, but also train for life. Through their voices, U.S. Special Olympics athletes have provided Special Olympics with a very positive report card on the impact that Special Olympics has on their lives.

It is my hope that every person faced with intellectual disabilities will have the opportunity some time in their life to participate in the Special Olympics. As exemplified by Rose Marie's experience, overcoming athletic challenges can lead to a successful life. Special Olympics is a program that supports an inclusive and productive society and I look forward to watching what all these individuals will accomplish in the future.

RETIREMENT OF J.J. HAMILTON

Mr. LEAHY. Mr. President, I would like to take this opportunity to publicly congratulate J.J. Hamilton on his retirement as Director of Aviation at the Burlington International Airport.

J.J. and I have been friends since our days together at St. Michael's College, and it has been a great pleasure working with him over the years on aviation, expansion, and economic development issues at the airport in Burlington.

J.J. has been with the airport for 21 years, serving for the past 15 as its top manager. Under his direction, the Burlington airport has been transformed from a sleepy, one-gate operation into an award-winning, 10-gate facility that is a wonderful gateway to our great State of Vermont. The airport has grown to become an important engine in our State's economy.

Perhaps the best words to describe J.J.'s leadership in Burlington are "measured and responsible." As head of Vermont's largest airport, and one that is municipally owned, he has had to delicately balance the urge for large-scale expansion with his financial responsibility to the citizens of Burlington. When opportunities have arisen to attract new air service, J.J. has been careful to make sure that it is sustainable and that the airport grows appropriately to meet the new demand. And when the airport has sought to expand its business offerings, he has worked cooperatively with the neighbors, the National Guard, and the businesses that are based at the airport or that rely on the airport to outline the significance of the development.

I am proud to have worked with J.J. and others to bring the innovative, low-cost air service to Burlington that has fueled record passenger growth at the airport. From JetBlue and Independence Air to the parking expansions to the new gates, J.J. has diligently moved forward not just to compete with the Albanys and Manchesters of the world for passengers, but to make Burlington a destination unto itself.

I ask unanimous consent that a May 11, 2005, Burlington Free Press editorial on J.J.'s accomplishments in Burlington be included at this point in the RECORD.

There being no objection.the material was ordered to be printed in the RECORD, as follows:

[The Burlington Free Press, May 11, 2005]

BUILDING AN AIRPORT

J.J. Hamilton has a solid 21-year record at the Burlington International Airport, 16 of them as director, transforming a one-gate operation into today's 10-gate facility that generates $12 million in revenues.

The growth at the airport has occurred gradually over the years, at a pace that has met Vermont's needs and changing lifestyles. Along the way, Hamilton has been there to make a public pitch for significant improvements such as expanding the parking garage.

Hamilton has presided over one of the most welcoming and attractive small airports U.S. travelers will ever find. Where else do you find comfortable rocking chairs set up in front of picture windows that look out onto runways and spectacular mountain views? Long lines are rare, and visitors are treated to a taste of Vermont with displays of local art, scenic murals and a well-stocked souvenir shop.

In 1997, the airport's garage was built and main terminal expanded for $19.9 million; a $25 million expansion was launched five years later. The improvements have encouraged additional airlines to use the facility, securing Burlington International's 2002 distinction as the second-fastest-growing airport in the nation.

Decisions by airlines such as People Express in the 1980s and JetBlue and Independence Air in recent years have added to Burlington International Airport's luster.

For many years, Vermonters drove to Manchester, N.H., Albany, N.Y., or Boston for cheaper flights out of New England. Today, with several low-cost carriers operating out of Burlington, the expanded 1,651-space garage is often crowded with travelers choosing their home airport.

This is especially important for a relatively small state like Vermont, where a healthy business climate requires easy, affordable air service—not to mention the revenues linked directly and indirectly to air travel.

Hamilton's decision to step down as director leaves a void at the airport that might be tough to fill for several reasons.

First, his careful stewardship has established a high bar. The airport set a record for the most significant growth period in the airport's history during Hamilton's tenure, with nearly 635,000 people boarding flights last year.

Second, Hamilton's annual salary of $85,885 isn't highly competitive with many similar positions elsewhere in the United States, making it that much harder to recruit the best and brightest to fill his shoes. The director of the Albany International Airport in New York, for example, earns $106,000 annually.

That is not an unusual problem in Vermont, where salaries tend to lag behind those of more urban areas. More often than not, people accept the lower salary in exchange for a higher quality of life. In some cases, out-of-state applicants argue—successfully—for more money.

The city ought to be somewhat flexible with the incoming director's salary, but cautiously so. A high wage doesn't guarantee competence.

Hamilton, 64, has agreed to stay on until his job is filled, and possibly longer. But Vermonters wish him well as he moves on.

Mr. LEAHY. Again, Mr. President, I want to thank J.J. for his many years of dedicated service to the City of Burlington and its airport. Marcelle and I wish him and Janet all the best in retirement.

PRESIDENTIAL SCHOLARS

Mr. OBAMA. Mr. President, on May 3, 2005, Secretary of Education Margaret Spellings announced the selection of 141 outstanding American high school seniors as the 2005 Presidential Scholars. The Presidential Scholars Program serves to honor outstanding students for their accomplishments in academics or the arts, as well as for their leadership, character and civic contributions to their schools and communities.

The United States Presidential Scholars Program was established in 1964 by Executive order of President Lyndon B. Johnson. The Presidential Scholars Program annually selects one male and one female student from each of the 50 States, the District of Columbia, Puerto Rico, American students living abroad, 15 at-large students, and up to 20 students in the arts. The students are selected on the basis of outstanding scholarship, service, leadership, and creativity through a rigorous selection and review process administered by the Department of Education. Over 5,000 of the Nation's top students have been honored as Presidential Scholars since this prestigious program's founding.

Of the 141 exceptional students recognized from across the United States for 2005, I would especially like to recognize three students from the great State of Illinois for their accomplishments.

I send my congratulations to the following students for their accomplishments in academics: Kelly A. Zalocusky from Belleville High School East in Belleville, IL, and her teacher Philip C. Short; and Edgar P. Woznica from Fenwick High School in Oak Park, IL, and his teacher Ramzi Farran. For her accomplishments in the arts, I would like to congratulate Marcella J. Capron from Loyola Academy in Wilmette, IL, and her teacher Leslie Yatabe.

Please join me in congratulating the 2005 Presidential Scholars for their accomplishments in academics and the arts. I wish them all the best in their future endeavors.

WORLD VETERINARY ASSOCIATION

Mr. BAUCUS. I ask unanimous consent that Senator JEFFORDS's speech before the World Veterinary Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Members of the House of Delegates, the World Veterinary Association, other international guests, friends and colleagues . . . I'm honored to be a part of this historic gathering. I'm especially pleased to welcome my fellow veterinarians from around the world and to be addressing those participating in the first gathering of the World Veterinary Association in the United States since 1934.

Seventy-one years ago, the AVMA and the World Veterinary Association met to discuss the hot issues of the day . . . poultry diseases, advances in food animal medicine, food safety and global disease surveillance. Today we are meeting once again and discussing the issues of our day . . . poultry diseases, advances in food animal medicine, food safety and global disease surveillance.

Three thousand nine hundred seventeen veterinarians attended that 1934 meeting in New York City at the Waldorf Astoria hotel; many from the same countries that are joining us today. To each I extend our most sincere welcome . . . especially to our colleagues from Afghanistan and Iraq . . . I hope that you find this experience to be one of the most memorable of your career.

Well, here we are, 71 years later. And while we may have different languages and customs, different ways communicating with our clients and treating our patients, we have come together once again precisely because we have more in common than ever before. We are united in our quest for a better world and better medicine for both animals and humans. We are united in our concerns, we are unified in our challenges and we are unified in the celebration of our achievements. We are what veterinary medicine is all about.

When I told my wife, Pat, that I was giving this speech, she reminded me of something Muriel Humphrey once told her husband, Hubert, this country's vice president and a favorite son from this great state. She said, "Hubert, a speech doesn't have to be eternal to be immortal." I'll try to remember that.

I come before you today slightly imperfect. As many of you know, I just had a knee replacement.

My recent surgery got me thinking . . . do any of us truly appreciate our knees? Really appreciate the foundation they provide? I know I didn't . . . not until both gave out on me. I quickly came to realize, however, that my knees must work together in unity in order for me to complete the tasks I take for granted. I just assumed they'd provide a solid foundation without much attention from me. I was sadly mistaken.

Paying attention to our profession's basic principles is what I'd like to talk to you about today. We all assume that our professional unity and our rock solid foundation are perpetual. They're not. Without attention and care, our foundation can slowly begin to erode. That's why I am dedicating my presidency to the care and nurturing of our professional unity . . . the essential cornerstone of our great profession.

Traditionally, past AVMA presidents have used this time to present you with a roster of very specific recommendations for new programs and initiatives.Many of those recommendations have resulted in impressive and important changes within the AVMA.

But different times call for different approaches. I come before you today with a total commitment to spending my year at the helm of this great organization working to reaffirm our unity.

As president elect, I've spent much of the past year speaking to a wide variety of veterinary associations and student organizations. In May, when I gave the commencement address at Auburn, I was reminded of my own graduation. I was reminded of my classmates and my professors. Of the long hours and challenges that we faced and survived. I think back to the unity we felt as a class and our coordinated effort to help each other. Doing whatever it took to ensure that each individual met the challenges of the curriculum and graduated.

Unity got us through school . . . and a C+ mean average didn't hurt.

And on our graduation day, we became veterinarians. Not equine veterinarians. Not bovine veterinarians. Not small animal veterinarians. We became veterinarians . . . members of a select group of professionals that dedicate their lives to ensuring the highest standards in animal and public health.

Why is unity more important today than ever before? Aesop said it better than I ever could . . . "we often give our enemies the means for our own destruction."

Today our profession is facing challenges, the likes of which we've never seen before. From town hall to Capitol Hill . . . from the classroom to the laboratory . . . from the farm to the dinner table . . . our attention is being pulled in a myriad of directions. In light of those challenges, we must remain focused . . . we must stay united. While we may practice in different disciplines involving different species of animals, we must be one vision, one voice. We must maintain the highest standards in medicine and public health, encouraging and assisting others in accomplishing the same. While we may practice in different parts of the world, we must foster unity with our fellow veterinarians from around the globe. Good medicine knows no boundaries . . . knows no borders. We must cooperate and collaborate with our fellow veterinarians worldwide . . . to make this world a better place for animals and humans, alike.

Has there always been perfect unity within the profession? If you look back in the annals of our convention or in the Journal of the American Veterinary Medical Association, you will see many instances where we did not all agree. We are a diverse profession and there are bound to be differences in opinion. But I would argue that the French essayist, Joubert, was right when he said, "the aim of argument, or of discussion, should not be victory, but progress."

Some of the differences our profession is experiencing today may just be a reflection of what is happening to society as a whole.

For example, we've moved away from an agricultural society. In the past 20 years, many of our colleagues have chosen a metropolitan setting, where they concentrate on companion animals. As a result, the number of food animal graduates has slowed to a trickle. The reality, however, is that food animal practitioners are more important to society than ever before. There is an acute shortage of food animal veterinarians during a time when the world is threatened by zoonotic and foreign animal diseases. At the same time, we are experiencing the same crisis level shortages of public health veterinarians. Most new graduates are not choosing a career in this essential segment of veterinary medicine. The profession must find ways to encourage undergraduates to enter food animal and public health practice.

In an attempt to resolve the critical food animal veterinary shortage, AVMA has been working on a number of strategies and initiatives.

For example, as many of you know, the AVMA helped fund a study to estimate the future demand and availability of food supply veterinarians and to investigate the means for maintaining the required numbers.

AVMA also approved and financially supported the development of benchmarking tools for production animal practitioners by the National Commission on Veterinary Economic Issues. These benchmarking tools are designed to provide our current practitioners with help in ensuring that their practices are financially successful. That, in turn, will assist in attracting future veterinarians to food animal practice.

The government relations division of the AVMA is diligently working to convince Congress to provide federal funding for the National Veterinary Medical Service Act. If fully funded, that act could go a long way toward encouraging recent graduates to practice food animal medicine in under-served areas and provide veterinary services to the federal government in emergency situations. Just last month, the Senate Agriculture Appropriations Subcommittee approved $750,000 for a pilot program. We applaud the efforts of Representatives Pickering and Turner . . . and Senators Cochran and Harkin . . . all of whom sponsored the original bill. And I want to thank the Appropriations Subcommittee, especially Senator Brownback for his kind words and commitment to veterinary medicine.

AVMA is also lobbying our federal legislators to pass the Veterinary Workforce Expansion Act . . . an important piece of legislation that will provide us with sorely needed public health and public practice veterinarians. Today's public health practitioners play an invaluable role in U.S. agriculture, food safety, zoonotic disease control, animal welfare, homeland security and international standards and trade. Without an adequate number of public health veterinarians, the wellbeing of our nation—yes, even the world—is at risk. Senator Allard has been invaluable and unwavering in his dedication to moving this act forward through the complicated legislative process. I intend to do everything I can as president to provide support to Senator ALLARD's effort to pass the veterinary workforce expansion act.

On the international education level, AVMA has been committed to the global unity of the profession for decades. The AVMA Council on Education has partnered with Canada since the accreditation system was developed and has accredited six foreign veterinary colleges. We are working with six additional schools. We're extremely proud of those colleges. As more inquiries come forward, it's self evident that the world looks to us as the gold standard in educational goals and expectations.

At the same time, I will be supporting the efforts of our specialty organizations to attract and train the new practitioners they need. Currently, there are 20 veterinary specialty organizations comprising 37 distinct areas of expertise under the AVMA umbrella.

The AVMA economic report on veterinarians and veterinary practices has revealed a substantial difference between the incomes of specialists and non-specialists practicing in similar disciplines. I will, as president, encourage the development of additional in-depth financial surveys that, hopefully, will motivate our undergraduates to further their education and achieve specialty status . . . thus helping ensure that public demand for advanced veterinary medical services are being met while, at the same time, increasing our economic base.

Hopefully, these additional specialists will serve as a resource for our veterinary colleges who are becoming increasingly understaffed.

In the past fifteen years, we've seen a shift in the demographics of our profession. I'll bet there were plenty of raised eyebrows when McKillips College, in 1903, and the Chicago Veterinary College, in 1910, graduated our country's first female veterinarians. It's hard to believe that as recently as 1963 the profession included only 277 female veterinarians.

We're proud of the fact than an increasing number of our graduates are women. Their contributions and leadership have strengthened our profession. However, the recent AVMA-Pfizer study confirmed lower mean female incomes within the profession. Now is the time to explore solutions to that problem, and I will do everything in my power to ensure that this issue is thoroughly investigated and addressed.

To achieve unity, I firmly believe that we must be inclusive, not exclusive. The public has always been well served by the diversity in our practice areas. Now, we must diversify our membership. The AVMA . . . with more than 72,000 members representing 68 constituent organizations in the House of Delegates . . . must now seek to represent every race, creed and color. As a profession, we must mirror the public, and they us. We must become a profession more reflective of the population we serve.

Over thirty years ago, Dr. H.J. Magrane, then president of the AVMA, spoke often and passionately about the need for inclusion and equality in our profession. As a profession, we have still not made the advances in diversity that are necessary.

As the great social scientist Margaret Mead said . . . . "in diversity . . . we will add to our strength."

In order to achieve our diversity goals, we must initiate both practical and creative ideas to arrive at an enriched membership. It's up to us . . . all of us . . . to reach out to young people and to nurture their interests and talents so that we become the shining example of professional diversity. We need to be involved in youth groups, in churches, and in our public schools . . . and united in our quest, so that others say, "we must emulate the AVMA."

Once in veterinary school, our students . . . all our students . . . need to know that we, as a profession, are there to mentor and to help them through the special challenges they face. None of us got to where we are today without at least one special person . . . one special veterinarian . . . who took us under his or her wing and proved to be our own, personal cornerstone. We can do no less for those who are striving today to become members of our profession.

In what programs is the AVMA currently involved concerning diversity? First, at its April 2005 meeting, the Board approved the establishment of a Task Force on Diversity. That task force will recommend steps that we must take to meet our goals in diversity.

But here's something you can do in the immediate future. Tomorrow, our convention will offer a full day diversity symposium, including an appearance by Doctor Debbye Turner, veterinarian, former Miss America and contributor to the CBS early show. I hope many of you will plan on spending part of your day attending these important meetings, if time permits.

Diversity will also be an integral part of the 2006 Veterinary Leadership Conference. Each of these opportunities is designed to help us achieve the diversity we've talked about for so long.

So what's on our want list for 2005? As I've mentioned, critical shortages exist in food animal and public health veterinarians. But we also are desperately in need of teachers and researchers. We need policy experts and homeland security professionals. We need legislative leaders, and we need veterinarians who are visionaries and who can lead us in this era of globalization. There exists such critical shortages in so many areas that some days I wonder if our small numbers can, in fact, make a difference.

But then I am asked to speak somewhere. And I look at the enthusiastic faces in my audience . . . established veterinarians who are deeply involved in their state and local associations, students who live and breathe only to count off the days until they can touch their dream, high school students with straight A's who are anxious to know what else they have to do to make it into veterinary school, third graders with a commitment to animals that rivals the grit and determination of a Jack Russell terrier . . . and I know that we will not only survive . . . but thrive.

As I've said, my presidency will be dedicated to re-energizing the unity that has always been our strength and foundation. As another president from the northeast, John F. Kennedy, once said, "Let us not be blind to our differences—but let us also direct attention to our common interests."

Ladies and gentlemen, our common interests are so much greater than our differences. Like the society and world around us, we are changing. And change is never easy. But with your help, and our combined dedication and attention to preserving and protecting our unity of purpose, we will thrive and remain one of the most admired and respected professions in the world.

During the coming year, I will be looking to you for help. I will listen . . . and I will participate. I will follow your lead . . . and I will lead to enlighten. I implore each of you to participate in this great organization and make it your own. For you are the teachers . . . you are the visionaries . . . you are veterinary medicine.

Thank you.

NATIONAL HERITAGE FELLOWSHIP

Mr. OBAMA. Mr. President, today I rise to congratulate an Illinois resident who has received national recognition for her contributions to the American artistic community. Ms. Albertina Walker of Chicago, the "Queen of Gospel Music," has been selected to receive a National Heritage Fellowship by the National Endowment for the Arts, NEA.

The highest honor in the field of folk and traditional arts, these fellowships are awarded to 12 outstanding artists each year to recognize their contributions to their fields. They are selected based on their artistic excellence and cultural authencity.

National Heritage Fellowships are not open to application but are based on nominations from members of the public. Begun in 1982, these fellowships consist of a $20,000 grant and are part of the NEA's mission of supporting excellence in the arts, both new and traditional. Previous National Heritage Fellowship recipients have included such artists as B.B. King and John Lee Hooker.

The Grammy-award winning Ms. Walker is a native of Chicago and has been involved in gospel music for over 70 years. She has recorded over 60 albums and is an active member of West Point Missionary Baptist Church.

I thank the National Endowment for the Arts for its recognition of Ms. Walker's outstanding work and once again applaud Ms. Walker for her achievement.

ADDITIONAL STATEMENTS

125TH ANNIVERSARY OF BUFFALO, NORTH DAKOTA

• Mr. CONRAD. Mr. President, I rise today to recognize a community in North Dakota that will be celebrating its 125th anniversary. On July 14–17, the residents of Buffalo gathered to celebrate their community's history and founding.

Buffalo is a vibrant and active community in eastern North Dakota with a population of more than 200 people. Despite its small size, Buffalo holds an important place in North Dakota's history. Buffalo, like most small towns in North Dakota, got its start when the railroad stretched throughout the State. In 1883, the postmaster, Charles A. Wilder, named the community Buffalo in honor of the secretary of the Northern Pacific Railway, who was born in Buffalo, NY.

Buffalo has a very active historical society that has worked to restore two unique properties, the Old Stone Church and the 1916 High School, both of which are listed on the National Register of Historic Places. The restoration of the Old Stone Church, in particular, has received national attention. In 1999, it was awarded a National Trust for Historic Preservation Honor Award. Buffalo is the only community in North Dakota to ever receive the award, and it is the smallest community in the Nation to ever receive the award. The restoration of this prairie church united the community and preserved an important piece of our State's history. The residents of Buffalo can be extremely proud of their efforts to preserve these historic places.

For those who call Buffalo home, it is a comfortable place to live, work, and play. Today, Buffalo is home to a café, gas station and repair shop, bank, day care, heritage museum and much more. The community had a wonderful celebration that included an all school reunion, parade, car show, street dance, fireworks, and games.

I ask the Senate to join in me congratulating Buffalo, ND, and its residents on their first 125 years and in wishing them well through the next century. By honoring Buffalo and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Buffalo that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Buffalo has a proud past and a bright future.•

TRIBUTE TO THE TOWNS OF MOORESTOWN AND CHATHAM, NEW JERSEY

• Mr. CORZINE. Mr. President, I rise today to pay tribute to Moorestown and Chatham, NJ, on being named two of the best places in the country to live. It is only fitting that an acclaimed national magazine recognized what I have always known—New Jersey is a great State in which to live.

Moorestown and Chatham received these top honors based upon the following criteria: business climate, economic well being, quality of life, and a positive environment in which to work and raise a family. New Jersey's tourism industry, scenic beauty, low crime rate, high-quality education, community spirit, parks and recreation, make my State attractive for many families and businesses.

Moorestown, a 15-square-mile, tree-lined, suburban town, was named the No. 1 place to live in America. This lovely little hamlet, located in Burlington County, prides itself on its historic buildings, charming customs, and social conscience. One of its nicest traditions is its "Random Act of Kindness Week," a time when its citizens are encouraged to practice the virtue of good deeds, not only for the neediest, but for their next-door neighbors as well. Only moments away from Philadelphia, it has a booming economy with numerous manufacturing facilities, high-tech firms, and defense contractors. Moorestown is also home to many cultural arts venues and recreational facilities. As many of the families that have lived there for generations will tell you, this town is truly the perfect place to raise a family and call home.

One of our other great towns, Chatham, NJ, was ranked the ninth most desirable place to live in the country. This small wonder of Morris County, sits on the banks of the Passaic River, and is home to many of the historic manufacturing plants of the late 1800s and early 1900s. Today, Chatham relies on many major technology and communications firms to help boost this small metropolis to the forefront of the Nation. Chatham is a great place to raise a family as well, with its many fine schools and close proximity to New York City. It is also home to a national wildlife refuge, which residents fought to protect from developers.

It is no surprise that my home State of New Jersey is the only place with two towns in the top 10 list. Moorestown and Chatham both deserve these high honors. I applaud the local officials, enterprising business men and women, and the committed citizens of these great towns. I am proud to represent them in the U.S. Senate, and wish them all the best in the future.●

A TRIBUTE TO THE AFRICAN METHODIST EPISCOPAL CHURCH

● Mr. BROWNBACK. Mr. President, it gives me great pleasure to rise today and to honor the work of the Women's Missionary Society of the African Methodist Episcopal Church, whose annual conference will be held in my home State of Kansas. As you may know, the African Methodist Episcopal Church has a magnificent and marvelous history in this country. The A.M.E. Church was the first African American Church founded in this Nation. Borne out of the struggle to worship our almighty and benevolent Father without persecution, the A.M.E. Church was founded in order that African Americans could worship freely. And unlike the churches of their time, the co-founder, Bishop Richard Allen, insured that any person regardless of race, creed, or color could worship in church.

It is with that spirit and the spirit of benevolence toward one another that the Women's Missionary Society was formed. Through the vision of Mrs. Sarah Allen, the wife of Bishop Richard Allen, there was formed the Women's Missionary Society of the African Methodist Episcopal Church in an effort to mobilize and encourage women in the area of missions. Today the missionary society is still committed to spreading the principles of Christian love and boasts a membership of over 800,000 worldwide. It is their charge and duty to serve God in all they do and to assist in the progression of serving all people worldwide.

Indeed, the Women's Missionary Society has a wonderful 130 year history within the A.M.E. Church. In early 1900s the Kansas/Nebraska Conference Branch Women's Missionary Society was formed. At this time, Kansas/Nebraska conference began to serve and meet the needs of the church and the community. During their 130 year history, the Missionary Society encountered many social challenges. And holding true to their legacy, they learned to adjust, adapt, and to be of service to the A.M.E. Church and the African American community. As a conference, they sponsor and hold workshops and seminars to educate the A.M.E. Church and the community on social issues that affect the Black community daily.

The Kansas/Nebraska Missionary Society has had several Episcopal supervisors who met the challenges of mission with the A.M.E. Church and the African American community in general. Today, the missionary society has opened a new chapter of missions with a Supervisor who has a global mission to serve abroad as well as at home. Reverend Dr. Cecelia Williams Bryant, who is affectionately known as "Rev. C."

Holding true to the A.M.E. Church legacy, Rev "C" is a true visionary. Under the direction of Rev. "C," the missionary society will create opportunities for those in need, obtain resources for the changing needs and work to address the concerns of people throughout the world. They will also offer aid and assistance to women's organizations throughout the world as well. They also plan to pray and enthusiastically send the message throughout the Nation and the world that prayer will and can make a difference.

On the evening of September 6, 2005, at St. John African Methodist Episcopal Church, Topeka, KS, the Kansas/Nebraska Conference Branch Women's Missionary Society of the African Methodist Episcopal Church will proclaim "The Healing of the Nations" as they explore and tell the story of the women in the Democratic Republic of the Congo, India and the Boothheel of Missouri.

Mr. President, it is quite evident that the Kansas/Nebraska Women's Missionary Society is ready to accept the challenges to move forward and continue to serve this Nation and the world in the areas of missions.●

HONORING THE COMMUNITY OF COLMAN, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, I rise today to honor and publicly recognize the 125th anniversary of the founding of the town of Colman, South Dakota. On August 13, 2005, Colman citizens celebrate their community's proud past as well as their hope for a promising future.

Located in Moody County, Colman is a small community nestled amongst the fertile farmland of eastern South Dakota. The town got its start with the help of the railroad, specifically the Milwaukee line, as it made its way into the western United States. Platted in 1880, Colman was originally named Allenson, in honor of the Allen family who donated the town site in 1880. Not long thereafter, however, it was renamed Colman, honoring the town's prosperous Colman Lumber Company.

Colman experienced a great deal of economic prosperity in the early 20th century. Although only a fraction of the businesses Main Street once boasted are still in operation, it is clear Colman was a lively, self-sufficient city with a variety of goods and services to offer. The bustling community included a grain elevator, a flourishing mill, both a dairy and dairy delivery service, a trucking service, a doctor, a weekly newspaper, and a theater that showed movies every night of the week. One of Colman's oldest businesses is the Farmers Cooperative Elevator, which is still in use today. Although it was established in 1898, the structure was destroyed and had to be rebuilt in 1941. Additionally, Colman's first school was a one-room building near the western outskirts of the town.

On January 28, 1901, the first issue of The Colman Argus was published by Bert H. Berry. In April of that year, Berry sold the weekly paper to F.F. French, who owned and edited it until his death in 1931. French's son, F. Philo French, continued to print the publication for the next 26 years, and then passed it on in 1957 to his widow, Lulu French, who eventually sold the paper in 1971, upon her retirement.

In the last three decades, Colman has evolved into a peaceful and quiet community that is great for retirees, those raising children, and everyone in between. The curtailment of the railroad, in addition to the improvement of roads and alternate routes that sidestepped Colman, caused people to travel to larger towns in the State to conduct their business. Nevertheless, technology and progress can never touch the firm resolve and remarkable work ethic that is characteristic of the great people of this country's heartland. The innovation and determination of the individuals who had the courage to make a home for themselves on the plains of the Dakotas serves as inspiration to all those who believe in the honest pursuit of their dreams. Colman's proud 560 residents celebrate their city's vibrant 125 year history and the legacy of the pioneer spirit on August 13th, 2005.●

MESSAGES FROM THE HOUSE

At 12:18 p.m., a message from the House of Representatives, delivered by Ms. Brandon, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1797. An act to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.

H.J. Res. 59. Joint resolution expressing the sense of Congress with respect to the women suffragists who fought for and won the right of women to vote in the United States.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 181. Concurrent resolution supporting the goals and ideals of National Life Insurance Awareness Month, and for other purposes.

At 1:54 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 904. An act to designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, as the "Brian P. Parrello Post Office Building".

The message also announced that the House disagree to the amendments of the Senate to the bill H.R. 2985 making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House: Mr. LEWIS of California, Mr. KINGSTON, Ms. GRANGER, Mr. DOOLITTLE, Mr. LAHOOD, Mr. OBEY, Mr. HOYER, and Mr. MORAN of Virginia.

At 4:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagree to the amendment of the Senate to the bill H.R. 2361 making appropriations for the Department of the Interior, environment, and related agencies for fiscal year ending September 30, 2006, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House: Mr. TAYLOR of North Carolina, Mr. LEWIS of California, Mr. WAMP, Mr. PETERSON of Pennsylvania, Mr. SHERWOOD, Mr. ISTOOK, Mr. ADERHOLT, Mr. DOOLITTLE, Mr. SIMPSON, Mr. DICKS, Mr. OBEY, Mr. MORAN of Virginia, Mr HINCHEY, Mr. OLVER, and Mr. MOLLOHAN.

MEASURES REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 181. Concurrent resolution supporting the goals and ideals of National Life Insurance Awareness Month, and for other purposes; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1797. An act to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3177. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the 2004 Annual Report of the National Institute of Justice; to the Committee on the Judiciary.

EC–3178. A communication from the Director, National Legislative Commission, The American Legion, transmitting, pursuant to law, a report relative to the financial condition of the American Legion as of December 31, 2004; to the Committee on the Judiciary.

EC–3179. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Authority for Practitioners To Dispense or Prescribe Approved Narcotic (Opioid) Controlled Substances for Maintenance or Detoxification Treatment" (RIN1117–AA68) received on July 21, 2005; to the Committee on the Judiciary.

EC–3180. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Clarification of the Exemption of Sales by Retail Distributors of Pseudoephedrine and Phenylpropanolamine Products" (Docket No. DEA–239T) received on July 21, 2005; to the Committee on the Judiciary.

EC–3181. A communication from the Assistant Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Establishment of the High Valley Viticultural Area (2003R–361P)" ((RIN1513–AA79)(T.D. TTB–30)) received on July 21, 2005; to the Committee on the Judiciary.

EC–3182. A communication from the Assistant Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Establishment of the Alexandria Lakes Viticultural Area (2002R–152R)" ((RIN1513–AA45)(T.D. TTB–29)) received on July 21, 2005; to the Committee on the Judiciary.

EC–3183. A communication from the Assistant Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Establishment of the Horse Heaven Hills Viticultural Area (2002R–103P)" ((RIN1513–AA91)(T.D. TTB–28)) received on July 21, 2005; to the Committee on the Judiciary.

EC–3184. A communication from the Deputy Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Assistant Administrator for Administration and Resources Management, received on July 21, 2005; to the Committee on Environment and Public Works.

EC–3185. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Administrator for Water, received July 21, 2005; to the Committee on Environment and Public Works.

EC–3186. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination confirmed for the position of General Counsel, received July 21, 2005; to the Committee on Environment and Public Works.

EC–3187. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Administrator, received July 21, 2005; to the Committee on Environment and Public Works.

EC–3188. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination for the position of Assistant Administrator for Enforcement and Compliance Assurance, received July 21, 2005; to the Committee on Environment and Public Works.

EC–3189. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a vacancy and a nomination for the position of Deputy Administrator, received July 21, 2005; to the Committee on Environment and Public Works.

EC–3190. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a change in previously reported information and the discontinuation of service in the acting role for the position of Assistant Administrator for Solid Waste and Emergency Response, received July 21, 2005; to the Committee on Environment and Public Works.

EC–3191. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental Protection Agency, transmitting, pursuant to law, the report of the designation of an acting officer and a change in previously submitted reported information for the position of Assistant Administrator for Research and Development, received July 21, 2005; to the Committee on Environment and Public Works.

EC–3192. A communication from the Assistant Administrator, Office of Administration and Resource Management, Environmental

Protection Agency, transmitting, pursuant to law, the report of a change in previously submitted reported information and the discontinuation of service in the acting role for the position of Assistant Administrator for Prevention, Pesticides and Toxic Substances, received July 21, 2005; to the Committee on Environment and Public Works.

EC–3193. A communication from the Acting Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Export and Import of Nuclear Equipment and Material: Nuclear Grade Graphite" (RIN3150–AH51) received on July 21, 2005; to the Committee on Environment and Public Works.

EC–3194. A communication from the Acting Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "List of Approved Spent Fuel Storage Casks: VSC–24 Revision" (RIN3150–AH70) received on July 21, 2005; to the Committee on Environment and Public Works.

EC–3195. A communication from the Under Secretary of Defense for Acquisition, Technology and Logistics, transmitting, pursuant to law, the National Defense Stockpile (NDS) Annual Materials Plan (AMP) for Fiscal Year 2006, and revisions to the Fiscal Year 2005 AMP; also included are AMPs for Fiscal Years 2007 through 2010; to the Committee on Armed Services.

EC–3196. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of vice admiral; to the Committee on Armed Services.

EC–3197. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of lieutenant general; to the Committee on Armed Services.

EC–3198. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of lieutenant general; to the Committee on Armed Services.

EC–3199. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of general; to the Committee on Armed Services.

EC–3200. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (6 subjects on 1 disc beginning with "Inquiry Response on Rock Island Questions and Request for Clarification") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3201. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (8 subjects on 1 disc beginning with "DoD Response to BRAC Commission's Questions for the Record Resulting from the July 18, 2005, Hearing") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3202. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Geographic Use of the Term 'United States' " (DFARS Case 2001–D003) received on July 21, 2005; to the Committee on Armed Services.

EC–3203. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Contractor Access to Sensitive Information" (RIN2700–AC60) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3204. A communication from the Under Secretary and Director, Patent and Trademark Office, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revision of Search and Examination Fees for Patent Cooperation Treaty Applications Entering the National Stage in the United States" (RIN0651–AB84) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3205. A communication from the Under Secretary and Director, Patent and Trademark Office, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Requirements to Receive a Reduced Fee for Filing an Application through the Trademark Electronic Application System" (RIN0651–AB88) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3206. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commefce, transmitting, pursuant to law, the report of a rule entitled "Licensing Policy for Entities Sanctioned under Specified Statutes; License Requirement for Certain Sanctioned Entities; and Imposition of License Requirement for Tula Instrument Design Bureau" (RIN0694–AD24) received on July 21 2005; to the Committee on Commerce, Science, and Transportation.

EC–3207. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery, Final Rule Amending the PSP Emergency Closure" (RIN0648–AT51) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3208. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Amendment 15" (RIN0648–AS53) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3209. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Implement Amendment 10 to Alaska Scallop FMP" (RIN0648–AS90) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3210. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Emergency Fishery Closure Due to the Presence of the Toxin that Causes Paralytic Shellfish Poisoning" (RIN0648–AT48) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3211. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific: Pacific Halibut Fisheries; Oregon Sport Fisheries; Temporary Rule; Inseason Adjustment" (I.D. No. 061605B) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3212. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Inseason Adjustments" (I.D. No. 062705B) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3213. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Adjustment of the Quarter III Quota Allocation for Loligo Squid" (I.D. No. 062205A) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3214. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2005 Trip Authorization for Closed Area II Yellowtail Flounder Special Access Program" (I.D. No. 030705D) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3215. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Closure of the Full-time Tier 2 Permit Category for the Tilefish Fishery for Fishing Year 2005" (I.D. No. 061705B) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3216. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Prohibiting Directed Fishing for Rock Sole in the Bering Sea and Aleutian Islands Management Area" (I.D. No. 062705A) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3217. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Summer Flounder; Summer Flounder Fishery; Commercial Summer Flounder Quota Transfer from Rhode Island to Other States" (I.D. No. 061505C) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3218. A communication from the Fishery Policy Analyst, Office of Sustainable

Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Implement 2005 Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries" (RIN0648-AS21) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3219. A communication from the Assistant Administrator for Fisheries, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 2005 Management Measures" ((RIN0648-AS58) (I.D. No. 042505B)) received on July 21 2005; to the Committee on Commerce, Science, and Transportation.

EC-3220. A communication from the Deputy Assistant Administrator for Operations, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific: Coastal Pelagic Species Fisheries; Annual Specifications: Pacific Sardine Fishery" ((RIN0648-AS17) (I.D. No. 112404B)) received on July 21, 2005; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1281. A bill to authorize appropriations for the National Aeronautics and Space Administration for science, aeronautics, exploration, exploration capabilities, and the Inspector General, and for other purposes, for fiscal years 2006, 2007, 2008, 2009, and 2010 (Rept. No. 109–108).

By Mr. BOND, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 3058. A bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes (Rept. No. 109–109).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR for the Committee on Foreign Relations.

*Henrietta Holsman Fore, of Nevada, to be an Under Secretary of State (Management).

*Josette Sheeran Shiner, of Virginia, to be an Under Secretary of State (Economic, Business, and Agricultural Affairs).

*Karen P. Hughes, of Texas, to be Under Secretary of State for Public Diplomacy, with the rank of Ambassador.

*Kristen Silverberg, of Texas, to be an Assistant Secretary of State (International Organization Affairs).

*Jendayi Elizabeth Frazer, of Virginia, to be an Assistant Secretary of State (African Affairs).

*Henry Crumpton, of Virginia, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large.

*James Cain, of North Carolina, to be Ambassador to Denmark.

Nominee: James Palmer Cain.

Post: U.S. Ambassador to the Kingdom of Denmark.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. James P. Cain: $865.00, 1/2005, N.C. Republican Party; $300.00, 7/2004, N.C. Republican Party; $199.00, 3/32004, N.C. Republican Party; $500.00, 11/2003, N.C. Republican Party; $2,000.00, 7/2003, Bush/Cheney '04; $1.0000.00, 4/2003, N.C. Republican Party; $1,000.00, 4/2003, Burr for U.S. Senate; $1,000.00, 11/2002, N.C. Republican Party; $1,000.00, 11/2002, Dole N.C. Victory Committee; $1,000.00, 11/2002, Dole for U.S. Senate; $250.00, 10/2002, Grant for Congress; $100.00, 2/2002, Grant for Congress; $1,000.00, 1/2002, Dole for U.S. Senate; $500.00, 10/2001, N.C. Republican Party; $100.000, 11/2000, Bush Cheney Recount Fund; $1,000.00, 6/2000, Shuster for Congress.

2. Helen R. Cain—wife of nominee: $1,000.00, 5/2004, Broyhill for Congress; $2,000.00, 7/2003, Bush/Cheney '04; 1,000.00, 6/2000, Shuster for Congress.

3. Anne C. Cain—Age 15, N/A; Laura M. Cain—Age 12, N/A.

4. E. Lee and Patricia L. Cain—parents of nominee: $100.00, 11/2004, Richard Burr—Victory '04; $500.00, 92004, N.C. Republican Party; $10.00, 9/2004, NRCC; $15.00, 8/2004, NRCC; $25.00, 7/2004, NRSC; $15.00, 7/2004, New Republican Majority Fund; $2,000.00, 7/2004, RNC Presidential Trust; $25.00, 6/2004, Republican National Committee; $25.00, 6/2004, NRSC; $20.00, 6/2004, ARMPAC; $25.00, 2/2004, NRCC; $50.00, 2/2004, Republican National Committee; $25.00, 2/2004, N.C. Republican Executive Committee; $50.00, 2/2004, Republican National Committee; $25.00, 12/2003, Republican National Committee; $1,000.00, 10/2003, Bush/Cheney '04; $250.00, 10/2003, Ed Broyhill for Congress; $250.00, 10/2003, Jay Helvey for Congress; $1,000.00, 7/2003, Bush/Cheney '04; $25.00, 10/2002, Friends of Katherine Harris; $25.00, 10/2002, Republican Party of Florida; $1,000.00, 9/2002, Dole for Senate; $15.00, 12/2001, Republican National Committee; $1,000.00, 12/2001, Dole for Senate; $50.00, 10/2001, Republican National Committee; $25.00, 8/2001, Republican Presidential Task Force; $35.00, 7/2000, Bush for President; $25.00, 7/2000, Republican National Committee.

5. Arthur and Ethel Jones (maternal)—deceased; Palmer Dewey and Aretha Cain (paternal)—deceased.

6. Charles and Anne (Archibald) Cain: $2,000.00, 11/2003, Bush/Cheney '04.

Patrick and Sarah (Cross) Cain: none.

7. Nominee does not have any sisters: n/a.

*Alan W. Eastham, Jr., of Arkansas, to be Ambassador to the Republic of Malawi.

Nominee: Alan W. Eastham Jr.

Post: Lilongwe.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: none.

2. Spouse: Carolyn L. Eastham: none.

3. Children and Spouses: Mark A. Eastham: none.

Michael S.G. Eastham: none.

4. Parents: Alan W. Eastham—deceased; Ruth C. Eastham—deceased, 7/2004, none.

5. Grandparents: Thomas W. Eastham—deceased; Annie J. Eastham—deceased; Dewey T. Clayton—deceased—; Ruby P. Clayton—deceased.

6. Brothers and Spouses: Thomas C. Eastham—none; Jenny Lea Eastham—none; Craig L. Eastham—none; Dawn Deane—none.

7. Sisters and Spouses: none.

*Katherine Hubay Peterson, of California, to be Ambassador to Republic of Botswana.

Nominee: Katherine Hubay Peterson.

Post: Gaborone, Botswana.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: none.

2. Spouse: (Not applicable).

3. Children and Spouses: (Not applicable).

4. Parents: Paul Hubay (father)—deceased, 1/93; Ruth Davey Hubay (mother)—none.

5. Grandparents: Frederick Norton Davey and Ruth Johnson (both deceased); Joseph Hubay and Katherine Melnyk Hubay (both deceased).

6. Brothers and Spouses: (Not applicable).

7. Sisters and Spouses: Davey Hubay (divorced) $50.00, October 2004, Democratic National Committee.

*Michael Retzer, of Mississippi, to be Ambassador to the United Republic of Tanzania.

Nominee: Michael L. Retzer.

Post: Ambassador to the Republic of Tanzania.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: $4,000, 4/1/05, Mississippi Republican Party; $25,000, 5/2/05, Republican National Party (RNC); $5,000; 5/21/05, Haley Barbour for Governor; $200, 5/31/05, Trent Lott for Mississippi.

Nominee: Michael L. Retzer.

Post: Ambassador to the Republic of Tanzania.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Donee, date, and amount:

1. Self: $78,310.00: Ashcroft 2000, 08/27/2000, $1,000.00; Responsibility and Freedom Work PAC (RFWPAC): 10/11/2002, $1,000.00; 07/14/2003, $1,000.00; Trent Lott for Mississippi, 11/23/2004, $2,000.00; 11/23/2004, $2,000.00; John Thune for U.S. Senate, 09/30/2004, $2,000.00; Martinez for Senate, 10/01/2004, $2,000.00; Lisa Murkowski for U.S. Senate, 10/08/2004, $2,000.00; David Vitter for U.S. Senate, 09/30/2004, $2,000.00; Mississippi Republican Party, 02/02/2000, $1,000.00; 08/09/2000, $210.00; 11/29/2000, $850.00; 03/21/2001, $1,000.00; 09/18/2001, $4,000.00; 02/24/2003, $1,000.00; 05/16/2003, $2,000.00; 06/06/2003, $1,000.00; 06/18/2004, $5,000.00; Dunn Lampton for Congress, 03/25/2000, $1,000.00; 03/25/2000, $1,000.00; Committee to Elect Clinton B. Lesueur, 09/28/2001, $250.00; 05/04/2002, $500.00.

2. Spouse: N/A

3. Children and Spouses: Michael Jr., Bush-Cheney '04 INC, 6/20/2003, $2,000.00.

Kathryn, Alexander for Senate, 9/05/2002, $1,000.00.

4. Parents: Karl & Betty Retzer.

5. Grandparents: All deceased—Ruth Retzer, 1995; William Retzer, 1960; C.L. Crider, 1956; Ruth Crider, 1971.

6. Brothers and Spouses: Bill Retzer, Doug OSE for Congress, 5/16/2000, $1,000.00.

Jere Retzer.

7. Sisters and Spouses: none.

*Gillian Arlette Milovanovic, of Pennsylvania, to be Ambassador to the Republic of Macedonia.

Nominee: Gillian Arlette Milovanovic.

Post: Ambassador to Macedonia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: Zlatibor Radmilo Milovanovic—none other than IRS form one dollar check off.

3. Children and Spouses: Alexandra Helene Milovanovic—none.

Anna Michele Milovanovic—none.

4. Parents: Andre Pesche—deceased, none.

Annette Roussel-Pesche—deceased, may have given something but I don't have any information.

5. Grandparents: Mary and Meyer Rosenson—deceased, none I know of.

Germaine and Robert Pesche—deceased, none.

Brothers and Spouses: no brothers.

Sisters and Spouses: no sisters.

By Mr. ROBERTS for the Select Committee of Intelligence.

*Janice B. Gardner, of Virginia, to be Assistant Secretary for Intelligence and Analysis, Department of the Treasury.

*Benjamin A. Powell, of Florida, to be General Counsel of the Office of the Director of National Intelligence.

*John S. Redd, of Georgia, to be Director of the National Counterterrorism Center, Office of the Director of National Intelligence.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. McCAIN (for himself, Mr. DORGAN, and Mr. JOHNSON):

S. 1480. A bill to establish the treatment of actual rental proceeds from leases of land acquired under an Act providing for loans to Indian tribes and tribal corporations; considered and passed.

By Mr. McCAIN:

S. 1481. A bill to amend the Indian Land Consolidation Act to provide for probate reform; considered and passed.

By Mr. McCAIN (for himself and Mr. DORGAN):

S. 1482. A bill to amend the Act of August 9, 1955, to provide for binding arbitration for Gila River Indian Community Reservation Contracts; considered and passed.

By Mr. McCAIN (for himself and Mr. DORGAN):

S. 1483. A bill to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to modify the definition of "Indian student count"; considered and passed.

By Mr. REID (for himself and Mr. DORGAN):

S. 1484. A bill to amend the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990; considered and passed.

By Ms. CANTWELL (for herself and Mr. DORGAN):

S. 1485. A bill to amend the Act of August 9, 1955, to extend the authorization of certain leases; considered and passed.

By Mr. SANTORUM:

S. 1486. A bill to extend the suspension of duty on Baytron M; to the Committee on Finance.

By Mr. SANTORUM:

S. 1487. A bill to suspend temporarily the duty on Sorafenib; to the Committee on Finance.

By Mr. VITTER (for himself, Mr. COBURN, Mr. INHOFE, Mr. CRAPO, Mr. THUNE, Mr. LOTT, Mr. BUNNING, Mr. BURNS, and Mr. ENSIGN):

S. 1488. A bill to withhold funding from the United Nations if the United Nations abridges the rights provided by the Second Amendment to the Constitution, and for other purposes; to the Committee on Foreign Relations.

By Mrs. CLINTON (for herself and Mr. DeWINE):

S. 1489. A bill to amend the Public Health Service Act with regard to research on asthma, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. ALLEN, and Mr. WARNER):

S. 1490. A bill to amend the Federal Water Pollution Control Act to require environmental accountability and reporting and to reauthorize the Chesapeake Bay Program; to the Committee on Environment and Public Works.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. ALLEN, and Mr. SANTORUM):

S. 1491. A bill to amend the Federal Water Pollution Control Act to provide assistance for nutrient removal technologies to States in the Chesapeake Bay watershed; to the Committee on Environment and Public Works.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ALLEN):

S. 1492. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a pilot program to make grants to eligible institutions to develop, demonstrate, or disseminate information on practices, methods, or techniques relating to environmental education and training in the Chesapeake Bay Watershed; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. ALLEN, and Mr. SANTORUM):

S. 1493. A bill to require the Secretary of Agriculture to establish a program to expand and strengthen cooperative efforts to restore and protect forests in the Chesapeake Bay watershed, and for other purposes; to the Committee on Agriculture, Nutrition and Forestry.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ALLEN):

S. 1494. A bill to amend the National Oceanic and Atmospheric Administration Authorization Act of 1992 to establish programs to enhance protection of the Chesapeake Bay, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN (for himself and Mr. COBURN):

S. 1495. A bill to prohibit Federal agencies from obligating funds for appropriations earmarks included only in congressional reports, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CRAPO (for himself, Mrs. LINCOLN, Mr. LOTT, and Mr. NELSON of Nebraska):

S. 1496. A bill to direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps; to the Committee on Environment and Public Works.

By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 1497. A bill to require the Secretary of the Interior to provide incidental take permits to public electric utilities that adopt avian protection plans; to the Committee on Environment and Public Works.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 1498. A bill to direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District; to the Committee on Energy and Natural Resources.

By Mr. BUNNING (for himself and Mr. McCONNELL):

S. 1499. A bill to amend the Federal Power Act to provide for competitive and reliable electricity transmission in the Commonwealth of Kentucky; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU:

S. 1500. A bill to authorize the National Institute of Environmental Health Sciences to develop multidisciplinary research centers regarding women's health and disease prevention and to conduct and coordinate a research program on hormone disruption, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BURNS:

S. 1501. A bill to develop a program to acquire interests in land from eligible individuals within the Crow Reservation in the State of Montana, and for other purposes; to the Committee on Indian Affairs.

By Mr. CORZINE:

S. 1502. A bill to clarify the applicability of State law to national banks and Federal savings associations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FRIST (for himself, Mr. McCONNELL, Mr. GREGG, Mr. ENZI, Ms. MURKOWSKI, and Mr. DeMINT):

S. 1503. A bill to reduce healthcare costs, expand access to affordable healthcare coverage, and improve healthcare and strengthen the healthcare safety net, and for other purposes; to the Committee on Finance.

By Mr. SPECTER (for himself, Mr. CORZINE, Mr. LAUTENBERG, Mr. SCHUMER, and Ms. SNOWE):

S.J. Res. 21. A joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. LANDRIEU:

S. Res. 211. A resolution designating August 19, 2005, as "National Dyspraxia Awareness Day" and expressing the sense of the Senate that all Americans should be more informed of dyspraxia; to the Committee on the Judiciary.

By Mr. BROWNBACK:

S. Res. 212. A resolution expressing the sense of the Senate that the Federal Trade Commission should investigate the publication of the video game "Grand Theft Auto: San Andreas" to determine if the publisher deceived the Entertainment Software Ratings Board to avoid an "Adults Only" rating; to the Committee on Commerce, Science, and Transportation.

By Mr. FRIST (for himself and Mr. REID):

S. Res. 213. A resolution to authorize representation by the Senate Legal Counsel in the case of Keyter v. McCain, et al; considered and agreed to.

By Mr. FRIST (for himself and Mr. REID):

S. Res. 214. A resolution to authorize representation by the Senate Legal Counsel in the case of Jones v. Salt River Pima-Maricopa Indian Community, et al; considered and agreed to.

By Ms. LANDRIEU:

S. Con. Res. 47. A concurrent resolution paying tribute to the Africa-America Institute for its more than 50 years of dedicated service, nurturing and unleashing the productive capacities of knowledgeable, capable, and effective African leaders through education; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 211

At the request of Mrs. CLINTON, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 258

At the request of Mr. DEWINE, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 258, a bill to amend the Public Health Service Act to enhance research, training, and health information dissemination with respect to urologic diseases, and for other purposes.

S. 385

At the request of Mr. GRASSLEY, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 385, a bill to amend the Food Security Act of 1985 to restore integrity to and strengthen payment limitation rules for commodity payments and benefits.

S. 392

At the request of Mr. LEVIN, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Wisconsin (Mr. KOHL), the Senator from Connecticut (Mr. DODD), the Senator from Minnesota (Mr. DAYTON) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 397

At the request of Mr. CRAIG, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 485

At the request of Mr. CRAIG, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 485, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.

S. 516

At the request of Mr. LIEBERMAN, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 516, a bill to advance and strengthen democracy globally through peaceful means and to assist foreign countries to implement democratic forms of government, to strengthen respect for individual freedom, religious freedom, and human rights in foreign countries through increased United States advocacy, to strengthen alliances of democratic countries, to increase funding for programs of nongovernmental organizations, individuals, and private groups that promote democracy, and for other purposes.

S. 619

At the request of Mrs. FEINSTEIN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 619, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 627

At the request of Mr. HATCH, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from Georgia (Mr. ISAKSON), the Senator from Illinois (Mr. OBAMA) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 627, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 749

At the request of Mr. LEVIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 749, a bill to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements, and for other purposes.

S. 769

At the request of Ms. SNOWE, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 769, a bill to enhance compliance assistance for small businesses.

S. 781

At the request of Mr. CRAPO, the names of the Senator from Montana (Mr. BURNS) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 781, a bill to preserve the use and access of pack and saddle stock animals on land administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service on which there is a historical tradition of the use of pack and saddle stock animals, and for other purposes.

S. 859

At the request of Mr. SANTORUM, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 859, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 969

At the request of Mr. OBAMA, the names of the Senator from Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUYE) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 969, a bill to amend the Public Health Service Act with respect to preparation for an influenza pandemic, including an avian influenza pandemic, and for other purposes.

S. 1035

At the request of Mr. INHOFE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1035, a bill to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States.

S. 1064

At the request of Mr. COCHRAN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1064, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1126

At the request of Mr. SCHUMER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1126, a bill to provide that no Federal funds may be expended for the payment or reimbursement of a drug that is prescribed to a sex offender for the treatment of sexual or erectile dysfunction.

S. 1129

At the request of Mr. LUGAR, the name of the Senator from Georgia (Mr.

ISAKSON) was added as a cosponsor of S. 1129, a bill to provide authorizations of appropriations for certain development banks, and for other purposes.

S. 1171

At the request of Mr. SPECTER, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1171, a bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents, and for other purposes.

S. 1172

At the request of Mr. SPECTER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1183

At the request of Mr. WARNER, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1183, a bill to provide additional assistance to recipients of Federal Pell Grants who are pursuing programs of study in engineering, mathematics, science, or foreign languages.

S. 1289

At the request of Ms. MIKULSKI, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1289, a bill to provide for research and education with respect to uterine fibroids, and for other purposes.

S. 1343

At the request of Ms. LANDRIEU, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1343, a bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care.

S. 1355

At the request of Mr. ENZI, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1355, a bill to enhance the adoption of health information technology and to improve the quality and reduce the costs of healthcare in the United States.

S. 1367

At the request of Mr. ALEXANDER, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1367, a bill to provide for recruiting, selecting, training, and supporting a national teacher corps in underserved communities.

At the request of Mr. REID, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1367, supra.

S. 1411

At the request of Ms. SNOWE, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1411, a bill to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. 1418

At the request of Mr. ENZI, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1418, a bill to enhance the adoption of a nationwide inter operable health information technology system and to improve the quality and reduce the costs of health care in the United States.

S. 1419

At the request of Mr. LUGAR, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1419, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 1462

At the request of Mr. BROWNBACK, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1462, a bill to promote peace and accountability in Sudan, and for other purposes.

S. CON. RES. 44

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Con. Res. 44, a concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony to honor Constantino Brumidi on the 200th anniversary of his birth.

S. RES. 177

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Res. 177, a resolution encouraging the protection of the rights of refugees.

S. RES. 182

At the request of Mr. COLEMAN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Res. 182, a resolution supporting efforts to increase childhood cancer awareness, treatment, and research.

S. RES. 184

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. Res. 184, a resolution expressing the sense of the Senate regarding manifestations of anti-Semitism by United Nations member states and urging action against anti-Semitism by United Nations officials, United Nations member states, and the Government of the United States, and for other purposes.

AMENDMENT NO. 1348

At the request of Mrs. MURRAY, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of amendment No. 1348 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1349

At the request of Mrs. MURRAY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 1349 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1401

At the request of Mr. KENNEDY, the names of the Senator from Maine (Ms. SNOWE), the Senator from Rhode Island (Mr. REED), the Senator from Alabama (Mr. SESSIONS), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of amendment No. 1401 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1410

At the request of Mrs. FEINSTEIN, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 1410 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1435

At the request of Ms. STABENOW, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of amendment No. 1435 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1437

At the request of Mr. McCAIN, the names of the Senator from Virginia (Mr. WARNER) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of amendment No. 1437 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1444

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of amendment No. 1444 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1453

At the request of Mr. OBAMA, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 1453 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1477

At the request of Mr. COLEMAN, his name was added as a cosponsor of amendment No. 1477 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1529

At the request of Mr. VOINOVICH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of amendment No. 1529 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1557

At the request of Mr. McCAIN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of amendment No. 1557 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. ALLEN, and Mr. WARNER):

S. 1490. A bill to amend the Federal Water Pollution Control Act to require environmental—accountability and reporting and to reauthorize the Chesapeake Bay Program; to the Committee on Environment and Public Works.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. ALLEN, and Mr. SANTORUM):

S. 1491. A bill to amend the Federal Water Pollution Control Act to provide assistance for nutrient removal technologies to States in the Chesapeake Bay watershed; to the Committee on Environment and Public Works.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ALLEN):

S. 1492. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a pilot program to make grants to eligible institutions to develop, demonstrate, or disseminate information on practices, methods, or techniques relating to environmental education and training in the Chesapeake Bay Watershed; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. ALLEN, and Mr. SANTORUM):

S. 1493. A bill to require the Secretary of Agriculture to establish a program to expand and strengthen cooperative efforts to restore and protect forests in the Chesapeake Bay watershed, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ALLEN):

S. 1494. A bill to amend the National Oceanic and Atmospheric Administration Authorization Act of 1992 to establish programs to enhance protection of the Chesapeake Bay, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. SARBANES. Mr. President, today I am introducing a package of five measures to sustain and indeed renew the Federal commitment to restoring the water quality and living resources of the Chesapeake Bay watershed. Joining me in sponsoring one or more of these measures are my colleagues from Virginia, Pennsylvania, and Maryland, Senators WARNER, ALLEN, MIKULSKI, and SANTORUM.

In his 1984 State of the Union message, President Ronald Reagan called the Chesapeake Bay a "special national resource" and pledged $10 million a year for 4 years to "begin the long, necessary effort to clean up" the Bay. Today, despite more than 2 decades of effort and the investment of hundreds of millions of dollars on the part of Federal, State, and local governments and the private sector, the goal of a clean, restored Bay appears elusive. For the past 3 years, the Chesapeake Bay Foundation has given the Chesapeake Bay a failing grade of 27 out of 100 on its annual report card—far short of the "70" level believed necessary for the Bay to be declared "saved." The continued flood of sediments and nutrient pollution from sewage treatment plants, farms, urban runoff, and air deposition, combined with continued rapid growth in population and development in the watershed, is offsetting the progress that has been made to date in restoring the Bay. The Bay remains an "impaired water body" under the Clean Water Act, and Chesapeake Bay Program scientists are forecasting another summer of very low oxygen levels in the deep waters of the Bay, further stressing oysters, crabs, and other living resources. As author and naturalist Tom Horton points out in a recent National Geographic article, "No one had illusions that the work of the Chesapeake Bay Program, a massive Federal-State restoration effort, begun in 1983 and unmatched anywhere in the world, would be quick or easy. But no one anticipated that 22 years later we would still be struggling."

If the Bay is to be restored, we must redouble our efforts. Nitrogen pollution from all sources will have to be substantially reduced, thousands of acres of watershed property must be preserved, significant efforts must be made to restore living resources, and buffer zones to protect rivers and streams need to be created. Likewise, assistance to community organizations, local governments, and educational institutions at all levels must be expanded dramatically to help foster local stewardship and entice more of the 16 million residents who live in the watershed to play active roles in the efforts to restore the Bay.

The five measures that we are introducing are an important part of, but by no means the entire, solution for addressing the Bay's problems. Earlier in this Congress, Members from the Bay-area States, from both parties, joined with me in a letter to President Bush, urging him to make restoration of Chesapeake Bay a top environmental priority and to commit $1 billion in his budget as a down-payment towards restoring the Bay's water quality. We called upon the Secretary of Agriculture to release $100 million provided under the 2002 Farm Bill for farmers to test new, innovative techniques for reducing agricultural nutrient pollution in the Chesapeake Bay watershed. Under Senator WARNER's leadership, we succeeded in getting a provision in the Senate-passed SAFETEA legislation, which would provide more than $70 million for the Bay area States and local governments to mitigate the impacts of storm-water runoff from highways and related impervious surfaces. We have fought to prevent a significant cut in funding for the Clean Water State Revolving Fund. And we have continued to press the Administrator of the Environmental Protection Agency to ensure that the Clean Water Act is fully enforced. All these are critical components of a more comprehensive effort on the part of the Federal, State and local governments and the private sector that will be needed over the course of the next few years to restore the health of the Chesapeake Bay.

The first measure, the Chesapeake Bay Program Reauthorization and Environmental Accountability Act of 2005, would reauthorize and enhance EPA's Chesapeake Bay Program and would increase the program's accountability for improving the health of the Bay. The Chesapeake Bay Program, which has guided the clean-up effort for the past two decades, expires this year and must be reauthorized. Originally authorized in the Water Quality Act of 1987 and reauthorized in the Estuaries and Clean Water Act of 2000, the Chesapeake Bay Program provides support and coordination for Federal, State, and local efforts in developing strategies and action plans, conducting system-wide monitoring and assessment, implementing projects to restore and protect the Bay and its living resources, and communicating with the public about the Bay and efforts to restore and protect it.

Last year, Senator MIKULSKI, Senator WARNER, and I asked the Government Accountability Office to conduct a review of the Bay Program that would assess the overall restoration progress reported for the Bay; determine how progress is measured in the Bay watershed; and evaluate the effectiveness of Chesapeake Bay Program efforts to ensure that proper measures are being used. That study is nearing completion. Its preliminary findings recommend a number of improvements to the Program, which we have incorporated in this measure. The Chesapeake 2000 Agreement provides goals for the Bay, but the GAO found that EPA has not developed a plan to achieve these goals. Bay restoration has also been hampered by a lack of interim goals and time frames against which progress can be assessed. The legislation we are introducing today requires the EPA Administrator to develop an implementation plan for reaching the goals of the Chesapeake 2000 Agreement, including a timeline with specific annual goals for nutrient and sediment reduction, associated costs, and measures for assessing progress, and to prepare an annual report for Congress that describes the accomplishments of the previous year and the reductions likely to occur in the future. The legislation also directs the Administrator to publish and widely circulate annual "tributary report cards" that describe the progress made in achieving the nutrient and sediment reduction goals for each major tributary or tributary segment in the Bay watershed. These "report cards" will provide the public with a clear and accurate picture of the progress toward restoring the Bay, which is currently lacking. In addition, the Director of the Office of Management and Budget is to submit an annual report on Chesapeake Bay Program funding.

The second measure, the Chesapeake Bay Watershed Nutrient Removal Assistance Act, would establish a grants program in the Environmental Protection Agency to support the installation of nutrient reduction technologies at major wastewater treatment facilities in the Chesapeake Bay watershed. I first introduced this measure during the 107th Congress, and provisions of the legislation were included as part of S. 1961, the Water Investment Act of 2002, reported favorably by the Senate Environment and Public Works Committee. Unfortunately, no further action was taken on that legislation.

Despite important water quality improvements over the past decade, the overabundance of the nutrients nitrogen and phosphorus continues to rob the Bay of life-sustaining oxygen. Recent modeling of EPA's Bay Program has found that total nutrient discharges must be reduced by more than 40 percent from current levels to restore the Chesapeake Bay and its major tributaries to health. To do so, nitrogen discharges from all sources must be reduced drastically below current levels. Annual nitrogen discharges into the Bay will need to be cut by at least 100 million pounds from the current 275 million pounds to less than 175 million pounds. Municipal wastewater treatment plants, in particular, will have to reduce nitrogen discharges by nearly 75 percent.

In December 2004, the Chesapeake Bay Commission issued a report entitled "Cost-Effective Strategies for the Bay"; of the six most cost-effective strategies listed in that report, upgrading wastewater treatment plants is Number One. There are more than 300 significant municipal wastewater treatment plants in the Chesapeake Bay watershed. These plants contribute almost 60 million pounds of nitrogen per year—one-fifth—of the total load of nitrogen to the Bay. Upgrading these plants with nutrient removal technologies to achieve nitrogen levels of 3 mg/liter would remove as much as 30 million pounds of nitrogen in the Bay each year, or 30 percent of the total nitrogen reductions needed. Nutrient removal technologies have other benefits, as well. They provide significant savings in energy usage, 20–30 percent, in chemical usage, more than 50 percent, and in the amount of sludge produced, 5–15 percent. Furthermore, the benefits from upgrading sewage treatment plants have an immediate result on the Bay's water quality, unlike other methods that primarily affect nutrients in ground water and may take years to produce results. This legislation would provide grants for 55 percent of the capital cost of upgrading the plants with state-of-the-art nutrient removal technologies capable of achieving nitrogen levels of 3 mg/liter. Any publicly owned wastewater treatment plant which has a permitted design capacity to treat an annual average of 0.5 million gallons per day within the Chesapeake Bay watershed portion of New York, Pennsylvania, Maryland, West Virginia, Delaware, Virginia, and the District of Columbia would be eligible to receive these grants. As a signatory to the Chesapeake Bay Agreement, the EPA has an important responsibility to assist the states with financing these water infrastructure needs.

The third measure, the Chesapeake Bay Environmental Education Pilot Program Act, would establish a new environmental education program in the U.S. Department of Education for elementary and secondary school students and teachers within the Chesapeake Bay watershed. There is a growing consensus that a major commitment to education to promoting an ethic of responsible stewardship and citizenship among the 16 million people who live in the watershed is necessary if all of the other efforts to save the Bay are to succeed. Expanding environmental education and training opportunities will lead not only to a healthier Chesapeake Bay ecosystem but also to a more educated and informed citizenry, with a deeper understanding of and appreciation for the environment, their community, and their role in society as responsible citizens.

One of the principal commitments of the Chesapeake 2000 Agreement is to "provide a meaningful Bay or stream outdoor experience for every school student in the watershed before graduation from high school" beginning with the class of 2005. There are more than 3.3 million K–12 students in the watershed, and despite important efforts by Bay area states and not-for-profit organizations, only a very small percentage of these students have had the opportunity to engage in meaningful outdoor experiences or receive classroom environmental instruction. Many of the school systems in the Bay watershed are only at the beginning stages in developing and implementing environmental education into their curriculum, let alone exposing students to outdoor watershed experiences. What's lacking is not the desire or will, but the resources and training to undertake more comprehensive environmental education programs.

This legislation would authorize $6 million a year over the next four years in Federal grant assistance to help close the resource and training gap for students in the elementary and secondary levels in the Chesapeake Bay watershed. It would require a 50 percent non-Federal match, thus leveraging $12 million in assistance. The funding could be used to help design, demonstrate or disseminate environmental curricula and field practices, train teachers or other educational personnel, and support on-the-ground activities or Chesapeake Bay or stream outdoor educational experiences involving students and teachers, among other things. The program would complement the NOAA Bay Watershed Education and Training Program that we established several years ago.

The fourth measure, the Chesapeake Bay Watershed Forestry Act, would continue and enhance the USDA Forest Service's role in the restoration of the Chesapeake Bay watershed. Forest loss and fragmentation are occurring rapidly in the Chesapeake Bay region and are among the most important issues facing the Bay and forest management today. According to the National Resources Inventory, the States closest to the Bay lost 350,000 acres of forest between 1987 and 1997—almost 100 acres per day. More and more rural areas are being converted to suburban developments, resulting in smaller contiguous forest tracts. These trends are leading to a regional forest land base that is more vulnerable to conversion, is less likely to be economically viable in the future, and is losing its capacity to protect watershed health and other ecological benefits, such as controlling stormwater runoff, erosion and air pollution. Restoring and conserving forests is essential to sustaining the Bay ecosystem.

Since 1990, the USDA Forest Service has been an important part of the Chesapeake Bay Program. The Service has worked closely with Federal, State, and local partners in the six-state Chesapeake Bay region to demonstrate how forest protection, restoration, and stewardship activities can contribute to achieving the Bay restoration goals. With the signing of the Chesapeake 2000 Agreement, the role of the USDA Forest Service has become more important than ever. Among other provisions, this Agreement requires the signatories to conserve existing forests along all streams and shoreline; to promote the expansion and connection of contiguous forests; to assess the Bay's forest lands; and to provide technical and financial assistance to local governments to plan for or revise plans, ordinances, and subdivision regulations to provide for the conservation and sustainable use of the forest and agricultural lands.

This legislation codifies the role and responsibilities of the USDA Forest Service to the Bay restoration effort. It requires an evaluation of the urban and rural forests in the watershed. It strengthens existing coordination, technical assistance, forest resource assessment, and planning efforts for urban, suburban and rural areas of the Chesapeake Bay watershed. It authorizes a small grants program to support local agencies, watershed associations, and citizen groups in conducting on-the-ground conservation projects. It establishes a regional applied forestry research and training program to enhance urban, suburban and rural forests in the watershed. Finally it authorizes $3.5 million for each of fiscal years 2004 through 2010, a modest increase in view of the six-State, 64,000-square-mile watershed.

The fifth measure, the NOAA Chesapeake Bay Watershed Monitoring, Education, Training, and Restoration Act, would enhance the authorities of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration, NOAA, to address the goals and commitments of the Chesapeake 2000 Agreement with regard to living-resource restoration and education and training. It builds upon provisions contained in the Hydrographic Services Improvement Act Amendments of 2002, and addresses several urgent and unmet needs in the watershed. To help meet Bay-wide living resource education and training goals, it codifies the Bay Watershed Education and Training, or B-WET, Program—the first federally funded environmental education program focused solely on the Chesapeake Bay watershed—that we initiated in the Fiscal 2002 Commerce, Justice, State Appropriations bill; it establishes an aquaculture education program to assist with oyster and blue crab hatchery production; and it codifies the ongoing oyster restoration program and authorizes a new restoration program for submerged aquatic vegetation.

To better coordinate and organize the substantial amounts of weather, tide, habitat, water-quality and other data collected and compiled by Federal, State, and local government agencies and academic institutions and to make this information more useful to resource managers, scientists, and the public, this bill also establishes an integrated observing system for the Chesapeake Bay. This system will build on and coordinate existing monitoring and observing activities in the Bay and its watershed, and will include development of an internet-based system for integrating and disseminating the vast amounts of information available.

These measures would provide an important boost to our efforts to restore the Chesapeake Bay. They are strongly supported by the Chesapeake Bay Commission and the Chesapeake Bay Foundation. I ask unanimous consent that the text of the bills and supporting letters be printed in the RECORD. I urge my colleagues to join with us in supporting the measures and continue the momentum contributing to the improvement and enhancement of our Nation's most valuable and treasured natural resource.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1490

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chesapeake Bay Program Reauthorization and Environmental Accountability Act of 2005".

SEC. 2. CHESAPEAKE BAY ENVIRONMENTAL ACCOUNTABILITY AND REPORTING REQUIREMENTS.

Section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended—

(1) by redesignating subsection (j) as subsection (l);

(2) in subsection (e)(7), by inserting "by the Federal Government or a State government" after "funded" each place it appears; and

(3) by inserting after subsection (i) the following:

"(j) ENVIRONMENTAL ACCOUNTABILITY.—

"(1) IMPLEMENTATION PLAN.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall complete a plan for achieving the nutrient and sediment reduction goals described in the agreement entered into by the Chesapeake Executive Council entitled 'Chesapeake 2000' and dated June 28, 2000.

"(B) INCLUSIONS.—The plan shall include—

"(i) a timeline identifying—

"(I) annual goals for achieving the overall nutrient and sediment reduction goals; and

"(II) the estimated annual costs of reaching the annual goals identified under subclause (I);

"(ii) a description of any measure, including monitoring or modeling, that the Administrator will use to assess progress made toward achieving a goal described in subparagraph (A) in—

"(I) each jurisdictional tributary strategy basin of the Chesapeake Bay; and

"(II) the Chesapeake Bay watershed as a whole; and

"(iii) a description of any Federal or non-Federal activity necessary to achieve the nutrient and sediment reduction goals, including an identification of any party that is responsible for carrying out the activity.

"(2) ANNUAL TRIBUTARY HEALTH REPORT CARD.—

"(A) IN GENERAL.—Not later than January 31 of each year, the Administrator shall publish and widely circulate a 'tributary health report card' to evaluate, based on monitoring and modeling data, progress made during the preceding year (including any practice implemented during the year), and overall progress made, in achieving and maintaining nutrient and sediment reduction goals for each major tributary of the Chesapeake Bay and each separable segment of such a tributary.

"(B) BASELINE.—The baseline for the report card (referred to in this paragraph as the 'baseline') shall be the tributary cap load allocation agreement numbered EPA 903–R–03–007, dated December 2003, and entitled 'Setting and Allocating the Chesapeake Bay Basin Nutrient and Sediment Loads: The Collaborative Process, Technical Tools and Innovative Approaches'.

"(C) INCLUSIONS.—The report card shall include, for each jurisdictional tributary strategy basin of the Chesapeake Bay—

"(i) an identification of the total allocation of nutrients and sediments under the baseline;

"(ii) the monitored and modeled quantities of nitrogen, phosphorus, and sediment reductions achieved during the preceding year, expressed numerically and as a percentage of reduction;

"(iii) a list (organized from least to most progress made) that ranks the comparative progress made, based on the percentage of reduction under clause (ii), by each jurisdictional tributary strategy basin toward meeting the annual allocation goal of that jurisdictional tributary strategy basin for nitrogen, phosphorus, and sediment; and

"(iv) to the maximum extent practicable, an identification of the principal sources of pollutants of the tributaries, including airborne sources of pollutants.

"(D) USE OF DATA; CONSIDERATION.—In preparing the report, the Administrator shall—

"(i) use monitoring data and data submitted under paragraph (3)(A); and

"(ii) take into consideration drought and wet weather conditions.

"(3) ACTIONS BY STATES.—

"(A) SUBMISSION OF INFORMATION.—Not later than December 31 of each year, each of the States of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia and the District of Columbia shall submit to the Administrator information describing, for each jurisdictional tributary strategy basin of the Chesapeake Bay located in the State or District, for the preceding year—

"(i) the nutrient and sediment cap load allocation of the jurisdictional tributary strategy basin;

"(ii) the principal sources of nutrients and sediment in the jurisdictional tributary strategy basin, by category;

"(iii) for each category of pollutant source, the technologies or practices used to achieve reductions, including levels of best management practices implementation and sewage treatment plant upgrades; and

"(iv) any Federal, State, or non-Federal funding used to implement a technology or practice described in clause (iii).

"(B) AUDIT.—Not later than 1 year after the date of enactment of this subparagraph, and triennially thereafter, the Inspector General of the Environmental Protection Agency shall audit the information submitted by States under subparagraph (A) for accuracy.

"(C) FAILURE TO ACT.—The Administrator shall not make a grant to a State under this Act if the State fails to submit any information in accordance with subparagraph (A).

"(k) REPORTING REQUIREMENTS.—

"(1) OFFICE OF MANAGEMENT AND BUDGET.—

"(A) INITIAL REPORT.—Not later than 180 days after the date of enactment of this subsection, the Director of the Office of Management and Budget shall submit to the appropriate committees of the Senate and the House of Representatives a report describing the feasibility and advisability of—

"(i) combining into a single fund certain or all funds (including formula and grant funds) made available to each Federal agency to carry out restoration activities relating to the Chesapeake Bay; and

"(ii) notwithstanding any issue relating to jurisdiction, distributing amounts from that fund in accordance with the priority of water quality improvement activities identified under the Chesapeake Bay Program.

"(B) ANNUAL REPORT.—Not later than February 15 of each year, the Director of the Office of Management and Budget shall submit to the appropriate committees of the Senate and the House of Representatives a report containing—

"(i) an interagency crosscut budget that displays the proposed budget for use by each Federal agency in carrying out restoration activities relating to the Chesapeake Bay for the following fiscal year; and

"(ii) a detailed accounting of all funds received and obligated by Federal and State governments (including formula and grant funds, such as State revolving loan funds and agriculture conservation funds) to achieve the objectives of the Chesapeake Bay Program during the preceding fiscal year.

"(2) ENVIRONMENTAL PROTECTION AGENCY.—Not later than April 15 of each year, the Administrator, in cooperation with appropriate Federal agencies, as determined by the Administrator, shall submit to the appropriate committees of the Senate and the House of Representatives a report containing—

"(A)(i) an estimate of the reduction in levels of nutrients and sediments in the Chesapeake Bay and its tributaries; and

"(ii) a comparison of each estimated reduction under clause (i) and the appropriate annual goal described in the implementation plan under subsection (j)(1);

"(B) based on review by the Administrator of the budget and implementation plans of each Federal agency, and any tributary strategy of an appropriate State agency—

"(i) an estimate of the reductions in pollutants likely to occur as a result of each program of an agency under this section during the subsequent 1-year and 5-year periods, including—

"(I) an analysis of the success or failure of each program in achieving nutrient and sediment reduction; and

"(II) an estimated timeline during which a reduction in nutrient and sediment pollution will occur; and

"(ii) accounting for other trend data, an estimate of the actual reduction in the quantities of nutrients and sediments in the Chesapeake Bay and its tributaries from all sources that has occurred over the preceding 1-year and 5-year periods; and

"(C) the technical basis and reliability of each estimate under this paragraph.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended by striking subsection (l) (as redesignated by section 2) and inserting the following:

"(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.".

S. 1491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chesapeake Bay Watershed Nutrient Removal Assistance Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) nutrient pollution from point sources and nonpoint sources continues to be the most significant water quality problem in the Chesapeake Bay watershed;

(2) a key commitment of the Chesapeake 2000 agreement, an interstate agreement among the Administrator, the Chesapeake Bay Commission, the District of Columbia, and the States of Maryland, Virginia, and Pennsylvania, is to achieve the goal of correcting the nutrient-related problems in the Chesapeake Bay by 2010;

(3) by correcting those problems, the Chesapeake Bay and its tidal tributaries may be removed from the list of impaired bodies of water designated by the Administrator of the Environmental Protection Agency under section 303(d) of the Federal Water Pollution Control Act (33 U.S.C. 1313(d));

(4) more than 300 major sewage treatment plants located in the Chesapeake Bay watershed annually discharge approximately 60,000,000 pounds of nitrogen, or the equivalent of 20 percent of the total nitrogen load, into the Chesapeake Bay; and

(5) nutrient removal technology is 1 of the most reliable, cost-effective, and direct methods for reducing the flow of nitrogen from point sources into the Chesapeake Bay.

(b) PURPOSES.—The purposes of this Act are—

(1) to authorize the Administrator of the Environmental Protection Agency to provide financial assistance to States and municipalities for use in upgrading publicly-owned wastewater treatment plants in the Chesapeake Bay watershed with nutrient removal technologies; and

(2) to further the goal of restoring the water quality of the Chesapeake Bay to conditions that are protective of human health and aquatic living resources.

SEC. 3. SEWAGE CONTROL TECHNOLOGY GRANT PROGRAM.

The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following:

"TITLE VII—MISCELLANEOUS

"SEC. 701. SEWAGE CONTROL TECHNOLOGY GRANT PROGRAM.

"(a) DEFINITION OF ELIGIBLE FACILITY.—In this section, the term 'eligible facility' means a municipal wastewater treatment plant that—

"(1) as of the date of enactment of this title, has a permitted design capacity to treat an annual average of at least 500,000 gallons of wastewater per day; and

"(2) is located within the Chesapeake Bay watershed in any of the States of Delaware, Maryland, New York, Pennsylvania, Virginia, or West Virginia or in the District of Columbia.

"(b) GRANT PROGRAM.—

"(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this title, the Administrator shall establish a program within the Environmental Protection Agency to provide grants to States and municipalities to upgrade eligible facilities with nutrient removal technologies.

"(2) PRIORITY.—In providing a grant under paragraph (1), the Administrator shall—

"(A) consult with the Chesapeake Bay Program Office;

"(B) give priority to eligible facilities at which nutrient removal upgrades would—

"(i) produce the greatest nutrient load reductions at points of discharge; or

"(ii) result in the greatest environmental benefits to local bodies of water surrounding, and the main stem of, the Chesapeake Bay; and

"(iii) take into consideration the geographic distribution of the grants.

"(3) APPLICATION.—

"(A) IN GENERAL.—On receipt of an application from a State or municipality for a grant under this section, if the Administrator approves the request, the Administrator shall transfer to the State or municipality the amount of assistance requested.

"(B) FORM.—An application submitted by a State or municipality under subparagraph (A) shall be in such form and shall include such information as the Administrator may prescribe.

"(4) USE OF FUNDS.—A State or municipality that receives a grant under this section shall use the grant to upgrade eligible facilities with nutrient removal technologies that are designed to reduce total nitrogen in discharged wastewater to an average annual concentration of 3 milligrams per liter.

"(5) COST SHARING.—

"(A) FEDERAL SHARE.—The Federal share of the cost of upgrading any eligible facility as described in paragraph (1) using funds provided under this section shall not exceed 55 percent.

"(B) NON-FEDERAL SHARE.—The non-Federal share of the costs of upgrading any eligible facility as described in paragraph (1) using funds provided under this section may be provided in the form of funds made available to a State or municipality under—

"(i) any provision of this Act other than this section (including funds made available from a State revolving fund established under title VI); or

"(ii) any other Federal or State law.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $132,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

"(2) ADMINISTRATIVE COSTS.—The Administrator may use not to exceed 4 percent of any amount made available under paragraph (1) to pay administrative costs incurred in carrying out this section.".

S. 1492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chesapeake Bay Environmental Education Pilot Program Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) increasing public environmental awareness and understanding through formal environmental education and meaningful bay or stream field experiences are vital parts of the effort to protect and restore the Chesapeake Bay ecosystem;

(2) using the Chesapeake Bay watershed as an integrating context for learning can help—

(A) advance student learning skills;

(B) improve academic achievement in core academic subjects; and

(C)(i) encourage positive behavior of students in school; and

(ii) encourage environmental stewardship in school and in the community; and

(3) the Federal Government, acting through the Secretary of Education, should work with the Under Secretary for Oceans and Atmosphere, the Chesapeake Executive Council, State educational agencies, elementary schools and secondary schools, and nonprofit educational and environmental organizations to support development of curricula, teacher training, special projects, and other activities, to increase understanding of the Chesapeake Bay watershed and to improve awareness of environmental problems.

SEC. 3. CHESAPEAKE BAY ENVIRONMENTAL EDUCATION AND TRAINING GRANT PILOT PROGRAM.

Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7101 et seq.) is amended by adding at the end the following:

"PART D—CHESAPEAKE BAY ENVIRONMENTAL EDUCATION AND TRAINING GRANT PILOT PROGRAM

"SEC. 4401. DEFINITIONS.

"In this part:

"(1) BAY WATERSHED STATE.—The term 'Bay Watershed State' means each of the States of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia, and the District of Columbia.

"(2) CHESAPEAKE EXECUTIVE COUNCIL.—The term 'Chesapeake Executive Council' has the meaning given the term in section 307(d) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d(d)).

"(3) ELIGIBLE INSTITUTION.—The term 'eligible institution' means—

"(A) a public elementary school or secondary school located in a Bay Watershed State; and

"(B) a nonprofit environmental or educational organization located in a Bay Watershed State.

"(4) PROGRAM.—The term 'Program' means the Chesapeake Bay Environmental Education and Training Grant Pilot Program established under section 4402.

"SEC. 4402. CHESAPEAKE BAY ENVIRONMENTAL EDUCATION AND TRAINING GRANT PILOT PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish a grant program, to be known as the 'Chesapeake Bay Environmental Education and Training Grant Pilot Program', to make grants to eligible institutions to pay the Federal share of the cost of developing, demonstrating, or disseminating information on practices, methods, or techniques relating to environmental education and training in the Chesapeake Bay watershed.

"(b) FEDERAL SHARE.—The Federal share referred to in subsection (a) shall be 50 percent.

"(c) ADMINISTRATION.—The Secretary may offer to enter into a cooperative agreement or contract with the National Fish and Wildlife Foundation established by the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.), the Under Secretary for Oceans and Atmosphere, a State educational agency, or a nonprofit organization that carries out environmental education and training programs, for administration of the Program.

"(d) USE OF FUNDS.—An eligible institution that receives a grant under the Program shall use the funds made available through the grant to carry out a project consisting of—

"(1) design, demonstration, or dissemination of environmental curricula, including development of educational tools or materials;

"(2) design or demonstration of field practices, methods, or techniques, including—

"(A) assessments of environmental or ecological conditions; and

"(B) analyses of environmental pollution or other natural resource problems;

"(3) understanding and assessment of a specific environmental issue or a specific environmental problem;

"(4) provision of training or related education for teachers or other educational personnel, including provision of programs or curricula to meet the needs of students in various age groups or at various grade levels;

"(5) provision of an environmental education seminar, teleconference, or workshop for environmental education professionals or environmental education students, or provision of a computer network for such professionals and students;

"(6) provision of on-the-ground activities involving students and teachers, such as—

"(A) riparian forest buffer restoration; and

"(B) volunteer water quality monitoring at schools;

"(7) provision of a Chesapeake Bay or stream outdoor educational experience; or

"(8) development of distance learning or other courses or workshops that are acceptable in all Bay Watershed States and apply throughout the Chesapeake Bay watershed.

"(e) REQUIRED ELEMENTS OF PROGRAM.—In carrying out the Program, the Secretary shall—

"(1) solicit applications for projects;

"(2) select suitable projects from among the projects proposed;

"(3) supervise projects;

"(4) evaluate the results of projects; and

"(5) disseminate information on the effectiveness and feasibility of the practices, methods, and techniques addressed by the projects.

"(f) SOLICITATION OF APPLICATIONS.—Not later than 90 days after the date on which amounts are first made available to carry out this part, and each year thereafter, the Secretary shall publish a notice of solicitation for applications for grants under the Program that specifies the information to be included in each application.

"(g) APPLICATIONS.—To be eligible to receive a grant under the Program, an eligible institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

"(h) PRIORITY IN SELECTION OF PROJECTS.—In making grants under the Program, the Secretary shall give priority to an applicant that proposes a project that will develop—

"(1) a new or significantly improved environmental education practice, method, or technique, in multiple disciplines, or a program that assists appropriate entities and individuals in meeting Federal or State academic standards relating to environmental education;

"(2) an environmental education practice, method, or technique that may have wide application; and

"(3) an environmental education practice, method, or technique that addresses a skill or scientific field identified as a priority by the Chesapeake Executive Council.

"(i) MAXIMUM AMOUNT OF GRANTS.—Under the Program, the maximum amount of a grant shall be $50,000.

"(j) NOTIFICATION.—Not later than 3 days before making a grant under this part, the Secretary shall provide notification of the grant to the appropriate committees of Congress.

"(k) REGULATIONS.—Not later than 1 year after the date of enactment of the Chesapeake Bay Environmental Education Pilot Program Act, the Secretary shall promulgate regulations concerning implementation of the Program.

"SEC. 4403. EVALUATION AND REPORT.

"(a) EVALUATION.—Not later than December 31, 2009, the Secretary shall enter into a contract with an entity that is not the recipient of a grant under this part to conduct a detailed evaluation of the Program. In conducting the evaluation, the Secretary shall determine whether the quality of content, delivery, and outcome of the Program warrant continued support of the Program.

"(b) REPORT.—Not later than December 31, 2010, the Secretary shall submit a report to the appropriate committees of Congress containing the results of the evaluation.

"SEC. 4404. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated to carry out this part $6,000,000 for each of fiscal years 2006 through 2009.

"(b) ADMINISTRATIVE EXPENSES.—Of the amounts made available under subsection (a) for each fiscal year, not more than 10 percent may be used for administrative expenses.".

S. 1493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chesapeake Bay Watershed Forestry Program Act of 2005".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) trees and forests are critical to the long-term health and proper ecological functioning of the Chesapeake Bay and the Chesapeake Bay watershed;

(2) the Chesapeake Bay States are losing forest land to urban and suburban growth at a rate of nearly 100 acres per day;

(3) the Forest Service has a vital role to play in assisting States, local governments, and nonprofit organizations in carrying out forest conservation, restoration, and stewardship projects and activities; and

(4) existing programs do not ensure the support necessary to meet Chesapeake Bay forest goals.

(b) PURPOSES.—The purposes of this Act are—

(1) to expand and strengthen cooperative efforts to protect, restore, and manage forests in the Chesapeake Bay watershed; and

(2) to contribute to the achievement of the goals of the Chesapeake Bay Agreement.

SEC. 3. DEFINITIONS.

In this Act:

(1) CHESAPEAKE BAY AGREEMENT.—The term "Chesapeake Bay Agreement" means the formal, voluntary agreements—

(A) executed to achieve the goal of restoring and protecting the Chesapeake Bay ecosystem and the living resources of the Chesapeake Bay ecosystem; and

(B) signed by the Council.

(2) CHESAPEAKE BAY STATE.—The term "Chesapeake Bay State" means each of the States of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia and the District of Columbia.

(3) COORDINATOR.—The term "Coordinator" means the Coordinator of the program designated under section 4(b)(1)(B).

(4) COUNCIL.—The term "Council" means the Chesapeake Bay Executive Council.

(5) PROGRAM.—The term "program" means the Chesapeake Bay watershed forestry program carried out under section 4(a).

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, acting through the Chief of the Forest Service and the Coordinator.

SEC. 4. CHESAPEAKE BAY WATERSHED FORESTRY PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a Chesapeake Bay watershed forestry program under which the Secretary shall make grants and provide technical assistance to eligible entities to restore and conserve forests in the Chesapeake Bay watershed, including grants and assistance—

(1) to promote forest conservation, restoration, and stewardship efforts in urban, suburban, and rural areas of the Chesapeake Bay watershed;

(2) to accelerate the restoration of riparian forest buffers in the Chesapeake Bay watershed;

(3) to assist in developing and carrying out projects and partnerships in the Chesapeake Bay watershed;

(4) to promote the protection and sustainable management of forests in the Chesapeake Bay watershed;

(5) to develop communication and education resources that enhance public understanding of the value of forests in the Chesapeake Bay watershed;

(6) to conduct research, assessment, and planning activities to restore and protect forest land in the Chesapeake Bay watershed; and

(7) to contribute to the achievement of the goals of the Chesapeake Bay Agreement.

(b) OFFICE; COORDINATOR.—

(1) IN GENERAL.—The Secretary shall—

(A) maintain an office within the Forest Service to carry out the program; and

(B) designate an employee of the Forest Service as Coordinator of the program.

(2) DUTIES.—As part of the program, the Coordinator, in cooperation with the Secretary and the Chesapeake Bay Program, shall—

(A) provide grants and technical assistance to restore and protect forests in the Chesapeake Bay watershed;

(B) enter into partnerships to carry out forest restoration and conservation activities at a watershed scale using the resources and programs of the Forest Service;

(C) in collaboration with other units of the Forest Service, other Federal agencies, and State forestry agencies, carry out activities that contribute to the goals of the Chesapeake Bay Agreement;

(D) work with units of the National Forest System in the Chesapeake Bay watershed to ensure that the units are managed in a manner that—

(i) protects water quality; and

(ii) sustains watershed health;

(E) represent the Forest Service in deliberations of the Chesapeake Bay Program; and

(F) support and collaborate with the Forestry Work Group for the Chesapeake Bay Program in planning and implementing program activities.

(c) ELIGIBLE ENTITIES.—To be eligible to receive assistance under the program, an entity shall be—

(1) a Chesapeake Bay State;

(2) a political subdivision of a Chesapeake Bay State;

(3) a university or other institution of higher education;

(4) an organization operating in the Chesapeake Bay watershed that is described in section 501(c) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of that Code; or

(5) any other person in the Chesapeake Bay watershed that the Secretary determines to be eligible.

(d) GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to eligible entities under the program to carry out projects to protect, restore, and manage forests in the Chesapeake Bay watershed.

(2) FEDERAL SHARE.—The Federal share of a grant made under the program shall not exceed 75 percent, as determined by the Secretary.

(3) TYPES OF PROJECTS.—The Secretary may make a grant to an eligible entity for a project in the Chesapeake Bay watershed that—

(A) improves habitat and water quality through the establishment, protection, or stewardship of riparian or wetland forests or stream corridors;

(B) builds the capacity of State forestry agencies and local organizations to implement forest conservation, restoration, and stewardship actions;

(C) develops and implements watershed management plans that—

(i) address forest conservation needs; and

(ii) reduce urban and suburban runoff;

(D) provides outreach and assistance to private landowners and communities to restore or conserve forests in the watershed;

(E) implements communication, education, or technology transfer programs that broaden public understanding of the value of trees and forests in sustaining and restoring the Chesapeake Bay watershed;

(F) coordinates and implements community-based watershed partnerships and initiatives that—

(i) focus on—

(I) the expansion of the urban tree canopy; and

(II) the restoration or protection of forest land; or

(ii) integrate the delivery of Forest Service programs for restoring or protecting watersheds;

(G) provides enhanced forest resource data to support watershed management;

(H) enhances upland forest health to reduce risks to watershed function and water quality; or

(I) conducts inventory assessment or monitoring activities to measure environmental change associated with projects carried out under the program.

(4) CHESAPEAKE BAY WATERSHED FORESTERS.—Funds made available under section 6 may be used by a Chesapeake Bay State to employ a State watershed forester to work with the Coordinator to carry out activities and watershed projects relating to the program.

(e) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the Council, shall conduct a study of urban and rural forests in the Chesapeake Bay watershed, including—

(A) an evaluation of the state, and threats to the sustainability, of forests in the Chesapeake Bay watershed;

(B) an assessment of forest loss and fragmentation in the Chesapeake Bay watershed;

(C) an identification of forest land within the Chesapeake Bay watershed that should be restored or protected; and

(D) recommendations for expanded and targeted actions or programs needed to achieve the goals of the Chesapeake Bay Agreement.

(2) REPORT.—Not later than 1 year after amounts are first made available under section 6, the Secretary shall submit to the Committee on Agriculture of the House of

Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study.

SEC. 5. WATERSHED FORESTRY RESEARCH PROGRAM.

(a) IN GENERAL.—The Secretary, in cooperation with the Council, shall establish a watershed forestry research program for the Chesapeake Bay watershed.

(b) ADMINISTRATION.—In carrying out the watershed forestry research program established under subsection (a), the Secretary shall—

(1) use a combination of applied research, modeling, demonstration projects, implementation guidance, strategies for adaptive management, training, and education to meet the needs of the residents of the Chesapeake Bay States for managing forests in urban, developing, and rural areas;

(2) solicit input from local managers and Federal, State, and private researchers, with respect to air and water quality, social and economic implications, environmental change, and other Chesapeake Bay watershed forestry issues in urban and rural areas;

(3) collaborate with the Chesapeake Bay Program Scientific and Technical Advisory Committee and universities in the Chesapeake Bay States to—

(A) address issues in the Chesapeake Bay Agreement; and

(B) support modeling and informational needs of the Chesapeake Bay program; and

(4) manage activities of the watershed forestry research program in partnership with the Coordinator.

(c) WATERSHED FORESTRY RESEARCH STRATEGY.—Not later than 1 year after the date of enactment of this Act, the Secretary, in collaboration with the Northeastern Forest Research Station and the Southern Forest Research Station, shall submit to Congress a strategy for research to address Chesapeake Bay watershed goals, including recommendations for implementation and leadership of the program.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out the program $3,500,000 for each of fiscal years 2006 through 2012, of which—

(1) not more than $500,000 shall be used to conduct the study required under section 4(e); and

(2) not more than $1,000,000 for any fiscal year shall be used to carry out the watershed forestry research program under section 5.

SEC. 7. REPORT.

Not later than December 31, 2007, and annually thereafter, the Secretary shall submit to Congress a comprehensive report that describes the costs, accomplishments, and outcomes of the activities carried out under the program.

S. 1494

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "NOAA Chesapeake Bay Watershed Monitoring, Education, Training, and Restoration Act".

SEC. 2. CHESAPEAKE BAY OFFICE PROGRAMS.

Section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d) is amended—

(1) by redesignating subsections (d) and (e), as subsections (h) and (i), respectively; and

(2) by inserting after subsection (c), the following new subsections:

"(d) CHESAPEAKE BAY INTEGRATED OBSERVING SYSTEM.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of the NOAA Chesapeake Bay Watershed Monitoring, Education, Training, and Restoration Act, the Director shall collaborate with scientific and academic institutions, Federal agencies, State and nongovernmental organizations, and other constituents located in the Chesapeake Bay watershed to establish a Chesapeake Bay Integrated Observing System (in this section referred to as the 'System').

"(B) PURPOSE.—The purpose of the System is to provide information needed to restore the health of the Chesapeake Bay, on such topics as land use, environmental quality of the Bay and its shoreline, coastal erosion, ecosystem health and performance, aquatic living resources and habitat conditions, and weather, tides, currents, and circulation.

"(C) ELEMENTS OF SYSTEM.—The System shall coordinate existing monitoring and observing activities in the Chesapeake Bay watershed, identify new data collection needs, and deploy new technologies to provide a complete set of environmental information for the Chesapeake Bay, including the following activities:

"(i) Collecting and analyzing the scientific information related to the Chesapeake Bay that is necessary for the management of living marine resources and the marine habitat associated with such resources.

"(ii) Managing and interpreting the information described in clause (i).

"(iii) Organizing the information described in clause (i) into products that are useful to policy makers, resource managers, scientists, and the public.

"(iv) Developing or supporting the development of an Internet-based information system for integrating, interpreting, and disseminating coastal information, products, and forecasts concerning the Chesapeake Bay watershed related to—

"(I) climate;

"(II) land use;

"(III) coastal pollution and environmental quality;

"(IV) coastal hazards;

"(V) ecosystem health and performance;

"(VI) aquatic living resources and habitat conditions and management;

"(VII) economic and recreational uses; and

"(VIII) weather, tides, currents, and circulation that affect the distribution of sediments, nutrients, organisms, coastline erosion, and related physical and chemical events and processes.

"(D) AGREEMENTS TO PROVIDE DATA, INFORMATION, AND SUPPORT.—The Director may enter into agreements with other entities of the National Oceanic and Atmospheric Administration, other Federal, State, or local government agencies, academic institutions, or organizations described in subsection (e)(2)(A)(i) to provide and interpret data and information, and may provide appropriate support to such agencies, institutions, or organizations to fulfill the purposes of the System.

"(E) AGREEMENTS RELATING TO INFORMATION PRODUCTS.—The Director may enter into grants, contracts, and interagency agreements with eligible entities for the collection, processing, analysis, and interpretation of data and information and for electronic publication of information products.

"(e) CHESAPEAKE BAY WATERSHED EDUCATION AND TRAINING PROGRAM.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Director, in cooperation with the Chesapeake Executive Council, shall establish a Chesapeake Bay watershed education and training program.

"(B) PURPOSES.—The program established under subparagraph (A) shall continue and expand the Chesapeake Bay watershed education programs offered by the Chesapeake Bay Office for the purposes of—

"(i) improving the understanding of elementary and secondary school students and teachers of the living resources of the ecosystem of the Chesapeake Bay;

"(ii) providing community education to improve watershed protection; and

"(iii) meeting the educational goals of the Chesapeake 2000 agreement.

"(2) GRANT PROGRAM.—

"(A) AUTHORIZATION.—The Director is authorized to award grants to pay the Federal share of the cost of a project described in subparagraph (C) to—

"(i) a nongovernmental organization in the Chesapeake Bay watershed that is described in section 501(c) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of that Code;

"(ii) a consortium of institutions described in clause (i);

"(iii) an elementary or secondary school located within the Chesapeake Bay watershed;

"(iv) a teacher at a school described in clause (iii); or

"(v) a department of education of a State if any part of such State is within the Chesapeake Bay watershed.

"(B) CRITERIA.—The Director shall consider, in awarding grants under this subsection, the experience of the applicant in providing environmental education and training projects regarding the Chesapeake Bay watershed to a range of participants and in a range of settings.

"(C) FUNCTIONS AND ACTIVITIES.—Grants awarded under this subsection may be used to support education and training projects that—

"(i) provide classroom education, including the use of distance learning technologies, on the issues, science, and problems of the living resources of the Chesapeake Bay watershed;

"(ii) provide meaningful outdoor experience on the Chesapeake Bay, or on a stream or in a local watershed of the Chesapeake Bay, in the design and implementation of field studies, monitoring and assessments, or restoration techniques for living resources;

"(iii) provide professional development for teachers related to the science of the Chesapeake Bay watershed and the dissemination of pertinent education materials oriented to varying grade levels;

"(iv) demonstrate or disseminate environmental educational tools and materials related to the Chesapeake Bay watershed;

"(v) demonstrate field methods, practices, and techniques including assessment of environmental and ecological conditions and analysis of environmental problems; and

"(vi) develop or disseminate projects designed to—

"(I) enhance understanding and assessment of a specific environmental problem in the Chesapeake Bay watershed or of a goal of the Chesapeake Bay Program;

"(II) protect or restore living resources of the Chesapeake Bay watershed; or

"(III) educate local land use officials and decision makers on the relationship of land use to natural resource and watershed protection.

"(D) FEDERAL SHARE.—The Federal share of the cost of a project funded with a grant awarded under this subsection shall not exceed 75 percent of the total cost of that project.

"(f) Stock Enhancement and Habitat Restoration Program.—

"(1) Establishment.—

"(A) In general.—Not later than 1 year after the date of enactment of the NOAA Chesapeake Bay Watershed Monitoring, Education, Training, and Restoration Act, the Director, in cooperation with the Chesapeake Executive Council, shall establish a Chesapeake Bay watershed stock enhancement and habitat restoration program.

"(B) Purpose.—The purpose of the program established in subparagraph (A) is to support the restoration of oysters and submerged aquatic vegetation in the Chesapeake Bay.

"(2) Activities.—To carry out the purpose of the program established under paragraph (1)(A), the Director is authorized to enter into grants, contracts, and cooperative agreements with an eligible entity to support—

"(A) the establishment of oyster hatcheries;

"(B) the establishment of submerged aquatic vegetation propagation programs; and

"(C) other activities that the Director determines are appropriate to carry out the purposes of such program.

"(g) Chesapeake Bay Aquaculture Education.—The Director is authorized to make grants and enter into contracts with an institution of higher education, including a community college, for the purpose of—

"(1) supporting education in Chesapeake Bay aquaculture sciences and technologies; and

"(2) developing aquaculture processes and technologies to improve production, efficiency, and sustainability of disease-free oyster spat and submerged aquatic vegetation.".

SEC. 3. REPORT.

Section 307(b)(7) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d(b)(7)), is amended to read as follows:

"(7) submit a biennial report to the Congress and the Secretary of Commerce with respect to the activities of the Office, including—

"(A) a description of the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay;

"(B) a description of each grant awarded under this section since the submission of the most recent biennial report, including the amount of such grant and the activities funded with such grant; and

"(C) an action plan consisting of—

"(i) a list of recommended research, monitoring, and data collection activities necessary to continue implementation of the strategy described in paragraph (2); and

"(ii) proposals for—

"(I) continuing any new National Oceanic and Atmospheric Administration activities in the Chesapeake Bay; and

"(II) integration of those activities with the activities of the partners in the Chesapeake Bay Program to meet the commitments of the Chesapeake 2000 agreement and subsequent agreements.".

SEC. 4. DEFINITIONS.

Subsection (h) of section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d), as redesignated by section 2(1), is amended to read as follows:

"(h) Definitions.—In this section:

"(1) Chesapeake executive council.—The term 'Chesapeake Executive Council' means the representatives from the Commonwealth of Virginia, the State of Maryland, the Commonwealth of Pennsylvania, the Environmental Protection Agency, the District of Columbia, and the Chesapeake Bay Commission, who are signatories to the Chesapeake Bay Agreement, and any future signatories to that Agreement.

"(2) Chesapeake 2000 agreement.—The term 'Chesapeake 2000 agreement' means the agreement between the United States, Maryland, Pennsylvania, Virginia, the District of Columbia, and the Chesapeake Bay Commission entered into on June 28, 2000.

"(3) Eligible entity.—Except as provided in subsection (c), the term 'eligible entity' means—

"(A) the government of a State in the Chesapeake Bay watershed or the government of the District of Columbia;

"(B) the government of a political subdivision of a State in the Chesapeake Bay watershed, or a political subdivision of the government of the District of Columbia;

"(C) an institution of higher education, including a community college;

"(D) a nongovernmental organization in the Chesapeake Bay watershed that is described in section 501(c) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of that Code; or

"(E) a private entity that the Director determines to be appropriate.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Subsection (i) of section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d), as redesignated by section 2(1), is amended to read as follows:

"(i) Authorization of Appropriations.—

"(1) FY 2002 through 2005.—There are authorized to be appropriated to the Department of Commerce for the Chesapeake Bay Office $6,000,000 for each of the fiscal years 2002 through 2005.

"(2) FY 2006 through 2010.—There are authorized to be appropriated to the Department of Commerce for the Chesapeake Bay Office $26,000,000 for each of the fiscal years 2006 through 2010. Of the amount appropriated pursuant to such authorization of appropriations—

"(A) for each of the fiscal years 2006 through 2010, $1,000,000 is authorized to be made available to carry out the provisions of subsection (d);

"(B) for each of the fiscal years 2006 through 2010, $6,000,000 is authorized to be made available to carry out the provisions of subsection (e);

"(C) for each of the fiscal years 2006 through 2010, $10,000,000 is authorized to be made available to carry out the provisions of subsection (f);

"(D) for each of the fiscal years 2006 through 2010, $1,000,000 to carry out the provisions of subsection (g).".

Chesapeake Bay Foundation,
June 28, 2005.

Senator Paul S. Sarbanes,
U.S. Senate,
Washington, DC.

Dear Senator Sarbanes: The Chesapeake Bay Foundation (CBF) wishes to submit this letter in support of the package of proposed legislation that you have prepared to further the ongoing efforts to restore the Chesapeake Bay and the tributaries that feed it. We believe that the series of legislative proposals you are submitting, in conjunction with the infusion of new and critical federal funding support, are key elements of reinvigorating the Bay restoration effort.

The bills we have reviewed and support are the following:

The Chesapeake Bay Watershed Nutrient Removal Assistance Act. A bill to amend the Federal Water Pollution Control Act to provide assistance for nutrient removal technologies to States in the Chesapeake Bay watershed.

Nitrogen and phosphorus pollution are the two largest problems threatening the water quality of the Chesapeake Bay and its rivers and streams. Consequently, in the Chesapeake 2000 Agreement (C2K), the Bay states committed to reduce nutrient pollution (nitrogen and phosphorus pollution) by millions of pounds each year. One of the most effective tools in reducing this pollution is upgrading sewage treatment plants with modern, nutrient pollution removal technologies. Pennsylvania, Maryland and Virginia have all provided new and additional funding to assist in the implementation of these technologies; however, proposed cuts to existing federal funds designated for wastewater treatment upgrades jeopardizes the success of these state initiatives.

The federal government must make a greater commitment to funding. Grant funding, as proposed in this bill, to assist in the design, construction, and operation of these technologies is a critical part of successfully achieving the C2K pollution reduction goals and restoring the Bay.

The Chesapeake Bay Program Reauthorization and Environmental Accountability Act of 2005. A bill to amend the Federal Water Pollution Control Act to require environmental accountability and reporting and to reauthorize the Chesapeake Bay Program.

There has been much criticism and questioning in recent years about the implementation of the multijurisdictional Chesapeake Bay Program. There is no doubt that the members of the Program, from state partners to the federal Environmental Protection Agency (EPA), have not moved forward as aggressively as the resource demands, failing to meet deadlines for water quality improvement actions that the signatories themselves established in C2K. In contrast, the Program has provided essential technical data and the underlying science critical to our understanding of the problems facing the Bay and the watershed rivers and streams. The Chesapeake Bay Program Reauthorization and Environmental Accountability Act of 2005 places a clear mandate on EPA to develop and implement a plan for achieving the nutrient pollution reduction goals of C2K and measure progress through actual water quality improvements. The legislation also requires Bay watershed states to report annually on their progress implementing the plan. Finally, the legislation provides for a much needed assessment by the Office of Management and Budget on the potential benefits of federal monies dedicated to the restoration effort combining into a single fund. This assessment complements the current financing authority efforts of the C2K signatories, an effort looking to develop a vehicle to not only better leverage state and federal monies, but also obtain additional funds. Absent a substantial increase in investment in the Bay, restoration efforts are likely to fail.

The Chesapeake Bay Environmental Education Pilot Program Act: A bill to amend the Elementary and Secondary Education Act of 1965 to establish a pilot program to make grants to eligible institutions to develop, demonstrate, or disseminate information on practices, methods, or techniques relating to environmental education and training in the Chesapeake Bay watershed.

We cannot expect the next generation to be responsible stewards of the Bay and the rivers and streams that crisscross its watershed unless we invest in education. We must provide our youth with the knowledge and tools that enable them to choose to be stewards of our natural resources. C2K recognized this need and set a goal of providing every student in the Bay watershed a meaningful field experience before he or she graduates from high school. One single experience alone with the Bay or a river or stream, however, is not adequate to educate students on environmental issues and instill in them a sense of stewardship. The Chesapeake Bay Environmental Education Pilot Program Act will help to accomplish this goal by providing much needed funding for designing and implementing environmental curricula, participation in on-the-ground restoration projects, interactive opportunities with among students, and outdoor educational experiences. These tools and others are key to increasing public environmental awareness and developing educated and responsible stewards of the Bay.

The NOAA Chesapeake Bay Watershed Monitoring, Education, Training and Restoration Act. A bill to establish programs to enhance protection of the Chesapeake Bay, and for other purposes.

This legislation proposes a series of important initiatives from the integration of data to the establishment of an oyster and submerged aquatic vegetation restoration program. In addition, a critical element is the establishment of the watershed education and training program, which complements the initiatives contained in the Chesapeake Bay Environmental Education Pilot Program Act.

The Chesapeake Bay Watershed Forestry Program Act of 2005. A bill to require the Secretary of Agriculture to establish a program to expand and strengthen cooperative efforts to restore and protect forests in the Chesapeake Bay watershed, and for other purposes.

Forests provide habitat for wildlife, filter polluted runoff, and help moderate stream water temperature. Because of their importance in improving water quality, the Bay states have committed to restoring thousands of acres of forested buffers in the watershed. In addition, they are one of the most cost-effective ways to reduce nitrogen and phosphorus pollutions. Yet, the Chesapeake Bay watershed is continuing to lose forests, in both urban and rural areas, at alarming rates. Preservation and restoration of forests and forest buffers, as encouraged by this legislation, are critical elements in Bay restoration efforts.

This package of legislative initiatives will do much to strengthen and reinvigorate our efforts to Save the Bay. CBF is grateful to you, Senator, for your constant and unwavering commitment to the restoration of waters of the Bay watershed and for your long and distinguished leadership on these issues.

If CBF can provide you with any additional assistance with the important initiatives evidenced by these bills, please let me know.

With sincere appreciation for all you have done for the Bay, I am,

Very truly yours,

ROY A. HOAGLAND,
Vice President, Environmental Protection & Restoration.

CHESAPEAKE BAY COMMISSION,
July 5, 2005.

Hon. PAUL SARBANES,
Senate Office Building,
Washington, DC.

DEAR SENATOR SARBANES: Federal funding has played a crucial role in supporting the Chesapeake Bay restoration. Thanks in large part to your efforts, federal funds have supported nearly one-fifth of the pojects currently underway and served as a catalyst for countless more.

In October 2004, the Chesapeake Bay Watershed Blue Ribbon Finance Panel issued a report that underscored the enormous challenge facing the Chesapeake and concluded, ". . . restoring the Chesapeake Bay will require a large-scale national and regional approach, capitalized by federal and state governments and directed according to a watershed-wide strategy." The report called for a $15 billion federal and state investment over the next four years to restore the Bay. While $15 billion is an enormous sum, failure to take action and to make the investments needed to restore the health of our nation's largest and most productive estuary will be even more costly. A commitment of this size will require the substantial involvement of all partners, including the federal, state, and local governments and the private sector.

With this financial need firmly in focus, we are writing to convey our tri-state Commission's strong support for your Chesapeake Bay legislative package. Together, these five bills promote the kinds of enhanced funding and technical assistance that are needed to meet the goals of the, Chesapeake 2000 agreement (C2K) and restore the Bay. We hope that the 109th Congress will join us in our support of:

1. The Chesapeake Bay Program Reauthorization and Environmental Accountability Act.
2. The Chesapeake Bay Watershed Nutrient Removal Assistance Act
3. The Chesapeake Bay Environmental Education Pilot Program Act
4. The Chesapeake Bay Watershed Forestry Act
5. The NOAA Chesapeake Bay Watershed Monitoring, Education, Training, and Restoration Act

The Chesapeake Bay Watershed Nutrient Removal Assistance Act is of particular interest to this Commission. As a signatory to C2K, we have committed to reducing the Bay's nitrogen loads by 110 million pounds. Meeting this goal will restore the Bay waters to conditions that are clean, clear, and productive. Last December, the Commission issued a report entitled "Cost-Effective Strategies for the Bay"; of the six most cost-effective strategies listed in that report, upgrading wastewater treatment plants is Number One. The Act provides grants to upgrade the major wastewater treatment plants in the Bay's six-state watershed with modern nutrient removal technologies. It will allow the region to demonstrate that state-of-the-art nutrient removal is possible on a large scale. It will result in the removal of as much as 30 million pounds of nitrogen each year, or 30 percent of the reduction that is needed. Furthermore, the benefits from upgrading sewage treatment plants have an immediate result on the Bay's water quality, unlike other methods that primarily affect nutrients in ground water and may take years to produce results in the Bay. Only the Federal government is in the position to trigger such remarkable reductions. It is an opportunity that must not be ignored.

Reauthorizing the Environmental Protection Agency's Chesapeake Bay Program is critical to the success of efforts to restore the Bay. This program provides support and coordination for Federal, state, and local efforts developing strategies and actions plans, assessing progress throughout the watershed, implementing projects to protect the Bay and its living resources, and communicating with the public.

The Chesapeake Bay Watershed Forestry Act will help to control pollution by establishing forests and riparian buffers that can filter and absorb sediment and nutrient runoff while providing valuable habitat for animals and birds and food and shelter for fish. Enhanced support for the Bay Program of the Forest Service will ramp up its ability to provide interstate coordination, technical assistance, and forest assessment and planning services that are otherwise limited or unavailable in our region.

Finally, let us emphasize the important support for education that this package provides. Sustaining our hard-won progress in the restoration of the Bay will ultimately rest in the hands of citizens and communities throughout the watershed. Expanding environmental education and training opportunities for a variety of ages, from kindergarten to adult community education and outreach, will lead to a healthier Bay and to a more educated and informed citizenry, yet these kinds of activities are woefully underfunded. The monies provided by the Chesapeake Bay Environmental Education Pilot Program Act and the NOAA Chesapeake Bay Watershed Monitoring, Education, Training, and Restoration Act will substantially improve our ability to keep our commitments on track and reach the C2K goals.

The federal government has been a strong partner in efforts to restore the Bay, and your five-bill package maintains and enhances the federal commitment to the Bay. The Commission commends your dedication now and over the past two decades to the health of the Chesapeake Bay. Please instruct us as to how we can further support these measures.

Sincerely,

SENATOR MIKE WAUGH,
Chairman.

By Mr. MCCAIN (for himself and Mr. COBURN):

S. 1495. A bill to prohibit Federal agencies from obligating funds for appropriations earmarks included only in congressional reports, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. MCCAIN. Mr. President, the bill I am introducing today, along with my friend from Oklahoma, Mr. COBURN, is very simple. The Obligation of Funds Transparency Act of 2005 would prohibit Federal agencies from obligating funds which have been earmarked only in congressional reports. This legislation is designed to help reign in unauthorized, unrequested, run-of-the-mill pork barrel projects.

As my colleagues may know, report language does not have the force of law. That fact has been lost when it comes to appropriations bills and reports. It has become a standard practice to load up committee reports with literally billions of dollars in unrequested, unauthorized, and wasteful pork barrel projects.

According to information compiled from the Congressional Research Service (CRS), the total number of earmarks has grown from 4,126 in fiscal year 1994 to 14,040 in fiscal year 2004.

That's an increase of 240 percent. In terms of dollars, the earmarking has gone from $26.6 billion to $47.9 billion over the same period. The practice of earmarking funds in appropriations bills has simply lurched out of control.

At a conference in February, 2005, David Walker, the Comptroller General of the United States, said this: "If we continue on our present path, we'll see pressure for deep spending cuts or dramatic tax increases. GAO's long-term budget simulations paint a chilling picture. If we do nothing, by 2040 we may have to cut federal spending by more than half or raise federal taxes by more than two and a half times to balance the budget. Clearly, the status quo is both unsustainable and difficult choices are unavoidable. And the longer we wait, the more onerous our options will become and the less transition time we will have."

Is that really the kind of legacy we should leave to future generations of Americans?

Referring to our economic outlook, Federal Reserve Chairman Alan Greenspan testified before Congress that: "(T)he dimension of the challenge is enormous. The one certainty is that the resolution of this situation will require difficult choices and that the future performance of the economy will depend on those choices. No changes will be easy, as they all will involve lowering claims on resources or raising financial obligations. It falls on the Congress to determine how best to address the competing claims."

It falls on the Congress my friends. The head of the U.S. Government's chief watchdog agency and the Nation's chief economist agree—we are in real trouble.

We simply must start making some very tough decisions around here if we are serious about improving our fiscal future. We need to be thinking about the future of America and the future generations who are going to be paying the tab for our continued spending. It is simply not fiscally responsible for us to continue to load up appropriations bills with wasteful and unnecessary spending, and good deals for special interests and their lobbyists. We have had ample opportunities to tighten our belts in this town in recent years, and we have taken a pass each and every time. We can't put off the inevitable any longer.

Here is the stark reality of our fiscal situation. According to the Government Accountability Office, the unfunded federal financial burden, such as public debt, future Social Security, Medicare, and Medicaid payments, totals more than $40 trillion or $140,000 per man, woman and child. To put this in perspective, the average mortgage, which is often a family's largest liability, is $124,000—and that is often borne by the family breadwinners, not the children too. But, instead of fixing the problem, and fixing it will not be easy, we only succeeded in making it bigger, more unstable, more complicated, and much, much more expensive.

The Committee for Economic Development, the Concord Coalition, and the Center on Budget and Policy Priorities jointly stated that, "without a change in current (fiscal) policies, the federal government can expect to run a cumulative deficit of $5 trillion over the next 10 years." They also stated that, "after the baby boom generation starts to retire in 2008, the combination of demographic pressures and rising health care costs will result in the costs of Medicare, Medicaid and Social Security growing faster than the economy. We project that by the time today's newborns reach 40 years of age, the cost of these three programs as a percentage of the economy will more than double—from 8.5 percent of the GDP to over 17 percent.

Additionally, the Congressional Budget Office has issued warnings about the dangers that lie ahead if we continue to spend in this manner. In a report issued at the beginning of the year, CBO stated that, because of rising health care costs and an aging population, "spending on entitlement programs—especially Medicare, Medicaid and Social Security—will claim a sharply increasing share ofthe nation's economic output over the coming decades." The report went on to say that, "unless taxation reaches levels that are unprecedented in the United States, current spending policies will probably be financially unsustainable over the next 50 years. An ever-growing burden of federal debt held by the public would have a corrosive. . . effect on the economy."

Where is it going to end? We have to face the facts, and one fact is that we can't continue to spend taxpayer's dollars on wasteful, unnecessary pork barrel projects or cater to wealthy corporate special interests any longer. The American people won't stand for it, and they shouldn't—they deserve better treatment from us. I urge my colleagues to support this important legislation.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 1498. A bill to direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, the Northern Colorado Water Conservancy District has contacted me, along with other members of the Colorado Congressional Delegation, seeking the introduction and passage of Federal legislation authorizing the title transfer of specific features of the Colorado-Big Thompson Project from the Untied States to Northern. This title transfer will be similar to a bill that I carried during the 106th Congress, which transferred other Bureau of Rec facilities to Northern. The projects involved in the proposed title transfer are those single-purpose water conveyance facilities used for the distribution of water released from Carter Lake Reservoir: the St. Vrain Supply Canal; the Boulder Feed Canal; the Boulder Creek Supply Canal; and the South Platte Supply Canal.

The entire project, called the Colorado-Big Thompson Project, was built from 1938 to 1957, and provides supplemental water to more than 30 cities and towns. The water is used to help irrigate over 600,000 acres of northeastern Colorado farmland.

The proposed legislation will divest Reclamation of all present and future responsibility for and cost associated with the management, operation, maintenance, repair, rehabilitation and replacement of, and liability for the transferred facilities. This responsibility will become that of the Northern Colorado Water Conservancy District.

The legislation will eliminate the duplication of efforts between the District and Reclamation in issuing and administering crossing licenses and other forms of permission to utilize the land on which the facilities are located. Finally, the legislation will provide for enhanced local control over water facilities that are not of national importance, and allow these facilities to be used for more efficient and effective water management. Local control, especially in the case of matters in relation to water, has always been a major component of my philosophy. I am proud to introduce this bill which will serve to further that intent.

By Mr. BUNNING (for himself and Mr. MCCONNELL):

S. 1499. A bill to amend the Federal Power Act to provide for competitive and reliable electricity transmission in the Commonwealth of Kentucky; to the Committee on Energy and Natural Resources.

Mr. BUNNING. Mr. President, I rise to introduce the Kentucky Competitive Access Program (KCAP) bill that would allow Kentucky electric distribution companies to purchase cheaper power. This means lower rates for many Kentucky consumers served by the Tennessee Valley Authority (TVA). I am pleased Senator MCCONNELL has joined me in introducing this bill.

Kentucky has some of the cheapest electric power available in the Nation. However, some Kentucky consumers in TVA are paying higher electricity rates than Kentucky consumers outside of TVA.

Kentucky electric distribution companies served by the TVA can not provide their customers with access to Kentucky's inexpensive power. This is because under existing federal law the Federal Energy Regulatory Commission (FERC) has limited authority over TVA and can not require it to transmit the cheaper power to most, if not all, of the Kentucky distributors. The legislation removes this restriction and provides the FERC with the authority to require TVA to transmit power to all Kentucky distributors.

In addition to allowing Kentucky customers to access less expensive power, the legislation would not harm TVA or result in higher rates to TVA's remaining customers. The Kentucky distributors, in total, constitute only about 6 percent of TVA's revenues and load. Further, TVA is experiencing load growth of about 3 percent per year which should quickly result in the replacement of any load lost in Kentucky. Thus, the departure of some portion of the Kentucky distributors should not result in any significant cost shift to remaining TVA system customers.

All Kentuckians deserve to choose where they receive their power. This bill will not only give them that choice, but it will also create a more competitive environment among Kentucky distributors and allow our businesses and residential consumers to keep more money in their pockets.

By Mr. CORZINE:

S. 1502. A bill to clarify the applicability of State law to national banks and Federal savings associations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORZINE. Mr. President, I rise today to introduce legislation, the Preservation of Federalism in Banking Act, to clarify the relationship between State consumer protection laws and national banks.

This legislation responds to a sweeping new rule issued by the Office of the Comptroller of the Currency, the agency that regulates national banks. The OCC's new rule gives the agency unprecedented authority to pre-empt state laws, thereby shielding national banks and their non-bank and state-chartered bank affiliates from many important consumer protections. It also potentially limits the ability of states to enforce many related laws. The most important immediate consequence of the OCC rule has been the preemption of state anti-predatory lending laws.

I feel strongly about the need to address predatory lending, which can trap people in endless cycles of debt and escalating fees. Many States, such as my own state of New Jersey, have enacted tough laws to deal with the problem. Unfortunately, the OCC's ruling substantially undermines these laws by regulatory fiat. That will leave many consumers unprotected, and it shifts too many responsibilities to a single agency here in Washington that is not equipped to handle them. After all, according to its own website, the OCC "does not have the mandate to engage in consumer advocacy".

Although the OCC has a long and successful record of regulating for safety and soundness, it has little experience dealing with abusive local practices, such as predatory lending. Believe it or not, the OCC actually is proposing to handle all consumer complaints through a single, lightly staffed call center in Houston. This is totally unrealistic. Each year, State officials receive thousands of related complaints, which usually are very local in nature. These officials are at the forefront of the enforcement effort, identifying and combating new practices as they arise. The OCC's system simply could not fill this role without major changes.

The OCC rule also raises concerns about regulatory charter competition, the viability of a broad range of State laws, and the ability of consumers and State officials to seek remedies in court. This concern is only reinforced by two other developments.

First is a general counsel opinion by the Office of Thrift Supervision that attempts to extend federal preemption beyond a thrift's corporate family. That effort would nullify the application of state consumer protection laws over independent, third-party agents of federal thrifts, and is particularly threatening to state insurance and securities efforts.

And second is the FDIC's consideration of a rule that would allow State-chartered banks the same preemptive privileges for out-of-State branches as those of national banks. These two recent developments only reinforce concerns of a "race to the bottom" scenario.

The OCC rule has provoked strong opposition from governors, attorneys general, banking supervisors, and many consumer advocacy groups, not to mention the public. The OCC received over 2,600 letters in response to its rules, and more than 90 percent opposed them.

The Preservation of Federalism in Banking Act is a reasonable response to the OCC rule. The bill will clarify that national banks must comply with certain state consumer protection laws, such as anti-predatory lending laws and privacy acts.

While the OCC has long had the statutory responsibility to regulate the activities of national banks, it has never denied the ability of States to protect their citizens. The OCC historically has used its authority under the National Bank Act in a reasonable way to shield national banks from State banking laws that intrude on the OCC's congressionally-granted powers. While we should continue to support the appropriate use of the agency's authority, it is important that we immediately intervene to reverse the OCC's regulatory overreach and prevent the agency from preemption all state consumer protection laws and State authority to enforce related laws.

I ask unanimous consent that the text of the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1502

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preservation of Federalism in Banking Act".

TITLE I—NATIONAL BANKS

SEC. 101. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS CLARIFIED.

(a) In General.—Chapter One of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136B the following new section:

"SEC. 5136C. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.

"(a) State Consumer Laws of General Application.—

"(1) In general.—Notwithstanding any other provision of Federal law, any consumer protection in State consumer law of general application (including any law relating to unfair or deceptive acts or practices, any consumer fraud law and repossession, foreclosure, and collection) shall apply to any national bank.

"(2) National bank defined.—For purposes of this section, the term 'national bank' includes any Federal branch established in accordance with the International Banking Act of 1978.

"(b) State Laws Related to Laws Used by National Banks for Their Benefit.—When a national bank avails itself of a State law for its benefit, all related consumer protections in State law shall apply.

"(c) State Banking Laws Enacted Pursuant to Federal Law.—

"(1) In general.—Notwithstanding any other provision of Federal law and except as provided in paragraph (2), any State law that—

"(A) is applicable to State banks; and

"(B) was enacted pursuant to or in accordance with, and is not inconsistent with, an Act of Congress, including the Gramm-Leach-Bliley Act, the Consumer Credit Protection Act, and the Real Estate Settlement Procedures Act, that explicitly or by implication, permits States to exceed or supplement the requirements of any comparable Federal law,

shall apply to any national bank.

"(2) Exceptions.—Paragraph (1) shall not apply with respect to any State law if—

"(A) the State law discriminates against national banks; or

"(B) State law is inconsistent with provisions of Federal law other than this title LXII, but only to the extent of the inconsistency (as determined in accordance with the provision of the other Federal Law).

"(d) State Laws Protecting Against Predatory Mortgage Loans.—To the extent not otherwise addressed in this section, State laws providing greater protection in high cost mortgage loans, however denominated, both in coverage and content, than is provided under the Truth in Lending Act (including the provisions amended by the Home

Ownership and Equity Protection Act of 1994) shall apply to any national bank.

"(e) COMPARABLE FEDERAL REGULATION REQUIRED.—In relation to the regulation of consumer credit and deposit transactions, the Comptroller may preempt State law pursuant to this title only when there is a comparable Federal statute, or regulations pursuant to a Federal statute other than this title, expressly governing the activity, except in relation to interest pursuant to section 5197.

"(f) NO NEGATIVE IMPLICATIONS FOR APPLICABILITY OF OTHER STATE LAWS.—No provision of this section shall be construed as altering or affecting the applicability, to national banks, of any State law which is not described in this section.

"(g) EFFECT OF TRANSFER OF TRANSACTION.—A transaction that is not entitled to preemption at the time of the origination of the transaction does not become entitled to preemption under this title by virtue of its subsequent acquisition by a national bank.

"(h) DENIAL OF PREEMPTION NOT A DEPRIVATION OF A CIVIL RIGHT.—The preemption of any provision of the law of any State with respect to any national bank shall not be treated as a right, privilege, or immunity for purposes of section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983).

"(i) DEFINITION.—For purposes of this section, the terms 'includes' and 'including' have the same meaning as in section 3(t) of the Federal Deposit Insurance Act.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter One of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136B the following new item:

"5136C. State law preemption standards for
national banks and subsidiaries
clarified".

SEC. 102. VISITORIAL STANDARDS.

Section 5136C of the Revised Statutes of the United States (as added by section 101(a) of this Act) is amended by adding at the end the following new subsections:

"(j) VISITORIAL POWERS.—No provision of this title which relates to visitorial powers or otherwise limits or restricts the supervisory, examination, or regulatory authority to which any national bank is subject shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring any action in any court of appropriate jurisdiction—

"(1) to enforce any applicable Federal or State law, as authorized by such law; or

"(2) on behalf of residents of such State, to enforce any applicable provision of any Federal or State law against a national bank, as authorized by such law, or to seek relief and recover damages for such residents from any violation of any such law by any national bank.

"(k) ENFORCEMENT ACTIONS.—The ability of the Comptroller to bring an enforcement action under this title or section 5 of the Federal Trade Commission Act does not preclude private parties from enforcing rights granted under Federal or State law in the courts.".

SEC. 103. CLARIFICATION OF LAW APPLICABLE TO STATE-CHARTERED NONDEPOSITORY INSTITUTION SUBSIDIARIES.

Section 5136C of the Revised Statutes of the United States (as added by section 101(a) of this Act) is amended by inserting after subsection (k) (as added by section 102) the following new subsection:

"(l) CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILIATES OF NATIONAL BANKS; DEFINITIONS.—

"(1) IN GENERAL.—No provision of this title shall be construed as preempting the applicability of State law to any State-chartered nondepository institution, subsidiary, other affiliate, or agent of a national bank.

"(2) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(A) DEPOSITORY INSTITUTION, SUBSIDIARY, AFFILIATE.—The terms 'depository institution', 'subsidiary', and 'affiliate' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

"(B) NONDEPOSITORY INSTITUTION.—The term 'nondepository institution' means any entity that is not a depository institution.".

SEC. 104. DATA COLLECTION AND REPORTING.

(a) COLLECTING AND MONITORING CONSUMER COMPLAINTS.—

(1) IN GENERAL.—The Comptroller of the Currency shall record and monitor each complaint received directly or indirectly from a consumer regarding a national bank or any subsidiary of a national bank and record the resolution of the complaint.

(2) FACTORS TO BE INCLUDED.—In carrying out the requirements of paragraph (1), the Comptroller of the Currency shall include—

(A) the date the consumer complaint was received;

(B) the nature of the complaint;

(C) when and how the complaint was resolved, including a brief description of the extent, and the results, of the investigation made by the Comptroller into the complaint, a brief description of any notices given and inquiries made to any other Federal or State officer or agency in the course of the investigation or resolution of the complaint, a summary of the enforcement action taken upon completion of the investigation, and a summary of the results of subsequent periodic reviews by the Comptroller of the extent and nature of compliance by the national bank or subsidiary with the enforcement action; and

(D) if the complaint involves any alleged violation of a State law (whether or not Federal law preempts the application of such State law to such national bank) by such bank, a cite to and a description of the State law that formed the basis of the complaint.

(b) REPORT TO THE CONGRESS.—

(1) PERIODIC REPORTS REQUIRED.—The Comptroller of the Currency shall submit a report semi-annually to the Congress on the consumer protection efforts of the Office of the Comptroller of the Currency.

(2) CONTENTS OF REPORT.—Each report submitted under paragraph (1) shall include the following:

(A) The total number of consumer complaints received by the Comptroller during the period covered by the report with respect to alleged violations of consumer protection laws by national banks and subsidiaries of national banks.

(B) The total number of consumer complaints received during the reporting period that are based on each of the following:

(i) Each title of the Consumer Credit Protection Act (reported as a separate aggregate number for each such title).

(ii) The Truth in Savings Act.

(iii) The Right to Financial Privacy Act of 1978.

(iv) The Expedited Funds Availability Act.

(v) The Community Reinvestment Act of 1977.

(vi) The Bank Protection Act of 1968.

(vii) Title LXII of the Revised Statutes of the United States.

(viii) The Federal Deposit Insurance Act.

(ix) The Real Estate Settlement Procedures Act of 1974.

(x) The Home Mortgage Disclosure Act of 1975.

(xi) Any other Federal law.

(xii) State consumer protection laws (reported as a separate aggregate number for each State and each State consumer protection law).

(xiii) Any other State law (reported separately for each State and each State law).

(C) A summary description of the resolution efforts by the Comptroller for complaints received during the period covered, including—

(i) the average amount of time to resolve each complaint;

(ii) the median period of time to resolve each complaint;

(iii) the average and median time to resolve complaints in each category of complaints described in each clause of subparagraph (B); and

(iv) a summary description of the longest outstanding complaint during the reporting period and the reason for the difficulty in resolving such complaint in a more timely fashion.

(3) DISCLOSURE OF REPORT ON OCC WEBSITE.—Each report submitted to the Congress under this subsection shall be posted, by the Comptroller of the Currency, in a timely fashion and maintained on the website of the Office of the Comptroller of the Currency on the World Wide Web.

TITLE II—SAVINGS ASSOCIATIONS

SEC. 201. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS CLARIFIED.

(a) IN GENERAL.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by inserting after section 5 the following new section:

"SEC. 6. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS AND AFFILIATES CLARIFIED.

"(a) STATE CONSUMER LAWS OF GENERAL APPLICATION.—Notwithstanding any other provision of Federal law, any consumer protection in State consumer law of general application (including any law relating to unfair or deceptive acts or practices, any consumer fraud law and repossession, foreclosure, and collection) shall apply to any Federal savings association.

"(b) STATE LAWS RELATED TO LAWS USED BY FEDERAL SAVINGS ASSOCIATIONS FOR THEIR BENEFIT.—When a Federal savings association avails itself of a State law for its benefit, all related consumer protections in State law shall apply.

"(c) STATE BANKING OR THRIFT LAWS ENACTED PURSUANT TO FEDERAL LAW.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law and except as provided in paragraph (2), any State law that—

"(A) is applicable to State savings associations (as defined in section 3 of the Federal Deposit Insurance Act); and

"(B) was enacted pursuant to or in accordance with, and is not inconsistent with, an Act of Congress, including the Gramm-Leach-Bliley Act, the Consumer Credit Protection Act, and the Real Estate Settlement Procedures Act, that explicitly or by implication, permits States to exceed or supplement the requirements of any comparable Federal law,

shall apply to any Federal savings association.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any State law if—

"(A) the State law discriminates against Federal savings associations; or

"(B) the State law is inconsistent with provisions of Federal law other than this Act, but only to the extent of the inconsistency (as determined in accordance with the provision of the other Federal law).

"(d) STATE LAWS PROTECTING AGAINST PREDATORY MORTGAGE LOANS.—To the extent not otherwise addressed in this section, State laws providing greater protection in high cost mortgage loans, however denominated, both in coverage and content, than is provided under the Truth in Lending Act (including the provisions amended by the Home Ownership and Equity Protection Act of 1994) shall apply to any Federal savings association.

"(e) COMPARABLE FEDERAL REGULATION REQUIRED.—In relation to the regulation of consumer credit and deposit transactions, the Director of the Office of Thrift Supervision may preempt State law pursuant to this Act only when there is a comparable Federal statute, or regulations pursuant to a Federal statute other than this Act, expressly governing the activity, except in relation to interest pursuant to section 4(g).

"(f) NO NEGATIVE IMPLICATIONS FOR APPLICABILITY OF OTHER STATE LAWS.—No provision of this section shall be construed as altering or affecting the applicability, to Federal savings associations, of any State law which is not described in this section.

"(g) EFFECT OF TRANSFER OF TRANSACTION.—A transaction that is not entitled to preemption at the time of the origination of the transaction does not become entitled to preemption under this Act by virtue of its subsequent acquisition by a Federal savings association.

"(h) DENIAL OF PREEMPTION NOT A DEPRIVATION OF A CIVIL RIGHT.—The preemption of any provision of the law of any State with respect to any Federal savings association shall not be treated as a right, privilege, or immunity for purposes of section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983).

"(i) DEFINITION.—For purposes of this section, the terms 'includes' and 'including' have the same meaning as in section 3(t) of the Federal Deposit Insurance Act.".

(b) CLERICAL AMENDMENT.—The table of sections for the Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by striking the item relating to section 6 and inserting the following new item:

"6. State law preemption standards for Federal savings associations and affiliates clarified".

SEC. 202. VISITORIAL STANDARDS.

Section 6 of the Home Owners' Loan Act (as added by section 201(a) of this title) is amended by adding at the end the following new subsections:

"(j) VISITORIAL POWERS.—No provision of this Act shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring any action in any court of appropriate jurisdiction—

"(1) to enforce any applicable Federal or State law, as authorized by such law; or

"(2) on behalf of residents of such State, to enforce any applicable provision of any Federal or State law against a Federal savings association, as authorized by such law, or to seek relief and recover damages for such residents from any violation of any such law by any Federal savings association.

"(k) ENFORCEMENT ACTIONS.—The ability of the Director of the Office of Thrift Supervision to bring an enforcement action under this Act or section 5 of the Federal Trade Commission Act does not preclude private parties from enforcing rights granted under Federal or State law in the courts.".

SEC. 203. CLARIFICATION OF LAW APPLICABLE TO STATE-CHARTERED NONDEPOSITORY INSTITUTION SUBSIDIARIES.

Section 6 of the Home Owners' Loan Act (as added by section 201(a) of this title) is amended by inserting after subsection (k) (as added by section 202) the following new subsection:

"(l) CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION AFFILIATES OF FEDERAL SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—No provision of this Act shall be construed as preempting the applicability of State law to any State-chartered nondepository institution, subsidiary, other affiliate, or agent of a Federal savings association.

"(2) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(A) DEPOSITORY INSTITUTION, SUBSIDIARY, AFFILIATE.—The terms 'depository institution', 'subsidiary', and 'affiliate' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

"(B) NONDEPOSITORY INSTITUTION.—The term 'nondepository institution' means any entity that is not a depository institution.".

SEC. 204. DATA COLLECTION AND REPORTING.

(a) COLLECTING AND MONITORING CONSUMER COMPLAINTS.—

(1) IN GENERAL.—The Director of the Office of Thrift Supervision shall record and monitor each complaint received directly or indirectly from a consumer regarding a Federal savings association or any subsidiary of a Federal savings association and record the resolution of the complaint.

(2) FACTORS TO BE INCLUDED.—In carrying out the requirements of paragraph (1), the Director of the Office of Thrift Supervision shall include—

(A) the date the consumer complaint was received;

(B) the nature of the complaint;

(C) when and how the complaint was resolved, including a brief description of the extent, and the results, of the investigation made by the Director into the complaint, a brief description of any notices given and inquiries made to any other Federal or State officer or agency in the course of the investigation or resolution of the complaint, a summary of the enforcement action taken upon completion of the investigation, and a summary of the results of subsequent periodic reviews by the Comptroller of the extent and nature of compliance by the Federal savings association or subsidiary with the enforcement action; and

(D) if the complaint involves any alleged violation of a State law (whether or not Federal law preempts the application of such State law to such Federal savings association) by such savings association, a cite to and a description of the State law that formed the basis of the complaint.

(b) REPORT TO THE CONGRESS.—

(1) PERIODIC REPORTS REQUIRED.—The Director of the Office of Thrift Supervision shall submit a report semi-annually to the Congress on the consumer protection efforts of the Office of Thrift Supervision.

(2) CONTENTS OF REPORT.—Each report submitted under paragraph (1) shall include the following:

(A) The total number of consumer complaints received by the Director during the period covered by the report with respect to alleged violations of consumer protection laws by Federal savings associations and subsidiaries of Federal savings associations.

(B) The total number of consumer complaints received during the reporting period that are based on each of the following:

(i) Each title of the Consumer Credit Protection Act (reported as a separate aggregate number for each such title).

(ii) The Truth in Savings Act.

(iii) The Right to Financial Privacy Act of 1978.

(iv) The Expedited Funds Availability Act.

(v) The Community Reinvestment Act of 1977.

(vi) The Bank Protection Act of 1968.

(vii) Title LXII of the Revised Statutes of the United States.

(viii) The Federal Deposit Insurance Act.

(ix) The Real Estate Settlement Procedures Act of 1974.

(x) The Home Mortgage Disclosure Act of 1975.

(xi) Any other Federal law.

(xii) State consumer protection laws (reported as a separate aggregate number for each State and each State consumer protection law).

(xiii) Any other State law (reported separately for each State and each State law).

(C) A summary description of the resolution efforts by the Director for complaints received during the period covered, including—

(i) the average amount of time to resolve each complaint;

(ii) the median period of time to resolve each complaint;

(iii) the average and median time to resolve complaints in each category of complaints described in each clause of subparagraph (B); and

(iv) a summary description of the longest outstanding complaint during the reporting period and the reason for the difficulty in resolving such complaint in a more timely fashion.

(3) DISCLOSURE OF REPORT ON OTS WEBSITE.—Each report submitted to the Congress under this subsection shall be posted, by the Director of the Office of Thrift Supervision, in a timely fashion and maintained on the website of the Office of Thrift Supervision on the World Wide Web.

By Mr. FRIST (for himself, Mr. MCCONNELL, Mr. GREGG, Mr. ENZI, Ms. MURKOWSKI, and Mr. DEMINT):

S. 1503. A bill to reduce healthcare costs, expand access to affordable healthcare coverage, and improve healthcare and strengthen the health care safety net, and for other purposes; to the Committee on Finance.

Mr. FRIST. Mr. President, wherever I travel, Americans tell me the same things about our health care system: it costs too much, leaves too many without insurance, and does too little to help those in need.

America has the world's best hospitals, doctors, nurses, and medical research labs. But we do not always provide the best care. And we certainly do not provide it at an affordable price. We face real problems. And we need to act.

Two years ago, I appointed a task force to investigate what Congress could do. Under the leadership of Senator JUDD GREGG, the task force reported back with a series of comprehensive recommendations. The

President has also proposed some very constructive policy initiatives. We took all of these proposals into account when we wrote this bill.

The legislation we propose today will build upon our record of accomplishment on health care. The Republican Congress has created a Medicare drug benefit for seniors, made tax-free, portable Health Savings Accounts available to all Americans, and has begun the process of moving our medical system into the information age.

This week, we will pass and send to the President a long-overdue measure to encourage doctors and hospitals to report medical errors voluntarily. The measure will save lives, and it will improve health care quality.

But we still have more to do.

The legislation we are proposing today focuses on three broad areas: reducing costs, expanding health coverage, and improving the quality of care. In this bill—"The Healthy America Act of 2005"—we provide comprehensive solutions that will improve health care for every American.

Let me begin by speaking about cost. Every year, Americans see their health care costs soar. Just 15 years ago, less than 1 out of every 10 dollars Americans spent went for health care. In 10 years, almost one out of every five dollars you spend will go towards health care.

Rising life expectancies and the cost of new technologies, treatments, and medical procedures all drive up costs. But we can do more to hold them in check. And we must.

Rapidly rising health costs threaten our Nation's small business owners, and our largest corporations. They can harm our economy; cost jobs, and hurt Americans from all walks of life. During the past few years, for example, health care costs have grown three to four times more quickly than wages.

First, we need to reform our broken medical liability system. Under our current medical system, doctors face enormous incentives to order unnecessary tests and procedures simply to avoid the risk of lawsuits.

It's expensive, it's wasteful, and unnecessary, and, most of all, it's dangerous. It needs to change and, under this bill, it will.

Hospitals, doctors, patients, and insurers all shoulder some responsibility for rising costs. To keep costs down, we need to put the patient at the heart of health care. That's why we propose reforms to let patients own and control privacy-protected electronic medical records, cut down on fraud in our Medicare and Medicaid programs, reduce medical errors, and reduce unnecessary regulations and mandates.

Lower costs alone will help many Americans get the care they need and deserve. But we also have to look at ways to cover more Americans who would still find themselves left behind.

Through changes to tax laws, we can make it easier for lower-income individuals and small businesses to purchase affordable, high quality health insurance.

And we can also provide more options for those who take charge of their own health care by making flexible spending accounts more flexible and health savings accounts even more affordable for individuals and small businesses.

Finally, the Federal Government can help support State high-risk pools that help provide health coverage to individuals who couldn't otherwise afford care.

America is a caring Nation and we must recognize that not everyone has equal ability to take care of his or her own health. That's why we need to expand our safety net for the truly needy.

Many of those without health insurance—particularly children—qualify for benefits under existing programs but do not receive them. By providing grants to faith-based and community organizations, we can help more families sign up their children for available health coverage.

We also need to expand the availability of health care services to individuals in need by expanding Community Health Centers and Rural Health Clinics to more rural areas and poor counties.

We should also act to make prescription drugs more affordable for low-income Americans and provide legal protections and loan forbearance that will make it easier for health care practitioners who volunteer their time and services to provide needed care in community health centers and free clinics.

Every American should have health care that's available, affordable, and always there.

And we must hold fast to this principle: patients should sit at the center of the health care system, not the government, not insurance companies, and certainly not predatory trial lawyers.

The system should free providers to focus on caring for their patients: not dealing with regulations, bureaucrats, or lawyers.

Today, we've put forward a plan that will take a major step towards centering America's health care system on the patient.

We have the vision for what American health care should look like. Now we only need the courage to make it happen.

I want to thank Senator GREGG, and all of the members of the Task Force who worked so diligently on this legislation. I also want to recognize the contributions of the other cosponsors of this legislation: Senators MITCH MCCONNELL, MIKE ENZI, LISA MURKOWSKI, and JIM DEMINT. I urge all of my colleagues to join us in supporting this bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Healthy America Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—MAKING HEALTH CARE MORE AFFORDABLE

Subtitle A—Medical Liability Reform

Sec. 101. Short title.
Sec. 102. Findings and purpose.
Sec. 103. Encouraging speedy resolution of claims.
Sec. 104. Compensating patient injury.
Sec. 105. Maximizing patient recovery.
Sec. 106. Additional health benefits.
Sec. 107. Punitive damages.
Sec. 108. Authorization of payment of future damages to claimants in health care lawsuits.
Sec. 109. Definitions.
Sec. 110. Effect on other laws.
Sec. 111. State flexibility and protection of States' rights.
Sec. 112. Applicability; effective date.

Subtitle B—Health Information Technology

CHAPTER 1—GENERAL PROVISIONS

Sec. 121. Improving health care, quality, safety, and efficiency.
Sec. 122. HIPAA report.
Sec. 123. Study of reimbursement incentives.
Sec. 124. Reauthorization of incentive grants regarding telemedicine.
Sec. 125. Sense of the Senate on physician payment.
Sec. 126. Establishment of quality measurement systems for medicare value-based purchasing programs.
Sec. 127. Exception to Federal anti-kickback and physician self referral laws for the provision of permitted support.

CHAPTER 2—VALUE BASED PURCHASING

Sec. 131. Value based purchasing programs.

Subtitle C—Patient Safety and Quality Improvement

Sec. 141. Short title.
Sec. 142. Findings and purposes.
Sec. 143. Amendments to Public Health Service Act.
Sec. 144. Studies and reports.

Subtitle D—Fraud and Abuse

Sec. 151. National expansion of the medicare-medicaid data match pilot program.

Subtitle E—Miscellaneous Provisions

Sec. 161. Sense of the Senate on establishing a mandated benefits commission.
Sec. 162. Enforcement of reimbursement provisions by fiduciaries.

TITLE II—EXPANDING ACCESS TO AFFORDABLE HEALTH COVERAGE THROUGH TAX INCENTIVES AND OTHER INITIATIVES

Subtitle A—Refundable Health Insurance Credit

Sec. 201. Refundable health insurance costs credit.

Sec. 202. Advance payment of credit to issuers of qualified health insurance.

Subtitle B—High Deductible Health Plans and Health Savings Accounts

Sec. 211. Deduction of premiums for high deductible health plans.
Sec. 212. Refundable credit for contributions to health savings accounts of small business employees.

Subtitle C—Improvement of the Health Coverage Tax Credit

Sec. 221. Change in State-based coverage rules related to preexisting conditions.
Sec. 222. Eligibility of spouse of certain individuals entitled to medicare.
Sec. 223. Eligible PBGC pension recipient.
Sec. 224. Application of option to offer State-based coverage to Puerto Rico, Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.
Sec. 225. Clarification of disclosure rules.
Sec. 226. Clarification that State-based COBRA continuation coverage is subject to same rules as Federal COBRA.
Sec. 227. Application of rules for other specified coverage to eligible alternative taa recipients consistent with rules for other eligible individuals.

Subtitle D—Long-Term Care Insurance

Sec. 231. Sense of the Senate concerning long-term care.

Subtitle E—Other Provisions

Sec. 241. Disposition of unused health benefits in cafeteria plans and flexible spending arrangements.
Sec. 242. Microentrepreneurs.
Sec. 243. Study on access to affordable health insurance for full-time college and university students.
Sec. 244. Extension of funding for operation of State high risk health insurance pools.
Sec. 245. Sense of the senate on affordable health coverage for small employers.

Subtitle F—Covering Kids

Sec. 251. Short title.
Sec. 252. Grants to promote innovative outreach and enrollment under medicaid and SCHIP.
Sec. 253. State option to provide for simplified determinations of a child's financial eligibility for medical assistance under medicaid or child health assistance under SCHIP.

TITLE III—IMPROVING CARE AND STRENGTHENING THE SAFETY NET

Subtitle A—High Needs Areas

Sec. 301. Purpose.
Sec. 302. High need community health centers.
Sec. 303. Grant application process.

Subtitle B—Qualified Integrated Health Care systems

Sec. 321. Grants to qualified integrated health care systems.

Subtitle C—Miscellaneous Provisions

Sec. 331. Community health center collaborative access expansion.
Sec. 332. Improvements to section 340B program.
Sec. 333. Forbearance for student loans for physicians providing services in free clinics.
Sec. 334. Amendments to the Public Health Service Act relating to liability.
Sec. 335. Sense of the Senate concerning health disparities.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Health care costs are growing rapidly, putting health insurance and needed care out of reach for too many Americans.

(2) Rapidly growing health care costs pose a threat to the United States economy, as they make American businesses less competitive and make it more difficult to create new jobs.

(3) Growing health care costs are compromising the stability of health care safety net and entitlement programs.

(4) There are a series of steps Congress can and should take to slow the growth of health care costs, expand access to health coverage, and improve access to quality health care for millions of Americans.

TITLE I—MAKING HEALTH CARE MORE AFFORDABLE

Subtitle A—Medical Liability Reform

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Patients First Act of 2005".

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the current health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this subtitle to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of "defensive medicine" and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals;

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

SEC. 103. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

The time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years after the date of manifestation of injury unless tolled for any of the following:

(1) Upon proof of fraud;

(2) Intentional concealment; or

(3) The presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

Actions by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that actions by a minor under the full age of 6 years shall be commenced within 3 years of manifestation of injury or prior to the minor's 8th birthday, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

SEC. 104. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, the full amount of a claimant's economic loss may be fully recovered without limitation.

(b) ADDITIONAL NONECONOMIC DAMAGES.—In any health care lawsuit, the amount of noneconomic damages recovered may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—In any health care lawsuit, an award for future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic damages. An award for noneconomic damages in excess of $250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed $250,000, the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. A separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. 105. MAXIMIZING PATIENT RECOVERY.

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

(1) 40 percent of the first $50,000 recovered by the claimant(s).

(2) 33⅓ percent of the next $50,000 recovered by the claimant(s).

(3) 25 percent of the next $500,000 recovered by the claimant(s).

(4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) APPLICABILITY.—The limitations in subsection (a) shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section.

(c) EXPERT WITNESSES.—

(1) REQUIREMENT.—No individual shall be qualified to testify as an expert witness concerning issues of negligence in any health care lawsuit against a defendant unless such individual—

(A) except as required under paragraph (2), is a health care professional who—

(i) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(ii) typically treats the diagnosis or condition or provides the type of treatment under review; and

(B) can demonstrate by competent evidence that, as a result of training, education, knowledge, and experience in the evaluation, diagnosis, and treatment of the disease or injury which is the subject matter of the lawsuit against the defendant, the individual was substantially familiar with applicable standards of care and practice as they relate to the act or omission which is the subject of the lawsuit on the date of the incident.

(2) PHYSICIAN REVIEW.—In a health care lawsuit, if the claim of the plaintiff involved treatment that is recommended or provided by a physician (allopathic or osteopathic), an individual shall not be qualified to be an expert witness under this subsection with respect to issues of negligence concerning such treatment unless such individual is a physician.

(3) SPECIALTIES AND SUBSPECIALTIES.—With respect to a lawsuit described in paragraph (1), a court shall not permit an expert in one medical specialty or subspecialty to testify against a defendant in another medical specialty or subspecialty unless, in addition to a showing of substantial familiarity in accordance with paragraph (1)(B), there is a showing that the standards of care and practice in the two specialty or subspecialty fields are similar.

(4) LIMITATION.—The limitations in this subsection shall not apply to expert witnesses testifying as to the degree or permanency of medical or physical impairment.

SEC. 106. ADDITIONAL HEALTH BENEFITS.

(a) IN GENERAL.—The amount of any damages received by a claimant in any health care lawsuit shall be reduced by the court by the amount of any collateral source benefits to which the claimant is entitled, less any insurance premiums or other payments made by the claimant (or by the spouse, parent, child, or legal guardian of the claimant) to obtain or secure such benefits.

(b) PRESERVATION OF CURRENT LAW.—Where a payor of collateral source benefits has a right of recovery by reimbursement or subrogation and such right is permitted under Federal or State law, subsection (a) shall not apply.

(c) APPLICATION OF PROVISION.—This section shall apply to any health care lawsuit that is settled or resolved by a fact finder.

SEC. 107. PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability.

If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages, if awarded, in a health care lawsuit, the trier of fact shall consider only the following:

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) MAXIMUM AWARD.—The amount of punitive damages, if awarded, in a health care lawsuit may be as much as $250,000 or as much as two times the amount of economic damages awarded, whichever is greater. The jury shall not be informed of this limitation.

(c) NO PENALTIES FOR PROVIDERS IN COMPLIANCE WITH FDA STANDARDS.—A health care provider who prescribes a medical product approved or cleared by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such product and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or seller of such product.

SEC. 108. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) APPLICABILITY.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this Act.

SEC. 109. DEFINITIONS.

In this subtitle:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term "claimant" means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COLLATERAL SOURCE BENEFITS.—The term "collateral source benefits" means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) COMPENSATORY DAMAGES.—The term "compensatory damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses,

loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term "compensatory damages" includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term "contingent fee" includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term "economic damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE LAWSUIT.—The term "health care lawsuit" means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim.

(8) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) HEALTH CARE ORGANIZATION.—The term "health care organization" means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) HEALTH CARE PROVIDER.—The term "health care provider" means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) HEALTH CARE GOODS OR SERVICES.—The term "health care goods or services" means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(13) MALICIOUS INTENT TO INJURE.—The term "malicious intent to injure" means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) MEDICAL PRODUCT.—The term "medical product" means a drug or device intended for humans, and the terms "drug" and "device" have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321), respectively, including any component or raw material used therein, but excluding health care services.

(15) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages are neither economic nor noneconomic damages.

(17) RECOVERY.—The term "recovery" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 110. EFFECT ON OTHER LAWS.

(a) VACCINE INJURY.—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this subtitle does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this subtitle in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this subtitle or otherwise applicable law (as determined under this subtitle) will apply to such aspect of such action.

(b) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this subtitle shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

SEC. 111. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this subtitle preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this subtitle. The provisions governing health care lawsuits set forth in this subtitle supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this subtitle; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) PROTECTION OF STATES' RIGHTS.—Any issue that is not governed by any provision of law established by or under this subtitle (including State standards of negligence) shall be governed by otherwise applicable State or Federal law. This subtitle does not preempt or supersede any law that imposes greater protections (such as a shorter statute of limitations) for health care providers and health care organizations from liability, loss, or damages than those provided by this subtitle.

(c) STATE FLEXIBILITY.—No provision of this subtitle shall be construed to preempt—

(1) any State law (whether effective before, on, or after the date of the enactment of this subtitle) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this subtitle, notwithstanding section 104(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

SEC. 112. APPLICABILITY; EFFECTIVE DATE.

This subtitle shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

Subtitle B—Health Information Technology

CHAPTER 1—GENERAL PROVISIONS

SEC. 121. IMPROVING HEALTH CARE, QUALITY, SAFETY, AND EFFICIENCY.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

"TITLE XXIX—HEALTH INFORMATION TECHNOLOGY

"SEC. 2901. DEFINITIONS.

"In this title:

"(1) HEALTH CARE PROVIDER.—The term 'health care provider' means a hospital, skilled nursing facility, home health entity, health care clinic, federally qualified health center, group practice (as defined in section 1877(h)(4) of the Social Security Act), a pharmacist, a pharmacy, a laboratory, a physician (as defined in section 1861(r) of the Social Security Act), a health facility operated by or pursuant to a contract with the Indian Health Service, a rural health clinic, and any other category of facility or clinician determined appropriate by the Secretary.

"(2) HEALTH INFORMATION.—The term 'health information' has the meaning given such term in section 1171(4) of the Social Security Act.

"(3) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means—

"(A) a health insurance issuer (as defined in section 2791(b)(2));

"(B) a group health plan (as defined in section 2791(a)(1)); and

"(C) a health maintenance organization (as defined in section 2791(b)(3)).

"(4) LABORATORY.—The term 'laboratory' has the meaning given that term in section 353.

"(5) PHARMACIST.—The term 'pharmacist' has the meaning given that term in section 804 of the Federal Food, Drug, and Cosmetic Act.

"(6) STATE.—The term 'State' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

"SEC. 2902. OFFICE OF THE NATIONAL COORDINATOR OF HEALTH INFORMATION TECHNOLOGY.

"(a) OFFICE OF NATIONAL HEALTH INFORMATION TECHNOLOGY.—There is established within the Office of the Secretary an Office of the National Coordinator of Health Information Technology (referred to in this section as the 'Office'). The Office shall be headed by a National Coordinator who shall be appointed by the Secretary, in consultation with the President, and shall report directly to the Secretary.

"(b) Purpose.—It shall be the purpose of the Office to coordinate with relevant Federal agencies and oversee programs and activities to develop a nationwide interoperable health information technology infrastructure that—

"(1) ensures that patients' individually identifiable health information is secure and protected;

"(2) improves health care quality, reduces medical errors, and advances the delivery of patient-centered medical care;

"(3) reduces health care costs resulting from inefficiency, medical errors, inappropriate care, and incomplete information;

"(4) ensures that appropriate information to help guide medical decisions is available at the time and place of care;

"(5) promotes a more effective marketplace, greater competition, and increased choice through the wider availability of accurate information on health care costs, quality, and outcomes; and

"(6) improves the coordination of care and information among hospitals, laboratories, physician offices, and other entities through an effective infrastructure for the secure and authorized exchange of health care information.

"(c) DUTIES OF THE NATIONAL COORDINATOR.—The National Coordinator shall—

"(1) provide support to the public-private American Health Information Collaborative established under section 2903;

"(2) serve as the principal advisor to the Secretary concerning the development, application, and use of health information technology, and coordinate and oversee the health information technology programs of the Department;

"(3) facilitate the adoption of a nationwide, interoperable system for the electronic exchange of health information;

"(4) ensure the adoption and implementation of standards for the electronic exchange of health information to reduce cost and improve health care quality;

"(5) ensure that health information technology policy and programs of the Department are coordinated with those of relevant executive branch agencies (including Federal commissions) with a goal of avoiding duplication of efforts and of helping to ensure that each agency undertakes health information technology activities primarily within the areas of its greatest expertise and technical capability;

"(6) to the extent permitted by law, coordinate outreach and consultation by the relevant executive branch agencies (including Federal commissions) with public and private parties of interest, including consumers, payers, employers, hospitals and other health care providers, physicians, community health centers, laboratories, vendors and other stakeholders;

"(7) advise the President regarding specific Federal health information technology programs; and

"(8) submit the reports described under section 2903(i) (excluding paragraph (4) of such section).

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the duplication of Federal efforts with respect to the establishment of the Office, regardless of whether such efforts were carried out prior to or after the enactment of this title.

"SEC. 2903. AMERICAN HEALTH INFORMATION COLLABORATIVE.

"(a) PURPOSE.—The Secretary shall establish the public-private American Health Information Collaborative (referred to in this section as the 'Collaborative') to—

"(1) advise the Secretary and recommend specific actions to achieve a nationwide interoperable health information technology infrastructure;

"(2) serve as a forum for the participation of a broad range of stakeholders to provide input on achieving the interoperability of health information technology; and

"(3) recommend standards (including content, communication, and security standards) for the electronic exchange of health information for adoption by the Federal Government and voluntary adoption by private entities.

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Collaborative shall be composed of—

"(A) the Secretary, who shall serve as the chairperson of the Collaborative;

"(B) the Secretary of Defense, or his or her designee;

"(C) the Secretary of Veterans Affairs, or his or her designee;

"(D) the Secretary of Commerce, or his or her designee;

"(E) representatives of other relevant Federal agencies, as determined appropriate by the Secretary; and

"(F) representatives from among the following categories to be appointed by the Secretary from nominations submitted by the public—

"(i) consumer and patient organizations;

"(ii) experts in health information privacy and security;

"(iii) health care providers;

"(iv) health insurance plans or other third party payors;

"(v) standards development organizations;

"(vi) information technology vendors;

"(vii) purchasers or employers; and

"(viii) State or local government agencies or Indian tribe or tribal organizations.

"(2) CONSIDERATIONS.—In appointing members under paragraph (1)(F), the Secretary shall select individuals with expertise in—

"(A) health information privacy;

"(B) health information security;

"(C) health care quality and patient safety, including those individuals with experience in utilizing health information technology to improve health care quality and patient safety;

"(D) data exchange; and

"(E) developing health information technology standards and new health information technology.

"(3) TERMS.—Members appointed under paragraph (1)(G) shall serve for 2 year terms, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve for not to exceed 180 days after the expiration of such member's term or until a successor has been appointed.

"(c) RECOMMENDATIONS AND POLICIES.—The Collaborative shall make recommendations to identify uniform national policies for adoption by the Federal Government and voluntary adoption by private entities to support the widespread adoption of health information technology, including—

"(1) protection of individually identifiable health information through privacy and security practices;

"(2) measures to prevent unauthorized access to health information;

"(3) methods to facilitate secure patient access to health information;

"(4) the ongoing harmonization of industry-wide health information technology standards;

"(5) recommendations for a nationwide interoperable health information technology infrastructure;

"(6) the identification and prioritization of specific use cases for which health information technology is valuable, beneficial, and feasible;

"(7) recommendations for the establishment of an entity to ensure the continuation of the functions of the Collaborative; and

"(8) other policies determined to be necessary by the Collaborative.

"(d) STANDARDS.—

"(1) EXISTING STANDARDS.—The standards adopted by the Consolidated Health Informatics Initiative shall be deemed to have been recommended by the Collaborative under this section.

"(2) FIRST YEAR REVIEW.—Not later than 1 year after the date of enactment of this title, the Collaborative shall—

"(A) review existing standards (including content, communication, and security standards) for the electronic exchange of health information, including such standards adopted by the Secretary under paragraph (2)(A);

"(B) identify deficiencies and omissions in such existing standards; and

"(C) identify duplication and overlap in such existing standards;

and recommend modifications to such standards as necessary.

"(3) ONGOING REVIEW.—Beginning 1 year after the date of enactment of this title, and annually thereafter, the Collaborative shall—

"(A) review existing standards (including content, communication, and security standards) for the electronic exchange of health information, including such standards adopted by the Secretary under paragraph (2)(A);

"(B) identify deficiencies and omissions in such existing standards; and

"(C) identify duplication and overlap in such existing standards;

and recommend modifications to such standards as necessary.

"(4) LIMITATION.—The standards described in this section shall be consistent with any standards developed pursuant to the Health Insurance Portability and Accountability Act of 1996.

"(e) FEDERAL ACTION.—Not later than 60 days after the issuance of a recommendation from the Collaborative under subsection (d)(2), the Secretary of Health and Human Services, in consultation with the Secretary of Veterans Affairs, the Secretary of Defense, and representatives of other relevant Federal agencies, as determined appropriate by the Secretary, shall review such recommendations. The Secretary shall provide for the adoption by the Federal Government of any standard or standards contained in such recommendation.

"(f) COORDINATION OF FEDERAL SPENDING.—Not later than 1 year after the adoption by the Federal Government of a recommendation as provided for in subsection (e), and in compliance with chapter 113 of title 40, United States Code, no Federal agency shall expend Federal funds for the purchase of any form of health information technology or health information technology system for clinical care or for the electronic retrieval, storage, or exchange of health information that is not consistent with applicable standards adopted by the Federal Government under subsection (e).

"(g) COORDINATION OF FEDERAL DATA COLLECTION.—Not later than 3 years after the adoption by the Federal Government of a recommendation as provided for in subsection (e), all Federal agencies collecting health data for the purposes of surveillance, epidemiology, adverse event reporting, research, or for other purposes determined appropriate by the Secretary shall comply with standards adopted under subsection (e).

"(h) VOLUNTARY ADOPTION.—

"(1) IN GENERAL.—Any standards adopted by the Federal Government under subsection (e) shall be voluntary with respect to private entities.

"(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require that a private entity that enters into a contract with the Federal Government adopt the standards adopted by the Federal Government under section 2903 with respect to activities not related to the contract.

"(3) LIMITATION.—Private entities that enter into a contract with the Federal Government shall adopt the standards adopted under section 2903 for the purpose of activities under such Federal contract.

"(i) EFFECT ON OTHER PROVISIONS.—Nothing in this title shall be construed to effect the scope or substance of—

"(1) section 264 of the Health Insurance Portability and Accountability Act of 1996;

"(2) sections 1171 through 1179 of the Social Security Act; and

"(3) any regulation issued pursuant to any such section;

and such sections shall remain in effect and shall apply to the implementation of standards, programs and activities under this title.

"(j) REPORTS.—The Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, on an annual basis, a report that—

"(1) describes the specific actions that have been taken by the Federal Government and private entities to facilitate the adoption of an interoperable nationwide system for the electronic exchange of health information;

"(2) describes barriers to the adoption of such a nationwide system;

"(3) contains recommendations to achieve full implementation of such a nationwide system; and

"(4) contains a plan and progress toward the establishment of an entity to ensure the continuation of the functions of the Collaborative.

"(k) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Collaborative, except that the term provided for under section 14(a)(2) shall be 5 years.

"(l) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the duplication of Federal efforts with respect to the establishment of the Collaborative, regardless of whether such efforts were carried out prior to or after the enactment of this title.

"SEC. 2904. IMPLEMENTATION AND CERTIFICATION OF HEALTH INFORMATION STANDARDS.

"(a) IMPLEMENTATION.—

"(1) IN GENERAL.—The Secretary, based upon the recommendations of the Collaborative, shall develop criteria to ensure uniform and consistent implementation of any standards for the electronic exchange of health information voluntarily adopted by private entities in technical conformance with such standards adopted under this title.

"(2) IMPLEMENTATION ASSISTANCE.—The Secretary may recognize a private entity or entities to assist private entities in the implementation of the standards adopted under this title using the criteria developed by the Secretary under this section.

"(b) CERTIFICATION.—

"(1) IN GENERAL.—The Secretary, based upon the recommendations of the Collaborative, shall develop criteria to ensure and certify that hardware, software, and support services that claim to be in compliance with any standard for the electronic exchange of health information adopted under this title have established and maintained such compliance in technical conformance with such standards.

"(2) CERTIFICATION ASSISTANCE.—The Secretary may recognize a private entity or entities to assist in the certification described under paragraph (1) using the criteria developed by the Secretary under this section.

"(c) DELEGATION AUTHORITY.—The Secretary, through consultation with the Collaborative, may delegate the development of the criteria under subsections (a) and (b) to a private entity.

"SEC. 2905. STUDY OF STATE HEALTH INFORMATION LAWS AND PRACTICES.

"(a) IN GENERAL.—The Secretary shall carry out, or contract with a private entity to carry out, a study that examines—

"(1) the variation among State laws and practices that relate to the privacy, confidentiality, and security of health information;

"(2) how such variation among State laws and practices may impact the electronic exchange of health information—

"(A) among the States;

"(B) between the States and the Federal Government; and

"(C) among private entities; and

"(3) how such laws and practices may be harmonized to permit the secure electronic exchange of health information.

"(b) REPORT AND RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary shall submit to Congress a report that—

"(1) describes the results of the study carried out under subsection (a); and

"(2) makes recommendations based on the results of such study.

"SEC. 2906. SECURE EXCHANGE OF HEALTH INFORMATION; INCENTIVE GRANTS.

"(a) IN GENERAL.—The Secretary may make grants to States to carry out programs under which such States cooperate with other States to develop and implement State policies that will facilitate the secure electronic exchange of health information utilizing the standards adopted under section 2903—

"(1) among the States;

"(2) between the States and the Federal Government; and

"(3) among private entities.

"(b) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to States that provide assurance that any funding awarded under such a grant shall be used to harmonize privacy laws and practices between the States, the States and the Federal Government, and among private entities related to the privacy, confidentiality, and security of health information.

"(c) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information regarding the efficacy of efforts of a recipient of a grant under this section.

"(d) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to recipients of a grant under this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010.

"SEC. 2907. LICENSURE AND THE ELECTRONIC EXCHANGE OF HEALTH INFORMATION.

"(a) IN GENERAL.—The Secretary shall carry out, or contract with a private entity to carry out, a study that examines—

"(1) the variation among State laws that relate to the licensure, registration, and certification of medical professionals; and

"(2) how such variation among State laws impacts the secure electronic exchange of health information—

"(A) among the States; and

"(B) between the States and the Federal Government.

"(b) REPORT AND RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary shall publish a report that—

"(1) describes the results of the study carried out under subsection (a); and

"(2) makes recommendations to States regarding the harmonization of State laws based on the results of such study.

"SEC. 2908. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this title, there is authorized to be appropriated $125,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007 through 2010.

"(b) AVAILABILITY.—Amounts appropriated under subsection (a) shall remain available through fiscal year 2010.".

SEC. 122. HIPAA REPORT.

(a) STUDY.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study that examines the integration of the standards adopted under the amendments made by this subtitle with the standards adopted under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191).

(b) PLAN; REPORT.—

(1) PLAN.—Not later than 3 years after the date of enactment of this Act, the Secretary of Health and Human Services shall, based on the results of the study carried out under subsection (a), develop a plan for the integration of the standards described under such subsection and submit a report to Congress describing such plan.

(2) PERIODIC REPORTS.—The Secretary shall submit periodic reports to Congress that describe the progress of the integration described under paragraph (1).

SEC. 123. STUDY OF REIMBURSEMENT INCENTIVES.

The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study that examines methods to create efficient reimbursement incentives for improving health care quality in Federally qualified health centers, rural health clinics, and free clinics.

SEC. 124. REAUTHORIZATION OF INCENTIVE GRANTS REGARDING TELEMEDICINE.

Section 330L(b) of the Public Health Service Act (42 U.S.C. 254c–18(b)) is amended by striking "2002 through 2006" and inserting "2006 through 2010".

SEC. 125. SENSE OF THE SENATE ON PHYSICIAN PAYMENT.

It is the sense of the Senate that modifications to the medicare fee schedule for physicians' services under section 1848 of the Social Security Act (42 U.S.C. 1394w–4) should include provisions based on the reporting of quality measures pursuant to those adopted in section 2909 of the Public Health Service Act (as added by section 121) and the overall improvement of healthcare quality through the use of the electronic exchange of health information pursuant to the standards adopted under section 2903 of such Act (as added by section 121).

SEC. 126. ESTABLISHMENT OF QUALITY MEASUREMENT SYSTEMS FOR MEDICARE VALUE-BASED PURCHASING PROGRAMS.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.) is amended—

(1) by redesignating part E as part F; and

(2) by inserting after part D the following new part:

"PART E—VALUE-BASED PURCHASING

"QUALITY MEASUREMENT SYSTEMS FOR VALUE-BASED PURCHASING PROGRAMS

"SEC. 1860E–1. (a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall develop quality measurement systems for purposes of providing value-based payments to—

"(A) hospitals pursuant to section 1860E–2;

"(B) physicians and practitioners pursuant to section 1860E–3;

"(C) plans pursuant to section 1860E–4;

"(D) end stage renal disease providers and facilities pursuant to section 1860E–5; and

"(E) home health agencies pursuant to section 1860E–6.

"(2) QUALITY.—The systems developed under paragraph (1) shall measure the quality of the care furnished by the provider involved.

"(3) HIGH QUALITY HEALTH CARE DEFINED.—In this part, the term 'high quality health care' means health care that is safe, effective, patient-centered, timely, equitable, efficient, necessary, and appropriate.

"(b) REQUIREMENTS FOR SYSTEMS.—Under each quality measurement system described in subsection (a)(1), the Secretary shall do the following:

"(1) MEASURES.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall select measures of quality to be used by the Secretary under each system.

"(B) REQUIREMENTS.—In selecting the measures to be used under each system pursuant to subparagraph (A), the Secretary shall, to the extent feasible, ensure that—

"(i) such measures are evidence-based, reliable and valid, and feasible to collect and report;

"(ii) measures of process, structure, outcomes, beneficiary experience, efficiency, and equity are included;

"(iii) measures of overuse and underuse of health care items and services are included;

"(iv)(I) at least 1 measure of health information technology infrastructure that enables the provision of high quality health care and facilitates the exchange of health information, such as the use of one or more elements of a qualified health information system (as defined in subparagraph (E)), is included during the first year each system is implemented; and

"(II) additional measures of health information technology infrastructure are included in subsequent years;

"(v) in the case of the system that is used to provide value-based payments to hospitals under section 1360E–2, by not later than January 1, 2008, at least 5 measures that take into account the unique characteristics of small hospitals located in rural areas and frontier areas are included; and

"(vi) measures that assess the quality of care furnished to frail individuals over the age of 75 and to individuals with multiple complex chronic conditions are included.

"(C) REQUIREMENT FOR COLLECTION OF DATA ON A MEASURE FOR 1 YEAR PRIOR TO USE UNDER THE SYSTEMS.—Data on any measure selected by the Secretary under subparagraph (A) must be collected by the Secretary for at least a 12-month period before such measure may be used to determine whether a provider receives a value-based payment under a program described in subsection (a)(1).

"(D) AUTHORITY TO VARY MEASURES.—

"(i) UNDER SYSTEM APPLICABLE TO HOSPITALS.—In the case of the system applicable to hospitals under section 1860E–2, the Secretary may vary the measures selected under subparagraph (A) by hospital depending on the size of, and the scope of services provided by, the hospital.

"(ii) UNDER SYSTEM APPLICABLE TO PHYSICIANS AND PRACTITIONERS.—In the case of the system applicable to physicians and practitioners under section 1860E–3, the Secretary may vary the measures selected under subparagraph (A) by physician or practitioner depending on the specialty of the physician, the type of practitioner, or the volume of services furnished to beneficiaries by the physician or practitioner.

"(iii) UNDER SYSTEM APPLICABLE TO ESRD PROVIDERS AND FACILITIES.—In the case of the system applicable to providers of services and renal dialysis facilities under section 1860E–5, the Secretary may vary the measures selected under subparagraph (A) by provider or facility depending on the type of, the size of, and the scope of services provided by, the provider or facility.

"(iv) UNDER SYSTEM APPLICABLE TO HOME HEALTH AGENCIES.—In the case of the system applicable to home health agencies under section 1860E–6, the Secretary may vary the measures selected under subparagraph (A) by agency depending on the size of, and the scope of services provided by, the agency.

"(E) QUALIFIED HEALTH INFORMATION SYSTEM DEFINED.—For purposes of subparagraph (B)(iv)(I), the term 'qualified health information system' means a computerized system (including hardware, software, and training) that—

"(i) protects the privacy and security of health information and properly encrypts such health information;

"(ii) maintains and provides access to patients' health records in an electronic format;

"(iii) incorporates decision support software to reduce medical errors and enhance health care quality;

"(iv) is consistent with data standards and certification processes recommended by the Secretary;

"(v) allows for the reporting of quality measures; and

"(vi) includes other features determined appropriate by the Secretary.

"(2) WEIGHTS OF MEASURES.—

"(A) IN GENERAL.—The Secretary shall assign weights to the measures used by the Secretary under each system.

"(B) CONSIDERATION.—If the Secretary determines appropriate, in assigning the weights under subparagraph (A)—

"(i) measures of clinical effectiveness shall be weighted more heavily than measures of beneficiary experience; and

"(ii) measures of risk adjusted outcomes shall be weighted more heavily than measures of process; and

"(3) RISK ADJUSTMENT.—The Secretary shall establish procedures, as appropriate, to control for differences in beneficiary health status and beneficiary characteristics. To the extent feasible, such procedures may be based on existing models for controlling for such differences.

"(4) MAINTENANCE.—

"(A) IN GENERAL.—The Secretary shall, as determined appropriate, but not more often than once each 12-month period, update each system, including through—

"(i) the addition of more accurate and precise measures under the systems and the retirement of existing outdated measures under the system;

"(ii) the refinement of the weights assigned to measures under the system; and

"(iii) the refinement of the risk adjustment procedures established pursuant to paragraph (3) under the system.

"(B) UPDATE SHALL ALLOW FOR COMPARISON OF DATA.—Each update under subparagraph (A) of a quality measurement system shall allow for the comparison of data from one year to the next for purposes of providing value-based payments under the programs described in subsection (a)(1).

"(5) USE OF MOST RECENT QUALITY DATA.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall use the most recent quality data with respect to the provider involved that is available to the Secretary.

"(B) INSUFFICIENT DATA DUE TO LOW VOLUME.—If the Secretary determines that there is insufficient data with respect to a measure or measures because of a low number of services provided, the Secretary may aggregate data across more than 1 fiscal or calendar year, as the case may be.

"(c) REQUIREMENTS FOR DEVELOPING AND UPDATING THE SYSTEMS.—In developing and updating each quality measurement system under this section, the Secretary shall—

"(1) take into account the quality measures developed by nationally recognized quality measurement organizations, researchers, health care provider organizations, and other appropriate groups;

"(2) consult with, and take into account the recommendations of, the entity that the Secretary has an arrangement with under subsection (e);

"(3) consult with provider-based groups and clinical specialty societies;

"(4) take into account existing quality measurement systems that have been developed through a rigorous process of validation and with the involvement of entities and persons described in subsection (e)(2)(B); and

"(5) take into account—

"(A) each of the reports by the Medicare Payment Advisory Commission that are required under the Medicare Value Purchasing Act of 2005;

"(B) the results of—

"(i) the demonstrations required under such Act;

"(ii) the demonstration program under section 1866A;

"(iii) the demonstration program under section 1866C; and

"(iv) any other demonstration or pilot program conducted by the Secretary relating to measuring and rewarding quality and efficiency of care; and

"(C) the report by the Institute of Medicine of the National Academy of Sciences under section 238(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

"(d) REQUIREMENTS FOR IMPLEMENTING THE SYSTEMS.—In implementing each quality measurement system under this section, the Secretary shall consult with entities—

"(1) that have joined together to develop strategies for quality measurement and reporting, including the feasibility of collecting and reporting meaningful data on quality measures; and

"(2) that involve representatives of health care providers, health plans, consumers, employers, purchasers quality experts, government agencies, and other individuals and groups that are interested in quality of care.

"(e) ARRANGEMENT WITH AN ENTITY TO PROVIDE ADVICE AND RECOMMENDATIONS.—

"(1) ARRANGEMENT.—On and after July 1, 2006, the Secretary shall have in place an arrangement with an entity that meets the requirements described in paragraph (2) under which such entity provides the Secretary with advice on, and recommendations with respect to, the development and updating of the quality measurement systems under this section, including the assigning of weights to the measures under subsection (b)(2).

"(2) REQUIREMENTS DESCRIBED.—The requirements described in this paragraph are the following:

"(A) The entity is a private nonprofit entity governed by an executive director and a board.

"(B) The members of the entity include representatives of—

"(i)(I) health plans and providers receiving reimbursement under this title for the provision of items and services, including health plans and providers with experience in the care of the frail elderly and individuals with multiple complex chronic conditions; or

"(II) groups representing such health plans and providers;

"(ii) groups representing individuals receiving benefits under this title;

"(iii) purchasers and employers or groups representing purchasers or employers;

"(iv) organizations that focus on quality improvement as well as the measurement and reporting of quality measures;

"(v) State government health programs;

"(vi) persons skilled in the conduct and interpretation of biomedical, health services, and health economics research and with expertise in outcomes and effectiveness research and technology assessment; and

"(vii) persons or entities involved in the development and establishment of standards and certification for health information technology systems and clinical data.

"(C) The membership of the entity is representative of individuals with experience with—

"(i) urban health care issues;

"(ii) safety net health care issues; and

"(iii) rural and frontier health care issues.

"(D) The entity does not charge a fee for membership for participation in the work of the entity related to the arrangement with the Secretary under paragraph (1). If the entity does require a fee for membership for participation in other functions of the entity, there shall be no linkage between such fee and participation in the work of the entity related to such arrangement with the Secretary.

"(E) The entity—

"(i) permits any member described in subparagraph (B) to vote on matters of the entity related to the arrangement with the Secretary under paragraph (1); and

"(ii) ensures that such members have an equal vote on such matters.

"(F) With respect to matters related to the arrangement with the Secretary under paragraph (1), the entity conducts its business in an open and transparent manner and provides the opportunity for public comment.

"(G) The entity operates as a voluntary consensus standards setting organization as defined for purposes of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) and Office of Management and Budget Revised Circular A–119 (published in the Federal Register on February 10, 1998).".

(b) CONFORMING REFERENCES TO PREVIOUS PART E.—Any reference in law (in effect before the date of the enactment of this Act) to part E of title XVIII of the Social Security Act is deemed a reference to part F of such title (as in effect after such date).

SEC. 127. EXCEPTION TO FEDERAL ANTI-KICKBACK AND PHYSICIAN SELF REFERRAL LAWS FOR THE PROVISION OF PERMITTED SUPPORT.

(a) ANTI-KICKBACK.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking "and" at the end;

(B) in subparagraph (H), as added by section 237(d) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2213)—

(i) by moving such subparagraph 2 ems to the left; and

(ii) by striking the period at the end and inserting a semicolon;

(C) by redesignating subparagraph (H), as added by section 431(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2287), as subparagraph (I);

(D) in subparagraph (I), as so redesignated—

(i) by moving such subparagraph 2 ems to the left; and

(ii) by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following new:

"(J) during the 5-year period beginning on the date the Secretary issues the interim final rule under section 801(c)(1) of the Medicare Value Purchasing Act of 2005, the provision, with or without charge, of any permitted support (as defined in paragraph (4))."; and

(2) by adding at the end the following new paragraph:

"(4) PERMITTED SUPPORT.—

"(A) DEFINITION OF PERMITTED SUPPORT.—Subject to subparagraph (B), in this section, the term 'permitted support' means the provision of any equipment, item, information, right, license, intellectual property, software, training, or service used for developing, implementing, operating, or facilitating the use of systems designed to improve the quality of health care and to promote the electronic exchange of health information.

"(B) EXCEPTION.—The term 'permitted support' shall not include the provision of—

"(i) any support that is determined in a manner that is related to the volume or value of any referrals or other business generated between the parties for which payment may be made in whole or in part under a Federal health care program;

"(ii) any support that has more than incidental utility or value to the recipient beyond the exchange of health care information; or

"(iii) any health information technology system, product, or service that is not capable of exchanging health care information in compliance with data standards consistent with interoperability.

"(C) DETERMINATION.—In establishing regulations with respect to the requirement under subparagraph (B)(iii), the Secretary shall take in account—

"(I) whether the health information technology system, product, or service is widely accepted within the industry and whether there is sufficient industry experience to ensure successful implementation of the system, product, or service; and

"(II) whether the health information technology system, product, or service improves quality of care, enhances patient safety, or provides greater administrative efficiencies.".

(b) PHYSICIAN SELF-REFERRAL.—Section 1877(e) (42 U.S.C. 1395nn(e)) is amended by adding at the end the following new paragraph:

"(9) PERMITTED SUPPORT.—During the 5-year period beginning on the date the Secretary issues the interim final rule under section 801(c)(1) of the Medicare Value Purchasing Act of 2005, the provision, with or without charge, of any permitted support (as defined in section 1128B(b)(4)).".

(c) REGULATIONS.—In order to carry out the amendments made by this section—

(1) the Secretary shall issue an interim final rule with comment period by not later than the date that is 180 days after the date of enactment of this Act;

(2) the Secretary shall issue a final rule by not later than the date that is 180 days after the date that the interim final rule under paragraph (1) is issued.

CHAPTER 2—VALUE BASED PURCHASING

SEC. 131. VALUE BASED PURCHASING PROGRAMS; SENSE OF THE SENATE.

(a) MEDICARE VALUE BASED PURCHASING PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall establish under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) a value based purchasing pilot program based on the reporting

of quality measures pursuant to those adopted in section 1860E-1 of the Social Security Act (as added by section 126). Such pilot program should be based on experience gained through previous demonstration projects conducted by the Secretary, including demonstration projects conducted under sections 1866A and 1866C of the Social Security Act (42 U.S.C. 1395cc-1; 1395cc-3), section 649 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2322), and other relevant work conducted by private entities.

(2) EXPANSION.—Not later than 2 years after conducting the pilot program under paragraph (1), the Secretary shall transition and implement such program on a national basis.

(3) INFORMATION TECHNOLOGY.—Providers reporting quality measurement data electronically under this section shall report such data pursuant to the standards adopted under title XXIX of the Public Health Service Act (as added by section 121).

(4) FUNDING.—The Secretary shall ensure that the total amount of expenditures under this Act in a year does not exceed the total amount of expenditures that would have been expended in such year under this Act if this subsection had not been enacted.

(b) MEDICAID VALUE BASED PURCHASING PROGRAMS.—

(1) IN GENERAL.—The Secretary shall authorize waivers under section 1115 of the Social Security Act (42 U.S.C. 1315) for States to establish value based purchasing programs for State medicaid programs established under title XIX of such Act (42 U.S.C. 1396 et seq.). Such programs shall be based on the reporting of quality measures pursuant to those adopted in section 1860E-1 of the Social Security Act (as added by section 126).

(2) INFORMATION TECHNOLOGY.—Providers reporting quality measurement data electronically under this section shall report such data pursuant to the standards adopted under title XXIX of the Public Health Service Act (as added by section 121).

(3) WAIVER.—In authorizing such waivers, the Secretary shall waive any provisions of title XI or XIX of the Social Security Act that would otherwise prevent a State from establishing a value based purchasing program in accordance with paragraph (1).

Subtitle C—Patient Safety and Quality Improvement

SEC. 141. SHORT TITLE.

This subtitle may be cited as the "Patient Safety and Quality Improvement Act of 2005".

SEC. 142. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) In 1999, the Institute of Medicine released a report entitled To Err is Human that described medical errors as the eighth leading cause of death in the United States, with as many as 98,000 people dying as a result of medical errors each year.

(2) To address these deaths and injuries due to medical errors, the health care system must identify and learn from such errors so that systems of care can be improved.

(3) In their report, the Institute of Medicine called on Congress to provide legal protections with respect to information reported for the purposes of quality improvement and patient safety.

(4) The Health, Education, Labor, and Pensions Committee of the Senate held 4 hearings in the 106th Congress and 1 hearing in the 107th Congress on patient safety where experts in the field supported the recommendation of the Institute of Medicine for congressional action.

(5) Myriad public and private patient safety initiatives have begun. The Quality Interagency Coordination Taskforce has recommended steps to improve patient safety that may be taken by each Federal agency involved in health care and activities relating to these steps are ongoing.

(6) The research on patient safety unequivocally calls for a learning environment, rather than a punitive environment, in order to improve patient safety.

(7) Voluntary data gathering systems are more supportive than mandatory systems in creating the learning environment referred to in paragraph (6) as stated in the Institute of Medicine's report.

(8) Promising patient safety reporting systems have been established throughout the United States and the best ways to structure and use these systems are currently being determined, largely through projects funded by the Agency for Healthcare Research and Quality.

(9) Many organizations currently collecting patient safety data have expressed a need for legal protections that will allow them to review protected information and collaborate in the development and implementation of patient safety improvement strategies. Currently, the State peer review protections are inadequate to allow the sharing of information to promote patient safety.

(b) PURPOSES.—It is the purpose of this subtitle to—

(1) encourage a culture of safety and quality in the United States health care system by providing for legal protection of information reported voluntarily for the purposes of quality improvement and patient safety; and

(2) ensure accountability by raising standards and expectations for continuous quality improvements in patient safety.

SEC. 143. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(1) in section 912(c), by inserting ", in accordance with part C," after "The Director shall";

(2) by redesignating part C as part D;

(3) by redesignating sections 921 through 928, as sections 931 through 938, respectively;

(4) in 934(d) (as so redesignated), by striking the second sentence and inserting the following: "Penalties provided for under this section shall be imposed and collected by the Secretary using the administrative and procedural processes used to impose and collect civil money penalties under section 1128A of the Social Security Act (other than subsections (a) and (b), the second sentence of subsection (f), and subsections (i), (m), and (n)), unless the Secretary determines that a modification of procedures would be more suitable or reasonable to carry out this subsection and provides for such modification by regulation.";

(5) in section 938(1) (as so redesignated), by striking "921" and inserting "931"; and

(6) by inserting after part B the following:

"PART C—PATIENT SAFETY IMPROVEMENT

"SEC. 921. DEFINITIONS.

"In this part:

"(1) NON-IDENTIFIABLE INFORMATION.—

"(A) IN GENERAL.—The term 'non-identifiable information' means, with respect to information, that the information is presented in a form and manner that prevents the identification of a provider, a patient, or a reporter of patient safety data.

"(B) IDENTIFIABILITY OF PATIENT.—For purposes of subparagraph (A), the term 'presented in a form and manner that prevents the identification of a patient' means, with respect to information that has been subject to rules promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note), that the information has been de-identified so that it is no longer individually identifiable health information as defined in such rules.

"(2) PATIENT SAFETY DATA.—

"(A) IN GENERAL.—The term 'patient safety data' means—

"(i) any data, reports, records, memoranda, analyses (such as root cause analyses), or written or oral statements that are—

"(I) collected or developed by a provider for reporting to a patient safety organization, provided that they are reported to the patient safety organization within 60 days;

"(II) requested by a patient safety organization (including the contents of such request), if they are reported to the patient safety organization within 60 days;

"(III) reported to a provider by a patient safety organization; or

"(IV) collected by a patient safety organization from another patient safety organization, or developed by a patient safety organization;

that could result in improved patient safety, health care quality, or health care outcomes; or

"(ii) any deliberative work or process with respect to any patient safety data described in clause (i).

"(B) LIMITATION.—

"(i) COLLECTION.—If the original material from which any data, reports, records, memoranda, analyses (such as root case analyses), or written or oral statements referred to in subclause (I) or (IV) of subparagraph (A)(i) are collected and is not patient safety data, the act of such collection shall not make such original material patient safety data for purposes of this part.

"(ii) SEPARATE DATA.—The term 'patient safety data' shall not include information (including a patient's medical record, billing and discharge information or any other patient or provider record) that is collected or developed separately from and that exists separately from patient safety data. Such separate information or a copy thereof submitted to a patient safety organization shall not itself be considered as patient safety data. Nothing in this part, except for section 922(f)(1), shall be construed to limit—

"(I) the discovery of or admissibility of information described in this subparagraph in a criminal, civil, or administrative proceeding;

"(II) the reporting of information described in this subparagraph to a Federal, State, or local governmental agency for public health surveillance, investigation, or other public health purposes or health oversight purposes; or

"(III) a provider's recordkeeping obligation with respect to information described in this subparagraph under Federal, State, or local law.

"(3) PATIENT SAFETY ORGANIZATION.—The term 'patient safety organization' means a private or public entity or component thereof that is currently listed by the Secretary pursuant to section 924(c).

"(4) PATIENT SAFETY ORGANIZATION ACTIVITIES.—The term 'patient safety organization activities' means the following activities, which are deemed to be necessary for the proper management and administration of a patient safety organization:

"(A) The conduct, as its primary activity, of efforts to improve patient safety and the quality of health care delivery.

"(B) The collection and analysis of patient safety data that are submitted by more than one provider.

"(C) The development and dissemination of information to providers with respect to improving patient safety, such as recommendations, protocols, or information regarding best practices.

"(D) The utilization of patient safety data for the purposes of encouraging a culture of safety and of providing direct feedback and assistance to providers to effectively minimize patient risk.

"(E) The maintenance of procedures to preserve confidentiality with respect to patient safety data.

"(F) The provision of appropriate security measures with respect to patient safety data.

"(G) The utilization of qualified staff.

"(5) PERSON.—The term 'person' includes Federal, State, and local government agencies.

"(6) PROVIDER.—The term 'provider' means—

"(A) a person licensed or otherwise authorized under State law to provide health care services, including—

"(i) a hospital, nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, renal dialysis facility, ambulatory surgical center, pharmacy, physician or health care practitioner's office, long term care facility, behavior health residential treatment facility, clinical laboratory, or health center; or

"(ii) a physician, physician assistant, nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, psychologist, certified social worker, registered dietitian or nutrition professional, physical or occupational therapist, pharmacist, or other individual health care practitioner; or

"(B) any other person specified in regulations promulgated by the Secretary.

"SEC. 922. PRIVILEGE AND CONFIDENTIALITY PROTECTIONS.

"(a) PRIVILEGE.—Notwithstanding any other provision of Federal, State, or local law, patient safety data shall be privileged and, subject to the provisions of subsection (c)(1), shall not be—

"(1) subject to a Federal, State, or local civil, criminal, or administrative subpoena;

"(2) subject to discovery in connection with a Federal, State, or local civil, criminal, or administrative proceeding;

"(3) disclosed pursuant to section 552 of title 5, United States Code (commonly known as the Freedom of Information Act) or any other similar Federal, State, or local law;

"(4) admitted as evidence or otherwise disclosed in any Federal, State, or local civil, criminal, or administrative proceeding; or

"(5) utilized in a disciplinary proceeding against a provider.

"(b) CONFIDENTIALITY.—Notwithstanding any other provision of Federal, State, or local law, and subject to the provisions of subsections (c) and (d), patient safety data shall be confidential and shall not be disclosed.

"(c) EXCEPTIONS TO PRIVILEGE AND CONFIDENTIALITY.—Nothing in this section shall be construed to prohibit one or more of the following uses or disclosures:

"(1) Disclosure by a provider or patient safety organization of relevant patient safety data for use in a criminal proceeding only after a court makes an in camera determination that such patient safety data contains evidence of a wanton and criminal act to directly harm the patient.

"(2) Voluntary disclosure of non-identifiable patient safety data by a provider or a patient safety organization.

"(d) PROTECTED DISCLOSURE AND USE OF INFORMATION.—Nothing in this section shall be construed to prohibit one or more of the following uses or disclosures:

"(1) Disclosure of patient safety data by a person that is a provider, a patient safety organization, or a contractor of a provider or patient safety organization, to another such person, to carry out patient safety organization activities.

"(2) Disclosure of patient safety data by a provider or patient safety organization to grantees or contractors carrying out patient safety research, evaluation, or demonstration projects authorized by the Director.

"(3) Disclosure of patient safety data by a provider to an accrediting body that accredits that provider.

"(4) Voluntary disclosure of patient safety data by a patient safety organization to the Secretary for public health surveillance if the consent of each provider identified in, or providing, such data is obtained prior to such disclosure. Nothing in the preceding sentence shall be construed to prevent the release of patient safety data that is provided by, or that relates solely to, a provider from which the consent described in such sentence is obtained because one or more other providers do not provide such consent with respect to the disclosure of patient safety date that relates to such nonconsenting providers. Consent for the future release of patient safety data for such purposes may be requested by the patient safety organization at the time the data is submitted.

"(5) Voluntary disclosure of patient safety data by a patient safety organization to State of local government agencies for public health surveillance if the consent of each provider identified in, or providing, such data is obtained prior to such disclosure. Nothing in the preceding sentence shall be construed to prevent the release of patient safety data that is provided by, or that relates solely to, a provider from which the consent described in such sentence is obtained because one or more other providers do not provide such consent with respect to the disclosure of patient safety date that relates to such nonconsenting providers. Consent for the future release of patient safety data for such purposes may be requested by the patient safety organization at the time the data is submitted.

"(e) CONTINUED PROTECTION OF INFORMATION AFTER DISCLOSURE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), patient safety data that is used or disclosed shall continue to be privileged and confidential as provided for in subsections (a) and (b), and the provisions of such subsections shall apply to such data in the possession or control of—

"(A) a provider or patient safety organization that possessed such data before the use or disclosure; or

"(B) a person to whom such data was disclosed.

"(2) EXCEPTION.—Notwithstanding paragraph (1), and subject to paragraph (3)—

"(A) if patient safety data is used or disclosed as provided for in subsection (c)(1), and such use or disclosure is in open court, the confidentiality protections provided for in subsection (b) shall no longer apply to such data; and

"(B) if patient safety data is used or disclosed as provided for in subsection (c)(2), the privilege and confidentiality protections provided for in subsections (a) and (b) shall no longer apply to such data.

"(3) CONSTRUCTION.—Paragraph (2) shall not be construed as terminating or limiting the privilege or confidentiality protections provided for in subsection (a) or (b) with respect to data other than the specific data used or disclosed as provided for in subsection (c).

"(f) LIMITATION ON ACTIONS.—

"(1) PATIENT SAFETY ORGANIZATIONS.—Except to enforce disclosures pursuant to subsection (c)(1), no action may be brought or process served against a patient safety organization to compel disclosure of information collected or developed under this part whether or not such information is patient safety data unless such information is specifically identified, is not patient safety data, and cannot otherwise be obtained.

"(2) PROVIDERS.—An accrediting body shall not take an accrediting action against a provider based on the good faith participation of the provider in the collection, development, reporting, or maintenance of patient safety data in accordance with this part. An accrediting body may not require a provider to reveal its communications with any patient safety organization established in accordance with this part.

"(g) REPORTER PROTECTION.—

"(1) IN GENERAL.—A provider may not take an adverse employment action, as described in paragraph (2), against an individual based upon the fact that the individual in good faith reported information—

"(A) to the provider with the intention of having the information reported to a patient safety organization; or

"(B) directly to a patient safety organization.

"(2) ADVERSE EMPLOYMENT ACTION.—For purposes of this subsection, an 'adverse employment action' includes—

"(A) loss of employment, the failure to promote an individual, or the failure to provide any other employment-related benefit for which the individual would otherwise be eligible; or

"(B) an adverse evaluation or decision made in relation to accreditation, certification, credentialing, or licensing of the individual.

"(h) ENFORCEMENT.—

"(1) PROHIBITION.—Except as provided in subsections (c) and (d) and as otherwise provided for in this section, it shall be unlawful for any person to negligently or intentionally disclose any patient safety data, and any such person shall, upon adjudication, be assessed in accordance with section 934(d).

"(2) RELATION TO HIPAA.—The penalty provided for under paragraph (1) shall not apply if the defendant would otherwise be subject to a penalty under the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note) or under section 1176 of the Social Security Act (42 U.S.C. 1320d–5) for the same disclosure.

"(3) EQUITABLE RELIEF.—

"(A) IN GENERAL.—Without limiting remedies available to other parties, a civil action may be brought by any aggrieved individual to enjoin any act or practice that violates subsection (g) and to obtain other appropriate equitable relief (including reinstatement, back pay, and restoration of benefits) to redress such violation.

“(B) AGAINST STATE EMPLOYEES.—An entity that is a State or an agency of a State government may not assert the privilege described in subsection (a) unless before the time of the assertion, the entity or, in the case of and with respect to an agency, the State has consented to be subject to an action as described by this paragraph, and that consent has remained in effect.

“(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

“(1) limit other privileges that are available under Federal, State, or local laws that provide greater confidentiality protections or privileges than the privilege and confidentiality protections provided for in this section;

“(2) limit, alter, or affect the requirements of Federal, State, or local law pertaining to information that is not privileged or confidential under this section;

“(3) alter or affect the implementation of any provision of section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033), section 1176 of the Social Security Act (42 U.S.C. 1320d–5), or any regulation promulgated under such sections;

“(4) limit the authority of any provider, patient safety organization, or other person to enter into a contract requiring greater confidentiality or delegating authority to make a disclosure or use in accordance with subsection (c) or (d); and

“(5) prohibit a provider from reporting a crime to law enforcement authorities, regardless of whether knowledge of the existence of, or the description of, the crime is based on patient safety data, so long as the provider does not disclose patient safety data in making such report.

“SEC. 923. PATIENT SAFETY NETWORK OF DATABASES.

“(a) IN GENERAL.—The Secretary shall maintain a patient safety network of databases that provides an interactive evidence-based management resource for providers, patient safety organizations, and other persons. The network of databases shall have the capacity to accept, aggregate, and analyze nonidentifiable patient safety data voluntarily reported by patient safety organizations, providers, or other persons.

“(b) NETWORK OF DATABASE STANDARDS.—The Secretary may determine common formats for the reporting to the patient safety network of databases maintained under subsection (a) of nonidentifiable patient safety data, including necessary data elements, common and consistent definitions, and a standardized computer interface for the processing of such data. To the extent practicable, such standards shall be consistent with the administrative simplification provisions of Part C of title XI of the Social Security Act.

“SEC. 924. PATIENT SAFETY ORGANIZATION CERTIFICATION AND LISTING.

“(a) CERTIFICATION.—

“(1) INITIAL CERTIFICATION.—Except as provided in paragraph (2), an entity that seeks to be a patient safety organization shall submit an initial certification to the Secretary that the entity intends to perform the patient safety organization activities.

“(2) DELAYED CERTIFICATION OF COLLECTION FROM MORE THAN ONE PROVIDER.—An entity that seeks to be a patient safety organization may—

“(A) submit an initial certification that it intends to perform patient safety organization activities other than the activities described in subparagraph (B) of section 921(4); and

“(B) within 2 years of submitting the initial certification under subparagraph (A), submit a supplemental certification that it performs the patient safety organization activities described in subparagraphs (A) through (F) of section 921(4).

“(3) EXPIRATION AND RENEWAL.—

“(A) EXPIRATION.—An initial certification under paragraph (1) or (2)(A) shall expire on the date that is 3 years after it is submitted.

“(B) RENEWAL.—

“(i) IN GENERAL.—An entity that seeks to remain a patient safety organization after the expiration of an initial certification under paragraph (1) or (2)(A) shall, within the 3-year period described in subparagraph (A), submit a renewal certification to the Secretary that the entity performs the patient safety organization activities described in section 921(4).

“(ii) TERM OF RENEWAL.—A renewal certification under clause (i) shall expire on the date that is 3 years after the date on which it is submitted, and may be renewed in the same manner as an initial certification.

“(b) ACCEPTANCE OF CERTIFICATION.—Upon the submission by an organization of an initial certification pursuant to subsection (a)(1) or (a)(2)(A), a supplemental certification pursuant to subsection (a)(2)(B), or a renewal certification pursuant to subsection (a)(3)(B), the Secretary shall review such certification and—

“(1) if such certification meets the requirements of subsection (a)(1), (a)(2)(A), (a)(2)(B), or (a)(3)(B), as applicable, the Secretary shall notify the organization that such certification is accepted; or

“(2) if such certification does not meet such requirements, as applicable, the Secretary shall notify the organization that such certification is not accepted and the reasons therefor.

“(c) LISTING.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall compile and maintain a current listing of patient safety organizations with respect to which the Secretary has accepted a certification pursuant to subsection (b).

“(2) REMOVAL FROM LISTING.—The Secretary shall remove from the listing under paragraph (1)—

“(A) an entity with respect to which the Secretary has accepted an initial certification pursuant to subsection (a)(2)(A) and which does not submit a supplemental certification pursuant to subsection (a)(2)(B) that is accepted by the Secretary;

“(B) an entity whose certification expires and which does not submit a renewal application that is accepted by the Secretary; and

“(C) an entity with respect to which the Secretary revokes the Secretary's acceptance of the entity's certification, pursuant to subsection (d).

“(d) REVOCATION OF ACCEPTANCE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), if the Secretary determines (through a review of patient safety organization activities) that a patient safety organization does not perform one of the patient safety organization activities described in subparagraph (A) through (F) of section 921(4), the Secretary may, after notice and an opportunity for a hearing, revoke the Secretary's acceptance of the certification of such organization.

“(2) DELAYED CERTIFICATION OF COLLECTION FROM MORE THAN ONE PROVIDER.—A revocation under paragraph (1) may not be based on a determination that the organization does not perform the activity described in section 921(4)(B) if—

“(A) the listing of the organization is based on its submittal of an initial certification under subsection (a)(2)(A);

“(B) the organization has not submitted a supplemental certification under subsection (a)(2)(B); and

“(C) the 2-year period described in subsection (a)(2)(B) has not expired.

“(e) NOTIFICATION OF REVOCATION OR REMOVAL FROM LISTING.—

“(1) SUPPLYING CONFIRMATION OF NOTIFICATION TO PROVIDERS.—Within 15 days of a revocation under subsection (d)(1), a patient safety organization shall submit to the Secretary a confirmation that the organization has taken all reasonable actions to notify each provider whose patient safety data is collected or analyzed by the organization of such revocation.

“(2) PUBLICATION.—Upon the revocation of an acceptance of an organization's certification under subsection (d)(1), or upon the removal of an organization from the listing under subsection (c)(2), the Secretary shall publish notice of the revocation or removal in the Federal Register.

“(f) STATUS OF DATA AFTER REMOVAL FROM LISTING.—

“(1) NEW DATA.—With respect to the privilege and confidentiality protections described in section 922, data submitted to an organization within 30 days after the organization is removed from the listing under subsection (c)(2) shall have the same status as data submitted while the organization was still listed.

“(2) PROTECTION TO CONTINUE TO APPLY.—If the privilege and confidentiality protections described in section 922 applied to data while an organization was listed, or during the 30-day period described in paragraph (1), such protections shall continue to apply to such data after the organization is removed from the listing under subsection (c)(2).

“(g) DISPOSITION OF DATA.—If the Secretary removes an organization from the listing as provided for in subsection (c)(2), with respect to the patient safety data that the organization received from providers, the organization shall—

“(1) with the approval of the provider and another patient safety organization, transfer such data to such other organization;

“(2) return such data to the person that submitted the data; or

“(3) if returning such data to such person is not practicable, destroy such data.

“SEC. 925. TECHNICAL ASSISTANCE.

“The Secretary, acting through the Director, may provide technical assistance to patient safety organizations, including convening annual meetings for patient safety organizations to discuss methodology, communication, data collection, or privacy concerns.

“SEC. 926. PROMOTING THE INTEROPERABILITY OF HEALTH CARE INFORMATION TECHNOLOGY SYSTEMS.

“(a) DEVELOPMENT.—Not later than 36 months after the date of enactment of the Patient Safety and Quality Improvement Act of 2005, the Secretary shall develop or adopt voluntary standards that promote the electronic exchange of health care information.

“(b) UPDATES.—The Secretary shall provide for the ongoing review and periodic updating of the standards developed under subsection (a).

“(c) DISSEMINATION.—The Secretary shall provide for the dissemination of the standards developed and updated under this section.

"SEC. 927. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated such sums as may be necessary to carry out this part.".

SEC. 144. STUDIES AND REPORTS.

(a) In General.—The Secretary of Health and Human Services shall enter into a contract (based upon a competitive contracting process) with an appropriate research organization for the conduct of a study to assess the impact of medical technologies and therapies on patient safety, patient benefit, health care quality, and the costs of care as well as productivity growth. Such study shall examine—

(1) the extent to which factors, such as the use of labor and technological advances, have contributed to increases in the share of the gross domestic product that is devoted to health care and the impact of medical technologies and therapies on such increases;

(2) the extent to which early and appropriate introduction and integration of innovative medical technologies and therapies may affect the overall productivity and quality of the health care delivery systems of the United States; and

(3) the relationship of such medical technologies and therapies to patient safety, patient benefit, health care quality, and cost of care.

(b) Report.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report containing the results of the study conducted under subsection (a).

Subtitle D—Fraud and Abuse

SEC. 151. NATIONAL EXPANSION OF THE MEDICARE-MEDICAID DATA MATCH PILOT PROGRAM.

(a) Requirement of the Medicare Integrity Program.—Section 1893 of the Social Security Act (42 U.S.C. 1395ddd) is amended—

(1) in subsection (b), by adding at the end the following:

"(6) The Medicare-Medicaid data match program in accordance with subsection (g)."; and

(2) by adding at the end the following:

"(g) Medicare-Medicaid Data Match Program.—

"(1) Expansion of program.—

"(A) In general.—The Secretary shall enter into contracts with eligible entities for the purpose of ensuring that, beginning with 2006, the Medicare-Medicaid data match program (commonly referred to as the 'Medi-Medi Program') is conducted with respect to the program established under this title and the applicable number of State Medicaid programs under title XIX for the purpose of—

"(i) identifying vulnerabilities in both such programs;

"(ii) assisting States, as appropriate, to take action to protect the Federal share of expenditures under the Medicaid program; and

"(iii) increasing the effectiveness and efficiency of both such programs through cost avoidance, savings, and recoupments of fraudulent, wasteful, or abusive expenditures.

"(B) Applicable number.—For purposes of subparagraph (A), the term 'applicable number' means—

"(i) in the case of fiscal year 2006, 10 State Medicaid programs;

"(ii) in the case of fiscal year 2007, 12 State Medicaid programs; and

"(iii) in the case of fiscal year 2008, 15 State Medicaid programs.

"(2) Limited waiver authority.—The Secretary shall waive only such requirements of this section and of titles XI and XIX as are necessary to carry out paragraph (1).".

(b) Funding.—Section 1817(k)(4) of the Social Security Act (42 U.S.C. 1395i(k)(4)) is amended—

(1) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)"; and

(2) by adding at the end the following:

"(C) Expansion of the medicare-medicaid data match program.—Of the amount appropriated under subparagraph (A) for a fiscal year, the following amounts shall be used to carry out section 1893(b)(6) for that year:

"(i) $10,000,000 of the amount appropriated for fiscal year 2006.

"(ii) $12,200,000 of the amount appropriated for fiscal year 2007.

"(iii) $15,800,000 of the amount appropriated for fiscal year 2008.".

Subtitle E—Miscellaneous Provisions

SEC. 161. SENSE OF THE SENATE ON ESTABLISHING A MANDATED BENEFITS COMMISSION.

It is the Sense of the Senate that—

(1) there should be established an independent Federal entity to study and provide advice to Congress on existing and proposed federally mandated health insurance benefits offered by employer-sponsored health plans and insurance issuers; and

(2) advice provided under paragraph (1) should be evidence- and actuarially-based, and take into consideration the population costs and benefits, including the health, financial, and social impact on affected populations, safety and medical efficacy, the impact on costs and access to insurance generally, and to different types of insurance products, the impact on labor costs and jobs, and any other relevant factors.

SEC. 162. ENFORCEMENT OF REIMBURSEMENT PROVISIONS BY FIDUCIARIES.

Section 502(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)(3)) is amended by inserting before the semicolon the following: "(which may include the recovery of amounts on behalf of the plan by a fiduciary enforcing the terms of the plan that provide a right of recovery by reimbursement or subrogation with respect to benefits provided to a participant or beneficiary)".

TITLE II—EXPANDING ACCESS TO AFFORDABLE HEALTH COVERAGE THROUGH TAX INCENTIVES AND OTHER INITIATIVES

Subtitle A—Refundable Health Insurance Credit

SEC. 201. REFUNDABLE HEALTH INSURANCE COSTS CREDIT.

(a) Allowance of Credit.—

(1) In general.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable personal credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

"SEC. 36. HEALTH INSURANCE COSTS FOR UNINSURED INDIVIDUALS.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the amount paid by the taxpayer during such taxable year for qualified health insurance for the taxpayer and the taxpayer's spouse and dependents.

"(b) Limitations.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the amount allowed as a credit under subsection (a) to the taxpayer for the taxable year shall not exceed the lesser of—

"(A) 90 percent of the sum of the amounts paid by the taxpayer for qualified health insurance for each individual referred to in subsection (a) for coverage months of the individual during the taxable year, or

"(B) $3,000.

"(2) Monthly limitation.—

"(A) In general.—For purposes of paragraph (1), amounts paid by the taxpayer for qualified health insurance for an individual for any coverage month of such individual during the taxable year shall not be taken into account to the extent such amounts exceed the amount equal to 1/12 of—

"(i) $1,111 if such individual is the taxpayer,

"(ii) $1,111 if—

"(I) such individual is the spouse of the taxpayer,

"(II) the taxpayer and such spouse are married as of the first day of such month, and

"(III) the taxpayer files a joint return for the taxable year,

"(iii) $1,111 if such individual has attained the age of 24 as of the close of the taxable year and is a dependent of the taxpayer for such taxable year, and

"(iv) one-half of the amount described in clause (i) if such individual has not attained the age of 24 as of the close of the taxable year and is a dependent of the taxpayer for such taxable year.

"(B) Limitation to 2 young dependents.—If there are more than 2 individuals described in subparagraph (A)(iv) with respect to the taxpayer for any coverage month, the aggregate amounts paid by the taxpayer for qualified health insurance for such individuals which may be taken into account under paragraph (1) shall not exceed 1/12 of the dollar amount in effect under subparagraph (A)(i) for the coverage month.

"(C) Special rule for married individuals.—In the case of a taxpayer—

"(i) who is married (within the meaning of section 7703) as of the close of the taxable year but does not file a joint return for such year, and

"(ii) who does not live apart from such taxpayer's spouse at all times during the taxable year,

any dollar limitation imposed under this paragraph on amounts paid for qualified health insurance for individuals described in subparagraph (A)(iv) shall be divided equally between the taxpayer and the taxpayer's spouse unless they agree on a different division.

"(3) Income phaseout of credit percentage for one-person coverage.—

"(A) Phaseout for unmarried individuals (other than surviving spouses and heads of households).—In the case of an individual (other than a surviving spouse, the head of a household, or a married individual) with one-person coverage, if such individual has modified adjusted gross income—

"(i) in excess of $15,000 for a taxable year but not in excess of $20,000, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 40 percentage points as—

"(I) the excess of modified adjusted gross income in excess of $15,000, bears to

"(II) $5,000, or

"(ii) in excess of $20,000 for a taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the sum of 40 percentage points plus the number of percentage points which bears the same ratio to 50 percentage points as—

“(I) the excess of modified adjusted gross income in excess of $20,000, bears to

“(II) $10,000.

“(B) PHASEOUT FOR OTHER INDIVIDUALS.—In the case of a taxpayer (other than an individual described in subparagraph (A) or (C)) with one-person coverage, if the taxpayer has modified adjusted gross income in excess of $25,000 for a taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

“(i) the excess of modified adjusted gross income in excess of $25,000, bears to

“(ii) $15,000.

“(C) MARRIED FILING SEPARATE RETURN.—In the case of a taxpayer who is married filing a separate return for the taxable year and who has one-person coverage, if the taxpayer has modified adjusted gross income in excess of $12,500 for the taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

“(i) the excess of modified adjusted gross income in excess of $12,500, bears to

“(ii) $7,500.

“(4) INCOME PHASEOUT OF CREDIT PERCENTAGE FOR COVERAGE OF MORE THAN ONE PERSON.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of a taxpayer with coverage of more than one person, if the taxpayer has modified adjusted gross income in excess of $25,000 for a taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

“(i) the excess of modified adjusted gross income in excess of $25,000, bears to

“(ii) $35,000.

“(B) MARRIED FILING SEPARATE RETURN.—In the case of a taxpayer who is married filing a separate return for the taxable year and who has coverage of more than one person, if the taxpayer has modified adjusted gross income in excess of $12,500 for the taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

“(i) the excess of modified adjusted gross income in excess of $12,500, bears to

“(ii) $17,500.

“(5) ROUNDING.—Any percentage resulting from a reduction under paragraphs (3) and (4) shall be rounded to the nearest one-tenth of a percent.

“(6) MODIFIED ADJUSTED GROSS INCOME.—The term ‘modified adjusted gross income’ means adjusted gross income determined—

“(A) without regard to this section and sections 911, 931, and 933, and

“(B) after application of sections 86, 135, 137, 219, 221, and 469.

“(c) COVERAGE MONTH.—For purposes of this section—

“(1) IN GENERAL.—The term ‘coverage month’ means, with respect to an individual, any month if—

“(A) as of the first day of such month such individual is covered by qualified health insurance, and

“(B) the premium for coverage under such insurance for such month is paid by the taxpayer.

“(2) GROUP HEALTH PLAN COVERAGE.—

“(A) IN GENERAL.—The term ‘coverage month’ shall not include any month for which if, as of the first day of the month, the individual participates in any group health plan (within the meaning of section 5000 without regard to section 5000(d)).

“(B) EXCEPTION FOR CERTAIN PERMITTED COVERAGE.—Subparagraph (A) shall not apply to an individual if the individual's only coverage for a month is coverage described in clause (i) or (ii) of section 223(c)(1)(B).

“(3) EMPLOYER-PROVIDED COVERAGE.—The term ‘coverage month’ shall not include any month during a taxable year if any amount is not includible in the gross income of the taxpayer for such year under section 106 (other than coverage described in clause (i) or (ii) of section 223(c)(1)(B)).

“(4) MEDICARE, MEDICAID, AND SCHIP.—The term ‘coverage month’ shall not include any month with respect to an individual if, as of the first day of such month, such individual—

“(A) is entitled to any benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

“(B) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928 of such Act).

“(5) CERTAIN OTHER COVERAGE.—The term ‘coverage month’ shall not include any month during a taxable year with respect to an individual if, as of the first day of such month at any time during such month, such individual is enrolled in a program under—

“(A) chapter 89 of title 5, United States Code, or

“(B) chapter 55 of title 10, United States Code.

“(6) PRISONERS.—The term ‘coverage month’ shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

“(7) INSUFFICIENT PRESENCE IN UNITED STATES.—The term ‘coverage month’ shall not include any month during a taxable year with respect to an individual if such individual is present in the United States on fewer than 183 days during such year (determined in accordance with section 7701(b)(7)).

“(d) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified health insurance’ means health insurance coverage (as defined in section 9832(b)(1)) which—

“(A) is coverage described in paragraph (2), and

“(B) meets the requirements of paragraph (3).

“(2) ELIGIBLE COVERAGE.—Coverage described in this paragraph is the following:

“(A) Coverage under individual health insurance.

“(B) Coverage through a private sector health care coverage purchasing pool.

“(C) Coverage through a State care coverage purchasing pool.

“(D) Coverage under a State high-risk pool described in subparagraph (C) of section 35(e)(1).

“(E) Coverage after December 31, 2006, under an eligible State buy in program.

“(3) REQUIREMENTS.—The requirements of this paragraph are as follows:

“(A) COST LIMITS.—The coverage meets the requirements of section 223(c)(2)(A)(ii).

“(B) MAXIMUM BENEFITS.—Under the coverage, the annual and lifetime maximum benefits are not less than $700,000.

“(C) BROAD COVERAGE.—The coverage includes inpatient and outpatient care, emergency benefits, and physician care.

“(D) GUARANTEED RENEWABILITY.—Such coverage is guaranteed renewable by the provider.

“(4) ELIGIBLE STATE BUY IN PROGRAM.—For purposes of paragraph (2)(E)—

“(A) IN GENERAL.—The term ‘eligible State buy in program’ means a State program under which an individual who—

“(i) is not eligible for assistance under the State medicaid program under title XIX of the Social Security Act,

“(ii) is not eligible for assistance under the State children's health insurance program under title XXI of such Act, or

“(iii) is not a State employee,

is able to buy health insurance coverage through a purchasing arrangement entered into between the State and a private sector health care purchasing group or health plan.

“(B) REQUIREMENTS.—Subparagraph (A) shall only apply to a State program if—

“(i) the program uses private sector health care purchasing groups or health plans, and

“(ii) the State maintains separate risk pools for participants under the State buy in program and other participants.

“(C) SUBSIDIES.—

“(i) IN GENERAL.—A State program shall not fail to be treated as an eligible State buy in program merely because the State subsidizes the costs of an individual in buying health insurance coverage under the program.

“(ii) EXCEPTION.—Clause (i) shall not apply if the State subsidy under the program for any adult for any consecutive 12-month period exceeds the applicable dollar amount.

“(iii) APPLICABLE DOLLAR AMOUNT.—

“(I) IN GENERAL.—For purposes of clause (ii), the applicable dollar amount is $2,000.

“(II) REDUCTION.—In the case of a family with annual income in excess of 133 percent of the applicable poverty line (as determined in accordance with criteria established by the Director of the Office of Management and Budget) but not in excess of 200 percent of such line, the dollar amount under clause (i) shall be ratably reduced (but not below zero) for each dollar of such excess. In the case of a family with annual income in excess of 200 percent of such line, the applicable dollar amount shall be zero.

“(e) ARRANGEMENTS UNDER WHICH INSURERS CONTRIBUTE TO HSA.—

“(1) IN GENERAL.—For purposes of this section, health insurance shall not be treated as qualified health insurance if the insurer makes contributions to a health savings account of the taxpayer unless such insurance is provided under an arrangement described in paragraph (2).

“(2) ARRANGEMENTS DESCRIBED.—

“(A) AMOUNTS PAID FOR COVERAGE EXCEED MONTHLY LIMITATION.—In the case of amounts paid under an arrangement for health insurance for a coverage month in excess of the amount in effect under subsection (b)(2)(A) for such month, an arrangement is described in this subparagraph if under the arrangement—

“(i) the aggregate amount contributed by the insurer to any health savings account of the taxpayer does not exceed 90 percent of the excess of—

“(I) the amount paid by the taxpayer for qualified health insurance under such arrangement for such month, over

“(II) the amount in effect under subsection (b)(2)(A) for such month, and

“(ii) the amount contributed by the insurer to a qualified health savings account of the taxpayer, reduced by the amount of the excess under clause (i), does not exceed 27 percent of the amount in effect under subsection (b)(2)(A) for such month.

“(B) AMOUNTS PAID FOR COVERAGE LESS THAN MONTHLY LIMITATION.—In the case of an arrangement under which the amount paid for qualified health insurance for a coverage month does not exceed the amount in effect under subsection (b)(2)(A) for such month, an arrangement is described in this subparagraph if—

"(i) under the arrangement the value of the insured benefits (excluding overhead) exceeds 65 percent of the amount paid for qualified health insurance for such month, and

"(ii) the amount contributed by the insurer to a qualified health savings account of the taxpayer does not exceed 27 percent of the amount in effect under subsection (b)(2)(A) for such month.

"(3) QUALIFIED HEALTH SAVINGS ACCOUNT.—

"(A) IN GENERAL.—The term 'qualified health savings account' means a health savings account (as defined in section 223(d))—

"(i) which is designated (in such form as the Secretary may prescribe) as a qualified account for purposes of this section,

"(ii) which may not include any amount other than contributions described in this subsection and earnings on such contributions, and

"(iii) with respect to which section 223(f)(4)(A) is applied by substituting '100 percent' for '10 percent'.

"(B) SUBACCOUNTS AND SEPARATE ACCOUNTING.—The Secretary may prescribe rules under which a subaccount within a health savings account, or separate accounting with respect to contributions and earnings described in subparagraph (A)(ii), may be treated in the same manner as a qualified health savings account.

"(C) ROLLOVERS.—A contribution of a distribution from a qualified health savings account to another health savings account shall be treated as a rollover contribution for purposes of section 223(f)(5) only if the other account is a qualified health savings account.

"(f) DEPENDENTS.—For purposes of this section—

"(1) DEPENDENT DEFINED.—The term 'dependent' has the meaning given such term by section 152 (determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof).

"(2) SPECIAL RULE FOR DEPENDENT CHILD OF DIVORCED PARENTS.—An individual who is a child to whom section 152(e) applies shall be treated as a dependent of the custodial parent for a coverage month unless the custodial and noncustodial parent provide otherwise.

"(3) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151(c) is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(g) INFLATION ADJUSTMENTS.—

"(1) CREDIT AND HEALTH INSURANCE AMOUNTS.—In the case of any taxable year beginning after 2006, each dollar amount referred to in subsections (b)(1)(B), (b)(2)(A), (d)(3)(B), and (d)(4)(C)(iii)(I) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 213(d)(10)(B)(ii) for the calendar year in which the taxable year begins, determined by substituting '2005' for '1996' in subclause (II) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10.

"(2) INCOME PHASEOUT AMOUNTS.—In the case of any taxable year beginning after 2006, each dollar amount referred to in paragraph (3) and (4) of subsection (b) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"(h) ARCHER MSA CONTRIBUTIONS; HSA CONTRIBUTIONS.—If a deduction would be allowed under section 220 to the taxpayer for a payment for the taxable year to the Archer MSA of an individual or under section 223 to the taxpayer for a payment for the taxable year to the Health Savings Account of such individual, subsection (a) shall not apply to the taxpayer for any month during such taxable year for which the taxpayer, spouse, or dependent is an eligible individual for purposes of either such section.

"(i) OTHER RULES.—For purposes of this section—

"(1) COORDINATION WITH MEDICAL EXPENSE AND PREMIUM DEDUCTIONS FOR HIGH DEDUCTIBLE HEALTH PLANS.—The amount which would (but for this paragraph) be taken into account by the taxpayer under section 213 or 224 for the taxable year shall be reduced by the credit (if any) allowed by this section to the taxpayer for such year.

"(2) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—No credit shall be allowable under this section for a taxable year if a deduction is allowed under section 162(l) for the taxable year.

"(3) COORDINATION WITH ADVANCE PAYMENT.—Rules similar to the rules of section 35(g)(1) shall apply to any credit to which this section applies.

"(4) COORDINATION WITH SECTION 35.—If a taxpayer is eligible for the credit allowed under this section and section 35 for any taxable year, the taxpayer shall elect which credit is to be allowed.

"(j) EXPENSES MUST BE SUBSTANTIATED.—A payment for insurance to which subsection (a) applies may be taken into account under this section only if the taxpayer substantiates such payment in such form as the Secretary may prescribe.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050T the following:

"SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR QUALIFIED HEALTH INSURANCE.

"(a) IN GENERAL.—Any person who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under creditable health insurance, shall make the return described in subsection (b) (at such time as the Secretary may by regulations prescribe) with respect to each individual from whom such payments were received.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe, and

"(2) contains—

"(A) the name, address, and TIN of the individual from whom payments described in subsection (a) were received,

"(B) the name, address, and TIN of each individual who was provided by such person with coverage under creditable health insurance by reason of such payments and the period of such coverage,

"(C) the aggregate amount of payments described in subsection (a), and

"(D) such other information as the Secretary may reasonably prescribe.

"(c) CREDITABLE HEALTH INSURANCE.—For purposes of this section, the term 'creditable health insurance' means qualified health insurance (as defined in section 36(d)).

"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required under subsection (b)(2)(A) to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return and the phone number of the information contact for such person,

"(2) the aggregate amount of payments described in subsection (a) received by the person required to make such return from the individual to whom the statement is required to be furnished, and

"(3) the information required under subsection (b)(2)(B) with respect to such payments.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

"(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).".

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xiii) through (xviii) as clauses (xiv) through (xix), respectively, and by inserting after clause (xii) the following:

"(xiii) section 6050U (relating to returns relating to payments for qualified health insurance),".

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking "or" at the end of subparagraph (AA), by striking the period at the end of the subparagraph (BB) and inserting ", or", and by adding at the end the following:

"(CC) section 6050U(d) (relating to returns relating to payments for qualified health insurance).".

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050T the following:

"Sec. 6050U. Returns relating to payments for qualified health insurance.".

(c) CRIMINAL PENALTY FOR FRAUD.—Subchapter B of chapter 75 of the Internal Revenue Code of 1986 (relating to other offenses) is amended by adding at the end the following:

"SEC. 7276. PENALTIES FOR OFFENSES RELATING TO HEALTH INSURANCE TAX CREDIT.

"Any person who knowingly misuses Department of the Treasury names, symbols, titles, or initials to convey the false impression of association with, or approval or endorsement by, the Department of the Treasury of any insurance products or group health coverage in connection with the credit for health insurance costs under section 36 shall on conviction thereof be fined not more than $10,000, or imprisoned not more than 1 year, or both.".

(d) Conforming Amendments.—

(1) Section 162(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(6) Election to have subsection apply.—No deduction shall be allowed under paragraph (1) for a taxable year unless the taxpayer elects to have this subsection apply for such year.".

(2) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 36 of such Code".

(3) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking "35" and inserting "36" and by inserting after the item relating to section 35 the following:

"Sec. 36. Health insurance costs for uninsured individuals.".

(4) The table of sections for subchapter B of chapter 75 of such Code is amended by adding at the end the following:

"Sec. 7276. Penalties for offenses relating to health insurance tax credit.".

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2005.

(2) Penalties.—The amendments made by subsections (c) and (d)(4) shall take effect on the date of the enactment of this Act.

SEC. 202. ADVANCE PAYMENT OF CREDIT TO ISSUERS OF QUALIFIED HEALTH INSURANCE.

(a) In General.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following:

"SEC. 7529. ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

"Not later than July 1, 2007, the Secretary shall establish a program for making payments to providers of qualified health insurance (as defined in section 36(d)) on behalf of individuals eligible for the credit under section 36. Such payments shall be made on the basis of modified adjusted gross income of eligible individuals for the preceding taxable year.".

(b) Clerical Amendment.—The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Sec. 7529. Advance payment of health insurance credit for purchasers of qualified health insurance.".

Subtitle B—High Deductible Health Plans and Health Savings Accounts

SEC. 211. DEDUCTION OF PREMIUMS FOR HIGH DEDUCTIBLE HEALTH PLANS.

(a) In General.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

"SEC. 224. PREMIUMS FOR HIGH DEDUCTIBLE HEALTH PLANS.

"(a) Deduction Allowed.—In the case of an individual, there shall be allowed as a deduction for the taxable year the aggregate amount paid by or on behalf of such individual as premiums under a high deductible health plan with respect to months during such year for which such individual is an eligible individual with respect to such health plan.

"(b) Definitions.—For purposes of this section—

"(1) Eligible individual.—The term 'eligible individual' has the meaning given such term by section 223(c)(1).

"(2) High deductible health plan.—The term 'high deductible health plan' has the meaning given such term by section 223(c)(2).

"(c) Special Rules.—

"(1) Deduction allowable for only 1 plan.—For purposes of this section, in the case of an individual covered by more than 1 high deductible health plan for any month, the individual may only take into account amounts paid for 1 of such plans for such month.

"(2) Group health plan coverage.—

"(A) In general.—No deduction shall be allowed to an individual under subsection (a) for any amount paid for coverage under a high deductible health plan for a month if, as of the first day of that month, that individual participates in any coverage under a group health plan (within the meaning of section 5000 without regard to section 5000(d)).

"(B) Exception for certain permitted coverage.—Subparagraph (A) shall not apply to an individual if the individual's only coverage under a group health plan for a month is coverage described in clause (i) or (ii) of section 223(c)(1)(B).

"(3) Medicare eligible individuals.—No deduction shall be allowed under subsection (a) with respect to any individual for any month if the individual is entitled to benefits under title XVIII of the Social Security Act for the month.

"(4) Health savings account required.—A deduction shall not be allowed under subsection (a) for a taxable year with respect to an individual unless the individual is an account beneficiary of a health savings account during a portion of the taxable year.

"(5) Medical and health savings accounts.—Subsection (a) shall not apply with respect to any amount which is paid or distributed out of an Archer MSA or a health savings account which is not included in gross income under section 220(f) or 223(f), as the case may be.

"(6) Coordination with deduction for health insurance of self-employed individuals.—The amount taken into account by the taxpayer in computing the deduction under section 162(l) shall not be taken into account under this section.

"(7) Coordination with medical expense deduction.—The amount taken into account by the taxpayer in computing the deduction under this section shall not be taken into account under section 213.".

(b) Deduction Allowed Whether or Not Individual Itemizes Other Deductions.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by inserting before the last sentence at the end the following new paragraph:

"(21) Premiums for high deductible health plans.—The deduction allowed by section 224.".

(c) Coordination With Health Insurance Costs Credit.—Section 35(g)(2) of the Internal Revenue Code of 1986 is amended by striking "or 213" and inserting ",213, or 224".

(d) Clerical Amendment.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 224 as section 225 and by inserting before such item the following new item:

"Sec. 224. Premiums for high deductible health plans.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 212. REFUNDABLE CREDIT FOR CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS OF SMALL BUSINESS EMPLOYEES.

(a) In General.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by subtitle A, is amended by inserting after section 36 the following new section:

"SEC. 36A. SMALL EMPLOYER CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS.

"(a) General Rule.—In the case of an eligible employer, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to the lesser of—

"(1) the amount contributed by such employer to any qualified health savings account of any employee who is an eligible individual (as defined in section 223(c)(1)) during the taxable year, or

"(2) an amount equal to the product of—

"(A) $200 ($500 if coverage for all months described in subparagraph (B)(i) is family coverage), and

"(B) a fraction—

"(i) the numerator of which is the number of months that the employee was covered under a high deductible health plan maintained by the employer, and

"(ii) the denominator of which is the number of months in the taxable year.

"(b) Eligible Employer.—For purposes of this section—

"(1) In general.—The term 'eligible employer' means, with respect to any taxable year, an employer which—

"(A) is a small employer, and

"(B) maintains a high deductible health plan under which all employees of the employer reasonably expected to receive at least $5,000 of compensation during the taxable year are eligible to participate.

An employer may exclude from consideration under subparagraph (B) employees who are covered by an agreement described in section 410(b)(3)(A) if there is evidence that health benefits were the subject of good faith bargaining.

"(2) Exception for governmental and tax-exempt employers.—The term 'eligible employer' shall not include the Federal Government or any employer described in section 457(e)(1).

"(3) Small employer.—

"(A) In general.—The term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of 100 or fewer employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

"(B) Employers not in existence in preceding year.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under subparagraph (A) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(C) Special Rule.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

"(c) Definitions.—For purposes of this section—

"(1) High Deductible Health Plan.—The term 'high deductible health plan' has the meaning given such term by section 223(c)(2).

"(2) Qualified Health Savings Account.—

"(A) In General.—The term 'qualified health savings account' means a health savings account (as defined in section 223(d))—

"(i) which is designated (in such form as the Secretary may prescribe) as a qualified account for purposes of this section,

"(ii) which may not include any amount other than contributions described in subsection (a) and earnings on such contributions, and

"(iii) with respect to which section 223(f)(4)(A) is applied by substituting '100 percent' for '10 percent'.

"(B) Subaccounts and Separate Accounting.—The Secretary may prescribe rules under which a subaccount within a health savings account, or separate accounting with respect to contributions and earnings described in subparagraph (A)(ii), may be treated in the same manner as a qualified health savings account.

"(C) Rollovers.—A contribution of a distribution from a qualified health savings account to another health savings account shall be treated as a rollover contribution for purposes of section 223(f)(5) only if the other account is a qualified health savings account.

"(d) Special Rules.—For purposes of this section—

"(1) Aggregation Rules.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person.

"(2) Disallowance of Deduction.—No deduction shall be allowed for that portion of contributions to any health savings accounts for the taxable year which is equal to the credit determined under subsection (a).

"(3) Election Not to Claim Credit.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.".

(b) Conforming Amendments.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 36A of such Code".

(2) The table of sections for subpart C of part IV of chapter 1 of the Internal Revenue Code of 1986, as amended by subtitle A, is amended by inserting after the item relating to section 36 the following new item:

"Sec. 36A. Small employer contributions to health savings accounts.".

(c) Effective Date.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

Subtitle C—Improvement of the Health Coverage Tax Credit

SEC. 221. CHANGE IN STATE-BASED COVERAGE RULES RELATED TO PREEXISTING CONDITIONS.

(a) In General.—Section 35(e)(2) of the Internal Revenue Code of 1986 (relating to requirements for State-based coverage) is amended by adding at the end the following:

"(C) Limitation on Preexisting Condition Exclusion Period.—The term 'qualified health insurance' does not include any coverage described in subparagraphs (C) through (H) of paragraph (1) that imposes a pre-existing condition exclusion with respect to any individual unless—

"(i) such exclusion relates to a physical or mental condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the date the individual seeks to enroll in the coverage,

"(ii) such exclusion extends for a period of not more than 12 months after the individual seeks to enroll in the coverage,

"(iii) the period of any such preexisting condition exclusion is reduced by the length of the aggregate of the periods of creditable coverage (as defined in section 9801(c)) applicable to the individual as of the enrollment date, and

"(iv) such exclusion is not an exclusion described in section 9801(d).".

(b) Conforming Amendments.—

(1) Internal Revenue Code of 1986.—Subparagraph (A) of section 35(e)(2) of such Code is amended—

(A) by striking clause (ii); and

(B) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(2) Workforce Investment Act of 1998 Amendments.—Section 173(f)(2)(B) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)) is amended—

(A) in clause (i)—

(i) by striking subclause (II); and

(ii) by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively; and

(B) by adding at the end the following:

"(iii) Limitation on Preexisting Condition Exclusion Period.—The term 'qualified health insurance' does not include any coverage described in clauses (iii) through (ix) of subparagraph (A) that imposes a pre-existing condition exclusion with respect to any individual unless—

"(I) such exclusion relates to a physical or mental condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the date the individual seeks to enroll in the coverage;

"(II) such exclusion extends for a period of not more than 12 months after the individual seeks to enroll in the coverage;

"(III) the period of any such preexisting condition exclusion is reduced by the length of the aggregate of the periods of creditable coverage (as defined in section 9801(c) of the Internal Revenue Code of 1986) applicable to the individual as of the enrollment date; and

"(IV) such exclusion is not an exclusion described in section 9801(d) of such Code.".

(c) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 2005.

SEC. 222. ELIGIBILITY OF SPOUSE OF CERTAIN INDIVIDUALS ENTITLED TO MEDICARE.

(a) In General.—Subsection (b) of section 35 of such Code (defining eligible coverage month) is amended by adding at the end the following:

"(3) Special Rule for Spouse of Individual Entitled to Medicare.—Any month which would be an eligible coverage month with respect to a taxpayer (determined without regard to subsection (f)(2)(A)) shall be an eligible coverage month for any spouse of such taxpayer, provided the spouse has attained age 55 and meets the requirements of clauses (ii), (iii), and (iv) of paragraph (1)(A).".

(b) Effective Date.—The amendment made by subsection (a) applies to taxable years beginning after December 31, 2005.

SEC. 223. ELIGIBLE PBGC PENSION RECIPIENT.

(a) In General.—Subparagraph (B) of section 35(c)(4) of such Code (relating to eligible PBGC pension recipients) is amended by inserting before the period the following ", or, after August 6, 2002, received from such Corporation a one-time single-sum pension payment in lieu of an annuity".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 201 of the Trade Act of 2002 (Public Law 107–210, 116 Stat. 954).

SEC. 224. APPLICATION OF OPTION TO OFFER STATE-BASED COVERAGE TO PUERTO RICO, NORTHERN MARIANA ISLANDS, AMERICAN SAMOA, GUAM, AND THE UNITED STATES VIRGIN ISLANDS.

(a) In General.—Section 35(e) of such Code (relating to requirements for qualified health insurance) is amended by adding at the end the following:

"(4) Application to Puerto Rico, Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.—For purposes of this section, Puerto Rico, Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands shall be considered States.".

(b) Conforming Amendment.—Section 173(f)(2) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)) is amended by adding at the end the following:

"(D) Application to Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.—For purposes of subsection (a)(4)(A) and this subsection, the term 'State' shall include the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.".

(c) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 2005.

SEC. 225. CLARIFICATION OF DISCLOSURE RULES.

(a) In General.—Subsection (k) of section 6103 of such Code (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end the following:

"(10) Disclosure of Certain Return Information for Purposes of Carrying Out a Program for Advance Payment of Credit for Health Insurance Costs of Eligible Individuals.—The Secretary may disclose to providers of health insurance, administrators of health plans, or contractors of such providers or administrators, for any certified individual (as defined in section 7527(c)) the taxpayer identity and health insurance member and group numbers of the certified individual (and any qualifying family member as defined in section 35(d), if applicable) and the amount and period of the payment, to the extent the Secretary deems necessary for the administration of the program established by section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals).".

(b) Conforming Amendments.—

(1) Section 6103 of such Code (relating to confidentiality and disclosure of returns and return information) is amended—

(A) in subsection (a)(3), by inserting "(k)(10)," after "(e)(1)(D)(iii),";

(B) in subsection (l), by striking paragraph (18); and

(C) in subsection (p)—

(i) in paragraph (3)(A)—

(I) by striking "or (9)" and inserting "(9), or (10)"; and

(II) by striking "(17), or (18)" and inserting "or (17)"; and

(ii) in paragraph (4), by striking "(18)" after "(l)(16)" each place it appears.

(2) Section 7213(a)(2) of such Code (relating to unauthorized disclosure of information) is amended by inserting "(k)(10)" before "(l)(6)".

(3) Section 7213A(a)(1)(B) of such Code (relating to unauthorized inspection of returns or return information) is amended by striking "subsection (l)(18) or (n) of section 6103" and inserting "section 6103(n)".

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2005.

SEC. 226. CLARIFICATION THAT STATE-BASED COBRA CONTINUATION COVERAGE IS SUBJECT TO SAME RULES AS FEDERAL COBRA.

(a) IN GENERAL.—Section 35(e)(2) of such Code (relating to state-based coverage requirements) is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking "(B)" and inserting "(C)"; and

(2) in subparagraph(B)(i), by striking "(B)" and inserting "(C)".

(b) CONFORMING AMENDMENTS.—Section 173(f)(2)(B) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)) is amended—

(1) in clause (i), in the matter preceding subclause (I), by striking "(ii)" and inserting "(iii)"; and

(2) in clause (ii)(I), by striking "(ii)" and inserting "(iii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of sections 201 and 203, respectively, of the Trade Act of 2002 (Public Law 107–210, 116 Stat. 954).

SEC. 227. APPLICATION OF RULES FOR OTHER SPECIFIED COVERAGE TO ELIGIBLE ALTERNATIVE TAA RECIPIENTS CONSISTENT WITH RULES FOR OTHER ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Section 35(f)(1) of such Code (relating to subsidized coverage) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(b) CONFORMING AMENDMENTS.—Section 173(f)(7)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(7)(A)) is amended by striking clause (ii) and redesignating clause (iii) as clause (ii).

Subtitle D—Long-Term Care Insurance

SEC. 231. SENSE OF THE SENATE CONCERNING LONG-TERM CARE.

It is the sense of the Senate that Congress should take steps to make long-term care more affordable by providing tax incentives for the purchase of long-term care insurance, support for family caregivers, and making necessary public program reforms.

Subtitle E—Other Provisions

SEC. 241. DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following:

"(h) CONTRIBUTIONS OF CERTAIN UNUSED HEALTH BENEFITS.—

"(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a cafeteria plan solely because qualified benefits under such plan include a health flexible spending arrangement under which not more than $500 of unused health benefits may be—

"(A) carried forward to the succeeding plan year of such health flexible spending arrangement, or

"(B) to the extent permitted by section 106(c), contributed by the employer to a health savings account (as defined in section 223(d)) maintained for the benefit of the employee.

"(2) HEALTH FLEXIBLE SPENDING ARRANGEMENT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'health flexible spending arrangement' means a flexible spending arrangement (as defined in section 106(c)) that is a qualified benefit and only permits reimbursement for expenses for medical care (as defined in section 213(d)(1), without regard to subparagraphs (C) and (D) thereof).

"(B) FLEXIBLE SPENDING ARRANGEMENT.—A flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(i) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(ii) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage.

"(3) UNUSED HEALTH BENEFITS.—For purposes of this subsection, with respect to an employee, the term 'unused health benefits' means the excess of—

"(A) the maximum amount of reimbursement allowable to the employee for a plan year under a health flexible spending arrangement, over

"(B) the actual amount of reimbursement for such year under such arrangement.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2004.

SEC. 242. MICROENTREPRENEURS.

Section 404(8) of the Assets for Independence Act (42 U.S.C. 604 note) is amended by adding at the end the following:

"(F) HIGH DEDUCTIBLE HEALTH INSURANCE.—

"(i) IN GENERAL.—The eligible individual's contribution (as an employer or employee) for coverage under a high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986).

"(ii) DEFINITION OF EMPLOYEE.—For purposes of clause (i), the term 'employee' includes an individual described in section 401(c)(1) of the Internal Revenue Code of 1986.".

SEC. 243. STUDY ON ACCESS TO AFFORDABLE HEALTH INSURANCE FOR FULL-TIME COLLEGE AND UNIVERSITY STUDENTS.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that, because a considerable number of the United States' uninsured population are young adults who are enrolled full-time at an institution of higher education, Congress should determine whether health care coverage proposals targeting this population would be effective.

(b) STUDY REQUIRED.—The Government Accountability Office shall provide for the conduct of a study to evaluate existing and potential sources of affordable health insurance coverage for graduate and undergraduate students enrolled at an institution of higher education (as defined in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)).

(c) REQUIRED ELEMENTS OF STUDY.—In conducting the study under subsection (b), the Government Accountability Office shall, at a minimum, examine the following:

(1) STUDENT DEMOGRAPHICS.—

(A) IN GENERAL.—The size and characteristics of the insured and uninsured population of undergraduate and graduate students enrolled at institutions of higher education. Such data shall be differentiated as provided for in subparagraphs (B) and (C).

(B) STATISTICAL BREAKDOWN.—The data concerning the uninsured student population collected under subparagraph (A) shall be differentiated by—

(i) the full-time, full-time equivalent, and part-time enrollment status of the students involved;

(ii) the type of institution involved (such as a public, private, non-profit, or community institution);

(iii) the length and type of educational program involved (such as a certificate or diploma program, a 2-year or 4-year degree program, a masters degree program, or a doctoral degree program); and

(iv) the undergraduate and graduate student populations involved.

(C) COVERAGE.—The data concerning the insured student population collected under subparagraph (A) shall be differentiated by the sources of coverage for such students, including the number and percentage of such insured students who lose parental (or other) coverage during the course of their enrollment at such institutions and the age at which such coverage is lost.

(2) IMPACT ANALYSIS.—The financial and other impact of uninsured students at such institutions, as compared to insured students, on—

(A) the health of students;

(B) the student's family;

(C) the student's educational progress; and

(D) education and health care institutions and facilities.

(3) ASSESSMENT OF EXISTING PROGRAMS.—The effect of mandatory and voluntary programs on the access of students to health insurance coverage, including—

(A) the level and type of coverage provided through mandatory and voluntary State and institutionally-sponsored health care programs currently providing health care insurance coverage to students;

(B) the average premium paid with respect to students covered under such plans;

(C) the extent to which any State or institutional health insurance plan may serve as a model for the expansion of access to health insurance for all full-time undergraduate and graduate students attending an institution of higher education; and

(D) whether such programs targeted to the student population would be more effective in reducing the overall rate of uninsured relative to proposals targeted to broader populations.

(4) INCENTIVES AND DISINCENTIVES.—The existence of incentives and disincentives offered to institutions of higher education to expand access to health care coverage for students, including—

(A) an assessment of the types of incentives and disincentives that may be used to encourage or require an institution of higher education to include health care coverage for all of its students on a mandatory basis, including financial, regulatory, administrative, and other incentives or disincentives;

(B) a list of burdensome regulatory or administrative reporting and other requirements (from the Department of Education or other governmental agencies) that could be waived without compromising program integrity as a means of encouraging institutions of higher education to provide uninsured students with access to health care coverage;

(C) other incentives or disincentives that would increase the level of institutional participation in health care coverage programs; and

(D) an analysis of the costs and effectiveness (to reduce the number of uninsured students) of including the cost of health insurance as an allowable cost of attendance under the Higher Education Act of 1965, and the impact of such inclusion on the student's financial aid package.

(e) Consultation With Congress.—In carrying out the study under subsection (b), the Government Accountability Office shall consult on a regular basis with the Secretary of Education, the Secretary of Health and Human Services, the Committee on the Budget of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives.

(f) Report.—Not later than 1 year after the date of enactment of this Act, the Government Accountability Office shall prepare and submit to the Committee on the Budget and the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives, a report concerning the results of the study conducted under this section.

SEC. 244. EXTENSION OF FUNDING FOR OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.

Section 2745 of the Public Health Service Act (42 U.S.C. 300gg-45) is amended to read as follows:

"SEC. 2745. PROMOTION OF QUALIFIED HIGH RISK POOLS.

"(a) Extension of Seed Grants to States.—The Secretary shall provide from the funds appropriated under subsection (d)(1)(A) a grant of up to $1,000,000 to each State that has not created a qualified high risk pool as of the date of enactment of this section for the State's costs of creation and initial operation of such a pool.

"(b) Grants for Operational Losses.—

"(1) In general.—In the case of a State that has established a qualified high risk pool that—

"(A) restricts premiums charged under the pool to no more than 150 percent of the premium for applicable standard risk rates;

"(B) offers a choice of two or more coverage options through the pool; and

"(C) has in effect a mechanism reasonably designed to ensure continued funding of losses incurred by the State after the end of fiscal year 2004 in connection with operation of the pool;

the Secretary shall provide, from the funds appropriated under subsection (d)(1)(B)(i) and allotted to the State under paragraph (2), a grant for the losses incurred by the State in connection with the operation of the pool.

"(2) Allotment.—The amounts appropriated under subsection (d)(1)(B)(i) for a fiscal year shall be made available to the States (or the entities that operate the high risk pool under applicable State law) as follows:

"(A) An amount equal to 50 percent of the appropriated amount for the fiscal year shall be allocated in equal amounts among each eligible State that applies for assistance under this subsection.

"(B) An amount equal to 25 percent of the appropriated amount for the fiscal year shall be allocated among the States so that the amount provided to a State bears the same ratio to such available amount as the number of uninsured individuals in the State bears to the total number of uninsured individuals in all States (as determined by the Secretary).

"(C) An amount equal to 25 percent of the appropriated amount for the fiscal year shall be allocated among the States so that the amount provided to a State bears the same ratio to such available amount as the number of individuals enrolled in health care coverage through the qualified high risk pool of the State bears to the total number of individuals so enrolled through qualified high risk pools in all States (as determined by the Secretary).

"(c) Bonus Grants for Supplemental Consumer Benefits.—

"(1) In general.—In the case of a State that has established a qualified high risk pool, the Secretary shall provide, from the funds appropriated under subsection (d)(1)(B)(ii) and allotted to the State under paragraph (3), a grant to be used to provide supplemental consumer benefits to enrollees or potential enrollees (or defined subsets of such enrollees or potential enrollees) in qualified high risk pools.

"(2) Benefits.—A State shall use amounts received under a grant under this subsection to provide one or more of the following benefits:

"(A) Low-income premium subsidies.

"(B) A reduction in premium trends, actual premiums, or other cost-sharing requirements.

"(C) An expansion or broadening of the pool of individuals eligible for coverage, including eliminating waiting lists, increasing enrollment caps, or providing flexibility in enrollment rules.

"(D) Less stringent rules, or additional waiver authority, with respect to coverage of pre-existing conditions.

"(E) Increased benefits.

"(F) The establishment of disease management programs.

"(3) Limitation.—In allotting amounts under this subsection, the Secretary shall ensure that no State receives an amount that exceeds 10 percent of the amount appropriated for the fiscal year involved under subsection (d)(1)(B)(ii).

"(4) Rule of construction.—Nothing in this subsection shall be construed to prohibit States that, on the date of enactment of the State High Risk Pool Funding Extension Act of 2005, are in the process of implementing programs to provide benefits of the type described in paragraph (2), from being eligible for a grant under this subsection.

"(d) Funding.—

"(1) In general.—Out of any money in the Treasury of the United States not otherwise appropriated, there are authorized and appropriated—

"(A) $15,000,000 for the period of fiscal years 2005 and 2006 to carry out subsection (a); and

"(B) $75,000,000 for each of fiscal years 2005 through 2009, of which—

"(i) two-thirds of the amount appropriated for a fiscal year shall be made available for allotments under subsection (b)(2); and

"(ii) one-third of the amount appropriated for a fiscal year shall be made available for allotments under subsection (c)(2).

"(2) Availability.—Funds appropriated under this subsection for a fiscal year shall remain available for obligation through the end of the following fiscal year.

"(3) Reallotment.—If, on June 30 of each fiscal year, the Secretary determines that all amounts appropriated under paragraph (1)(B)(ii) for the fiscal year are not allotted, such remaining amounts shall be allotted among States receiving grants under subsection (b) for the fiscal year in amounts determined appropriate by the Secretary.

"(4) No entitlement.—Nothing in this section shall be construed as providing a State with an entitlement to a grant under this section.

"(e) Applications.—To be eligible for a grant under this section, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(f) Definitions.—In this section:

"(1) Qualified high risk pool.—

"(A) In general.—The term 'qualified high risk pool' has the meaning given such term in section 2744(c)(2), except that with respect to subparagraph (A) of such section a State may elect to provide for the enrollment of eligible individuals through—

"(i) a combination of a qualified high risk pool and an acceptable alternative mechanism; or

"(ii) other health insurance coverage described in subparagraph (B).

"(B) Health insurance coverage.—Health insurance coverage described in this subparagraph is individual health insurance coverage—

"(i) that meets the requirements of section 2741;

"(ii) that is subject to limits on the rates charged to individuals;

"(iii) that is available to all individuals eligible for health insurance coverage under this title who are not able to participate in a qualified high risk pool; and

"(iv) the defined rate limit of which does not exceed the limit allowed for a qualified risk pool that is otherwise eligible to receive assistance under a grant under this section.

"(C) Other coverage.—In addition to coverage described in subparagraph (B), a State may provide for the offering of health insurance coverage that provides first dollar coverage, limits on cost-sharing, and comprehensive medical, hospital and surgical coverage, if the limits on rates for such coverage do not exceed 125 percent of the limit described in subparagraph (B)(iv).

"(2) Standard risk rate.—The term 'standard risk rate' means a rate—

"(A) determined under the State high risk pool by considering the premium rates charged by other health insurers offering health insurance coverage to individuals in the insurance market served;

"(B) that is established using reasonable actuarial techniques; and

"(C) that reflects anticipated claims experience and expenses for the coverage involved.

"(3) State.—The term 'State' means any of the 50 States and the District of Columbia.".

SEC. 245. SENSE OF THE SENATE ON AFFORDABLE HEALTH COVERAGE FOR SMALL EMPLOYERS.

It is the sense of the Senate that Congress should pass legislation to support expanded, affordable health coverage options for individuals, particularly those who work for small businesses, by streamlining and reducing regulations and expanding the role of associations and other group purchasing arrangements.

Subtitle F—Covering Kids

SEC. 251. SHORT TITLE.

This subtitle may be cited as the "Covering Kids Act of 2005".

SEC. 252. GRANTS TO PROMOTE INNOVATIVE OUTREACH AND ENROLLMENT UNDER MEDICAID AND SCHIP.

(a) GRANTS FOR EXPANDED OUTREACH ACTIVITIES.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

"SEC. 2111. EXPANDED OUTREACH ACTIVITIES.

"(a) GRANTS TO CONDUCT INNOVATIVE OUTREACH AND ENROLLMENT EFFORTS.—

"(1) IN GENERAL.—The Secretary shall award grants to eligible entities to—

"(A) conduct innovative outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX; and

"(B) promote understanding of the importance of health insurance coverage for prenatal care and children.

"(2) PERFORMANCE BONUSES.—The Secretary may reserve a portion of the funds appropriated under subsection (g) for a fiscal year for the purpose of awarding performance bonuses during the succeeding fiscal year to eligible entities that meet enrollment goals or other criteria established by the Secretary.

"(b) PRIORITY FOR AWARD OF GRANTS.—

"(1) IN GENERAL.—In making grants under subsection (a)(1), the Secretary shall give priority to—

"(A) eligible entities that propose to target geographic areas with high rates of—

"(i) eligible but unenrolled children, including such children who reside in rural areas; or

"(ii) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

"(B) eligible entities that plan to engage in outreach efforts with respect to individuals described in subparagraph (A) and that are—

"(i) Federal health safety net organizations; or

"(ii) faith-based organizations or consortia.

"(2) 10 PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (g) for a fiscal year shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

"(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a)(1) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

"(1) quality and outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section to ensure that the activities are meeting their goals; and

"(2) an assurance that the entity shall—

"(A) conduct an assessment of the effectiveness of such activities against such performance measures; and

"(B) cooperate with the collection and reporting of enrollment data and other information determined as a result of conducting such assessments to the Secretary, in such form and manner as the Secretary shall require.

"(d) DISSEMINATION OF ENROLLMENT DATA AND INFORMATION DETERMINED FROM EFFECTIVENESS ASSESSMENTS; ANNUAL REPORT.—The Secretary shall—

"(1) disseminate to eligible entities and make publicly available the enrollment data and information collected and reported in accordance with subsection (c)(2)(B); and

"(2) submit an annual report to Congress on the outreach activities funded by grants awarded under this section.

"(e) SUPPLEMENT, NOT SUPPLANT.—Federal funds awarded under this section shall be used to supplement, not supplant, non-Federal funds that are otherwise available for activities funded under this section.

"(f) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

"(A) A State or local government.

"(B) A Federal health safety net organization.

"(C) A national, local, or community-based public or nonprofit private organization.

"(D) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to non-governmental entities.

"(E) An elementary or secondary school.

"(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

"(A) an Indian tribe, tribal organization, or an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider;

"(B) a Federally-qualified health center (as defined in section 1905(l)(2)(B));

"(C) a hospital defined as a disproportionate share hospital for purposes of section 1923;

"(D) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

"(E) any other entity or a consortium that serves children under a federally-funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the head start and early head start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

"(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

"(g) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $50,000,000 for each of fiscal years 2006 and 2007 for the purpose of awarding grants under this section. Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsection (a)(1)(D)(iii) of that section.".

(b) EXTENDING USE OF OUTSTATIONED WORKERS TO ACCEPT TITLE XXI APPLICATIONS.—Section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) is amended by striking "or (a)(10)(A)(ii)(IX)" and inserting "(a)(10)(A)(ii)(IX), or (a)(10)(A)(ii)(XIV), and applications for child health assistance under title XXI".

SEC. 253. STATE OPTION TO PROVIDE FOR SIMPLIFIED DETERMINATIONS OF A CHILD'S FINANCIAL ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER MEDICAID OR CHILD HEALTH ASSISTANCE UNDER SCHIP.

(a) MEDICAID.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

"(13)(A) At the option of the State, the plan may provide that financial eligibility requirements for medical assistance are met for a child who is under an age specified by the State (not to exceed 21 years of age) by using a determination made within a reasonable period (as determined by the State) before its use for this purpose, of the child's family or household income, or if applicable for purposes of determining eligibility under this title or title XXI, assets or resources, by a Federal or State agency, or a public or private entity making such determination on behalf of such agency, specified by the plan, including (but not limited to) an agency administering the State program funded under part A of title IV, the Food Stamp Act of 1977, the Richard B. Russell National School Lunch Act, or the Child Nutrition Act of 1966, notwithstanding any differences in budget unit, disregard, deeming, or other methodology, but only if—

"(i) the agency has fiscal liabilities or responsibilities affected or potentially affected by such determination; and

"(ii) any information furnished by the agency pursuant to this subparagraph is used solely for purposes of determining financial eligibility for medical assistance under this title or for child health assistance under title XXI.

"(B) Nothing in subparagraph (A) shall be construed—

"(i) to authorize the denial of medical assistance under this title or of child health assistance under title XXI to a child who, without the application of this paragraph, would qualify for such assistance;

"(ii) to relieve a State of the obligation under subsection (a)(8) to furnish medical assistance with reasonable promptness after the submission of an initial application that is evaluated or for which evaluation is requested pursuant to this paragraph;

"(iii) to relieve a State of the obligation to determine eligibility for medical assistance under this title or for child health assistance under title XXI on a basis other than family or household income (or, if applicable, assets or resources) if a child is determined ineligible for such assistance on the basis of information furnished pursuant to this paragraph; or

"(iv) as affecting the applicability of any non-financial requirements for eligibility for medical assistance under this title or child health assistance under title XXI.".

(b) SCHIP.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended by adding at the end the following:

"(E) Section 1902(e)(13) (relating to the State option to base a determination of child's financial eligibility for assistance on financial determinations made by a program providing nutrition or other public assistance).".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2005.

TITLE III—IMPROVING CARE AND STRENGTHENING THE SAFETY NET

Subtitle A—High Needs Areas

SEC. 301. PURPOSE.

It is the purpose of this subtitle to enhance the quality of life of residents of high need areas by increasing their access to the preventive and primary healthcare services provided by community health centers and rural health centers.

SEC. 302. HIGH NEED COMMUNITY HEALTH CENTERS.

Section 330 of the Public Health Service Act (42 U.S.C. 254b) is amended—

(1) by redesignating subsections (k) through (r) as subsections (l) through (s), respectively;

(2) by inserting after subsection (j), the following:

"(k) Priority for Residents of High Need Areas.—

"(1) In general.—In awarding grants under this section, the Secretary shall give priority to eligible health centers in high need areas.

"(2) Eligible health centers.—A health center is described in this paragraph if such health center—

"(A) is a health center as defined under subsection (a) or a rural health clinic that receives funds under section 330A;

"(B) agrees to use grant funds to provide preventive and primary healthcare services to residents of high need areas;

"(C) specifically requests such priority in the grant application;

"(D) describes how the community to be served meets the definition of high need area; and

"(E) otherwise meets all other grant requirements.

"(3) High need area.—

"(A) In general.—In this subsection, the term 'high need area' means a county or a regional area identified by the Secretary pursuant to the regulations promulgated under subparagraph (B).

"(B) Regulations.—The Secretary shall promulgate regulations that define the term 'high need area' for purposes of this subsection. Such regulations shall specify procedures that the Department shall follow in determining estimates on a periodic basis in the United States of the number of medically uninsured persons and the national percentage of medically uninsured persons served by health centers (referred to in this subsection as the 'ENP') and for the designation of an area as a 'high need area' if the estimated percentage of medically uninsured individuals in the area is higher than the national average and the estimated percentage of medically uninsured individuals in the area served by health centers in the area is below the ENP.

"(C) Medically underserved area.—The Secretary shall designate residents of high need areas as medically underserved for purposes of this section.

"(4) Funding preference.—The Secretary may limit the amount of grants awarded to applicants from high need areas as provided for in this subsection to not less than 25 percent of the total amount of grants awarded under this subsection for each grant category for each grant period.";

(3) in subsection (e)(1)(B), by striking "subsection (k)(3)" and inserting "subsection (l)(3)";

(4) in subsection (l)(3)(H)(iii) (as so redesignated), by striking "or (p)" and inserting "or (q)";

(5) in subsection (m) (as so redesignated), by striking "subsection (k)(3)" and inserting "subsection (l)(3)";

(6) in subsection (q) (as so redesignated), by striking "subsection (k)(3)(G)" and inserting "subsection (l)(3)(G)"; and

(7) in subsection (s)(2)(A) (as so redesignated), by striking "subsection (k)" each place that such appears and inserting "subsection (l)".

SEC. 303. GRANT APPLICATION PROCESS.

Section 330(k) of the Public Health Service Act (42 U.S.C. 254b(k)) is amended by adding at the end the following:

"(5) Economic viability of applicants.—

"(A) In general.—In considering applications under this section, the Secretary shall ensure that an application that demonstrates economic viability, consistent with funding guidelines established by the Secretary for purposes of this section, is not disadvantaged in the evaluation process on the basis that it relies solely on Federal funding.

"(B) Qualification of individuals reviewing applications.—The Secretary shall require verification that all individuals who are evaluating community health center grant applications have completed within the 3-year period ending on the date on which the application is being evaluated a training course on the community health center program which addresses the purposes served by community health centers, the critical role of community health centers in the safety net, expectations for the evaluation of applications, and the criteria for awarding grant funding.

"(C) Medically underserved designations.—Not later than 6 months after the date of enactment of this paragraph, the Administrator of the Health Resources and Services Administration shall submit to the appropriate committees of Congress a report concerning the process for designating an area or population as medically underserved. Such report shall contain recommendations for ensuring that such designations are current within the last 3 years. The report shall also detail plans for ensuring subsequent review to maintain an accurate reflection of community needs in areas and populations designated as medically underserved. Not later than 1 year after such date of enactment, the Secretary shall promulgate regulations based on the recommendations contained in the report.".

Subtitle B—Qualified Integrated Health Care Systems

SEC. 321. GRANTS TO QUALIFIED INTEGRATED HEALTH CARE SYSTEMS.

(a) Eligibility for Grants Under PHSA.—Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following new subpart:

"Subpart XI—Promotion of Integrated Health Care Systems Serving Medically Underserved Populations

"SEC. 340H. GRANTS TO QUALIFIED INTEGRATED HEALTH CARE SYSTEMS.

"(a) Definitions.—For purposes of this section:

"(1) Qualified integrated health care system.—The term 'qualified integrated health care system' means an integrated health care system that—

"(A) has a demonstrated capacity and commitment to provide a full range of primary, specialty, and hospital care to a medically underserved population in both inpatient and outpatient settings, as appropriate;

"(B) is organized to provide such care in a coordinated fashion;

"(C) operates one or more integrated health centers meeting the requirements of section 340I;

"(D) meets the requirements of subsection (c)(3); and

"(E) agrees to use any funds received under this section to supplement and not to supplant amounts received from other sources for the provision of such care.

"(2) Medically underserved population.—The term 'medically underserved population' has the meaning given such term in section 330(b)(3).

"(b) Operating Grants.—

"(1) Authority.—The Secretary may make grants to private nonprofit entities for the costs of the operation of qualified integrated health care systems that provide primary, specialty, and hospital care to medically underserved populations.

"(2) Amount.—

"(A) In general.—The amount of any grant made in any fiscal year under paragraph (1) to an integrated health care system shall be determined by the Secretary (taking into account the full range of care, including specialty services, provided by the system), but may not exceed the amount by which the costs of operation of the system in such fiscal year exceed the total of—

"(i) State, local, and other operational funding provided to the system; and

"(ii) the fees, premiums, and third-party reimbursements which the system may reasonably be expected to receive for its operations in such fiscal year.

"(B) Payments.—Payments under grants under paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments.

"(C) Use of nongrant funds.—Nongrant funds described in clauses (i) and (ii) of subparagraph (A), including any such funds in excess of those originally expected, shall be used as permitted under this section, and may be used for such other purposes as are not specifically prohibited under this section if such use furthers the objectives of the project.

"(c) Applications.—

"(1) Submission.—No grant may be made under this section unless an application therefore is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

"(2) Description of need.—

"(A) In general.—An application for a grant under subsection (b)(1) for an integrated health care system shall include—

"(i) a description of the need for health care services in the area served by the integrated health care system;

"(ii) a demonstration by the applicant that the area or the population group to be served by the applicant has a shortage of personal health services; and

"(iii) a demonstration that the health care system will be located so that it will provide services to the greatest number of individuals residing in such area or included in such population group.

"(B) Demonstrations.—A demonstration shall be made under clauses (ii) or (iii) of subparagraph (A) on the basis of the criteria prescribed by the Secretary under section 330(b)(3) or on the basis of any other criteria which the Secretary may prescribe to determine if the area or population group to be served by the applicant has a shortage of personal health services.

"(C) Condition of approval.—In considering an application for a grant under subsection (b)(1), the Secretary may require as a condition to the approval of such application an assurance that any integrated health center operated by the applicant will provide any required primary health services and any additional health services (as defined in section 340I) that the Secretary finds are needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided to the applicant.

"(3) REQUIREMENTS.—The Secretary shall approve an application for a grant under subsection (b)(1) if the Secretary determines that the entity for which the application is submitted is an integrated health care system (within the meaning of subsection (a)) and that—

"(A) the primary, specialty, and hospital care provided by the system will be available and accessible in the service area of the system promptly, as appropriate, and in a manner which assures continuity;

"(B) the system is participating (or will participate) in a community consortium of safety net providers serving such area (unless other such safety net providers do not exist in a community, decline or refuse to participate, or place unreasonable conditions on their participation);

"(C) all of the centers operated by the system are accredited by a national accreditation body recognized by the Secretary;

"(D) the system will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

"(E) the system provides or will provide services to individuals who are eligible for medical assistance under title XIX of the Social Security Act and to individuals who are eligible for assistance under title XXI of such Act;

"(F) the system—

"(i) has prepared a schedule of fees or payments for the provision of its services consistent with locally prevailing rates or charges and designed to cover its reasonable costs of operation and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments, and which discounts are adjusted on the basis of the patient's ability to pay;

"(ii)(I) will assure that no patient will be denied health care services due to an individual's inability to pay for such services; and

"(II) will assure that any fees or payments required by the system for such services will be reduced or waived to enable the system to fulfill the assurance described in subclause (I); and

"(iii) has submitted to the Secretary such reports as the Secretary may require to determine compliance with this subparagraph;

"(G) the system has established a governing board that selects the services to be provided by the center, approves the center's annual budget, approves the selection of a director for the center, and establishes general policies for the center;

"(H) the system has developed—

"(i) an overall plan and budget that meets the requirements of the Secretary; and

"(ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to—

"(I) the costs of its operations;

"(II) the patterns of use of its services;

"(III) the availability, accessibility, and acceptability of its services; and

"(IV) such other matters relating to operations of the applicant as the Secretary may require;

"(I) the system will review periodically its service area to—

"(i) ensure that the size of such area is such that the services to be provided through the system (including any satellite) are available and accessible to the residents of the area promptly and as appropriate;

"(ii) ensure that the boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs; and

"(iii) ensure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the system, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social grouping, and available transportation;

"(J) in the case of a system which serves a substantial proportion of individuals of limited English-speaking ability, the system has—

"(i) developed a plan and made arrangements for providing services, to the extent practicable, in the predominant language or languages of such individuals and in the cultural context most appropriate to such individuals; and

"(ii) identified one or more individuals on its staff who are fluent in such predominant language or languages and in English and whose responsibilities shall include providing guidance to such individuals and to other appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences;

"(K) the system maintains appropriate referral relationships between its hospitals, its physicians with hospital privileges, and any integrated health center operated by the system so that primary, specialty care, and hospital care is provided in a continuous and coordinated way; and

"(L) the system encourages persons receiving or seeking health services from the system to participate in any public or private (including employer-offered) health programs or plans for which the persons are eligible, so long as the center, in complying with this paragraph, does not violate the requirements of subparagraph (F)(ii)(I).

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2010.

"(2) FUNDING REPORT.—The Secretary shall annually prepare and submit to the appropriate committees of Congress a report concerning the distribution of funds under this section that are provided to meet the health care needs of medically underserved populations, and the appropriateness of the delivery systems involved in responding to the needs of the particular populations. Such report shall include an assessment of the relative health care access needs of the targeted populations and the rationale for any substantial changes in the distribution of funds.

"(e) RECORDS.—

"(1) IN GENERAL.—Each entity which receives a grant under subsection (b)(1) shall establish and maintain such records as the Secretary shall require.

"(2) AVAILABILITY.—Each entity which is required to establish and maintain records under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

"(f) AUDITS.—

"(1) IN GENERAL.—Each entity which receives a grant under this section shall provide for an independent annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant and such other funds received by or allocated to the project for which such grant was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with generally accepted accounting principles. Each audit shall evaluate—

"(A) the entity's implementation of the guidelines established by the Secretary respecting cost accounting;

"(B) the processes used by the entity to meet the financial and program reporting requirements of the Secretary; and

"(C) the billing and collection procedures of the entity and the relation of the procedures to its fee schedule and schedule of discounts and to the availability of health insurance and public programs to pay for the health services it provides.

A report of each such audit shall be filed with the Secretary at such time and in such manner as the Secretary may require.

"(2) RECORDS.—Each entity which receives a grant under this section shall establish and maintain such records as the Secretary shall by regulation require to facilitate the audit required by paragraph (1). The Secretary may specify by regulation the form and manner in which such records shall be established and maintained.

"(3) AVAILABILITY OF RECORDS.—Each entity which is required to establish and maintain records or to provide for an audit under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

"(4) WAIVER.—The Secretary may, under appropriate circumstances, waive the application of all or part of the requirements of this subsection with respect to an entity.

"SEC. 340I. INTEGRATED HEALTH CENTER.

"(a) INTEGRATED HEALTH CENTER.—The term 'integrated health center' means an health center that is operated by an integrated health care system and that serves a medically underserved population (as defined for purposes of section 330(b)(3)) by providing, either through the staff and supporting resources of the center or through contracts or cooperative arrangements—

"(1) required primary health services (as defined in subsection (b)(1)); and

"(2) as may be appropriate for particular centers additional health services (as defined in subsection (b)(2)) necessary for the adequate support of the primary health services required under paragraph (1);

for all residents of the area served by the center.

"(b) DEFINITIONS.—For purposes of this section:

"(1) REQUIRED PRIMARY HEALTH SERVICES.—The term 'required primary health services' means—

"(A) basic health services which, for purposes of this section, shall consist of—

"(i) health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and where appropriate, physician assistants, nurse practitioners, and nurse midwives;

"(ii) diagnostic laboratory and radiologic services;

"(iii) preventive health services, including—

"(I) prenatal and perinatal services;

"(II) appropriate cancer screening;

"(III) well-child services;

"(IV) immunizations against vaccine-preventable diseases;

"(V) screenings for elevated blood lead levels, communicable diseases, and cholesterol;

"(VI) pediatric eye, ear, and dental screenings to determine the need for vision and hearing correction and dental care;

"(VII) voluntary family planning services; and

"(VIII) preventive dental services;

"(iv) emergency medical services; and

"(v) pharmaceutical services and medication therapy management services as may be appropriate for particular centers;

"(B) referrals to providers of medical services (including specialty and hospital care referrals when medically indicated) and other health-related services (including substance abuse and mental health services);

"(C) patient case management services (including counseling, referral, and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to Federal, State, and local programs that provide or financially support the provision of medical, social, housing, educational, or other related services;

"(D) services that enable individuals to use the services of the center (including outreach and transportation services and, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the languages spoken by a predominant number of such individuals); and

"(E) education of patients and the general population served by the center regarding the availability and proper use of health services.

"(2) ADDITIONAL HEALTH SERVICES.—The term 'additional health services' means services that are not included as required primary health services and that are appropriate to meet the health needs of the population served by the center involved. Such term may include—

"(A) behavioral and mental health and substance abuse services;

"(B) recuperative care services; and

"(C) environmental health services.

(b) COVERAGE UNDER THE MEDICARE PROGRAM.—

(1) PART B BENEFIT.—Section 1861(s)(2)(E) of the Social Security Act (42 U.S.C. 1395x(s)(2)(E)) is amended—

(A) by striking "services and" and inserting "services,"; and

(B) by striking "services" the second place it appears and inserting "services, and integrated health center services".

(2) DEFINITIONS.—Section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)) is amended—

(A) in the heading—

(i) by striking "SERVICES AND" and inserting "SERVICES,"; and

(ii) by striking "SERVICES" the second place it appears and inserting "SERVICES, AND INTEGRATED HEALTH CENTER SERVICES";

(B) in paragraph (1)(B), by striking "paragraph (5))" and inserting "paragraph (7));

(C) by redesignating paragraphs (5), (6), and (7) as paragraphs (7), (8), and (9), respectively; and

(D) by inserting after paragraph (4) the following new paragraph:

"(5) The term 'integrated health center services' means—

"(A) services of the type described in subparagraphs (A) through (C) of paragraph (1); and

"(B) preventive primary health services that a center is required to provide under section 340I of the Public Health Service Act, when furnished to an individual as an outpatient of an integrated health center, and for this purpose, any reference to a rural health clinic or a physician described in paragraph (2)(B) is deemed a reference to an integrated health center or a physician at the center, respectively.

"(6) The term 'integrated health center' means a center that is operated by a qualified integrated health care system (as defined in section 340H(a)(1) of the Public Health Service Act that—

"(A) is receiving a grant under section 340H of such Act; or

"(B) is determined by the Secretary to meet the requirements for receiving such a grant.".

(3) PAYMENT.—

(A) IN GENERAL.—Section 1832(a)(2)(D) of the Social Security Act (42 U.S.C. 1395k(a)(2)(D)) is amended—

(i) by striking "and (ii)" and inserting ", (ii)"; and

(ii) by striking "services" the second place it appears and inserting "services, and (iii) integrated health center services.".

(B) PART B DEDUCTIBLE DOES NOT APPLY.—Section 1833(b)(4) of the Social Security Act (42 U.S.C. 13951(b)(4)) is amended by inserting "or integrated health center services" after "Federally qualified health center services".

(C) EXCLUSION FROM PAYMENT REMOVED.—The second sentence of section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended by inserting "or integrated health center services described in section 1861 (aa)(5)(B)" after "section 1861(aa)(3)(B)".

(D) WAIVER OF ANTI-KICKBACK RESTRICTION.—Section 1128B(b)(3)(D) of the Social Security Act (42 U.S.C. 1320a 7b(b)(3)(D)) is amended by inserting "or by an integrated health center" after "Federally qualified health center".

(4) CONFORMING AMENDMENTS.—(A) Clauses (ii) and (iv) of section 1834(a)(1)(E) of the Social Security Act (42 U.S.C. 1395m(a)(1)(E)) are each amended by striking "section 1861(aa)(5)" and inserting "section 1861(aa)(7)".

(B) Section 1842(b)(18)(C)(i) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)(i)) is amended by striking "section 1861(aa)(5)" and inserting "section 1861(aa)(7)".

(C) Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(i) in subparagraph (H)(i), by striking "subsection (aa)(5)" and inserting "subsection (aa)(7)"; and

(ii) in subparagraph (K)—

(I) by striking "subsection (aa)(5)" each place it appears and inserting "subsection (aa)(7)"; and

(II) by striking "subsection (aa)(6)" and inserting "subsection (aa)(8)".

(D) Section 1861(dd)(3)(B) of the Social Security Act (42 U.S.C. 1395x(dd)(3)(B)) is amended by striking "subsection (aa)(5)" and inserting "subsection (aa)(7)".

(c) RECOGNITION UNDER MEDICAID.—

(1) COVERAGE.—Section 1905(a)(2) of the Social Security Act (42 U.S.C. 1396d(a)(2)) is amended—

(A) by striking "and (C)" and inserting ", (C)"; and

(B) by inserting ", and

"(D) integrated health center services (as defined in subsection (l)(3)(A)) and any other ambulatory services offered by the integrated health center and which are otherwise included in the plan." after "included in the plan" the second place it appears.

(2) DEFINITIONS.—Section 1905(l) of such Act (42 U.S.C. 1396d(l)) is amended by adding at the end the following:

"(3)(A) The term 'integrated health center services' means services of the type described in subparagraphs (A) through (C) of section 1861(aa) when furnished to an individual as a patient of an integrated health center and, for this purpose, any reference to a rural health clinic or a physician described in section 1861(aa)(2)(B) is deemed a reference to an integrated health center or a physician at the center, respectively.

"(B) The term 'integrated health center' means a center that is operated by a qualified integrated health care system that—

"(i) is receiving a grant under section 340H of the Public Health Service Act; or

"(ii) is determined by the Secretary, based on the recommendations of the Administrator of the Centers for Medicare & Medicaid Services, to meet the requirements for receiving such a grant.".

(3) PAYMENT.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (15), by inserting "and for services described in clause (D) of section 1905(a)(2) in accordance with the provisions of subsection (cc)" after "subsection (bb)"; and

(B) by adding at the end the following:

"(cc) PAYMENT FOR SERVICES PROVIDED BY INTEGRATED HEALTH CENTERS.—

"(1) IN GENERAL.—Beginning with fiscal year 2006 with respect to services furnished on or after January 1, 2006, and each succeeding fiscal year, the State plan shall provide for payment for services described in section 1905(a)(2)(D) furnished by an integrated health center in accordance with the provisions of this subsection.

"(2) FISCAL YEAR 2006.—Subject to paragraph (4), for services furnished on and after January 1, 2006, during fiscal year 2006, the State plan shall provide for payment for such services in an amount (calculated on a per visit basis) that is equal to 100 percent of the average of the costs of the center of furnishing such services during fiscal years 2004 and 2005 which are reasonable and related to the cost of furnishing such services, or based on such other tests of reasonableness as the Secretary prescribes in regulations under section 1833(a)(3), or, in the case of services to which such regulations do not apply, the same methodology used under section 1833(a)(3), adjusted to take into account any increase or decrease in the scope of such services furnished by the center during fiscal years 2004 and 2005.

"(3) FISCAL YEAR 2007 AND SUCCEEDING FISCAL YEARS.—Subject to paragraph (4), for services furnished during fiscal year 2007 or a succeeding fiscal year, the State plan shall provide for payment for such services in an amount (calculated on a per visit basis) that is equal to the amount calculated for such services under this subsection for the preceding fiscal year—

“(A) increased by the percentage increase in the MEI (as defined in section 1842(i)(3)) for that fiscal year; and

“(B) adjusted to take into account any increase or decrease in the scope of such services furnished by the center during that fiscal year.

“(4) ESTABLISHMENT OF INITIAL YEAR PAYMENT AMOUNT FOR NEW CENTERS.—In any case in which an entity first qualifies as an integrated health center after fiscal year 2006, the State plan shall provide for payment for services described in section 1905(a)(2)(D) furnished by the center in the first fiscal year in which the center so qualifies in an amount (calculated on a per visit basis) that is equal to 100 percent of the costs of furnishing such services during such fiscal year based on the rates established under this subsection for the fiscal year for other such centers located in the same or adjacent area with a similar case load or, in the absence of such a center, in accordance with the regulations and methodology referred to in paragraph (2) or based on such other tests of reasonableness as the Secretary may specify. For each fiscal year following the fiscal year in which the entity first qualifies as an integrated health center, the State plan shall provide for the payment amount to be calculated in accordance with paragraph (3).

“(5) ADMINISTRATION IN THE CASE OF MANAGED CARE.—

“(A) IN GENERAL.—In the case of services furnished by an integrated health center pursuant to a contract between the center and a managed care entity (as defined in section 1932(a)(1)(B)), the State plan shall provide for payment to the center by the State of a supplemental payment equal to the amount (if any) by which the amount determined under paragraphs (2), (3), and (4) exceeds the amount of the payments provided under the contract.

“(B) PAYMENT SCHEDULE.—The supplemental payment required under subparagraph (A) shall be made pursuant to a payment schedule agreed to by the State and the integrated health center, but in no case less frequently than every 4 months.

“(6) ALTERNATIVE PAYMENT METHODOLOGIES.—Notwithstanding any other provision of this section, the State plan may provide for payment in any fiscal year to an integrated health center for services described in section 1905(a)(2)(D) in an amount which is determined under an alternative payment methodology that—

“(A) is agreed to by the State and the center; and

“(B) results in payment to the center of an amount which is at least equal to the amount otherwise required to be paid to the center under this section.”.

(4) WAIVER PROHIBITED.—Section 1915(b) of the Social Security Act (42 U.S.C.1396n(b)) is amended in the matter preceding paragraph (1), by inserting “1902(cc),” after “1902(bb),”.

(d) PROTECTION AGAINST LIABILITY.—Section 224(g) of the Public Health Service Act (42 U.S.C. 233(g)) is amended—

(1) In paragraph (4), by striking “An entity” and inserting “Subject to paragraph (6), an entity”; and

(2) by adding at the end the following:

“(6) For purposes of this section—

“(A) a qualified integrated health care system receiving a grant under section 340H and any integrated health center operated by such system shall be considered to be an entity described in paragraph (4); and

“(B) the provisions of this section shall apply to such system and centers in the same manner as such provisions apply to an entity described in such paragraph (4), except that—

“(i) notwithstanding paragraph (1)(B), the deeming of any system or center, or of an officer, governing board member, employee, or contractor of such system or center, to be an employee of the Public Health Service for purposes of this section shall apply only with respect to items and services that are furnished to a member of the underserved population served by the entity;

“(ii) notwithstanding paragraph (3), this paragraph shall apply only with respect to causes of action arising from acts or omissions that occur on or after January 1, 2006; and

“(iii) the Secretary shall make separate estimates under subsection (k)(1) with respect to such systems and centers and entities described in paragraph (4) (other than such systems and centers), establish separate funds under subsection (k)(2) with respect to such groups of entities, and any appropriations under this subsection for such systems and centers shall be separate from the amounts authorized by subsection (k)(2).”.

(e) EFFECTIVE DATE.—The amendments made subsections (b) and (c) shall apply to items and services furnished on or after October 1, 2005.

Subtitle C—Miscellaneous Provisions

SEC. 331. COMMUNITY HEALTH CENTER COLLABORATIVE ACCESS EXPANSION.

Section 330 of the Public Health Service Act (42 U.S.C. 254b) is amended by adding at the end the following:

“(s) MISCELLANEOUS PROVISIONS.—

“(1) RULE OF CONSTRUCTION WITH RESPECT TO RURAL HEALTH CLINICS.—

“(A) IN GENERAL.—Nothing in this section shall be construed to prevent a community health center from contracting with a federally certified rural health clinic (as defined by section 1861(aa)(2) of the Social Security Act) for the delivery of primary health care services that are available at the rural health clinic to individuals who would otherwise be eligible for free or reduced cost care if that individual were able to obtain that care at the community health center. Such services may be limited in scope to those primary health care services available in that rural health clinic.

“(B) ASSURANCES.—In order for a rural health clinic to receive funds under this section through a contract with a community health center under paragraph (1), such rural health clinic shall establish policies to ensure—

“(i) nondiscrimination based upon the ability of a patient to pay; and

“(ii) the establishment of a sliding fee scale for low-income patients.”.

SEC. 332. IMPROVEMENTS TO SECTION 340B PROGRAM.

(a) ELIMINATION OF GROUP PURCHASING PROHIBITION FOR CERTAIN HOSPITALS.—Section 340B(a)(4)(L) of the Public Health Service Act (42 U.S.C. 256b(a)(4)(L)) is amended—

(1) in clause (i), by adding “and” at the end;

(2) in clause (ii), by striking “; and” and inserting a period; and

(3) by striking clause (iii).

(b) PERMITTING USE OF MULTIPLE CONTRACT PHARMACIES.—Section 340B f the Public Health Service Act (42 U.S.C. 256b) is amended by adding at the end the following:

“(e) PERMITTING USE OF MULTIPLE CONTRACT PHARMACIES.—Nothing in this section shall be construed as prohibiting a covered entity from entering into contracts with more than one pharmacy for the provision of covered drugs, including a contract that—

“(1) supplements the use of an in-house pharmacy arrangement; or

“(2) requires the approval of the Secretary.”.

(c) IMPROVEMENTS IN PROGRAM ADMINISTRATION.—Section 340B of the Public Health Service Act (42 U.S.C. 256b), as amended by subsection (b), is further amended by adding at the end the following:

“(f) IMPROVEMENTS IN PROGRAM ADMINISTRATION.—

“(1) IN GENERAL.—The Secretary shall provide, from funds appropriated under paragraph (2), for improvements in the integrity and administration of the program under this section in order to prevent abuse and misuse of discounted prices made available under this section. Such improvements shall include the following:

“(A) The development of a system to verify the accuracy of information regarding covered entities that is listed on the Internet website of the Department of Health and Human Services relating to this section.

“(B) The establishment of a third-party auditing system by which covered entities and manufacturers are regularly audited to ensure compliance with the requirements of this section.

“(C) The conduct of such audits under subsection (a)(5)(C) that supplement the audits conducted under subparagraph (B) as the Secretary determines appropriate and the implementation of dispute resolution guidelines and other compliance programs.

“(D) The development of more detailed guidance regarding the definition of section 340B patients and describing options for billing under the medicaid program under title XIX of the Social Security Act in order to avoid duplicative discounts.

“(E) The issuance of advisory opinions within defined time periods in response to questions from manufacturers or covered entities regarding the application of the requirements of this section in specific factual circumstances.

“(F) Insofar as the Secretary determines feasible, providing access through the Internet website of the Department of Health and Human Services on the prices for covered drugs made available under this section, but only in a manner (such as through the use of password protection) that limits such access to covered entities.

“(G) The improved dissemination of educational materials regarding the program under this section to covered entities that are not currently participating in such programs including regional educational sessions.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for fiscal year 2006 and each succeeding fiscal year.”.

SEC. 333. FORBEARANCE FOR STUDENT LOANS FOR PHYSICIANS PROVIDING SERVICES IN FREE CLINICS.

(a) IN GENERAL.—Section 428(c)(3)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(3)(A)) is amended—

(1) in clause (i)—

(A) in subclause (III), by striking “or” at the end;

(B) in subclause (V), by adding “or” at the end; and

(C) by adding at the end the following:

“(V) is volunteering without pay for at least 80 hours per month at a free clinic as defined under section 224 of the Public Health Service Act;”; and

(2) in clause (ii)(III), by inserting “or (i)(V)” after “clause (i)(III)”.

(b) PERKINS PROGRAM.—Section 464(e) of the Higher Education Act of 1965 (20 U.S.C. 1087dd(e)) is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(3) the borrower is volunteering without pay for at least 80 hours per month at a free clinic as defined under section 224 of the Public Health Service Act.".

SEC. 334. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO LIABILITY.

Section 224 of the Public Health Service Act (42 U.S.C. 233) is amended—

(1) in subsection (g)(1)—

(A) in subparagraph (A)—

(i) in the first sentence, by striking "or employee" and inserting "employee, or (subject to subsection (k)(4)) volunteer practitioner"; and

(ii) in the second sentence, by inserting "and subsection (k)(4)" after "subject to paragraph (5)"; and

(B) by adding at the end the following:

"(I) For purposes of this subsection, the term 'employee' shall include a health professional who volunteers to provide health-related services for an entity described in paragraph (4).";

(2) in subsection (k), by adding at the end the following:

"(4)(A) Subsections (g) through (m) apply with respect to volunteer practitioners beginning with the first fiscal year for which an appropriations Act provides that amounts in the fund under paragraph (2) are available with respect to such practitioners.

"(B) For purposes of subsections (g) through (m), the term 'volunteer practitioner' means a practitioner who, with respect to an entity described in subsection (g)(4), meets the following conditions:

"(i) The practitioner is a licensed physician or a licensed clinical psychologist.

"(ii) At the request of such entity, the practitioner provides services to patients of the entity, at a site at which the entity operates or at a site designated by the entity. The weekly number of hours of services provided to the patients by the practitioner is not a factor with respect to meeting conditions under this subparagraph.

"(iii) The practitioner does not for the provision of such services receive any compensation from such patients, from the entity, or from third-party payors (including reimbursement under any insurance policy or health plan, or under any Federal or State health benefits program).";

(3) in subsection (o)(2)—

(A) in subparagraph (D), by striking clause (i) and inserting the following:

"(i) The health care practitioner may provide the services involved as an employee of the free clinic, or may receive repayment from the free clinic only for reasonable expenses incurred by the health care practitioner in the provision of the services to the individual."; and

(B) by adding at the end the following:

"(G) The health care practitioner is providing the services involved as a paid employee of the free clinic."; and

(4) in each of subsections (g), (i), (j), (k), (l), and (m), by striking "employee, or contractor" each place such term appears and inserting "employee, volunteer practitioner, or contractor";

SEC. 335. SENSE OF THE SENATE CONCERNING HEALTH DISPARITIES.

It is the sense of the Senate that additional measures are needed to reduce or eliminate disparities in health care related to race, ethnicity, socioeconomic status, and geography that affect access to quality health care.

By Mr. SPECTER (for himself, Mr. CORZINE, Mr. LAUTENBERG, Mr. SCHUMER, and Ms. SNOWE):

S.J. Res. 21. A joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy; to the Committee on Armed Services.

Mr. SPECTER. Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 21

Whereas John Barry, American merchant marine captain and native of County Wexford, Ireland, volunteered his services to the Continental Navy during the American War for Independence and was assigned by the Continental Congress as captain of the Lexington, taking command of that vessel on March 14, 1776, and later participating in the victorious Trenton campaign;

Whereas the quality and effectiveness of Captain John Barry's service to the American war effort was recognized not only by George Washington but also by the enemies of the new Nation;

Whereas Captain John Barry rejected British General Lord Howe's flattering offer to desert Washington and the patriot cause, stating: "Not the value and command of the whole British fleet can lure me from the cause of my country.";

Whereas Captain John Barry, while in command of the frigate Alliance, successfully transported French gold to America to help finance the American War for Independence and also won numerous victories at sea;

Whereas when the First Congress, acting under the new Constitution of the United States, authorized the raising and construction of the United States Navy, it was to Captain John Barry that President George Washington turned to build and lead the new Nation's infant Navy, the successor to the Continental Navy of the War for Independence;

Whereas Captain John Barry supervised the building of his flagship, the U.S.S. United States;

Whereas on February 22, 1797, President Washington personally conferred upon Captain John Barry, by and with the advice and consent of the Senate, the rank of Captain, with "Commission No. 1", United States Navy, dated June 7, 1794;

Whereas John Barry served as the senior officer of the United States Navy, with the title of "Commodore" (in official correspondence), under Presidents Washington, John Adams, and Jefferson;

Whereas as commander of the first United States naval squadron under the Constitution of the United States, which included the U.S.S. Constitution ("Old Ironsides"), John Barry was a Commodore, with the right to fly a broad pendant, which made him a flag officer; and

Whereas in this sense it can be said that Commodore John Barry was the first flag officer of the United States Navy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Commodore John Barry is recognized, and is hereby honored, as the first flag officer of the United States Navy.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 211—DESIGNATING AUGUST 19, 2005, AS "NATIONAL DYSPRAXIA AWARENESS DAY" AND EXPRESSING THE SENSE OF THE SENATE THAT ALL AMERICANS SHOULD BE MORE INFORMED OF DYSPRAXIA

Ms. LANDRIEU submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 211

Whereas an estimated 1 in 20 children suffers from the developmental disorder dyspraxia;

Whereas 70 percent of those affected by dyspraxia are male;

Whereas dyspraxics may be of average or above average intelligence but are often behaviorally immature;

Whereas symptoms of dyspraxia consist of clumsiness, poor body awareness, reading and writing difficulties, speech problems, and learning disabilities, though not all of these will apply to every dyspraxic;

Whereas there is no cure for dyspraxia, but the earlier a child is treated the greater the chance of developmental maturation;

Whereas dyspraxics may be shunned within their own peer group because they do not fit in;

Whereas most dyspraxic children are dismissed as "slow" or "clumsy" and are therefore not properly diagnosed;

Whereas more than 50 percent of educators have never heard of dyspraxia;

Whereas education and information about dyspraxia are important to detection and treatment; and

Whereas the Senate as an institution, and Members of the Senate as individuals, are in unique positions to help raise the public awareness about dyspraxia: Now, therefore, be it

Resolved, That—

(1) the Senate designates August 19, 2005, as "National Dyspraxia Awareness Day"; and

(2) it is the sense of the Senate that—

(A) all Americans should be more informed of dyspraxia, its easily recognizable symptoms, and its proper treatment;

(B) the Secretary of Education should establish and promote a campaign in elementary and secondary schools across the Nation to encourage the social acceptance of dyspraxic children; and

(C) the Federal Government has a responsibility to—

(i) endeavor to raise awareness about dyspraxia;

(ii) consider ways to increase the knowledge of possible therapy and access to health care services for people with dyspraxia; and

(iii) endeavor to inform educators on how to recognize dyspraxic symptoms and to appropriately handle this disorder.

Ms. LANDRIEU. Mr. President, I rise today to say just a few words on the resolution I have submitted concerning dyspraxia, a developmental disorder that affects 1 in 20 American children each year. My intent is to increase the public's awareness of this disability and to encourage each of my colleagues to do the same.

Let me share a few facts with you. Dyspraxia is caused by the malformation of the neurons of the brain, resulting in the inability of one's senses to respond efficiently to outside stimuli. It may manifest itself in various areas, such as movement, language, perception, and thought, causing difficulty in both work and play. One in twenty children suffers from this disorder. Seventy percent of those affected are male, and in children suffering from extreme emotional and behavioral difficulties, the incidence is likely to be more than 50 percent. Dyspraxic children fail to achieve the expected levels of development. Due to difficulties, these kids are often shunned from their peer groups because they do not fit in. There is no cure for dyspraxia, but the earlier a child is diagnosed the greater the chance of developmental maturation. However, many times these children are dismissed as "clumsy" and "slow" and are never given a chance to improve, finding it hard to succeed under such harsh speculations. The public's unawareness of dyspraxia is the chief reason that children and young adults go undiagnosed, unable to recognize a cause for their struggles. More than 50 percent of our educators are unaware that this disability even exists. With such alarming statistics, the number of children recognized cannot be expected to increase.

One of my former interns has a younger brother that suffers from this disorder. Borden Wilson is actually a success story. At age 4, Borden's parents noted that he was not able to perform tasks appropriate for his age. His speaking ability was limited, even with encouragement. After going through a battery of tests performed by various specialists, the problem was identified as dyspraxia. While working with speech and occupational therapists, Borden's parents became familiar with techniques geared to improve his motor capabilities. Though advancements were seen, Borden still lagged behind his peers and low self-esteem soon set in. Borden is 17 years old now and through the hard work of teachers, therapists, and family, he has overcome many of his problems and is successful in both school and extracurricular activities. I am pleased to announce that Borden now maintains a 4.5 grade point average, has received his school's Scholar Athlete Award for the last 2 years, and placed in the 97th percentile on his California Achievement Test. Additionally, he has received All-District honors in both football and track.

Borden's superior achievements should serve as our inspiration to promote awareness of dyspraxia. With proper diagnosis and treatment, all of these children can experience the same level of success that Borden has been able to achieve. I hope that my colleagues will come together in support of this important legislation to raise consciousness of this disability.

SENATE RESOLUTION 212—EXPRESSING THE SENSE OF THE SENATE THAT THE FEDERAL TRADE COMMISSION SHOULD INVESTIGATE THE PUBLICATION OF THE VIDEO GAME "GRAND THEFT AUTO: SAN ANDREAS" TO DETERMINE IF THE PUBLISHER DECEIVED THE ENTERTAINMENT SOFTWARE RATINGS BOARD TO AVOID AN "ADULTS ONLY" RATING

Mr. BROWNBACK submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 212

Whereas the Entertainment Software Ratings Board gave the video game "Grand Theft Auto: San Andreas" a rating of "Mature";

Whereas the video game "Grand Theft Auto: San Andreas" contains sexually explicit content that consumers are able to access but that appears to have been hidden from the Entertainment Software Ratings Board in order to avoid a rating of "Adults Only";

Whereas the Entertainment Software Ratings Board took swift action in investigating the matter and revoked the "Mature" rating, ensuring that any future sales of the video game "Grand Theft Auto: San Andreas" will be under an "Adults Only" rating; and

Whereas Rockstar Games, the publisher of the video game "Grand Theft Auto: San Andreas", may have deceived the Entertainment Software Ratings Board and consumers: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Federal Trade Commission should investigate the publication of the video game "Grand Theft Auto: San Andreas" to determine if the publisher, Rockstar Games, deceived the Entertainment Software Ratings Board to avoid an "Adults Only" rating; and

(2) if the Federal Trade Commission determines that Rockstar Games committed such deception, the Commission should impose the maximum penalty possible.

SENATE RESOLUTION 213—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN THE CASE OF KEYTER v. McCAIN, ET AL.

Mr. FRIST (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 213

Whereas, in the case of Keyter v. McCain, et al., Civ. No. 05-1923, pending in the United States District Court for the District of Arizona, the plaintiff has named as defendants Senators John McCain and Jon Kyl:

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senators John McCain and Jon Kyl in the case of Keyter v. McCain, et al.

SENATE RESOLUTION 214—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN THE CASE OF JONES v. SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY, ET AL.

Mr. FRIST (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 214

Whereas, in the case of Jones v. Salt River Pima-Maricopa Indian Community, et al., Civ. No. 05-1944, pending in the United States District Court for the District of Arizona, the plaintiff has named as defendants Senators John McCain and Jon Kyl:

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senators John McCain, Jon Kyl, and other unnamed Members of the Senate in the case of Jones v. Salt River Pima-Maricopa Indian Community, et al.

SENATE CONCURRENT RESOLUTION 47—PAYING TRIBUTE TO THE AFRICA-AMERICA INSTITUTE FOR ITS MORE THAN 50 YEARS OF DEDICATED SERVICE, NURTURING AND UNLEASHING THE PRODUCTIVE CAPACITIES OF KNOWLEDGEABLE, CAPABLE, AND EFFECTIVE AFRICAN LEADERS THROUGH EDUCATION

Ms. LANDRIEU submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 47

Whereas the Africa-America Institute (in this resolution referred to as the "AAI") was founded in 1953, to help build human and institutional capacity in Africa and to promote mutually beneficial relations between the United States and Africa through education;

Whereas 2 of the most prominent founders of AAI were leading African-American educators and intellectuals, Horace Mann Bond, the first Black president of Lincoln University, and Leo Hansberry, the Howard University scholar and historian renowned today as the "father of African studies";

Whereas with funding from the government, the private sector, and philanthropic sources, AAI has advanced its mission on the dual premises that higher education is the highest leveraging point for achieving sustainable gains all along the education pipeline, and that investments in education generate high rates of return by multiplying the impact of development achievements across sectors of global importance, such as health, education, trade, investment, peace, and security;

Whereas the 22,000 education program alumni of AAI come from 52 African countries, including extraordinary individuals such as Wangari Maathai, recipient of the 2004 Nobel Peace Prize;

Whereas alumni of AAI are leaders in African education, business, government, and nongovernmental organizations working to change economic and social structures in African communities, societies, and nations for the better;

Whereas a 2004 impact assessment commissioned by the United States Agency for International Development (in this resolution referred to as "USAID") found "USAID's multi-million dollar investment in long-term training" programs that were managed and run by AAI "for over 40 years produced significant and sustained changes that furthered African development in measurable ways";

Whereas, as a corollary to its work aimed at expanding educational opportunities for Africans, AAI has also served as a source of reliable and balanced information on Africa for American public and private sector leaders;

Whereas Members of Congress and their staff are among those who have helped achieve and continue to build on this legacy, fulfilling the education mission of AAI by working with partners in Africa, the United States, and other parts of the world on behalf of Africa;

Whereas competing in the information age requires high levels of technical knowledge and skills, but the level of need and demand for higher education and technical training in Africa exceeds the capacities of education sectors in most African countries;

Whereas, consistent with the aspirations and goals of the African Union's "New Partnership for Africa's Development", AAI has stepped up to meet these new challenges with the creation of the "African Technology for Education and Workforce Development" initiative (in this resolution referred to as "AFTECH"), a collaborative effort designed to harness the power of information technologies to deliver the highest quality global educational content to Africans where they live;

Whereas, in order to improve and expand upon the reach and impact of AFTECH, and to raise awareness in the United States of the converging global interests that warrant greater United States public and private engagement with, and investment in Africa, AAI used the occasion of its 50th anniversary in 2003, to launch the AAI "Education Partnership Campaign: 50,000 New Leaders in Five Years", with a goal of raising $25,000,000 in private and public sector support to educate and train 50,000 Africans during the 5-year campaign;

Whereas, with the Republic of Namibia in the vanguard, a growing number of African nations are choosing to invest in their people by directly supporting the advanced education, professional training programs, and other education resources that AAI has to offer;

Whereas AAI works with sponsoring African governments to identify and leverage additional funding wherever feasible, and assists countries with making the case to multinational companies doing business within their borders that investing in the human capital of African countries through education is in their mutual interest; and

Whereas AAI can boast of a remarkable history and unparalleled program track record, and is building on its past to meet current and future challenges facing Africa as well as the United States: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) pays tribute to the Africa-American Institute for its more than 50 years of dedicated service, nurturing and unleashing the productive capacities of knowledgeable, capable, and effective African leaders through education;

(2) embraces the mission and supports the work of AAI; and

(3) urges Members of Congress and others to join the AAI "Education Partnership Campaign: 50,000 New Leaders in Five Years", a major initiative toward achieving closer United States-Africa relations that advance mutual national and global interests and a high yield investment in Africa's capacity to build a future.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1580. Ms. SNOWE (for herself and Ms. Collins) submitted an amendment intended to be proposed to amendment SA 1537 submitted by Ms. Snowe and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1581. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 1556 proposed by Mr. McCain (for himself, Mr. Warner, Mr. Graham, and Ms. Collins) to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1582. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 1527 submitted by Mrs. Boxer (for herself and Ms. Snowe) and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1583. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 203, to reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes.

SA 1584. Ms. COLLINS (for Mr. Domenici) proposed an amendment to the bill S. 203, supra.

SA 1585. Ms. COLLINS (for Mr. Bingaman (for himself and Mr. Domenici)) proposed an amendment to the bill S. 214, to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes.

SA 1586. Ms. COLLINS (for Mr. Domenici) proposed an amendment to the bill S. 243, to establish a program and criteria for National Heritage Areas in the United States, and for other purposes.

SA 1587. Ms. COLLINS (for Mr. Domenici) proposed an amendment to the bill S. 264, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii.

SA 1588. Ms. COLLINS (for Mr. Domenici) proposed an amendment to the bill S. 128, to designate certain public land in Humboldt, Del Norte, Mendocino, Lake, and Napa Counties in the State of California as wilderness, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, and for other purposes.

SA 1589. Ms. COLLINS (for Mr. Domenici) proposed an amendment to the bill S. 136, to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes.

SA 1590. Ms. COLLINS (for Mr. Domenici) proposed an amendment to the bill S. 136, supra.

SA 1591. Ms. COLLINS (for Mr. Domenici (for himself and Mr. Bingaman)) proposed an amendment to the bill S. 279, to amend the Act of June 7, 1924, to provide for the exercise of criminal jurisdiction.

SA 1592. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1505 submitted by Mr. Graham (for himself, Mr. Warner, and Mr. McCain) to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1593. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 1522 submitted by Mrs. Dole and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1594. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 1499 submitted by Mr. Kerry and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1595. Mr. GRAHAM (for himself and Mr. Kyl) submitted an amendment intended to be proposed to amendment SA 1505 submitted by Mr. Graham (for himself, Mr. Warner, and Mr. McCain) to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1596. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 762 proposed by Mr. Nelson of Florida (for himself, Mr. Hagel, Mr. Corzine, Mr. Nelson of Nebraska, Mr. Smith, Ms. Cantwell, Mr. Dayton, Mr. Kerry, Ms. Landrieu, Ms. Mikulski, Mrs. Murray, Ms. Stabenow, Mrs. Boxer, Mr. Pryor, Mr. Durbin, Mr. Jeffords, Mr. Johnson, and Mr. Salazar) to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1597. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 1524 submitted by Mrs. Dole (for herself, Mr. Lautenberg, Mr. Kennedy, Mr. DeWine, Ms. Landrieu, Mr. Chafee, Ms. Mikulski, Mr. Chambliss, and Mr. Durbin) and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1598. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 762 proposed by Mr. Nelson of Florida (for himself, Mr. Hagel, Mr. Corzine, Mr. Nelson of Nebraska, Mr. Smith, Ms. Cantwell, Mr. Dayton, Mr. Kerry, Ms. Landrieu, Ms. Mikulski, Mrs. Murray, Ms. Stabenow, Mrs. Boxer, Mr. Pryor, Mr. Durbin, Mr. Jeffords, Mr. Johnson, and Mr. Salazar) to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1599. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 1366 submitted by Mr. FEINGOLD and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1600. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 1406 submitted by Mr. LUGAR and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1601. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1602. Mr. HATCH (for himself, Mr. INHOFE, Mr. BENNETT, and Mr. CHAMBLISS) submitted an amendment intended to be proposed to amendment SA 1567 submitted by Mr. WARNER and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1603. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1604. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1580. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 1537 submitted by Ms. SNOWE and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 815. NAVY HUMAN RESOURCES BENEFIT CALL CENTER.

Of the amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy, $1,500,000 shall be available for Civilian Manpower and Personnel for a Human Resources Benefit Call Center in Machias, Maine.

SA 1581. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 1556 proposed by Mr. MCCAIN (for himself, Mr. WARNER, Mr. GRAHAM, and Ms. COLLINS) to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike lines 3 through 11.

SA 1582. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 1527 submitted by Mrs. BOXER (for herself and Ms. SNOWE) and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

Insert before the closing quotation marks the following: "but only if the identity of the perpetrator of such act of incest is provided to a designated officer, at the time the abortion is sought, for transmission to the appropriate military or civilian law enforcement authorities, or, in the case of rape, only if the identity of the perpetrator of that act of rape, if known to the victim, is provided to a designated officer, at the time the abortion is sought, for transmission to the appropriate military or civilian law enforcement authorities".

SA 1583. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 203, to reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Heritage Areas Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SODA ASH ROYALTY REDUCTION

Sec. 101. Short title.
Sec. 102. Reduction in royalty rate on soda ash.
Sec. 103. Study.

TITLE II—ESTABLISHMENT OF NATIONAL HERITAGE AREAS

Subtitle A—Northern Rio Grande National Heritage Area

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. Northern Rio Grande National Heritage Area.
Sec. 205. Authority and duties of the local coordinating entity.
Sec. 206. Duties of the Secretary.
Sec. 207. Savings provisions.
Sec. 208. Authorization of appropriations.
Sec. 209. Termination of authority.

Subtitle B—Atchafalaya National Heritage Area

Sec. 211. Short title.
Sec. 212. Definitions.
Sec. 213. Atchafalaya National Heritage Area.
Sec. 214. Authorities and duties of the local coordinating entity.
Sec. 215. Management plan.
Sec. 216. Requirements for inclusion of private property.
Sec. 217. Private property protection.
Sec. 218. Effect of subtitle.
Sec. 219. Reports.
Sec. 220. Authorization of appropriations.
Sec. 221. Termination of authority.

Subtitle C—Arabia Mountain National Heritage Area

Sec. 231. Short title.
Sec. 232. Findings and purposes.
Sec. 233. Definitions.
Sec. 234. Arabia Mountain National Heritage Area.
Sec. 235. Authorities and duties of the local coordinating entity.
Sec. 236. Management plan.
Sec. 237. Technical and financial assistance.
Sec. 238. Effect on certain authority.
Sec. 239. Authorization of appropriations.
Sec. 240. Termination of authority.

Subtitle D—Mormon Pioneer National Heritage Area

Sec. 251. Short title.
Sec. 252. Findings and purpose.
Sec. 253. Definitions.
Sec. 254. Mormon Pioneer National Heritage Area.
Sec. 255. Designation of Alliance as local coordinating entity.
Sec. 256. Management of the Heritage Area.
Sec. 257. Duties and authorities of Federal agencies.
Sec. 258. No effect on land use authority and private property.
Sec. 259. Authorization of appropriations.
Sec. 260. Termination of authority.

Subtitle E—Bleeding Kansas National Heritage Area

Sec. 261. Short title.
Sec. 262. Findings and purpose.
Sec. 263. Definitions.
Sec. 264. Bleeding Kansas and the Enduring Struggle for Freedom National Heritage Area.
Sec. 265. Technical and financial assistance; other Federal agencies.
Sec. 266. Private property protection.
Sec. 267. Savings provisions.
Sec. 268. Authorization of appropriations.
Sec. 269. Termination of authority.

Subtitle F—Upper Housatonic Valley National Heritage Area

Sec. 271. Short title.
Sec. 272. Findings and purposes.
Sec. 273. Definitions.
Sec. 274. Upper Housatonic Valley National Heritage Area.
Sec. 275. Authorities, prohibitions, and duties of the local coordinating entity.
Sec. 276. Management plan.
Sec. 277. Duties and authorities of the Secretary.
Sec. 278. Duties of other Federal agencies.
Sec. 279. Authorization of appropriations.
Sec. 280. Termination of authority.

Subtitle G—Champlain Valley National Heritage Partnership

Sec. 281. Short title.
Sec. 282. Findings and purposes.
Sec. 283. Definitions.
Sec. 284. Heritage Partnership.
Sec. 285. Effect.
Sec. 286. Authorization of appropriations.
Sec. 287. Termination of authority.

Subtitle H—Great Basin National Heritage Route

Sec. 291. Short title.
Sec. 291A. Findings and purposes.
Sec. 291B. Definitions.
Sec. 291C. Great Basin National Heritage Route.
Sec. 291D. Memorandum of understanding.
Sec. 291E. Management Plan.
Sec. 291F. Authority and duties of local coordinating entity.
Sec. 291G. Duties and authorities of Federal agencies.
Sec. 291H. Land use regulation; applicability of Federal law.
Sec. 291I. Authorization of appropriations.
Sec. 291J. Termination of authority.

Subtitle I—Gullah/Geechee Heritage Corridor

Sec. 295. Short title.
Sec. 295A. Purposes.
Sec. 295B. Definitions.
Sec. 295C. Gullah/Geechee Cultural Heritage Corridor.
Sec. 295D. Gullah/Geechee Cultural Heritage Corridor Commission.
Sec. 295E. Operation of the local coordinating entity.
Sec. 295F. Management plan.
Sec. 295G. Technical and financial assistance.
Sec. 295H. Duties of other Federal agencies.
Sec. 295I. Coastal Heritage Centers.
Sec. 295J. Private property protection.
Sec. 295K. Authorization of appropriations.
Sec. 295L. Termination of authority.

Subtitle J—Crossroads of the American Revolution National Heritage Area

Sec. 297. Short title.
Sec. 297A. Findings and purposes.
Sec. 297B. Definitions.
Sec. 297C. Crossroads of the American Revolution National Heritage Area.
Sec. 297D. Management plan.
Sec. 297E. Authorities, duties, and prohibitions applicable to the local coordinating entity.
Sec. 297F. Technical and financial assistance; other Federal agencies.
Sec. 297G. Authorization of appropriations.
Sec. 297H. Termination of authority.

TITLE III—NATIONAL HERITAGE AREA STUDIES

Subtitle A—Western Reserve Heritage Area Study

Sec. 301. Short title.
Sec. 302. National Park Service study regarding the Western Reserve, Ohio.

Subtitle B—St. Croix National Heritage Area Study

Sec. 311. Short title.
Sec. 312. Study.

Subtitle C—Southern Campaign of the Revolution

Sec. 321. Short title.
Sec. 322. Southern Campaign of the Revolution Heritage Area study.

TITLE IV—ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR ACT AMENDMENTS

Sec. 401. Short title.
Sec. 402. Transition and provisions for new local coordinating entity.
Sec. 403. Private property protection.

TITLE V—REAUTHORIZATION OF APPROPRIATIONS FOR NEW JERSEY COASTAL HERITAGE TRAIL ROUTE

Sec. 501. Reauthorization of appropriations for New Jersey Coastal Heritage Trail Route.

TITLE I—SODA ASH ROYALTY REDUCTION

SEC. 101. SHORT TITLE.

This title may be cited as the "Soda Ash Royalty Reduction Act of 2005".

SEC. 102. REDUCTION IN ROYALTY RATE ON SODA ASH.

Notwithstanding section 102(a)(9) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701(a)(9)), section 24 of the Mineral Leasing Act (30 U.S.C. 262), and the terms of any lease under that Act, the royalty rate on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market from Federal land in the 5-year period beginning on the date of enactment of this Act shall be 2 percent.

SEC. 103. STUDY.

After the end of the 4-year period beginning on the date of enactment of this Act, and before the end of the 5-year period beginning on that date, the Secretary of the Interior shall report to Congress on the effects of the royalty reduction under this title, including—

(1) the amount of sodium compounds and related products at the point of shipment to market from Federal land during that 4-year period;

(2) the number of jobs that have been created or maintained during the royalty reduction period;

(3) the total amount of royalty paid to the United States on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market produced during that 4-year period, and the portion of such royalty paid to States; and

(4) a recommendation of whether the reduced royalty rate should apply after the end of the 5-year period beginning on the date of enactment of this Act.

TITLE II—ESTABLISHMENT OF NATIONAL HERITAGE AREAS

Subtitle A—Northern Rio Grande National Heritage Area

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Northern Rio Grande National Heritage Area Act".

SEC. 202. FINDINGS.

The Congress finds that—

(1) northern New Mexico encompasses a mosaic of cultures and history, including eight Pueblos and the descendants of Spanish ancestors who settled in the area in 1598;

(2) the combination of cultures, languages, folk arts, customs, and architecture make northern New Mexico unique;

(3) the area includes spectacular natural, scenic, and recreational resources;

(4) there is broad support from local governments and interested individuals to establish a National Heritage Area to coordinate and assist in the preservation and interpretation of these resources;

(5) in 1991, the National Park Service study Alternative Concepts for Commemorating Spanish Colonization identified several alternatives consistent with the establishment of a National Heritage Area, including conducting a comprehensive archaeological and historical research program, coordinating a comprehensive interpretation program, and interpreting a cultural heritage scene; and

(6) establishment of a National Heritage Area in northern New Mexico would assist local communities and residents in preserving these unique cultural, historical and natural resources.

SEC. 203. DEFINITIONS.

As used in this subtitle—

(1) the term "heritage area" means the Northern Rio Grande National Heritage Area; and

(2) the term "Secretary" means the Secretary of the Interior.

SEC. 204. NORTHERN RIO GRANDE NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Northern Rio Grande National Heritage Area in the State of New Mexico.

(b) BOUNDARIES.—The heritage area shall include the counties of Santa Fe, Rio Arriba, and Taos.

(c) LOCAL COORDINATING ENTITY.—

(1) The Northern Rio Grande National Heritage Area, Inc., a non-profit corporation chartered in the State of New Mexico, shall serve as the local coordinating entity for the heritage area.

(2) The Board of Directors for the local coordinating entity shall include representatives of the State of New Mexico, the counties of Santa Fe, Rio Arriba and Taos, tribes and pueblos within the heritage area, the cities of Santa Fe, Espanola and Taos, and members of the general public. The total number of Board members and the number of Directors representing State, local and tribal governments and interested communities shall be established to ensure that all parties have appropriate representation on the Board.

SEC. 205. AUTHORITY AND DUTIES OF THE LOCAL COORDINATING ENTITY.

(a) MANAGEMENT PLAN.—

(1) Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall develop and forward to the Secretary a management plan for the heritage area.

(2) The local coordinating entity shall develop and implement the management plan in cooperation with affected communities, tribal and local governments and shall provide for public involvement in the development and implementation of the management plan.

(3) The management plan shall, at a minimum—

(A) provide recommendations for the conservation, funding, management, and development of the resources of the heritage area;

(B) identify sources of funding;

(C) include an inventory of the cultural, historical, archaeological, natural, and recreational resources of the heritage area;

(D) provide recommendations for educational and interpretive programs to inform the public about the resources of the heritage area; and

(E) include an analysis of ways in which local, State, Federal, and tribal programs may best be coordinated to promote the purposes of this subtitle.

(4) If the local coordinating entity fails to submit a management plan to the Secretary as provided in paragraph (1), the heritage area shall no longer be eligible to receive Federal funding under this subtitle until such time as a plan is submitted to the Secretary.

(5) The Secretary shall approve or disapprove the management plan within 90 days after the date of submission. If the Secretary disapproves the management plan, the Secretary shall advise the local coordinating entity in writing of the reasons therefore and shall make recommendations for revisions to the plan.

(6) The local coordinating entity shall periodically review the management plan and submit to the Secretary any recommendations for proposed revisions to the management plan. Any major revisions to the management plan must be approved by the Secretary.

(b) AUTHORITY.—The local coordinating entity may make grants and provide technical assistance to tribal and local governments, and other public and private entities to carry out the management plan.

(c) DUTIES.—The local coordinating entity shall—

(1) give priority in implementing actions set forth in the management plan;

(2) coordinate with tribal and local governments to better enable them to adopt land use policies consistent with the goals of the management plan;

(3) encourage by appropriate means economic viability in the heritage area consistent with the goals of the management plan; and

(4) assist local and tribal governments and non-profit organizations in—

(A) establishing and maintaining interpretive exhibits in the heritage area;

(B) developing recreational resources in the heritage area;

(C) increasing public awareness of, and appreciation for, the cultural, historical, archaeological and natural resources and sites in the heritage area;

(D) the restoration of historic structures related to the heritage area; and

(E) carrying out other actions that the local coordinating entity determines appropriate to fulfill the purposes of this subtitle, consistent with the management plan.

(d) Prohibition on Acquiring Real Property.—The local coordinating entity shall not use Federal funds received under this subtitle to acquire real property or an interest in real property.

(e) Public Meetings.—The local coordinating entity shall hold public meetings at least annually regarding the implementation of the management plan.

(f) Annual Reports and Audits.—

(1) For any year in which the local coordinating entity receives Federal funds under this subtitle, the local coordinating entity shall submit an annual report to the Secretary setting forth accomplishments, expenses and income, and each entity to which any grant was made by the local coordinating entity.

(2) The local coordinating entity shall make available to the Secretary for audit all records relating to the expenditure of Federal funds and any matching funds. The local coordinating entity shall also require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organization make available to the Secretary for audit all records concerning the expenditure of those funds.

SEC. 206. DUTIES OF THE SECRETARY.

(a) Technical and Financial Assistance.—The Secretary may, upon request of the local coordinating entity, provide technical and financial assistance to develop and implement the management plan.

(b) Priority.—In providing assistance under subsection (a), the Secretary shall give priority to actions that facilitate—

(1) the conservation of the significant natural, cultural, historical, archaeological, scenic, and recreational resources of the heritage area; and

(2) the provision of educational, interpretive, and recreational opportunities consistent with the resources and associated values of the heritage area.

SEC. 207. SAVINGS PROVISIONS.

(a) No Effect on Private Property.—Nothing in this subtitle shall be construed—

(1) to modify, enlarge, or diminish any authority of Federal, State, or local governments to regulate any use of privately owned lands; or

(2) to grant the local coordinating entity any authority to regulate the use of privately owned lands.

(b) Tribal Lands.—Nothing in this subtitle shall restrict or limit a tribe from protecting cultural or religious sites on tribal lands.

(c) Authority of Governments.—Nothing in this subtitle shall—

(1) modify, enlarge, or diminish any authority of Federal, State, tribal, or local governments to manage or regulate any use of land as provided for by law or regulation; or

(2) authorize the local coordinating entity to assume any management authorities over such lands.

(d) Trust Responsibilities.—Nothing in this subtitle shall diminish the Federal Government's trust responsibilities or government-to-government obligations to any federally recognized Indian tribe.

SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There is authorized to be appropriated to carry out this subtitle $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) Cost-Sharing Requirement.—The Federal share of the total cost of any activity assisted under this subtitle shall be not more than 50 percent.

SEC. 209. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle B—Atchafalaya National Heritage Area

SEC. 211. SHORT TITLE.

This subtitle may be cited as the "Atchafalaya National Heritage Area Act".

SEC. 212. DEFINITIONS.

In this subtitle:

(1) Heritage area.—The term "Heritage Area" means the Atchafalaya National Heritage Area established by section 213(a).

(2) Local coordinating entity.—The term "local coordinating entity" means the local coordinating entity for the Heritage Area designated by section 213(c).

(3) Management plan.—The term "management plan" means the management plan for the Heritage Area developed under section 215.

(4) Secretary.—The term "Secretary" means the Secretary of the Interior.

(5) State.—The term "State" means the State of Louisiana.

SEC. 213. ATCHAFALAYA NATIONAL HERITAGE AREA.

(a) Establishment.—There is established in the State the Atchafalaya National Heritage Area.

(b) Boundaries.—The Heritage Area shall consist of the whole of the following parishes in the State: St. Mary, Iberia, St. Martin, St. Landry, Avoyelles, Pointe Coupee, Iberville, Assumption, Terrebonne, Lafayette, West Baton Rouge, Concordia, and East Baton Rouge.

(c) Local Coordinating Entity.—

(1) In general.—The Atchafalaya Trace Commission shall be the local coordinating entity for the Heritage Area.

(2) Composition.—The local coordinating entity shall be composed of 13 members appointed by the governing authority of each parish within the Heritage Area.

SEC. 214. AUTHORITIES AND DUTIES OF THE LOCAL COORDINATING ENTITY.

(a) Authorities.—For the purposes of developing and implementing the management plan and otherwise carrying out this subtitle, the local coordinating entity may—

(1) make grants to, and enter into cooperative agreements with, the State, units of local government, and private organizations;

(2) hire and compensate staff; and

(3) enter into contracts for goods and services.

(b) Duties.—The local coordinating entity shall—

(1) submit to the Secretary for approval a management plan;

(2) implement the management plan, including providing assistance to units of government and others in—

(A) carrying out programs that recognize important resource values within the Heritage Area;

(B) encouraging sustainable economic development within the Heritage Area;

(C) establishing and maintaining interpretive sites within the Heritage Area; and

(D) increasing public awareness of, and appreciation for the natural, historic, and cultural resources of, the Heritage Area;

(3) adopt bylaws governing the conduct of the local coordinating entity; and

(4) for any year for which Federal funds are received under this subtitle, submit to the Secretary a report that describes, for the year—

(A) the accomplishments of the local coordinating entity; and

(B) the expenses and income of the local coordinating entity.

(c) Acquisition of Real Property.—The local coordinating entity shall not use Federal funds received under this subtitle to acquire real property or an interest in real property.

(d) Public Meetings.—The local coordinating entity shall conduct public meetings at least quarterly.

SEC. 215. MANAGEMENT PLAN.

(a) In General.—The local coordinating entity shall develop a management plan for the Heritage Area that incorporates an integrated and cooperative approach to protect, interpret, and enhance the natural, scenic, cultural, historic, and recreational resources of the Heritage Area.

(b) Consideration of Other Plans and Actions.—In developing the management plan, the local coordinating entity shall—

(1) take into consideration State and local plans; and

(2) invite the participation of residents, public agencies, and private organizations in the Heritage Area.

(c) Contents.—The management plan shall include—

(1) an inventory of the resources in the Heritage Area, including—

(A) a list of property in the Heritage Area that—

(i) relates to the purposes of the Heritage Area; and

(ii) should be preserved, restored, managed, or maintained because of the significance of the property; and

(B) an assessment of cultural landscapes within the Heritage Area;

(2) provisions for the protection, interpretation, and enjoyment of the resources of the Heritage Area consistent with this subtitle;

(3) an interpretation plan for the Heritage Area; and

(4) a program for implementation of the management plan that includes—

(A) actions to be carried out by units of government, private organizations, and public-private partnerships to protect the resources of the Heritage Area; and

(B) the identification of existing and potential sources of funding for implementing the plan.

(d) Submission to Secretary for Approval.—

(1) In general.—Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) Effect of failure to submit.—If a management plan is not submitted to the Secretary by the date specified in paragraph (1), the Secretary shall not provide any additional funding under this subtitle until a management plan for the Heritage Area is submitted to the Secretary.

(e) Approval.—

(1) IN GENERAL.—Not later than 90 days after receiving the management plan submitted under subsection (d)(1), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(2) ACTION FOLLOWING DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves a management plan under paragraph (1), the Secretary shall—

(i) advise the local coordinating entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) allow the local coordinating entity to submit to the Secretary revisions to the management plan.

(B) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under subparagraph (A)(iii), the Secretary shall approve or disapprove the revision.

(f) REVISION.—

(1) IN GENERAL.—After approval by the Secretary of a management plan, the local coordinating entity shall periodically—

(A) review the management plan; and

(B) submit to the Secretary, for review and approval by the Secretary, the recommendations of the local coordinating entity for any revisions to the management plan that the local coordinating entity considers to be appropriate.

(2) EXPENDITURE OF FUNDS.—No funds made available under this subtitle shall be used to implement any revision proposed by the local coordinating entity under paragraph (1)(B) until the Secretary approves the revision.

SEC. 216. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the local coordinating entity and has given written consent to the local coordinating entity for such preservation, conservation, or promotion.

(b) LANDOWNER WITHDRAWAL.—Any owner of private property included within the boundary of the Heritage Area shall have that private property immediately removed from the boundary by submitting a written request to the local coordinating entity.

SEC. 217. PRIVATE PROPERTY PROTECTION.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this subtitle shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) LIABILITY.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on that private property.

(c) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.—Nothing in this subtitle shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

SEC. 218. EFFECT OF SUBTITLE.

Nothing in this subtitle or in establishment of the Heritage Area—

(1) grants any Federal agency regulatory authority over any interest in the Heritage Area, unless cooperatively agreed on by all involved parties;

(2) modifies, enlarges, or diminishes any authority of the Federal Government or a State or local government to regulate any use of land as provided for by law (including regulations) in existence on the date of enactment of this Act;

(3) grants any power of zoning or land use to the local coordinating entity;

(4) imposes any environmental, occupational, safety, or other rule, standard, or permitting process that is different from those in effect on the date of enactment of this Act that would be applicable had the Heritage Area not been established;

(5)(A) imposes any change in Federal environmental quality standards; or

(B) authorizes designation of any portion of the Heritage Area that is subject to part C of title I of the Clean Air Act (42 U.S.C. 7470 et seq.) as class 1 for the purposes of that part solely by reason of the establishment of the Heritage Area;

(6) authorizes any Federal or State agency to impose more restrictive water use designations, or water quality standards on uses of or discharges to, waters of the United States or waters of the State within or adjacent to the Heritage Area solely by reason of the establishment of the Heritage Area;

(7) abridges, restricts, or alters any applicable rule, standard, or review procedure for permitting of facilities within or adjacent to the Heritage Area; or

(8) affects the continuing use and operation, where located on the date of enactment of this Act, of any public utility or common carrier.

SEC. 219. REPORTS.

For any year in which Federal funds have been made available under this subtitle, the local coordinating entity shall submit to the Secretary a report that describes—

(1) the accomplishments of the local coordinating entity; and

(2) the expenses and income of the local coordinating entity.

SEC. 220. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity assisted under this subtitle shall be not more than 50 percent.

SEC. 221. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance to the local coordinating entity under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle C—Arabia Mountain National Heritage Area

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Arabia Mountain National Heritage Area Act".

SEC. 232. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Arabia Mountain area contains a variety of natural, cultural, historical, scenic, and recreational resources that together represent distinctive aspects of the heritage of the United States that are worthy of recognition, conservation, interpretation, and continuing use.

(2) The best methods for managing the resources of the Arabia Mountain area would be through partnerships between public and private entities that combine diverse resources and active communities.

(3) Davidson-Arabia Mountain Nature Preserve, a 535-acre park in DeKalb County, Georgia—

(A) protects granite outcrop ecosystems, wetland, and pine and oak forests; and

(B) includes federally-protected plant species.

(4) Panola Mountain, a national natural landmark, located in the 860-acre Panola Mountain State Conservation Park, is a rare example of a pristine granite outcrop.

(5) The archaeological site at Miners Creek Preserve along the South River contains documented evidence of early human activity.

(6) The city of Lithonia, Georgia, and related sites of Arabia Mountain and Stone Mountain possess sites that display the history of granite mining as an industry and culture in Georgia, and the impact of that industry on the United States.

(7) The community of Klondike is eligible for designation as a National Historic District.

(8) The city of Lithonia has 2 structures listed on the National Register of Historic Places.

(b) PURPOSES.—The purposes of this subtitle are as follows:

(1) To recognize, preserve, promote, interpret, and make available for the benefit of the public the natural, cultural, historical, scenic, and recreational resources in the area that includes Arabia Mountain, Panola Mountain, Miners Creek, and other significant sites and communities.

(2) To assist the State of Georgia and the counties of DeKalb, Rockdale, and Henry in the State in developing and implementing an integrated cultural, historical, and land resource management program to protect, enhance, and interpret the significant resources within the heritage area.

SEC. 233. DEFINITIONS.

In this subtitle:

(1) HERITAGE AREA.—The term "heritage area" means the Arabia Mountain National Heritage Area established by section 234(a).

(2) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the Arabia Mountain Heritage Area Alliance or a successor of the Arabia Mountain Heritage Area Alliance.

(3) MANAGEMENT PLAN.—The term "management plan" means the management plan for the heritage area developed under section 236.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) STATE.—The term "State" means the State of Georgia.

SEC. 234. ARABIA MOUNTAIN NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established the Arabia Mountain National Heritage Area in the State.

(b) BOUNDARIES.—The heritage area shall consist of certain parcels of land in the counties of DeKalb, Rockdale, and Henry in the State, as generally depicted on the map entitled "Arabia Mountain National Heritage Area", numbered AMNHA–80,000, and dated October 2003.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) LOCAL COORDINATING ENTITY.—The Arabia Mountain Heritage Area Alliance shall be the local coordinating entity for the heritage area.

SEC. 235. AUTHORITIES AND DUTIES OF THE LOCAL COORDINATING ENTITY.

(a) AUTHORITIES.—For purposes of developing and implementing the management plan, the local coordinating entity may—

(1) make grants to, and enter into cooperative agreements with, the State, political subdivisions of the State, and private organizations;

(2) hire and compensate staff; and

(3) enter into contracts for goods and services.

(b) DUTIES.—

(1) MANAGEMENT PLAN.—

(A) IN GENERAL.—The local coordinating entity shall develop and submit to the Secretary the management plan.

(B) CONSIDERATIONS.—In developing and implementing the management plan, the local coordinating entity shall consider the interests of diverse governmental, business, and nonprofit groups within the heritage area.

(2) PRIORITIES.—The local coordinating entity shall give priority to implementing actions described in the management plan, including the following:

(A) Assisting units of government and nonprofit organizations in preserving resources within the heritage area.

(B) Encouraging local governments to adopt land use policies consistent with the management of the heritage area and the goals of the management plan.

(3) PUBLIC MEETINGS.—The local coordinating entity shall conduct public meetings at least quarterly on the implementation of the management plan.

(4) ANNUAL REPORT.—For any year in which Federal funds have been made available under this subtitle, the local coordinating entity shall submit to the Secretary an annual report that describes the following:

(A) The accomplishments of the local coordinating entity.

(B) The expenses and income of the local coordinating entity.

(5) AUDIT.—The local coordinating entity shall—

(A) make available to the Secretary for audit all records relating to the expenditure of Federal funds and any matching funds; and

(B) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available to the Secretary for audit all records concerning the expenditure of those funds.

(c) USE OF FEDERAL FUNDS.—

(1) IN GENERAL.—The local coordinating entity shall not use Federal funds made available under this subtitle to acquire real property or an interest in real property.

(2) OTHER SOURCES.—Nothing in this subtitle precludes the local coordinating entity from using Federal funds made available under other Federal laws for any purpose for which the funds are authorized to be used.

SEC. 236. MANAGEMENT PLAN.

(a) IN GENERAL.—The local coordinating entity shall develop a management plan for the heritage area that incorporates an integrated and cooperative approach to protect, interpret, and enhance the natural, cultural, historical, scenic, and recreational resources of the heritage area.

(b) BASIS.—The management plan shall be based on the preferred concept in the document entitled "Arabia Mountain National Heritage Area Feasibility Study", dated February 28, 2001.

(c) CONSIDERATION OF OTHER PLANS AND ACTIONS.—The management plan shall—

(1) take into consideration State and local plans; and

(2) involve residents, public agencies, and private organizations in the heritage area.

(d) REQUIREMENTS.—The management plan shall include the following:

(1) An inventory of the resources in the heritage area, including—

(A) a list of property in the heritage area that—

(i) relates to the purposes of the heritage area; and

(ii) should be preserved, restored, managed, or maintained because of the significance of the property; and

(B) an assessment of cultural landscapes within the heritage area.

(2) Provisions for the protection, interpretation, and enjoyment of the resources of the heritage area consistent with the purposes of this subtitle.

(3) An interpretation plan for the heritage area.

(4) A program for implementation of the management plan that includes—

(A) actions to be carried out by units of government, private organizations, and public-private partnerships to protect the resources of the heritage area; and

(B) the identification of existing and potential sources of funding for implementing the plan.

(5) A description and evaluation of the local coordinating entity, including the membership and organizational structure of the local coordinating entity.

(e) SUBMISSION TO SECRETARY FOR APPROVAL.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in paragraph (1), the Secretary shall not provide any additional funding under this subtitle until such date as a management plan for the heritage area is submitted to the Secretary.

(f) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 90 days after receiving the management plan submitted under subsection (e), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(2) ACTION FOLLOWING DISAPPROVAL.—

(A) REVISION.—If the Secretary disapproves a management plan submitted under paragraph (1), the Secretary shall—

(i) advise the local coordinating entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) allow the local coordinating entity to submit to the Secretary revisions to the management plan.

(B) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under subparagraph (A)(iii), the Secretary shall approve or disapprove the revision.

(g) REVISION OF MANAGEMENT PLAN.—

(1) IN GENERAL.—After approval by the Secretary of a management plan, the local coordinating entity shall periodically—

(A) review the management plan; and

(B) submit to the Secretary, for review and approval by the Secretary, the recommendations of the local coordinating entity for any revisions to the management plan that the local coordinating entity considers to be appropriate.

(2) EXPENDITURE OF FUNDS.—No funds made available under this subtitle shall be used to implement any revision proposed by the local coordinating entity under paragraph (1)(B) until the Secretary approves the revision.

SEC. 237. TECHNICAL AND FINANCIAL ASSISTANCE.

(a) IN GENERAL.—At the request of the local coordinating entity, the Secretary may provide technical and financial assistance to the heritage area to develop and implement the management plan.

(b) PRIORITY.—In providing assistance under subsection (a), the Secretary shall give priority to actions that facilitate—

(1) the conservation of the significant natural, cultural, historical, scenic, and recreational resources that support the purposes of the heritage area; and

(2) the provision of educational, interpretive, and recreational opportunities that are consistent with the resources and associated values of the heritage area.

SEC. 238. EFFECT ON CERTAIN AUTHORITY.

(a) OCCUPATIONAL, SAFETY, CONSERVATION, AND ENVIRONMENTAL REGULATION.—Nothing in this subtitle—

(1) imposes an occupational, safety, conservation, or environmental regulation on the heritage area that is more stringent than the regulations that would be applicable to the land described in section 234(b) but for the establishment of the heritage area by section 234(a); or

(2) authorizes a Federal agency to promulgate an occupational, safety, conservation, or environmental regulation for the heritage area that is more stringent than the regulations applicable to the land described in section 234(b) as of the date of enactment of this Act, solely as a result of the establishment of the heritage area by section 234(a).

(b) LAND USE REGULATION.—Nothing in this subtitle—

(1) modifies, enlarges, or diminishes any authority of the Federal Government or a State or local government to regulate any use of land as provided for by law (including regulations) in existence on the date of enactment of this Act; or

(2) grants powers of zoning or land use to the local coordinating entity.

SEC. 239. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) FEDERAL SHARE.—The Federal share of the cost of any project or activity carried out using funds made available under this subtitle shall not exceed 50 percent.

SEC. 240. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle D—Mormon Pioneer National Heritage Area

SEC. 251. SHORT TITLE.

This subtitle may be cited as the "Mormon Pioneer National Heritage Area Act".

SEC. 252. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the historical, cultural, and natural heritage legacies of Mormon colonization and settlement are nationally significant;

(2) in the area starting along the Highway 89 corridor at the Arizona border, passing through Kane, Garfield, Piute, Sevier, Wayne, and Sanpete Counties in the State of

Utah, and terminating in Fairview, Utah, there are a variety of heritage resources that demonstrate—

(A) the colonization of the western United States; and

(B) the expansion of the United States as a major world power;

(3) the great relocation to the western United States was facilitated by—

(A) the 1,400-mile trek from Illinois to the Great Salt Lake by the Mormon pioneers; and

(B) the subsequent colonization effort in Nevada, Utah, the southeast corner of Idaho, the southwest corner of Wyoming, large areas of southeastern Oregon, much of southern California, and areas along the eastern border of California;

(4) the 250-mile Highway 89 corridor from Kanab to Fairview, Utah, contains some of the best features of the Mormon colonization experience in the United States;

(5) the landscape, architecture, traditions, beliefs, folk life, products, and events along Highway 89 convey the heritage of the pioneer settlement;

(6) the Boulder Loop, Capitol Reef National Park, Zion National Park, Bryce Canyon National Park, and the Highway 89 area convey the compelling story of how early settlers—

(A) interacted with Native Americans; and

(B) established towns and cities in a harsh, yet spectacular, natural environment;

(7) the colonization and settlement of the Mormon settlers opened up vast amounts of natural resources, including coal, uranium, silver, gold, and copper;

(8) the Mormon colonization played a significant role in the history and progress of the development and settlement of the western United States; and

(9) the artisans, crafters, innkeepers, outfitters, farmers, ranchers, loggers, miners, historic landscape, customs, national parks, and architecture in the Heritage Area make the Heritage Area unique.

(b) Purpose.—The purpose of this subtitle is to establish the Heritage Area to—

(1) foster a close working relationship with all levels of government, the private sector, residents, business interests, and local communities in the State;

(2) empower communities in the State to conserve, preserve, and enhance the heritage of the communities while strengthening future economic opportunities;

(3) conserve, interpret, and develop the historical, cultural, natural, and recreational resources within the Heritage Area; and

(4) expand, foster, and develop heritage businesses and products relating to the cultural heritage of the Heritage Area.

SEC. 253. DEFINITIONS.

In this subtitle:

(1) Alliance.—The term "Alliance" means the Utah Heritage Highway 89 Alliance.

(2) Heritage area.—The term "Heritage Area" means the Mormon Pioneer National Heritage Area established by section 254(a).

(3) Local coordinating entity.—The term "local coordinating entity" means the local coordinating entity for the Heritage Area designated by section 255(a).

(4) Management plan.—The term "management plan" means the plan developed by the local coordinating entity under section 256(a).

(5) Secretary.—The term "Secretary" means the Secretary of the Interior.

(6) State.—The term "State" means the State of Utah.

SEC. 254. MORMON PIONEER NATIONAL HERITAGE AREA.

(a) Establishment.—There is established the Mormon Pioneer National Heritage Area.

(b) Boundaries.—

(1) In general.—The boundaries of the Heritage Area shall include areas in the State—

(A) that are related to the corridors—

(i) from the Arizona border northward through Kanab, Utah, and to the intersection of Highway 89 and Highway 12, including Highway 12 and Highway 24 as those highways loop off Highway 89 and rejoin Highway 89 at Sigurd;

(ii) from Highway 89 at the intersection of Highway 12 through Panguitch, Junction, Marysvale, and Sevier County to Sigurd;

(iii) continuing northward along Highway 89 through Axtell and Sterling, Sanpete County, to Fairview, Sanpete County, at the junction with Utah Highway 31; and

(iv) continuing northward along Highway 89 through Fairview and Thistle Junction, to the junction with Highway 6; and

(B) including the following communities: Kanab, Mt. Carmel, Orderville, Glendale, Alton, Cannonville, Tropic, Henrieville, Escalante, Boulder, Teasdale, Fruita, Hanksville, Torrey, Bicknell, Loa, Hatch, Panquitch, Circleville, Antimony, Junction, Marysvale, Koosharem, Sevier, Joseph, Monroe, Elsinore, Richfield, Glenwood, Sigurd, Aurora, Salina, Mayfield, Sterling, Gunnison, Fayette, Manti, Ephraim, Spring City, Mt. Pleasant, Moroni, Fountain Green, and Fairview.

(2) Map.—The Secretary shall prepare a map of the Heritage Area, which shall be on file and available for public inspection in the office of the Director of the National Park Service.

(3) Notice to local governments.—The local coordinating entity shall provide to the government of each city, town, and county that has jurisdiction over property proposed to be included in the Heritage Area written notice of the proposed inclusion.

(c) Administration.—The Heritage Area shall be administered in accordance with this subtitle.

SEC. 255. DESIGNATION OF ALLIANCE AS LOCAL COORDINATING ENTITY.

(a) In General.—The Board of Directors of the Alliance shall be the local coordinating entity for the Heritage Area.

(b) Federal Funding.—

(1) Authorization to receive funds.—The local coordinating entity may receive amounts made available to carry out this subtitle.

(2) Disqualification.—If a management plan is not submitted to the Secretary as required under section 256 within the time period specified in that section, the local coordinating entity may not receive Federal funding under this subtitle until a management plan is submitted to the Secretary.

(c) Use of Federal Funds.—The local coordinating entity may, for the purposes of developing and implementing the management plan, use Federal funds made available under this subtitle—

(1) to make grants to the State, political subdivisions of the State, nonprofit organizations, and other persons;

(2) to enter into cooperative agreements with or provide technical assistance to the State, political subdivisions of the State, nonprofit organizations, and other organizations;

(3) to hire and compensate staff;

(4) to obtain funds from any source under any program or law requiring the recipient of funds to make a contribution in order to receive the funds; and

(5) to contract for goods and services.

(d) Prohibition of Acquisition of Real Property.—The local coordinating entity shall not use Federal funds received under this subtitle to acquire real property or any interest in real property.

SEC. 256. MANAGEMENT OF THE HERITAGE AREA.

(a) Heritage Area Management Plan.—

(1) Development and submission for review.—Not later than 3 years after the date on which funds are made available to carry out the subtitle, the local coordinating entity, with public participation, shall develop and submit for review to the Secretary a management plan for the Heritage Area.

(2) Contents.—The management plan shall—

(A) present comprehensive recommendations for the conservation, funding, management, and development of the Heritage Area;

(B) take into consideration Federal, State, county, and local plans;

(C) involve residents, public agencies, and private organizations in the Heritage Area;

(D) include a description of actions that units of government and private organizations are recommended to take to protect the resources of the Heritage Area;

(E) specify existing and potential sources of Federal and non-Federal funding for the conservation, management, and development of the Heritage Area; and

(F) include—

(i) an inventory of resources in the Heritage Area that—

(I) includes a list of property in the Heritage Area that should be conserved, restored, managed, developed, or maintained because of the historical, cultural, or natural significance of the property as the property relates to the themes of the Heritage Area; and

(II) does not include any property that is privately owned unless the owner of the property consents in writing to the inclusion;

(ii) a recommendation of policies for resource management that consider the application of appropriate land and water management techniques, including policies for the development of intergovernmental cooperative agreements to manage the historical, cultural, and natural resources and recreational opportunities of the Heritage Area in a manner that is consistent with the support of appropriate and compatible economic viability;

(iii) a program for implementation of the management plan, including plans for restoration and construction;

(iv) a description of any commitments that have been made by persons interested in management of the Heritage Area;

(v) an analysis of means by which Federal, State, and local programs may best be coordinated to promote the purposes of this subtitle; and

(vi) an interpretive plan for the Heritage Area.

(3) Approval or disapproval of the management plan.—

(A) In general.—Not later than 180 days after submission of the management plan by the local coordinating entity, the Secretary shall approve or disapprove the management plan.

(B) Disapproval and revisions.—

(i) In general.—If the Secretary disapproves the management plan, the Secretary shall—

(I) advise the local coordinating entity, in writing, of the reasons for the disapproval; and

(II) make recommendations for revision of the management plan.

(ii) Approval or disapproval.—The Secretary shall approve or disapprove proposed revisions to the management plan not later than 60 days after receipt of the revisions from the local coordinating entity.

(b) PRIORITIES.—The local coordinating entity shall give priority to the implementation of actions, goals, and policies set forth in the management plan, including—

(1) assisting units of government, regional planning organizations, and nonprofit organizations in—

(A) conserving the historical, cultural, and natural resources of the Heritage Area;

(B) establishing and maintaining interpretive exhibits in the Heritage Area;

(C) developing recreational opportunities in the Heritage Area;

(D) increasing public awareness of and appreciation for the historical, cultural, and natural resources of the Heritage Area;

(E) restoring historic buildings that are—

(i) located within the boundaries of the Heritage Area; and

(ii) related to the theme of the Heritage Area; and

(F) ensuring that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are put in place throughout the Heritage Area; and

(2) consistent with the goals of the management plan, encouraging economic viability in the affected communities by appropriate means, including encouraging and soliciting the development of heritage products.

(c) CONSIDERATION OF INTERESTS OF LOCAL GROUPS.—In developing and implementing the management plan, the local coordinating entity shall consider the interests of diverse units of government, businesses, private property owners, and nonprofit organizations in the Heritage Area.

(d) PUBLIC MEETINGS.—The local coordinating entity shall conduct public meetings at least annually regarding the implementation of the management plan.

(e) ANNUAL REPORTS.—For any fiscal year in which the local coordinating entity receives Federal funds under this subtitle, the local coordinating entity shall submit to the Secretary an annual report that describes—

(1) the accomplishments of the local coordinating entity;

(2) the expenses and income of the local coordinating entity; and

(3) the entities to which the local coordinating entity made any grants during the year for which the report is made.

(f) COOPERATION WITH AUDITS.—For any fiscal year in which the local coordinating entity receives Federal funds under this subtitle, the local coordinating entity shall—

(1) make available for audit by Congress, the Secretary, and appropriate units of government all records and other information relating to the expenditure of the Federal funds and any matching funds; and

(2) require, with respect to all agreements authorizing expenditure of the Federal funds by other organizations, that the receiving organizations make available for audit all records and other information relating to the expenditure of the Federal funds.

(g) DELEGATION.—

(1) IN GENERAL.—The local coordinating entity may delegate the responsibilities and actions under this subtitle for each area identified in section 254(b)(1).

(2) REVIEW.—All delegated responsibilities and actions are subject to review and approval by the local coordinating entity.

SEC. 257. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) TECHNICAL ASSISTANCE AND GRANTS.—

(1) IN GENERAL.—The Secretary may provide technical assistance and, subject to the availability of appropriations, grants to—

(A) units of government, nonprofit organizations, and other persons, at the request of the local coordinating entity; and

(B) the local coordinating entity, for use in developing and implementing the management plan.

(2) PROHIBITION OF CERTAIN REQUIREMENTS.—The Secretary may not, as a condition of the award of technical assistance or grants under this subtitle, require any recipient of the technical assistance or a grant to enact or modify any land use restriction.

(3) DETERMINATIONS REGARDING ASSISTANCE.—The Secretary shall determine whether a unit of government, nonprofit organization, or other person shall be awarded technical assistance or grants and the amount of technical assistance—

(A) based on the extent to which the assistance—

(i) fulfills the objectives of the management plan; and

(ii) achieves the purposes of this subtitle; and

(B) after giving special consideration to projects that provide a greater leverage of Federal funds.

(b) PROVISION OF INFORMATION.—In cooperation with other Federal agencies, the Secretary shall provide the public with information concerning the location and character of the Heritage Area.

(c) OTHER ASSISTANCE.—The Secretary may enter into cooperative agreements with public and private organizations for the purposes of implementing this subtitle.

(d) DUTIES OF OTHER FEDERAL AGENCIES.—A Federal entity conducting any activity directly affecting the Heritage Area shall—

(1) consider the potential effect of the activity on the management plan; and

(2) consult with the local coordinating entity with respect to the activity to minimize the adverse effects of the activity on the Heritage Area.

SEC. 258. NO EFFECT ON LAND USE AUTHORITY AND PRIVATE PROPERTY.

(a) NO EFFECT ON LAND USE AUTHORITY.—Nothing in this subtitle modifies, enlarges, or diminishes any authority of Federal, State, or local government to regulate any use of land under any other law (including regulations).

(b) NO ZONING OR LAND USE POWERS.—Nothing in this subtitle grants powers of zoning or land use control to the local coordinating entity.

(c) LOCAL AUTHORITY AND PRIVATE PROPERTY NOT AFFECTED.—Nothing in this subtitle affects or authorizes the local coordinating entity to interfere with—

(1) the right of any person with respect to private property; or

(2) any local zoning ordinance or land use plan of the State or a political subdivision of the State.

SEC. 259. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) FEDERAL SHARE.—The Federal share of the cost of any activity carried out using funds made available under this subtitle shall not exceed 50 percent.

SEC. 260. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle E—Bleeding Kansas National Heritage Area

SEC. 261. SHORT TITLE.

This subtitle may be cited as the "Bleeding Kansas National Heritage Area Act".

SEC. 262. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The Bleeding Kansas National Heritage Area is a cohesive assemblage of natural, historic, cultural, and recreational resources that—

(A) together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use;

(B) are best managed through partnerships between private and public entities; and

(C) will build upon the Kansas rural development policy and the new homestead act to recognize inherent strengths of small towns and rural communities—close-knit communities, strong local business networks, and a tradition of entrepreneurial creativity.

(2) The Bleeding Kansas National Heritage Area reflects traditions, customs, beliefs, folk life, or some combination thereof, that are a valuable part of the heritage of the United States.

(3) The Bleeding Kansas National Heritage Area provides outstanding opportunities to conserve natural, cultural, or historic features, or some combination thereof.

(4) The Bleeding Kansas National Heritage Area provides outstanding recreational and interpretive opportunities.

(5) The Bleeding Kansas National Heritage Area has an identifiable theme, and resources important to the theme retain integrity capable of supporting interpretation.

(6) Residents, nonprofit organizations, other private entities, and units of local government throughout the Bleeding Kansas National Heritage Area demonstrate support for designation of the Bleeding Kansas National Heritage Area as a national heritage area and for management of the Bleeding Kansas National Heritage Area as appropriate for such designation.

(7) Capturing these interconnected stories through partnerships with National Park Service sites, Kansas State Historical Society sites, local organizations, and citizens will augment the story opportunities within the prospective boundary for the educational and recreational benefit of this and future generations of Americans.

(8) Communities throughout this region know the value of their Bleeding Kansas legacy, but require expansion of the existing cooperative framework to achieve key preservation, education, and other significant goals by working more closely together.

(9) The State of Kansas officially recognized the national significance of the Bleeding Kansas story when it designated the heritage area development as a significant strategic goal within the statewide economic development plan.

(10) Territorial Kansas Heritage Alliance is a nonprofit corporation created for the purposes of preserving, interpreting, developing, promoting and, making available to the public the story and resources related to the story of Bleeding Kansas and the Enduring Struggle for Freedom.

(11) Territorial Kansas Heritage Alliance has completed a study that—

(A) describes in detail the role, operation, financing, and functions of Territorial Kansas Heritage Alliance, the local coordinating entity; and

(B) provides adequate assurances that Territorial Kansas Heritage Alliance, the local coordinating entity, is likely to have the financial resources necessary to implement the management plan for the Heritage Area, including resources to meet matching requirement for grants.

(12) There are at least 7 National Historic Landmarks, 32 National Register properties, 3 Kansas Register properties, and 7 properties listed on the National Underground Railroad Network to Freedom that contribute to the Heritage Area as well as other significant properties that have not been designated at this time.

(13) There is an interest in interpreting all sides of the Bleeding Kansas story that requires further work with several counties in Missouri interested in joining the area.

(14) In 2004, the State of Kansas commemorated the Sesquicentennial of the signing of the Kansas-Nebraska Act, opening the territory to settlement.

(b) Purposes.—The purposes of this subtitle are as follows:

(1) To designate a region in eastern Kansas and western Missouri containing nationally important natural, historic, and cultural resources and recreational and educational opportunities that are geographically assembled and thematically related as areas that provide unique frameworks for understanding the great and diverse character of the United States and the development of communities and their surroundings as the Bleeding Kansas National Heritage Area.

(2) To strengthen, complement, and support the Fort Scott, Brown v. Board of Education, Nicodemus and Tallgrass Prairie sites through the interpretation and conservation of the associated living landscapes outside of the boundaries of these units of the National Park System.

(3) To describe the extent of Federal responsibilities and duties in regard to the Heritage Area.

(4) To further collaboration and partnerships among Federal, State, and local governments, nonprofit organizations, and the private sector, or combinations thereof, to conserve and manage the resources and opportunities in the Heritage Area through grants, technical assistance, training and other means.

(5) To authorize Federal financial and technical assistance to the local coordinating entity to assist in the conservation and interpretation of the Heritage Area.

(6) To empower communities and organizations in Kansas to preserve the special historic identity of Bleeding Kansas and with it the identity of the Nation.

(7) To provide for the management, preservation, protection, and interpretation of the natural, historical, and cultural resources within the region for the educational and inspirational benefit of current and future generations.

(8) To provide greater community capacity through inter-local cooperation.

(9) To provide a vehicle, particularly in the four counties with high out-migration of population, to recognize that self-reliance and resilience will be the keys to their economic future.

(10) To build upon the Kansas rural development policy, the Kansas agritourism initiative and the new homestead act to recognize inherent strengths of small towns and rural communities—close-knit communities, strong local business networks, and a tradition of entrepreneurial creativity.

(11) To educate and cultivate among its citizens, particularly its youth, the stories and cultural resources of the region's legacy that—

(A) reflect the popular phrase "Bleeding Kansas" describing the conflict over slavery that became nationally prominent in Kansas just before and during the American Civil War;

(B) reflect the commitment of American settlers who first fought and killed to uphold their different and irreconcilable principles of freedom and equality during the years of the Kansas Conflict;

(C) reflect the struggle for freedom, experienced during the "Bleeding Kansas" era, that continues to be a vital and pressing issue associated with the real problem of democratic nation building; and

(D) recreate the physical environment revealing its impact on agriculture, transportation, trade and business, and social and cultural patterns in urban and rural settings.

(12) To interpret the effect of the era's democratic ethos on the development of America's distinctive political culture.

SEC. 263. DEFINITIONS.

In this subtitle:

(1) Heritage area.—The term "Heritage Area" means the Bleeding Kansas and the Enduring Struggle for Freedom National Heritage Area in eastern Kansas and western Missouri.

(2) Local coordinating entity.—The term "local coordinating entity" means Territorial Kansas Heritage Alliance, recognized by the Secretary, in consultation with the Governors of the States, that agrees to perform the duties of a local coordinating entity under this subtitle.

(3) Management plan.—The term "management plan" means the management plan for the Heritage Area developed under section 264(e).

(4) Secretary.—The term "Secretary" means the Secretary of the Interior.

(5) State.—The term "State" means each of the States of Kansas and Missouri.

(6) Unit of local government.—The term "unit of local government" means the government of a State, a political subdivision of a State, or an Indian tribe.

SEC. 264. BLEEDING KANSAS AND THE ENDURING STRUGGLE FOR FREEDOM NATIONAL HERITAGE AREA.

(a) Establishment.—There is established in the States the Bleeding Kansas and the Enduring Struggle for Freedom National Heritage Area.

(b) Boundaries.—The Heritage Area may include the following:

(1) An area located in eastern Kansas and western Missouri, consisting of—

(A) Allen, Anderson, Atchison, Bourbon, Chantauqua, Cherokee, Clay, Coffey, Crawford, Douglas, Franklin, Geary, Jackson, Johnson, Labette, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Riley, Shawnee, Wabaunsee, Wilson, Woodson, Wyandotte Counties in Kansas; and

(B) Buchanan, Platte, Clay, Ray, Lafayette, Jackson, Cass, Johnson, Bates, Vernon, Barton, and Jasper Counties in Missouri.

(2) Contributing sites, buildings, and districts within the area that are recommended by the management plan.

(c) Map.—The final boundary of the Heritage Area within the counties identified in subsection (b)(1) shall be specified in the management plan. A map of the Heritage Area shall be included in the management plan. The map shall be on file in the appropriate offices of the National Park Service, Department of the Interior.

(d) Local Coordinating Entity.—

(1) In general.—The local coordinating entity for the Heritage Area shall be Territorial Kansas Heritage Alliance, a nonprofit organization established in the State of Kansas, recognized by the Secretary, in consultation with the Governors of the States, that agrees to perform the duties of the local coordinating entity under this subtitle.

(2) Authorities.—For purposes of developing and implementing the management plan, the local coordinating entity may—

(A) make grants to, and enter into cooperative agreements with, the States, political subdivisions of the States, and private organizations;

(B) hire and compensate staff; and

(C) enter into contracts for goods and services.

(e) Management Plan.—

(1) In general.—Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall develop and submit to the Secretary a management plan reviewed by participating units of local government within the boundaries of the proposed Heritage Area.

(2) Contents.—The management plan shall—

(A) present a comprehensive program for the conservation, interpretation, funding, management, and development of the Heritage Area, in a manner consistent with the existing local, State, and Federal land use laws and compatible economic viability of the Heritage Area;

(B) establish criteria or standards to measure what is selected for conservation, interpretation, funding, management, and development;

(C) involve residents, public agencies, and private organizations working in the Heritage Area;

(D) specify and coordinate, as of the date of the management plan, existing and potential sources of technical and financial assistance under this and other Federal laws to protect, manage, and develop the Heritage Area; and

(E) include—

(i) actions to be undertaken by units of government and private organizations to protect, conserve, and interpret the resources of the Heritage Area;

(ii) an inventory of the resources contained in the Heritage Area, including a list of any property in the Heritage Area that is related to the themes of the Heritage Area and that meets the establishing criteria (such as, but not exclusive to, visitor readiness) to merit preservation, restoration, management, development, or maintenance because of its natural, cultural, historical, or recreational significance;

(iii) policies for resource management including the development of intergovernmental cooperative agreements, private sector agreements, or any combination thereof, to protect the historical, cultural, recreational, and natural resources of the Heritage Area in a manner consistent with supporting appropriate and compatible economic viability;

(iv) a program for implementation of the management plan by the designated local coordinating entity, in cooperation with its partners and units of local government;

(v) evidence that relevant State, county, and local plans applicable to the Heritage Area have been taken into consideration;

(vi) an analysis of ways in which local, State, and Federal programs may best be coordinated to promote the purposes of this subtitle; and

(vii) a business plan that—

(I) describes in detail the role, operation, financing, and functions of the local coordinating entity for each activity included in the recommendations contained in the management plan; and

(II) provides, to the satisfaction of the Secretary, adequate assurances that the local coordinating entity is likely to have the financial resources necessary to implement the management plan for the Heritage Area, including resources to meet matching requirement for grants awarded under this subtitle.

(3) Considerations.—In developing and implementing the management plan, the local coordinating entity shall consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area.

(4) Disqualification from funding.—If a proposed management plan is not submitted to the Secretary within 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall be ineligible to receive additional funding under this subtitle until the date on which the Secretary receives the proposed management plan.

(5) Approval and disapproval of management plan.—The Secretary shall approve or disapprove the proposed management plan submitted under this subtitle not later than 90 days after receiving such proposed management plan.

(6) Action following disapproval.—If the Secretary disapproves a proposed management plan, the Secretary shall advise the local coordinating entity in writing of the reasons for the disapproval and shall make recommendations for revisions to the proposed management plan. The Secretary shall approve or disapprove a proposed revision within 90 days after the date it is submitted.

(7) Approval of amendments.—The Secretary shall review and approve substantial amendments to the management plan. Funds appropriated under this subtitle may not be expended to implement any changes made by such amendment until the Secretary approves the amendment.

(8) Implementation.—

(A) Priorities.—The local coordinating entity shall give priority to implementing actions described in the mangement plan, including—

(i) assisting units of government and nonprofit organizations in preserving resources within the Heritage Area; and

(ii) encouraging local governments to adopt land use policies consistent with the management of the Heritage Area and the goals of the management plan.

(B) Public meetings.—The local coordinating entity shall conduct public meetings at least quarterly on the implementation of the management plan.

(f) Public Notice.—The local coordinating entity shall place a notice of each of its public meetings in a newspaper of general circulation in the Heritage Area and shall make the minutes of the meeting available to the public.

(g) Annual Report.—For any year in which Federal funds have been made available under this subtitle, the local coordinating entity shall submit to the Secretary an annual report that describes—

(1) the accomplishments of the local coordinating entity; and

(2) the expenses and income of the local coordinating entity.

(h) Audit.—The local coordinating entity shall—

(1) make available to the Secretary for audit all records relating to the expenditure of Federal funds and any matching funds; and

(2) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available to the Secretary for audit all records concerning the expenditure of the Federal funds and any matching funds.

(i) Use of federal funds.—

(1) In general.—The local coordinating entity shall not use Federal funds made available under this subtitle to acquire real property or an interest in real property.

(2) Other sources.—Nothing in this subtitle precludes the local coordinating entity from using Federal funds made available under other Federal laws for any purpose for which the funds are authorized to be used.

SEC. 265. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

(a) Technical and Financial Assistance.—

(1) In general.—On the request of the local coordinating entity, the Secretary may provide technical and financial assistance for the development and implementation of the management plan.

(2) Priority for assistance.—In providing assistance under paragraph (1), the Secretary shall give priority to actions that assist in—

(A) conserving the significant cultural, historic, and natural resources of the Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(3) Spending for non-federal property.—The local coordinating entity may expend Federal funds made available under this subtitle on non-Federal property that—

(A) meets the criteria in the approved management plan; or

(B) is listed or eligible for listing on the National Register of Historic Places.

(4) Other assistance.—The Secretary may enter into cooperative agreements with public and private organizations to carry out this subsection.

(b) Other Federal Agencies.—Any Federal entity conducting or supporting an activity that directly affects the Heritage Area shall—

(1) consider the potential effect of the activity on the purposes of the Heritage Area and the management plan;

(2) consult with the local coordinating entity regarding the activity; and

(3) to the maximum extent practicable, conduct or support the activity to avoid adverse effects on the Heritage Area.

(c) Other Assistance Not Affected.—This subtitle does not affect the authority of any Federal official to provide technical or financial assistance under any other law.

(d) Notification of Other Federal Activities.—The head of each Federal agency shall provide to the Secretary and the local coordinating entity, to the extent practicable, advance notice of all activities that may have an impact on the Heritage Area.

SEC. 266. PRIVATE PROPERTY PROTECTION.

(a) Access to Private Property.—Nothing in this subtitle shall be construed to require any private property owner to permit public access (including Federal, State, or local government access) to such private property. Nothing in this subtitle shall be construed to modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(b) Liability.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) Recognition of Authority to Control Land Use.—Nothing in this subtitle shall be construed to modify any authority of Federal, State, or local governments to regulate land use.

(d) Participation of Private Property Owners in Heritage Areas.—Nothing in this subtitle shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) Land Use Regulation.—

(1) In general.—The local coordinating entity shall provide assistance and encouragement to State and local governments, private organizations, and persons to protect and promote the resources and values of the Heritage Area.

(2) Effect.—Nothing in this subtitle—

(A) affects the authority of the State or local governments to regulate under law any use of land; or

(B) grants any power of zoning or land use to the local coordinating entity.

(f) Private Property.—

(1) In general.—The local coordinating entity shall be an advocate for land management practices consistent with the purposes of the Heritage Area.

(2) Effect.—Nothing in this subtitle—

(A) abridges the rights of any person with regard to private property;

(B) affects the authority of the State or local government regarding private property; or

(C) imposes any additional burden on any property owner.

(g) Requirements for Inclusion of Private Property.—

(1) Notification and consent of property owners required.—No privately owned property shall be governed by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the local coordinating entity and has given written consent for such inclusion to the local coordinating entity.

(2) Landowner withdrawal.—Any owner of private property included within the boundary of the Heritage Area, and not notified under paragraph (1), shall have their property immediately removed from the boundary by submitting a written request to the local coordinating entity.

SEC. 267. SAVINGS PROVISIONS.

(a) Rules, Regulations, Standards, and Permit Processes.—Nothing in this subtitle shall be construed to impose any environmental, occupational, safety, or other rule, regulation, standard, or permit process in the Heritage Area that is different from those that would be applicable if the Heritage Area had not been established.

(b) Water and Water Rights.—Nothing in this subtitle shall be construed to authorize or imply the reservation or appropriation of water or water rights.

(c) No Diminishment of State Authority.—Nothing in this subtitle shall be construed to diminish the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area.

SEC. 268. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There is authorized to be appropriated to carry out this subtitle $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) Cost-Sharing Requirement.—The Federal share of the total cost of any activity assisted under this subtitle shall be not more than 50 percent.

SEC. 269. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle F—Upper Housatonic Valley National Heritage Area

SEC. 271. SHORT TITLE.

This subtitle may be cited as the ``Upper Housatonic Valley National Heritage Area Act''.

SEC. 272. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds the following:

(1) The upper Housatonic Valley, encompassing 29 towns in the hilly terrain of western Massachusetts and northwestern Connecticut, is a singular geographical and cultural region that has made significant national contributions through its literary, artistic, musical, and architectural achievements, its iron, paper, and electrical equipment industries, and its scenic beautification and environmental conservation efforts.

(2) The upper Housatonic Valley has 139 properties and historic districts listed on the National Register of Historic Places including—

(A) 5 National Historic Landmarks, including—

(i) Edith Wharton's home, The Mount, Lenox, Massachusetts;

(ii) Herman Melville's home, Arrowhead, Pittsfield, Massachusetts;

(iii) W.E.B. DuBois' Boyhood Homesite, Great Barrington, Massachusetts;

(iv) Mission House, Stockbridge, Massachusetts; and

(v) Crane and Company Old Stone Mill Rag Room, Dalton, Massachusetts; and

(B) 4 National Natural Landmarks, including—

(i) Bartholomew's Cobble, Sheffield, Massachusetts, and Salisbury, Connecticut;

(ii) Beckley Bog, Norfolk, Connecticut;

(iii) Bingham Bog, Salisbury, Connecticut; and

(iv) Cathedral Pines, Cornwall, Connecticut.

(3) Writers, artists, musicians, and vacationers have visited the region for more than 150 years to enjoy its scenic wonders, making it one of the country's leading cultural resorts.

(4) The upper Housatonic Valley has made significant national cultural contributions through such writers as Herman Melville, Nathaniel Hawthorne, Edith Wharton, and W.E.B. DuBois, artists Daniel Chester French and Norman Rockwell, and the performing arts centers of Tanglewood, Music Mountain, Norfolk (Connecticut) Chamber Music Festival, Jacob's Pillow, and Shakespeare & Company.

(5) The upper Housatonic Valley is noted for its pioneering achievements in the iron, paper, and electrical generation industries and has cultural resources to interpret those industries.

(6) The region became a national leader in scenic beautification and environmental conservation efforts following the era of industrialization and deforestation and maintains a fabric of significant conservation areas including the meandering Housatonic River.

(7) Important historical events related to the American Revolution, Shays' Rebellion, and early civil rights took place in the upper Housatonic Valley.

(8) The region had an American Indian presence going back 10,000 years, and Mohicans had a formative role in contact with Europeans during the 17th and 18th centuries.

(9) The Upper Housatonic Valley National Heritage Area has been proposed in order to heighten appreciation of the region, preserve its natural and historical resources, and improve the quality of life and economy of the area.

(b) Purposes.—The purposes of this subtitle are as follows:

(1) To establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts.

(2) To implement the national heritage area alternative as described in the document entitled ``Upper Housatonic Valley National Heritage Area Feasibility Study, 2003''.

(3) To provide a management framework to foster a close working relationship with all levels of government, the private sector, and the local communities in the upper Housatonic Valley region to conserve the region's heritage while continuing to pursue compatible economic opportunities.

(4) To assist communities, organizations, and citizens in the State of Connecticut and the Commonwealth of Massachusetts in identifying, preserving, interpreting, and developing the historical, cultural, scenic, and natural resources of the region for the educational and inspirational benefit of current and future generations.

SEC. 273. DEFINITIONS.

In this subtitle:

(1) Heritage area.—The term ``Heritage Area'' means the Upper Housatonic Valley National Heritage Area, established by section 274.

(2) Local coordinating entity.—The term ``local coordinating entity'' means the local coordinating entity for the Heritage Area designated by section 274(d).

(3) Management plan.—The term ``Management Plan'' means the management plan for the Heritage Area specified in section 276.

(4) Map.—The term ``map'' means the map entitled ``Boundary Map Upper Housatonic Valley National Heritage Area'', numbered P17/80,000, and dated February 2003.

(5) Secretary.—The term ``Secretary'' means the Secretary of the Interior.

(6) State.—The term ``State'' means the State of Connecticut and the Commonwealth of Massachusetts.

SEC. 274. UPPER HOUSATONIC VALLEY NATIONAL HERITAGE AREA.

(a) Establishment.—There is established the Upper Housatonic Valley National Heritage Area, as depicted on the map.

(b) Boundaries.—The Heritage Area shall be comprised of—

(1) part of the Housatonic River's watershed, which extends 60 miles from Lanesboro, Massachusetts to Kent, Connecticut;

(2) the towns of Canaan, Colebrook, Cornwall, Kent, Norfolk, North Canaan, Salisbury, Sharon, and Warren in Connecticut;

(3) the towns of Alford, Becket, Dalton, Egremont, Great Barrington, Hancock, Hinsdale, Lanesboro, Lee, Lenox, Monterey, Mount Washington, New Marlboro, Pittsfield, Richmond, Sheffield, Stockbridge, Tyringham, Washington, and West Stockbridge in Massachusetts; and

(4) the land and water within the boundaries of the Heritage Area, as depicted on the map.

(c) Availability of Map.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(d) Local Coordinating Entity.—The Upper Housatonic Valley National Heritage Area, Inc. shall be the local coordinating entity for the Heritage Area.

SEC. 275. AUTHORITIES, PROHIBITIONS, AND DUTIES OF THE LOCAL COORDINATING ENTITY.

(a) Duties of the Local Coordinating Entity.—To further the purposes of the Heritage Area, the local coordinating entity shall—

(1) prepare and submit a management plan for the Heritage Area to the Secretary in accordance with section 276;

(2) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect, and enhance important resource values within the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

(D) increasing public awareness of and appreciation for natural, historical, scenic, and cultural resources of the Heritage Area;

(E) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with heritage area themes;

(F) ensuring that clear, consistent, and appropriate signs identifying points of public access and sites of interest are posted throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations and individuals to further the purposes of the Heritage Area;

(3) consider the interests of diverse units of government, businesses, organizations and individuals in the Heritage Area in the preparation and implementation of the management plan;

(4) conduct meetings open to the public at least semi-annually regarding the development and implementation of the management plan;

(5) submit an annual report to the Secretary for any fiscal year in which the local coordinating entity receives Federal funds under this subtitle, setting forth its accomplishments, expenses, and income, including grants to any other entities during the year for which the report is made;

(6) make available for audit for any fiscal year in which it receives Federal funds under this subtitle, all information pertaining to the expenditure of such funds and any matching funds, and require in all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organizations make available for such audit all records and other information pertaining to the expenditure of such funds; and

(7) encourage by appropriate means economic viability that is consistent with the purposes of the Heritage Area.

(b) Authorities.—The local coordinating entity may, for the purposes of preparing and implementing the management plan for the Heritage Area, use Federal funds made available through this subtitle to—

(1) make grants to the State of Connecticut and the Commonwealth of Massachusetts, their political subdivisions, nonprofit organizations and other persons;

(2) enter into cooperative agreements with or provide technical assistance to the State of Connecticut and the Commonwealth of Massachusetts, their political jurisdictions, nonprofit organizations, and other interested parties;

(3) hire and compensate staff, which shall include individuals with expertise in natural, cultural, and historical resources protection, and heritage programming;

(4) obtain money or services from any source, including any that are provided under any other Federal law or program;

(5) contract for goods or services; and

(6) undertake to be a catalyst for any other activity that furthers the purposes of the Heritage Area and is consistent with the approved management plan.

(c) PROHIBITIONS ON THE ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds received under this subtitle to acquire real property, but may use any other source of funding, including other Federal funding outside this authority, intended for the acquisition of real property.

SEC. 276. MANAGEMENT PLAN.

(a) IN GENERAL.—The management plan for the Heritage Area shall—

(1) include comprehensive policies, strategies, and recommendations for conservation, funding, management and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans in the development of the management plan and its implementation;

(3) include a description of actions that governments, private organizations, and individuals have agreed to take to protect the natural, historical, and cultural resources of the Heritage Area;

(4) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area in the first 5 years of implementation;

(5) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area related to the themes of the Heritage Area that should be preserved, restored, managed, developed, or maintained;

(6) recommend policies and strategies for resource management that consider and detail the application of appropriate land and water management techniques including, but not limited to, the development of intergovernmental and interagency cooperative agreements to protect the Heritage Area's natural, historical, cultural, educational, scenic, and recreational resources;

(7) describe a program of implementation for the management plan including plans for resource protection, restoration, construction, and specific commitments for implementation that have been made by the local coordinating entity or any government, organization, or individual for the first 5 years of implementation;

(8) include an analysis and recommendations for ways in which local, State, and Federal programs, including the role of the National Park Service in the Heritage Area, may best be coordinated to further the purposes of this subtitle; and

(9) include an interpretive plan for the Heritage Area.

(b) DEADLINE AND TERMINATION OF FUNDING.—

(1) DEADLINE.—Not later than 3 years after funds are made available to carry out this subtitle, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with this subsection, the local coordinating entity shall not qualify for Federal funding under this subtitle until such time as the management plan is submitted to and approved by the Secretary.

SEC. 277. DUTIES AND AUTHORITIES OF THE SECRETARY.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary may, upon the request of the local coordinating entity, provide technical assistance on a reimbursable or non-reimbursable basis and financial assistance to the Heritage Area to develop and implement the approved management plan. The Secretary is authorized to enter into cooperative agreements with the local coordinating entity and other public or private entities for this purpose. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in—

(1) conserving the significant natural, historical, cultural, and scenic resources of the Heritage Area; and

(2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(b) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 90 days after receiving the management plan, the Secretary shall approve or disapprove the management plan.

(2) CRITERIA FOR APPROVAL.—In determining the approval of the management plan, the Secretary shall consider whether—

(A) the local coordinating entity is representative of the diverse interests of the Heritage Area including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(B) the local coordinating entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan;

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historical, and cultural resources of the Heritage Area; and

(D) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan, the Secretary shall advise the local coordinating entity in writing of the reasons therefore and shall make recommendations for revisions to the management plan. Not later than 60 days after the date a proposed revision is submitted, the Secretary shall approve or disapprove the proposed revision.

(4) APPROVAL OF AMENDMENTS.—Substantial amendments to the management plan shall be reviewed by the Secretary and approved in the same manner as provided for the original management plan. The local coordinating entity shall not use Federal funds authorized by this subtitle to implement any amendments until the Secretary has approved the amendments.

SEC. 278. DUTIES OF OTHER FEDERAL AGENCIES.

Any Federal agency conducting or supporting activities directly affecting the Heritage Area shall—

(1) consult with the Secretary and the local coordinating entity with respect to such activities;

(2) cooperate with the Secretary and the local coordinating entity in carrying out the duties of the Federal agency under this subtitle and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and,

(3) to the maximum extent practicable, conduct or support such activities in a manner that the local coordinating entity determines will not have an adverse effect on the Heritage Area.

SEC. 279. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) FEDERAL SHARE.—The Federal share of the total cost of any activity assisted under this subtitle shall not be more than 50 percent.

SEC. 280. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle G—Champlain Valley National Heritage Partnership

SEC. 281. SHORT TITLE.

This subtitle may be cited as the "Champlain Valley National Heritage Partnership Act of 2005".

SEC. 282. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Champlain Valley and its extensive cultural and natural resources have played a significant role in the history of the United States and the individual States of Vermont and New York;

(2) archaeological evidence indicates that the Champlain Valley has been inhabited by humans since the last retreat of the glaciers, with the Native Americans living in the area at the time of European discovery being primarily of Iroquois and Algonquin descent;

(3) the linked waterways of the Champlain Valley, including the Richelieu River in Canada, played a unique and significant role in the establishment and development of the United States and Canada through several distinct eras, including—

(A) the era of European exploration, during which Samuel de Champlain and other explorers used the waterways as a means of access through the wilderness;

(B) the era of military campaigns, including highly significant military campaigns of the French and Indian War, the American Revolution, and the War of 1812; and

(C) the era of maritime commerce, during which canals boats, schooners, and steamships formed the backbone of commercial transportation for the region;

(4) those unique and significant eras are best described by the theme "The Making of Nations and Corridors of Commerce";

(5) the artifacts and structures associated with those eras are unusually well-preserved;

(6) the Champlain Valley is recognized as having one of the richest collections of historical resources in North America;

(7) the history and cultural heritage of the Champlain Valley are shared with Canada and the Province of Quebec;

(8) there are benefits in celebrating and promoting this mutual heritage;

(9) tourism is among the most important industries in the Champlain Valley, and heritage tourism in particular plays a significant role in the economy of the Champlain Valley;

(10) it is important to enhance heritage tourism in the Champlain Valley while ensuring that increased visitation will not impair the historical and cultural resources of the region;

(11) according to the 1999 report of the National Park Service entitled "Champlain Valley Heritage Corridor Project", "the Champlain Valley contains resources and

represents a theme 'The Making of Nations and Corridors of Commerce', that is of outstanding importance in U.S. history''; and

(12) it is in the interest of the United States to preserve and interpret the historical and cultural resources of the Champlain Valley for the education and benefit of present and future generations.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish the Champlain Valley National Heritage Partnership in the States of Vermont and New York to recognize the importance of the historical, cultural, and recreational resources of the Champlain Valley region to the United States;

(2) to assist the State of Vermont and New York, including units of local government and nongovernmental organizations in the States, in preserving, protecting, and interpreting those resources for the benefit of the people of the United States;

(3) to encourage—

(A) partnerships among State and local governments and nongovernmental organizations in the United States; and

(B) collaboration with Canada and the Province of Quebec to—

(i) interpret and promote the history of the waterways of the Champlain Valley region;

(ii) form stronger bonds between the United States and Canada; and

(iii) promote the international aspects of the Champlain Valley region; and

(4) to provide financial and technical assistance for the purposes described in paragraphs (1) through (3).

SEC. 283. DEFINITIONS.

In this subtitle:

(1) HERITAGE PARTNERSHIP.—The term "Heritage Partnership" means the Champlain Valley National Heritage Partnership established by section 284(a).

(2) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the Lake Champlain Basin Program.

(3) MANAGEMENT PLAN.—The term "management plan" means the management plan developed under section 284(b)(B)(i).

(4) REGION.—

(A) IN GENERAL.—The term "region" means any area or community in 1 of the States in which a physical, cultural, or historical resource that represents the theme is located.

(B) INCLUSIONS.—The term "region" includes

(i) the linked navigable waterways of—

(I) Lake Champlain;

(II) Lake George;

(III) the Champlain Canal; and

(IV) the portion of the Upper Hudson River extending south to Saratoga;

(ii) portions of Grand Isle, Franklin, Chittenden, Addison, Rutland, and Bennington Counties in the State of Vermont; and

(iii) portions of Clinton, Essex, Warren, Saratoga and Washington Counties in the State of New York.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—the term "State" means—

(A) the State of Vermont; and

(B) the State of New York.

(7) THEME.—The term "theme" means the theme "The Making of Nations and Corridors of Commerce", as the term is used in the 1999 report of the National Park Service entitled "Champlain Valley Heritage Corridor Project", that describes the periods of international conflict and maritime commerce during which the region played a unique and significant role in the development of the United States and Canada.

SEC. 284. HERITAGE PARTNERSHIP.

(a) ESTABLISHMENT.—There is established in the region the Champlain Valley National Heritage Partnership.

(b) LOCAL COORDINATING ENTITY.—

(1) DUTIES.—

(A) IN GENERAL.—The local coordinating entity shall implement the subtitle.

(B) MANAGEMENT PLAN.—

(i) IN GENERAL.—The local coordinating entity shall develop a management plan for the Heritage Partnership.

(ii) EXISTING PLAN.—Pending the completion and approval of the management plan, the local coordinating entity may implement the provisions of this subtitle based on its federally authorized plan "Opportunities for Action, an Evolving Plan For Lake Champlain".

(iii) CONTENTS.—The management plan shall include—

(I) recommendations for funding, managing, and developing the Heritage Partnership;

(II) a description of activities to be carried out by public and private organizations to protect the resources of the Heritage Partnership;

(III) a list of specific, potential sources of funding for the protection, management, and development of the Heritage Partnership;

(IV) an assessment of the organizational capacity of the local coordinating entity to achieve the goals for implementation; and

(V) recommendations of ways in which to encourage collaboration with Canada and the Province of Quebec in implementing this title.

(iv) CONSIDERATIONS.—In developing the management plan under clause (i), the local coordinating entity shall take into consideration existing Federal, State, and local plans relating to the region.

(v) SUBMISSION TO SECRETARY FOR APPROVAL.—

(I) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall submit the management plan to the Secretary for approval.

(II) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in subclause (I), the Secretary shall not provide any additional funding under this subtitle until a management plan for the Heritage Partnership is submitted to the Secretary.

(vi) APPROVAL.—Not later than 90 days after receiving the management plan submitted under clause (v)(I), the Secretary, in consultation with the States, shall approve or disapprove the management plan.

(vii) ACTION FOLLOWING DISAPPROVAL.—

(I) GENERAL.—If the Secretary disapproves a management plan under clause (vi), the Secretary shall—

(aa) advise the local coordinating entity in writing of the reasons for the disapproval;

(bb) make recommendations for revisions to the management plan; and

(cc) allow the local coordinating entity to submit to the Secretary revisions to the management plan.

(II) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under subclause (I)(cc), the Secretary shall approve or disapprove the revision.

(viii) AMENDMENT.—

(I) IN GENERAL.—After approval by the Secretary of the management plan, the local coordinating entity shall periodically—

(aa) review the management plan; and

(bb) submit to the Secretary, for review and approval by the Secretary, the recommendations of the local coordinating entity for any amendments to the management plan that the local coordinating entity considers to be appropriate.

(II) EXPENDITURE OF FUNDS.—No funds made available under this title shall be used to implement any amendment proposed by the local coordinating entity under subclause (I)(bb) until the Secretary approves the amendments.

(2) PARTNERSHIPS.—

(A) IN GENERAL.—In carrying out this subtitle, the local coordinating entity may enter into partnerships with—

(i) the States, including units of local governments in the States;

(ii) nongovernmental organizations;

(iii) Indian tribes; and

(iv) other persons in the Heritage Partnership.

(B) GRANTS.—Subject to the availability of funds, the local coordinating entity may provide grants to partners under subparagraph (A) to assist in implementing this subtitle.

(3) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds made available under this subtitle to acquire real property or any interest in real property.

(c) ASSISTANCE FROM SECRETARY.—To carry out the purposes of this subtitle, the Secretary may provide technical and financial assistance to the local coordinating entity.

SEC. 285. EFFECT.

Nothing in this subtitle—

(1) grants powers of zoning or land use to the local coordinating entity;

(2) modifies, enlarges, or diminishes the authority of the Federal Government or a State or local government to manage or regulate any use of land under any law (including regulations); or

(3) obstructs or limits private business development activities or resource development activities.

SEC. 286. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title not more than a total of $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) NON-FEDERAL SHARE.—The Federal share of the total cost of any activity assisted under this subtitle shall not be more than 50 percent.

SEC. 287. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle H—Great Basin National Heritage Route

SEC. 291. SHORT TITLE.

This subtitle may be cited as the "Great Basin National Heritage Route Act".

SEC. 291A. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the natural, cultural, and historic heritage of the North American Great Basin is nationally significant;

(2) communities along the Great Basin Heritage Route (including the towns of Delta, Utah, Ely, Nevada, and the surrounding communities) are located in a classic western landscape that contains long natural vistas, isolated high desert valleys, mountain ranges, ranches, mines, historic railroads, archaeological sites, and tribal communities;

(3) the Native American, pioneer, ranching, mining, timber, and railroad heritages associated with the Great Basin Heritage Route

include the social history and living cultural traditions of a rich diversity of nationalities;

(4) the pioneer, Mormon, and other religious settlements, and ranching, timber, and mining activities of the region played and continue to play a significant role in the development of the United States, shaped by—

(A) the unique geography of the Great Basin;

(B) an influx of people of Greek, Chinese, Basque, Serb, Croat, Italian, and Hispanic descent; and

(C) a Native American presence (Western Shoshone, Northern and Southern Paiute, and Goshute) that continues in the Great Basin today;

(5) the Great Basin housed internment camps for Japanese-American citizens during World War II, 1 of which, Topaz, was located along the Heritage Route;

(6) the pioneer heritage of the Heritage Route includes the Pony Express route and stations, the Overland Stage, and many examples of 19th century exploration of the western United States;

(7) the Native American heritage of the Heritage Route dates back thousands of years and includes—

(A) archaeological sites;

(B) petroglyphs and pictographs;

(C) the westernmost village of the Fremont culture; and

(D) communities of Western Shoshone, Paiute, and Goshute tribes;

(8) the Heritage Route contains multiple biologically diverse ecological communities that are home to exceptional species such as—

(A) bristlecone pines, the oldest living trees in the world;

(B) wildlife adapted to harsh desert conditions;

(C) unique plant communities, lakes, and streams; and

(D) native Bonneville cutthroat trout;

(9) the air and water quality of the Heritage Route is among the best in the United States, and the clear air permits outstanding viewing of the night skies;

(10) the Heritage Route includes unique and outstanding geologic features such as numerous limestone caves, classic basin and range topography with playa lakes, alluvial fans, volcanics, cold and hot springs, and recognizable features of ancient Lake Bonneville;

(11) the Heritage Route includes an unusual variety of open space and recreational and educational opportunities because of the great quantity of ranching activity and public land (including city, county, and State parks, national forests, Bureau of Land Management land, and a national park);

(12) there are significant archaeological, historical, cultural, natural, scenic, and recreational resources in the Great Basin to merit the involvement of the Federal Government in the development, in cooperation with the Great Basin Heritage Route Partnership and other local and governmental entities, of programs and projects to—

(A) adequately conserve, protect, and interpret the heritage of the Great Basin for present and future generations; and

(B) provide opportunities in the Great Basin for education; and

(13) the Great Basin Heritage Route Partnership shall serve as the local coordinating entity for a Heritage Route established in the Great Basin.

(b) Purposes.—The purposes of this subtitle are—

(1) to foster a close working relationship with all levels of government, the private sector, and the local communities within White Pine County, Nevada, Millard County, Utah, and the Duckwater Shoshone Reservation;

(2) to enable communities referred to in paragraph (1) to conserve their heritage while continuing to develop economic opportunities; and

(3) to conserve, interpret, and develop the archaeological, historical, cultural, natural, scenic, and recreational resources related to the unique ranching, industrial, and cultural heritage of the Great Basin, in a manner that promotes multiple uses permitted as of the date of enactment of this Act, without managing or regulating land use.

SEC. 291B. DEFINITIONS.

In this subtitle:

(1) Great basin.—The term "Great Basin" means the North American Great Basin.

(2) Heritage route.—The term "Heritage Route" means the Great Basin National Heritage Route established by section 291C(a).

(3) Local coordinating entity.—The term "local coordinating entity" means the Great Basin Heritage Route Partnership established by section 291C(c).

(4) Management plan.—The term "management plan" means the plan developed by the local coordinating entity under section 291E(a).

(5) Secretary.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the National Park Service.

SEC. 291C. GREAT BASIN NATIONAL HERITAGE ROUTE.

(a) Establishment.—There is established the Great Basin National Heritage Route to provide the public with access to certain historical, cultural, natural, scenic, and recreational resources in White Pine County, Nevada, Millard County, Utah, and the Duckwater Shoshone Reservation in the State of Nevada, as designated by the local coordinating entity.

(b) Boundaries.—The local coordinating entity shall determine the specific boundaries of the Heritage Route.

(c) Local Coordinating Entity.—

(1) In general.—The Great Basin Heritage Route Partnership shall serve as the local coordinating entity for the Heritage Route.

(2) Board of directors.—The Great Basin Heritage Route Partnership shall be governed by a board of directors that consists of—

(A) 4 members who are appointed by the Board of County Commissioners for Millard County, Utah;

(B) 4 members who are appointed by the Board of County Commissioners for White Pine County, Nevada; and

(C) a representative appointed by each Native American Tribe participating in the Heritage Route.

SEC. 291D. MEMORANDUM OF UNDERSTANDING.

(a) In General.—In carrying out this subtitle, the Secretary, in consultation with the Governors of the States of Nevada and Utah and the tribal government of each Indian tribe participating in the Heritage Route, shall enter into a memorandum of understanding with the local coordinating entity.

(b) Inclusions.—The memorandum of understanding shall include information relating to the objectives and management of the Heritage Route, including—

(1) a description of the resources of the Heritage Route;

(2) a discussion of the goals and objectives of the Heritage Route, including—

(A) an explanation of the proposed approach to conservation, development, and interpretation; and

(B) a general outline of the anticipated protection and development measures;

(3) a description of the local coordinating entity;

(4) a list and statement of the financial commitment of the initial partners to be involved in developing and implementing the management plan; and

(5) a description of the role of the States of Nevada and Utah in the management of the Heritage Route.

(c) Additional Requirements.—In developing the terms of the memorandum of understanding, the Secretary and the local coordinating entity shall—

(1) provide opportunities for local participation; and

(2) include terms that ensure, to the maximum extent practicable, timely implementation of all aspects of the memorandum of understanding.

(d) Amendments.—

(1) In general.—The Secretary shall review any amendments of the memorandum of understanding proposed by the local coordinating entity or the Governor of the State of Nevada or Utah.

(2) Use of funds.—Funds made available under this subtitle shall not be expended to implement a change made by a proposed amendment described in paragraph (1) until the Secretary approves the amendment.

SEC. 291E. MANAGEMENT PLAN.

(a) In General.—Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall develop and submit to the Secretary for approval a management plan for the Heritage Route that—

(1) specifies—

(A) any resources designated by the local coordinating entity under section 291C(a); and

(B) the specific boundaries of the Heritage Route, as determined under section 291C(b); and

(2) presents clear and comprehensive recommendations for the conservation, funding, management, and development of the Heritage Route.

(b) Considerations.—In developing the management plan, the local coordinating entity shall—

(1) provide for the participation of local residents, public agencies, and private organizations located within the counties of Millard County, Utah, White Pine County, Nevada, and the Duckwater Shoshone Reservation in the protection and development of resources of the Heritage Route, taking into consideration State, tribal, county, and local land use plans in existence on the date of enactment of this Act;

(2) identify sources of funding;

(3) include—

(A) a program for implementation of the management plan by the local coordinating entity, including—

(i) plans for restoration, stabilization, rehabilitation, and construction of public or tribal property; and

(ii) specific commitments by the identified partners referred to in section 291D(b)(4) for the first 5 years of operation; and

(B) an interpretation plan for the Heritage Route; and

(4) develop a management plan that will not infringe on private property rights without the consent of the owner of the private property.

(c) Failure to Submit.—If the local coordinating entity fails to submit a management plan to the Secretary in accordance with subsection (a), the Heritage Route shall no longer qualify for Federal funding.

(d) Approval and Disapproval of Management Plan.—

(1) In general.—Not later than 90 days after receipt of a management plan under subsection (a), the Secretary, in consultation with the Governors of the States of Nevada and Utah, shall approve or disapprove the management plan.

(2) Criteria.—In determining whether to approve a management plan, the Secretary shall consider whether the management plan—

(A) has strong local support from a diversity of landowners, business interests, nonprofit organizations, and governments associated with the Heritage Route;

(B) is consistent with and complements continued economic activity along the Heritage Route;

(C) has a high potential for effective partnership mechanisms;

(D) avoids infringing on private property rights; and

(E) provides methods to take appropriate action to ensure that private property rights are observed.

(3) Action following disapproval.—If the Secretary disapproves a management plan under paragraph (1), the Secretary shall—

(A) advise the local coordinating entity in writing of the reasons for the disapproval;

(B) make recommendations for revisions to the management plan; and

(C) not later than 90 days after the receipt of any proposed revision of the management plan from the local coordinating entity, approve or disapprove the proposed revision.

(e) Implementation.—On approval of the management plan as provided in subsection (d)(1), the local coordinating entity, in conjunction with the Secretary, shall take appropriate steps to implement the management plan.

(f) Amendments.—

(1) In general.—The Secretary shall review each amendment to the management plan that the Secretary determines may make a substantial change to the management plan.

(2) Use of funds.—Funds made available under this subtitle shall not be expended to implement an amendment described in paragraph (1) until the Secretary approves the amendment.

SEC. 291F. AUTHORITY AND DUTIES OF LOCAL COORDINATING ENTITY.

(a) Authorities.—The local coordinating entity may, for purposes of preparing and implementing the management plan, use funds made available under this subtitle to—

(1) make grants to, and enter into cooperative agreements with, a State (including a political subdivision), an Indian tribe, a private organization, or any person; and

(2) hire and compensate staff.

(b) Duties.—In addition to developing the management plan, the local coordinating entity shall—

(1) give priority to implementing the memorandum of understanding and the management plan, including taking steps to—

(A) assist units of government, regional planning organizations, and nonprofit organizations in—

(i) establishing and maintaining interpretive exhibits along the Heritage Route;

(ii) developing recreational resources along the Heritage Route;

(iii) increasing public awareness of and appreciation for the archaeological, historical, cultural, natural, scenic, and recreational resources and sites along the Heritage Route; and

(iv) if requested by the owner, restoring, stabilizing, or rehabilitating any private, public, or tribal historical building relating to the themes of the Heritage Route;

(B) encourage economic viability and diversity along the Heritage Route in accordance with the objectives of the management plan; and

(C) encourage the installation of clear, consistent, and environmentally appropriate signage identifying access points and sites of interest along the Heritage Route;

(2) consider the interests of diverse governmental, business, and nonprofit groups associated with the Heritage Route;

(3) conduct public meetings in the region of the Heritage Route at least semiannually regarding the implementation of the management plan;

(4) submit substantial amendments (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan to the Secretary for approval by the Secretary; and

(5) for any year for which Federal funds are received under this subtitle—

(A) submit to the Secretary a report that describes, for the year—

(i) the accomplishments of the local coordinating entity;

(ii) the expenses and income of the local coordinating entity; and

(iii) each entity to which any loan or grant was made;

(B) make available for audit all records pertaining to the expenditure of the funds and any matching funds; and

(C) require, for all agreements authorizing the expenditure of Federal funds by any entity, that the receiving entity make available for audit all records pertaining to the expenditure of the funds.

(c) Prohibition on the Acquisition of Real Property.—The local coordinating entity shall not use Federal funds made available under this subtitle to acquire real property or any interest in real property.

(d) Prohibition on the Regulation of Land Use.—The local coordinating entity shall not regulate land use within the Heritage Route.

SEC. 291G. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) Technical and Financial Assistance.—

(1) In general.—The Secretary may, on request of the local coordinating entity, provide technical and financial assistance to develop and implement the management plan and memorandum of understanding.

(2) Priority for assistance.—In providing assistance under paragraph (1), the Secretary shall, on request of the local coordinating entity, give priority to actions that assist in—

(A) conserving the significant archaeological, historical, cultural, natural, scenic, and recreational resources of the Heritage Route; and

(B) providing education, interpretive, and recreational opportunities, and other uses consistent with those resources.

(b) Application of Federal Law.—The establishment of the Heritage Route shall have no effect on the application of any Federal law to any property within the Heritage Route.

SEC. 291H. LAND USE REGULATION; APPLICABILITY OF FEDERAL LAW.

(a) Land Use Regulation.—Nothing in this subtitle—

(1) modifies, enlarges, or diminishes any authority of the Federal, State, tribal, or local government to regulate by law (including by regulation) any use of land; or

(2) grants any power of zoning or land use to the local coordinating entity.

(b) Applicability of Federal Law.—Nothing in this subtitle—

(1) imposes on the Heritage Route, as a result of the designation of the Heritage Route, any regulation that is not applicable to the area within the Heritage Route as of the date of enactment of this Act; or

(2) authorizes any agency to promulgate a regulation that applies to the Heritage Route solely as a result of the designation of the Heritage Route under this subtitle.

SEC. 291I. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There is authorized to be appropriated to carry out this subtitle $10,000,000, of which not more than $1,000,000 may be made available for any fiscal year.

(b) Cost Sharing.—

(1) Federal share.—The Federal share of the cost of any activity assisted under this subtitle shall not exceed 50 percent.

(2) Form of non-Federal share.—The non-Federal share may be in the form of in-kind contributions, donations, grants, and loans from individuals and State or local governments or agencies.

SEC. 291J. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle I—Gullah/Geechee Heritage Corridor

SEC. 295. SHORT TITLE.

This subtitle may be cited as the "Gullah/Geechee Cultural Heritage Act".

SEC. 295A. PURPOSES.

The purposes of this subtitle are to—

(1) recognize the important contributions made to American culture and history by African Americans known as the Gullah/Geechee who settled in the coastal counties of South Carolina, Georgia, North Carolina, and Florida;

(2) assist State and local governments and public and private entities in South Carolina, Georgia, North Carolina, and Florida in interpreting the story of the Gullah/Geechee and preserving Gullah/Geechee folklore, arts, crafts, and music; and

(3) assist in identifying and preserving sites, historical data, artifacts, and objects associated with the Gullah/Geechee for the benefit and education of the public.

SEC. 295B. DEFINITIONS.

In this subtitle:

(1) Local coordinating entity.—The term "local coordinating entity" means the Gullah/Geechee Cultural Heritage Corridor Commission established by section 295D(a).

(2) Heritage corridor.—The term "Heritage Corridor" means the Gullah/Geechee Cultural Heritage Corridor established by section 295C(a).

(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 295C. GULLAH/GEECHEE CULTURAL HERITAGE CORRIDOR.

(a) Establishment.—There is established the Gullah/Geechee Cultural Heritage Corridor.

(b) Boundaries.—

(1) In general.—The Heritage Corridor shall be comprised of those lands and waters generally depicted on a map entitled "Gullah/Geechee Cultural Heritage Corridor" numbered GGCHC 80,000 and dated September 2004. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service and in an appropriate State office in each of the States included in the Heritage Corridor. The Secretary shall publish in the Federal Register, as soon as practicable after the

date of enactment of this Act, a detailed description and map of the boundaries established under this subsection.

(2) REVISIONS.—The boundaries of the Heritage Corridor may be revised if the revision is—

(A) proposed in the management plan developed for the Heritage Corridor;

(B) approved by the Secretary in accordance with this subtitle; and

(C) placed on file in accordance with paragraph (1).

(c) ADMINISTRATION.—The Heritage Corridor shall be administered in accordance with the provisions of this subtitle.

SEC. 295D. GULLAH/GEECHEE CULTURAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a local coordinating entity to be known as the "Gullah/Geechee Cultural Heritage Corridor Commission" whose purpose shall be to assist Federal, State, and local authorities in the development and implementation of a management plan for those land and waters specified in section 295C(b).

(b) MEMBERSHIP.—The local coordinating entity shall be composed of 15 members appointed by the Secretary as follows:

(1) Four individuals nominated by the State Historic Preservation Officer of South Carolina and two individuals each nominated by the State Historic Preservation Officer of each of Georgia, North Carolina, and Florida and appointed by the Secretary.

(2) Two individuals from South Carolina and one individual from each of Georgia, North Carolina, and Florida who are recognized experts in historic preservation, anthropology, and folklore, appointed by the Secretary.

(c) TERMS.—Members of the local coordinating entity shall be appointed to terms not to exceed 3 years. The Secretary may stagger the terms of the initial appointments to the local coordinating entity in order to assure continuity of operation. Any member of the local coordinating entity may serve after the expiration of their term until a successor is appointed. A vacancy shall be filled in the same manner in which the original appointment was made.

(d) TERMINATION.—The local coordinating entity shall terminate 10 years after the date of enactment of this Act.

SEC. 295E. OPERATION OF THE LOCAL COORDINATING ENTITY.

(a) DUTIES OF THE LOCAL COORDINATING ENTITY.—To further the purposes of the Heritage Corridor, the local coordinating entity shall—

(1) prepare and submit a management plan to the Secretary in accordance with section 295F;

(2) assist units of local government and other persons in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect, and enhance important resource values within the Heritage Corridor;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Corridor;

(C) developing recreational and educational opportunities in the Heritage Corridor;

(D) increasing public awareness of and appreciation for the historical, cultural, natural, and scenic resources of the Heritage Corridor;

(E) protecting and restoring historic sites and buildings in the Heritage Corridor that are consistent with Heritage Corridor themes;

(F) ensuring that clear, consistent, and appropriate signs identifying points of public access and sites of interest are posted throughout the Heritage Corridor; and

(G) promoting a wide range of partnerships among governments, organizations, and individuals to further the purposes of the Heritage Corridor;

(3) consider the interests of diverse units of government, business, organizations, and individuals in the Heritage Corridor in the preparation and implementation of the management plan;

(4) conduct meetings open to the public at least quarterly regarding the development and implementation of the management plan;

(5) submit an annual report to the Secretary for any fiscal year in which the local coordinating entity receives Federal funds under this subtitle, setting forth its accomplishments, expenses, and income, including grants made to any other entities during the year for which the report is made;

(6) make available for audit for any fiscal year in which it receives Federal funds under this subtitle, all information pertaining to the expenditure of such funds and any matching funds, and require all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organization make available for audit all records and other information pertaining to the expenditure of such funds; and

(7) encourage by appropriate means economic viability that is consistent with the purposes of the Heritage Corridor.

(b) AUTHORITIES.—The local coordinating entity may, for the purposes of preparing and implementing the management plan, use funds made available under this subtitle to—

(1) make grants to, and enter into cooperative agreements with, the States of South Carolina, North Carolina, Florida, and Georgia, political subdivisions of those States, a nonprofit organization, or any person;

(2) hire and compensate staff;

(3) obtain funds from any source including any that are provided under any other Federal law or program; and

(4) contract for goods and services.

SEC. 295F. MANAGEMENT PLAN.

(a) IN GENERAL.—The management plan for the Heritage Corridor shall—

(1) include comprehensive policies, strategies, and recommendations for conservation, funding, management, and development of the Heritage Corridor;

(2) take into consideration existing State, county, and local plans in the development of the management plan and its implementation;

(3) include a description of actions that governments, private organizations, and individuals have agreed to take to protect the historical, cultural, and natural resources of the Heritage Corridor;

(4) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Corridor in the first 5 years of implementation;

(5) include an inventory of the historical, cultural, natural, resources of the Heritage Corridor related to the themes of the Heritage Corridor that should be preserved, restored, managed, developed, or maintained;

(6) recommend policies and strategies for resource management that consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental and interagency cooperative agreements to protect the Heritage Corridor's historical, cultural, and natural resources;

(7) describe a program for implementation of the management plan including plans for resources protection, restoration, construction, and specific commitments for implementation that have been made by the local coordinating entity or any government, organization, or individual for the first 5 years of implementation;

(8) include an analysis and recommendations for the ways in which Federal, State, or local programs may best be coordinated to further the purposes of this subtitle; and

(9) include an interpretive plan for the Heritage Corridor.

(b) SUBMITTAL OF MANAGEMENT PLAN.—The local coordinating entity shall submit the management plan to the Secretary for approval not later than 3 years after funds are made available for this subtitle.

(c) FAILURE TO SUBMIT.—If the local coordinating entity fails to submit the management plan to the Secretary in accordance with subsection (b), the Heritage Corridor shall not qualify for Federal funding until the management plan is submitted.

(d) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall approve or disapprove the management plan not later than 90 days after receiving the management plan.

(2) CRITERIA.—In determining whether to approve the management plan, the Secretary shall consider whether—

(A) the local coordinating entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan;

(B) the resource preservation and interpretation strategies contained in the management plan would adequately protect the cultural and historic resources of the Heritage Corridor; and

(C) the Secretary has received adequate assurances from appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local aspects of the plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan, the Secretary shall advise the local coordinating entity in writing of the reasons therefore and shall make recommendations for revisions to the management plan. The Secretary shall approve or disapprove a proposed revision not later than 60 days after the date it is submitted.

(4) APPROVAL OF AMENDMENTS.—Substantial amendments to the management plan shall be reviewed and approved by the Secretary in the same manner as provided in the original management plan. The local coordinating entity shall not use Federal funds authorized by this subtitle to implement any amendments until the Secretary has approved the amendments.

SEC. 295G. TECHNICAL AND FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Upon a request of the local coordinating entity, the Secretary may provide technical and financial assistance for the development and implementation of the management plan.

(b) PRIORITY FOR ASSISTANCE.—In providing assistance under subsection (a), the Secretary shall give priority to actions that assist in—

(1) conserving the significant cultural, historical, and natural resources of the Heritage Corridor; and

(2) providing educational and interpretive opportunities consistent with the purposes of the Heritage Corridor.

(c) Spending for Non-Federal Property.—

(1) In general.—The local coordinating entity may expend Federal funds made available under this subtitle on nonfederally owned property that is—

(A) identified in the management plan; or

(B) listed or eligible for listing on the National Register for Historic Places.

(2) Agreements.—Any payment of Federal funds made pursuant to this subtitle shall be subject to an agreement that conversion, use, or disposal of a project so assisted for purposes contrary to the purposes of this subtitle, as determined by the Secretary, shall result in a right of the United States to compensation of all funds made available to that project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

SEC. 295H. DUTIES OF OTHER FEDERAL AGENCIES.

Any Federal agency conducting or supporting activities directly affecting the Heritage Corridor shall—

(1) consult with the Secretary and the local coordinating entity with respect to such activities;

(2) cooperate with the Secretary and the local coordinating entity in carrying out their duties under this subtitle and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner in which the local coordinating entity determines will not have an adverse effect on the Heritage Corridor.

SEC. 295I. COASTAL HERITAGE CENTERS.

In furtherance of the purposes of this subtitle and using the authorities made available under this subtitle, the local coordinating entity shall establish one or more Coastal Heritage Centers at appropriate locations within the Heritage Corridor in accordance with the preferred alternative identified in the Record of Decision for the Low Country Gullah Culture Special Resource Study and Environmental Impact Study, December 2003, and additional appropriate sites.

SEC. 295J. PRIVATE PROPERTY PROTECTION.

(a) Access to Private Property.—Nothing in this subtitle shall be construed to require any private property owner to permit public access (including Federal, State, or local government access) to such private property. Nothing in this subtitle shall be construed to modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(b) Liability.—Designation of the Heritage Corridor shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) Recognition of Authority to Control Land Use.—Nothing in this subtitle shall be construed to modify any authority of Federal, State, or local governments to regulate land use.

(d) Participation of Private Property Owners in Heritage Corridor.—Nothing in this subtitle shall be construed to require the owner of any private property located within the boundaries of the Heritage Corridor to participate in or be associated with the Heritage Corridor.

(e) Effect of Establishment.—The boundaries designated for the Heritage Corridor represent the area within which Federal funds appropriated for the purpose of this subtitle shall be expended. The establishment of the Heritage Corridor and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Corridor or its viewshed by the Secretary or the local coordinating entity.

(f) Notification and Consent of Property Owners Required.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Corridor until the owner of that private property has been notified in writing by the local coordinating entity and has given written consent for such preservation, conservation, or promotion to the local coordinating entity.

(g) Landowner Withdrawal.—Any owner of private property included within the boundary of the Heritage Corridor shall have their property immediately removed from within the boundary by submitting a written request to the local coordinating entity.

SEC. 295K. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There is authorized to be appropriated for the purposes of this subtitle not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Corridor under this subtitle.

(b) Cost Share.—Federal funding provided under this subtitle may not exceed 50 percent of the total cost of any activity for which assistance is provided under this subtitle.

(c) In-Kind Contributions.—The Secretary may accept in-kind contributions as part of the non-Federal cost share of any activity for which assistance is provided under this subtitle.

SEC. 295L. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Subtitle J—Crossroads of the American Revolution National Heritage Area

SEC. 297. SHORT TITLE.

This subtitle may be cited as the "Crossroads of the American Revolution National Heritage Area Act of 2005".

SEC. 297A. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) the State of New Jersey was critically important during the American Revolution because of the strategic location of the State between the British armies headquartered in New York City, New York, and the Continental Congress in the city of Philadelphia, Pennsylvania;

(2) General George Washington spent almost half of the period of the American Revolution personally commanding troops of the Continental Army in the State of New Jersey, including 2 severe winters spent in encampments in the area that is now Morristown National Historical Park, a unit of the National Park System;

(3) it was during the 10 crucial days of the American Revolution between December 25, 1776, and January 3, 1777, that General Washington, after retreating across the State of New Jersey from the State of New York to the Commonwealth of Pennsylvania in the face of total defeat, recrossed the Delaware River on the night of December 25, 1776, and went on to win crucial battles at Trenton and Princeton in the State of New Jersey;

(4) Thomas Paine, who accompanied the troops during the retreat, described the events during those days as "the times that try men's souls";

(5) the sites of 296 military engagements are located in the State of New Jersey, including—

(A) several important battles of the American Revolution that were significant to—

(i) the outcome of the American Revolution; and

(ii) the history of the United States; and

(B) several national historic landmarks, including Washington's Crossing, the Old Trenton Barracks, and Princeton, Monmouth, and Red Bank Battlefields;

(6) additional national historic landmarks in the State of New Jersey include the homes of—

(A) Richard Stockton, Joseph Hewes, John Witherspoon, and Francis Hopkinson, signers of the Declaration of Independence;

(B) Elias Boudinout, President of the Continental Congress; and

(C) William Livingston, patriot and Governor of the State of New Jersey from 1776 to 1790;

(7) portions of the landscapes important to the strategies of the British and Continental armies, including waterways, mountains, farms, wetlands, villages, and roadways—

(A) retain the integrity of the period of the American Revolution; and

(B) offer outstanding opportunities for conservation, education, and recreation;

(8) the National Register of Historic Places lists 251 buildings and sites in the National Park Service study area for the Crossroads of the American Revolution that are associated with the period of the American Revolution;

(9) civilian populations residing in the State of New Jersey during the American Revolution suffered extreme hardships because of—

(A) the continuous conflict in the State;

(B) foraging armies; and

(C) marauding contingents of loyalist Tories and rebel sympathizers;

(10) because of the important role that the State of New Jersey played in the successful outcome of the American Revolution, there is a Federal interest in developing a regional framework to assist the State of New Jersey, local governments and organizations, and private citizens in—

(A) preserving and protecting cultural, historic, and natural resources of the period; and

(B) bringing recognition to those resources for the educational and recreational benefit of the present and future generations of citizens of the United States; and

(11) the National Park Service has conducted a national heritage area feasibility study in the State of New Jersey that demonstrates that there is a sufficient assemblage of nationally distinctive cultural, historic, and natural resources necessary to establish the Crossroads of the American Revolution National Heritage Area.

(b) Purposes.—The purposes of this subtitle are—

(1) to assist communities, organizations, and citizens in the State of New Jersey in preserving—

(A) the special historic identity of the State; and

(B) the importance of the State to the United States;

(2) to foster a close working relationship among all levels of government, the private sector, and local communities in the State;

(3) to provide for the management, preservation, protection, and interpretation of the cultural, historic, and natural resources of

the State for the educational and inspirational benefit of future generations;

(4) to strengthen the value of Morristown National Historical Park as an asset to the State by—

(A) establishing a network of related historic resources, protected landscapes, educational opportunities, and events depicting the landscape of the State of New Jersey during the American Revolution; and

(B) establishing partnerships between Morristown National Historical Park and other public and privately owned resources in the Heritage Area that represent the strategic fulcrum of the American Revolution; and

(5) to authorize Federal financial and technical assistance for the purposes described in paragraphs (1) through (4).

SEC. 297B. DEFINITIONS.

In this subtitle:

(1) HERITAGE AREA.—The term "Heritage Area" means the Crossroads of the American Revolution National Heritage Area established by section 297C(a).

(2) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the local coordinating entity for the Heritage Area designated by section 297C(d).

(3) MANAGEMENT PLAN.—The term "management plan" means the management plan for the Heritage Area developed under section 297D.

(4) MAP.—The term "map" means the map entitled "Crossroads of the American Revolution National Heritage Area", numbered CRRE 80,000, and dated April 2002.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of New Jersey.

SEC. 297C. CROSSROADS OF THE AMERICAN REVOLUTION NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State the Crossroads of the American Revolution National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall consist of the land and water within the boundaries of the Heritage Area, as depicted on the map.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) LOCAL COORDINATING ENTITY.—The Crossroads of the American Revolution Association, Inc., a nonprofit corporation in the State, shall be the local coordinating entity for the Heritage Area.

SEC. 297D. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall develop and forward to the Secretary a management plan for the Heritage Area.

(b) REQUIREMENTS.—The management plan shall—

(1) include comprehensive policies, strategies, and recommendations for conservation, funding, management, and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans;

(3) describe actions that units of local government, private organizations, and individuals have agreed to take to protect the cultural, historic, and natural resources of the Heritage Area;

(4) identify existing and potential sources of funding for the protection, management, and development of the Heritage Area during the first 5 years of implementation of the management plan; and

(5) include—

(A) an inventory of the cultural, educational, historic, natural, recreational, and scenic resources of the Heritage Area relating to the themes of the Heritage Area that should be restored, managed, or developed;

(B) recommendations of policies and strategies for resource management that result in—

(i) application of appropriate land and water management techniques; and

(ii) development of intergovernmental and interagency cooperative agreements to protect the cultural, educational, historic, natural, recreational, and scenic resources of the Heritage Area;

(C) a program of implementation of the management plan that includes for the first 5 years of implementation—

(i) plans for resource protection, restoration, construction; and

(ii) specific commitments for implementation that have been made by the local coordinating entity or any government, organization, or individual;

(D) an analysis of and recommendations for ways in which Federal, State, and local programs, including programs of the National Park Service, may be best coordinated to promote the purposes of this subtitle; and

(E) an interpretive plan for the Heritage Area.

(c) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 90 days after the date of receipt of the management plan under subsection (a), the Secretary shall approve or disapprove the management plan.

(2) CRITERIA.—In determining whether to approve the management plan, the Secretary shall consider whether—

(A) the Board of Directors of the local coordinating entity is representative of the diverse interests of the Heritage Area, including—

(i) governments;

(ii) natural and historic resource protection organizations;

(iii) educational institutions;

(iv) businesses; and

(v) recreational organizations;

(B) the local coordinating entity provided adequate opportunity for public and governmental involvement in the preparation of the management plan, including public hearings;

(C) the resource protection and interpretation strategies in the management plan would adequately protect the cultural, historic, and natural resources of the Heritage Area; and

(D) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan under paragraph (1), the Secretary shall—

(A) advise the local coordinating entity in writing of the reasons for the disapproval;

(B) make recommendations for revisions to the management plan; and

(C) not later than 60 days after the receipt of any proposed revision of the management plan from the local coordinating entity, approve or disapprove the proposed revision.

(d) AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall approve or disapprove each amendment to the management plan that the Secretary determines may make a substantial change to the management plan.

(2) USE OF FUNDS.—Funds made available under this subtitle shall not be expended by the local coordinating entity to implement an amendment described in paragraph (1) until the Secretary approves the amendment.

(e) IMPLEMENTATION.—On completion of the 3-year period described in subsection (a), any funding made available under this subtitle shall be made available to the local coordinating entity only for implementation of the approved management plan.

SEC. 297E. AUTHORITIES, DUTIES, AND PROHIBITIONS APPLICABLE TO THE LOCAL COORDINATING ENTITY.

(a) AUTHORITIES.—For purposes of preparing and implementing the management plan, the local coordinating entity may use funds made available under this subtitle to—

(1) make grants to, provide technical assistance to, and enter into cooperative agreements with, the State (including a political subdivision), a nonprofit organization, or any other person;

(2) hire and compensate staff, including individuals with expertise in—

(A) cultural, historic, or natural resource protection; or

(B) heritage programming;

(3) obtain funds or services from any source (including a Federal law or program);

(4) contract for goods or services; and

(5) support any other activity—

(A) that furthers the purposes of the Heritage Area; and

(B) that is consistent with the management plan.

(b) DUTIES.—In addition to developing the management plan, the local coordinating entity shall—

(1) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect, and enhance important resource values in the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs in the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

(D) increasing public awareness of and appreciation for cultural, historic, and natural resources of the Heritage Area;

(E) protecting and restoring historic sites and buildings that are—

(i) located in the Heritage Area; and

(ii) related to the themes of the Heritage Area;

(F) ensuring that clear, consistent, and appropriate signs identifying points of public access and sites of interest are installed throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations, and individuals to further the purposes of the Heritage Area;

(2) in preparing and implementing the management plan, consider the interests of diverse units of government, businesses, organizations, and individuals in the Heritage Area;

(3) conduct public meetings at least semiannually regarding the development and implementation of the management plan;

(4) for any fiscal year for which Federal funds are received under this subtitle—

(A) submit to the Secretary a report that describes for the year—

(i) the accomplishments of the local coordinating entity;

(ii) the expenses and income of the local coordinating entity; and

(iii) each entity to which a grant was made;

(B) make available for audit all information relating to the expenditure of the funds and any matching funds; and

(C) require, for all agreements authorizing expenditures of Federal funds by any entity, that the receiving entity make available for audit all records and other information relating to the expenditure of the funds;

(5) encourage, by appropriate means, economic viability that is consistent with the purposes of the Heritage Area; and

(6) maintain headquarters for the local coordinating entity at Morristown National Historical Park and in Mercer County.

(c) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—

(1) FEDERAL FUNDS.—The local coordinating entity shall not use Federal funds made available under this subtitle to acquire real property or any interest in real property.

(2) OTHER FUNDS.—Notwithstanding paragraph (1), the local coordinating entity may acquire real property or an interest in real property using any other source of funding, including other Federal funding.

SEC. 297F. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—On the request of the local coordinating entity, the Secretary may provide technical and financial assistance to the Heritage Area for the development and implementation of the management plan.

(2) PRIORITY FOR ASSISTANCE.—In providing assistance under paragraph (1), the Secretary shall give priority to actions that assist in—

(A) conserving the significant cultural, historic, natural, and scenic resources of the Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(3) OPERATIONAL ASSISTANCE.—Subject to the availability of appropriations, the Superintendent of Morristown National Historical Park may, on request, provide to public and private organizations in the Heritage Area, including the local coordinating entity, any operational assistance that is appropriate for the purpose of supporting the implementation of the management plan.

(4) PRESERVATION OF HISTORIC PROPERTIES.—To carry out the purposes of this subtitle, the Secretary may provide assistance to a State or local government or nonprofit organization to provide for the appropriate treatment of—

(A) historic objects; or

(B) structures that are listed or eligible for listing on the National Register of Historic Places.

(5) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the local coordinating entity and other public or private entities to carry out this subsection.

(b) OTHER FEDERAL AGENCIES.—Any Federal agency conducting or supporting an activity that directly affects the Heritage Area shall—

(1) consult with the Secretary and the local coordinating entity regarding the activity;

(2)(A) cooperate with the Secretary and the local coordinating entity in carrying out the of the Federal agency under this subtitle; and

(B) to the maximum extent practicable, coordinate the activity with the carrying out of those duties; and

(3) to the maximum extent practicable, conduct the activity to avoid adverse effects on the Heritage Area.

SEC. 297G. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity assisted under this subtitle shall be not more than 50 percent.

SEC. 297H. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

TITLE III—NATIONAL HERITAGE AREA STUDIES

Subtitle A—Western Reserve Heritage Area Study

SEC. 301. SHORT TITLE.

This subtitle may be cited as the "Western Reserve Heritage Areas Study Act".

SEC. 302. NATIONAL PARK SERVICE STUDY REGARDING THE WESTERN RESERVE, OHIO.

(a) FINDINGS.—The Congress finds the following:

(1) The area that encompasses the modern-day counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland in Ohio with the rich history in what was once the Western Reserve, has made a unique contribution to the cultural, political, and industrial development of the United States.

(2) The Western Reserve is distinctive as the land settled by the people of Connecticut after the Revolutionary War. The Western Reserve holds a unique mark as the original wilderness land of the West that many settlers migrated to in order to begin life outside of the original 13 colonies.

(3) The Western Reserve played a significant role in providing land to the people of Connecticut whose property and land was destroyed during the Revolution. These settlers were descendants of the brave immigrants who came to the Americas in the 17th century.

(4) The Western Reserve offered a new destination for those who moved west in search of land and prosperity. The agricultural and industrial base that began in the Western Reserve still lives strong in these prosperous and historical counties.

(5) The heritage of the Western Reserve remains transfixed in the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland in Ohio. The people of these counties are proud of their heritage as shown through the unwavering attempts to preserve agricultural land and the industrial foundation that has been embedded in this region since the establishment of the Western Reserve. Throughout these counties, historical sites, and markers preserve the unique traditions and customs of its original heritage.

(6) The counties that encompass the Western Reserve continue to maintain a strong connection to its historic past as seen through its preservation of its local heritage, including historic homes, buildings, and centers of public gatherings.

(7) There is a need for assistance for the preservation and promotion of the significance of the Western Reserve as the natural, historic and cultural heritage of the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa and Ashland in Ohio.

(8) The Department of the Interior is responsible for protecting the Nation's cultural and historical resources. There are significant examples of such resources within these counties and what was once the Western Reserve to merit the involvement of the Federal Government in the development of programs and projects, in cooperation with the State of Ohio and other local governmental entities, to adequately conserve, protect, and interpret this heritage for future generations, while providing opportunities for education and revitalization.

(b) STUDY.—

(1) IN GENERAL.—The Secretary, acting through the National Park Service Rivers, Trails, and Conservation Assistance Program, Midwest Region, and in consultation with the State of Ohio, the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland, and other appropriate organizations, shall carry out a study regarding the suitability and feasibility of establishing the Western Reserve Heritage Area in these counties in Ohio.

(2) CONTENTS.—The study shall include analysis and documentation regarding whether the Study Area—

(A) has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed through partnerships among public and private entities and by combining diverse and sometimes noncontiguous resources and active communities;

(B) reflects traditions, customs, beliefs, and folklife that are a valuable part of the national story;

(C) provides outstanding opportunities to conserve natural, historic, cultural, or scenic features;

(D) provides outstanding recreational and educational opportunities;

(E) contains resources important to the identified theme or themes of the Study Area that retain a degree of integrity capable of supporting interpretation;

(F) includes residents, business interests, nonprofit organizations, and local and State governments that are involved in the planning, have developed a conceptual financial plan that outlines the roles for all participants, including the Federal Government, and have demonstrated support for the concept of a national heritage area;

(G) has a potential local coordinating entity to work in partnership with residents, business interests, nonprofit organizations, and local and State governments to develop a national heritage area consistent with continued local and State economic activity;

(H) has a conceptual boundary map that is supported by the public; and

(I) has potential or actual impact on private property located within or abutting the Study Area.

(c) BOUNDARIES OF THE STUDY AREA.—The Study Area shall be comprised of the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland in Ohio.

Subtitle B—St. Croix National Heritage Area Study

SEC. 311. SHORT TITLE.

This subtitle may be cited as the "St. Croix National Heritage Area Study Act".

SEC. 312. STUDY.

(a) IN GENERAL.—The Secretary of the Interior, in consultation with appropriate State historic preservation officers, States historical societies, and other appropriate organizations, shall conduct a study regarding the suitability and feasibility of designating the island of St. Croix as the St. Croix National Heritage Area. The study shall include analysis, documentation, and determination regarding whether the island of St. Croix—

(1) has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed through partnerships among public and private entities and by combining diverse and sometimes noncontiguous resources and active communities;

(2) reflects traditions, customs, beliefs, and folklife that are a valuable part of the national story;

(3) provides outstanding opportunities to conserve natural, historic, cultural, or scenic features;

(4) provides outstanding recreational and educational opportunities;

(5) contains resources important to the identified theme or themes of the island of St. Croix that retain a degree of integrity capable of supporting interpretation;

(6) includes residents, business interests, nonprofit organizations, and local and State governments that are involved in the planning, have developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government), and have demonstrated support for the concept of a national heritage area;

(7) has a potential local coordinating entity to work in partnership with residents, business interests, nonprofit organizations, and local and State governments to develop a national heritage area consistent with continued local and State economic activity; and

(8) has a conceptual boundary map that is supported by the public.

(b) REPORT.—Not later than 3 fiscal years after the date on which funds are first made available for this section, the Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study.

(c) PRIVATE PROPERTY.—In conducting the study required by this section, the Secretary of the Interior shall analyze the potential impact that designation of the area as a national heritage area is likely to have on land within the proposed area or bordering the proposed area that is privately owned at the time that the study is conducted.

Subtitle C—Southern Campaign of the Revolution

SEC. 321. SHORT TITLE.

This subtitle may be cited as the "Southern Campaign of the Revolution Heritage Area Study Act".

SEC. 322. SOUTHERN CAMPAIGN OF THE REVOLUTION HERITAGE AREA STUDY.

(a) STUDY.—The Secretary of the Interior, in consultation with appropriate State historic preservation officers, States historical societies, the South Carolina Department of Parks, Recreation, and Tourism, and other appropriate organizations, shall conduct a study regarding the suitability and feasibility of designating the study area described in subsection (b) as the Southern Campaign of the Revolution Heritage Area. The study shall include analysis, documentation, and determination regarding whether the study area—

(1) has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed through partnerships among public and private entities and by combining diverse and sometimes noncontiguous resources and active communities;

(2) reflects traditions, customs, beliefs, and folklife that are a valuable part of the national story;

(3) provides outstanding opportunities to conserve natural, historic, cultural, or scenic features;

(4) provides outstanding recreational and educational opportunities;

(5) contains resources important to the identified theme or themes of the study area that retain a degree of integrity capable of supporting interpretation;

(6) includes residents, business interests, nonprofit organizations, and local and State governments that are involved in the planning, have developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government), and have demonstrated support for the concept of a national heritage area;

(7) has a potential local coordinating entity to work in partnership with residents, business interests, nonprofit organizations, and local and State governments to develop a national heritage area consistent with continued local and State economic activity; and

(8) has a conceptual boundary map that is supported by the public.

(b) STUDY AREA.—

(1) IN GENERAL.—

(A) SOUTH CAROLINA.—The study area shall include the following counties in South Carolina: Anderson, Pickens, Greenville County, Spartanburg, Cherokee County, Greenwood, Laurens, Union, York, Chester, Darlington, Florence, Chesterfield, Marlboro, Fairfield, Richland, Lancaster, Kershaw, Sumter, Orangeburg, Georgetown, Dorchester, Colleton, Charleston, Beaufort, Calhoun, Clarendon, and Williamsburg.

(B) NORTH CAROLINA.—The study area may include sites and locations in North Carolina as appropriate.

(2) SPECIFIC SITES.—The heritage area may include the following sites of interest:

(A) NATIONAL PARK SERVICE SITE.—Kings Mountain National Military Park, Cowpens National Battlefield, Fort Moultrie National Monument, Charles Pickney National Historic Site, and Ninety Six National Historic Site as well as the National Park Affiliate of Historic Camden Revolutionary War Site.

(B) STATE-MAINTAINED SITES.—Colonial Dorchester State Historic Site, Eutaw Springs Battle Site, Hampton Plantation State Historic Site, Landsford Canal State Historic Site, Andrew Jackson State Park, and Musgrove Mill State Park.

(C) COMMUNITIES.—Charleston, Beaufort, Georgetown, Kingstree, Cheraw, Camden, Winnsboro, Orangeburg, and Cayce.

(D) OTHER KEY SITES OPEN TO THE PUBLIC.—Middleton Place, Goose Creek Church, Hopsewee Plantation, Walnut Grove Plantation, Fort Watson, and Historic Brattonsville.

(c) REPORT.—Not later than 3 fiscal years after the date on which funds are first made available to carry out this subtitle, the Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study.

TITLE IV—ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR ACT AMENDMENTS

SEC. 401. SHORT TITLE.

This title may be cited as the "Illinois and Michigan Canal National Heritage Corridor Act Amendments of 2005".

SEC. 402. TRANSITION AND PROVISIONS FOR NEW LOCAL COORDINATING ENTITY.

The Illinois and Michigan Canal National Heritage Corridor Act of 1984 (Public Law 98-398; 16 U.S.C. 461 note) is amended as follows:

(1) In section 103—

(A) in paragraph (8), by striking "and";

(B) in paragraph (9), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(10) the term 'Association' means the Canal Corridor Association (an organization described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code).".

(2) By adding at the end of section 112 the following new paragraph:

"(7) The Secretary shall enter into a memorandum of understanding with the Association to help ensure appropriate transition of the local coordinating entity to the Association and coordination with the Association regarding that role.".

(3) By adding at the end the following new sections:

"SEC. 119. ASSOCIATION AS LOCAL COORDINATING ENTITY.

"Upon the termination of the Commission, the local coordinating entity for the corridor shall be the Association.

"SEC. 120. DUTIES AND AUTHORITIES OF ASSOCIATION.

"For purposes of preparing and implementing the management plan developed under section 121, the Association may use Federal funds made available under this title—

"(1) to make grants to, and enter into cooperative agreements with, States and their political subdivisions, private organizations, or any person;

"(2) to hire, train, and compensate staff; and

"(3) to enter into contracts for goods and services.

"SEC. 121. DUTIES OF THE ASSOCIATION.

"The Association shall—

"(1) develop and submit to the Secretary for approval under section 123 a proposed management plan for the corridor not later than 2 years after Federal funds are made available for this purpose;

"(2) give priority to implementing actions set forth in the management plan, including taking steps to assist units of local government, regional planning organizations, and other organizations—

"(A) in preserving the corridor;

"(B) in establishing and maintaining interpretive exhibits in the corridor;

"(C) in developing recreational resources in the corridor;

"(D) in increasing public awareness of and appreciation for the natural, historical, and architectural resources and sites in the corridor; and

"(E) in facilitating the restoration of any historic building relating to the themes of the corridor;

"(3) encourage by appropriate means economic viability in the corridor consistent with the goals of the management plan;

"(4) consider the interests of diverse governmental, business, and other groups within the corridor;

"(5) conduct public meetings at least quarterly regarding the implementation of the management plan;

"(6) submit substantial changes (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan to the Secretary; and

"(7) for any year in which Federal funds have been received under this title—

"(A) submit an annual report to the Secretary setting forth the Association's accomplishments, expenses and income, and the identity of each entity to which grants were made during the year for which the report is made;

"(B) make available for audit all records pertaining to the expenditure of such funds and any matching funds; and

"(C) require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records pertaining to the expenditure of such funds.

"SEC. 122. USE OF FEDERAL FUNDS.

"(a) In General.—The Association shall not use Federal funds received under this title to acquire real property or an interest in real property.

"(b) Other Sources.—Nothing in this title precludes the Association from using Federal funds from other sources for authorized purposes.

"SEC. 123. MANAGEMENT PLAN.

"(a) Preparation of Management Plan.—Not later than 3 years after the date that Federal funds are made available for this purpose, the Association shall submit to the Secretary for approval a proposed management plan that shall—

"(1) take into consideration State and local plans and involve residents, local governments and public agencies, and private organizations in the corridor;

"(2) present comprehensive recommendations for the corridor's conservation, funding, management, and development;

"(3) include actions proposed to be undertaken by units of government and nongovernmental and private organizations to protect the resources of the corridor;

"(4) specify the existing and potential sources of funding to protect, manage, and develop the corridor; and

"(5) include—

"(A) identification of the geographic boundaries of the corridor;

"(B) a brief description and map of the corridor's overall concept or vision that show key sites, visitor facilities and attractions, and physical linkages;

"(C) identification of overall goals and the strategies and tasks intended to reach them, and a realistic schedule for completing the tasks;

"(D) a listing of the key resources and themes of the corridor;

"(E) identification of parties proposed to be responsible for carrying out the tasks;

"(F) a financial plan and other information on costs and sources of funds;

"(G) a description of the public participation process used in developing the plan and a proposal for public participation in the implementation of the management plan;

"(H) a mechanism and schedule for updating the plan based on actual progress;

"(I) a bibliography of documents used to develop the management plan; and

"(J) a discussion of any other relevant issues relating to the management plan.

"(b) Disqualification From Funding.—If a proposed management plan is not submitted to the Secretary within 3 years after the date that Federal funds are made available for this purpose, the Association shall be ineligible to receive additional funds under this title until the Secretary receives a proposed management plan from the Association.

"(c) Approval of Management Plan.—The Secretary shall approve or disapprove a proposed management plan submitted under this title not later than 180 days after receiving such proposed management plan. If action is not taken by the Secretary within the time period specified in the preceding sentence, the management plan shall be deemed approved. The Secretary shall consult with the local entities representing the diverse interests of the corridor including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners prior to approving the management plan. The Association shall conduct semi-annual public meetings, workshops, and hearings to provide adequate opportunity for the public and local and governmental entities to review and to aid in the preparation and implementation of the management plan.

"(d) Effect of Approval.—Upon the approval of the management plan as provided in subsection (c), the management plan shall supersede the conceptual plan contained in the National Park Service report.

"(e) Action Following Disapproval.—If the Secretary disapproves a proposed management plan within the time period specified in subsection (c), the Secretary shall advise the Association in writing of the reasons for the disapproval and shall make recommendations for revisions to the proposed management plan.

"(f) Approval of Amendments.—The Secretary shall review and approve all substantial amendments (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan. Funds made available under this title may not be expended to implement any changes made by a substantial amendment until the Secretary approves that substantial amendment.

"SEC. 124. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

"(a) Technical and Financial Assistance.—Upon the request of the Association, the Secretary may provide technical assistance, on a reimbursable or nonreimbursable basis, and financial assistance to the Association to develop and implement the management plan. The Secretary is authorized to enter into cooperative agreements with the Association and other public or private entities for this purpose. In assisting the Association, the Secretary shall give priority to actions that in general assist in—

"(1) conserving the significant natural, historic, cultural, and scenic resources of the corridor; and

"(2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the corridor.

"(b) Duties of Other Federal Agencies.—Any Federal agency conducting or supporting activities directly affecting the corridor shall—

"(1) consult with the Secretary and the Association with respect to such activities;

"(2) cooperate with the Secretary and the Association in carrying out their duties under this title;

"(3) to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

"(4) to the maximum extent practicable, conduct or support such activities in a manner which the Association determines is not likely to have an adverse effect on the corridor.

"SEC. 125. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—To carry out this title there is authorized to be appropriated $10,000,000, except that not more than $1,000,000 may be appropriated to carry out this title for any fiscal year.

"(b) 50 Percent Match.—The Federal share of the cost of activities carried out using any assistance or grant under this title shall not exceed 50 percent of that cost.

"SEC. 126. SUNSET.

"The authority of the Secretary to provide assistance under this title terminates on the date that is 15 years after the date of enactment of this section.".

SEC. 403. PRIVATE PROPERTY PROTECTION.

The Illinois and Michigan Canal National Heritage Corridor Act of 1984 is further amended by adding after section 126 (as added by section 402) the following new sections:

"SEC. 127. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

"(a) Notification and Consent of Property Owners Required.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the corridor until the owner of that private property has been notified in writing by the Association and has given written consent for such preservation, conservation, or promotion to the Association.

"(b) Landowner Withdrawal.—Any owner of private property included within the boundary of the corridor, and not notified under subsection (a), shall have their property immediately removed from the boundary of the corridor by submitting a written request to the Association.

"SEC. 128. PRIVATE PROPERTY PROTECTION.

"(a) Access to Private Property.—Nothing in this title shall be construed to—

"(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

"(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

"(b) Liability.—Designation of the corridor shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

"(c) Recognition of Authority to Control Land Use.—Nothing in this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

"(d) Participation of Private Property Owners in Corridor.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the corridor to participate in or be associated with the corridor.

"(e) Effect of Establishment.—The boundaries designated for the corridor represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the corridor and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the corridor or its viewshed by the Secretary, the National Park Service, or the Association.''.

TITLE V—REAUTHORIZATION OF APPROPRIATIONS FOR NEW JERSEY COASTAL HERITAGE TRAIL ROUTE

SEC. 501. REAUTHORIZATION OF APPROPRIATIONS FOR NEW JERSEY COASTAL HERITAGE TRAIL ROUTE.

(a) REAUTHORIZATION.—Public Law 100-515 (16 U.S.C. 1244 note) is amended by striking section 6 and inserting the following:

"SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this Act.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Amounts made available under subsection (a) shall be used only for—

''(A) technical assistance; and

''(B) the design and fabrication of interpretive materials, devices, and signs.

''(2) LIMITATIONS.—No funds made available under subsection (a) shall be used for—

''(A) operation, repair, or construction costs, except for the costs of constructing interpretive exhibits; or

''(B) operation, maintenance, or repair costs for any road or related structure.

''(3) COST-SHARING REQUIREMENT.—

''(A) FEDERAL SHARE.—The Federal share of any project carried out with amounts made available under subsection (a)—

''(i) may not exceed 50 percent of the total project costs; and

''(ii) shall be provided on a matching basis.

''(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share of carrying out a project with amounts made available under subsection (a) may be in the form of cash, materials, or in-kind services, the value of which shall be determined by the Secretary.

''(c) TERMINATION OF AUTHORITY.—The authorities provided to the Secretary under this Act shall terminate on September 30, 2007.''.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available, the Secretary of the Interior shall prepare a strategic plan for the New Jersey Coastal Heritage Trail Route.

(2) CONTENTS.—The strategic plan shall describe—

(A) opportunities to increase participation by national and local private and public interests in the planning, development, and administration of the New Jersey Coastal Heritage Trail Route; and

(B) organizational options for sustaining the New Jersey Coastal Heritage Trail Route.

SA 1584. Ms. COLLINS (for Mr. DOMENICI) proposed and amendment to the bill S. 203, to reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes; as follows:

Amend the title so as to read: "A bill to reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes.".

SA 1585. Ms. COLLINS (for Mr. BINGAMAN (for himself and Mr. DOMENICI)) proposed an amendment to the bill S. 214, to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes; as follows:

On page 7, strike lines 15 through 19 and insert the following:

(A) the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico;

(B) the Santa Cruz River Valley aquifers underlying Arizona and Sonora, Mexico; and

(C) the San Pedro aquifers underlying Arizona and Sonora, Mexico.

SA 1586. Ms. COLLINS (for Mr. DOMENICI) proposed an amendment to the bill S. 243, to establish a program and criteria for National Heritage Areas in the United States, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Heritage Areas Partnership Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.
Sec. 4. National Heritage Areas system.
Sec. 5. Studies.
Sec. 6. Designation of National Heritage Areas.
Sec. 7. Management plans.
Sec. 8. Local coordinating entities.
Sec. 9. Relationship to other Federal agencies.
Sec. 10. Private property and regulatory protections.
Sec. 11. Partnership support.
Sec. 12. Authorization of appropriations.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to promote public understanding, appreciation, and enjoyment of many places, events and people that have contributed to the story of the United States;

(2) to promote innovative and partnership-driven management strategies that recognize regional values, encourage locally tailored resource stewardship and interpretation, and provide for the effective leveraging of Federal funds with other local, State, and private funding sources;

(3) to unify national standards and processes for conducting feasibility studies, designating a system of National Heritage Areas, and approving management plans for National Heritage Areas;

(4) to provide appropriate linkages between units of the National Park System and communities, governments, and organizations within National Heritage Areas; and

(5) to provide financial and technical assistance to National Heritage Area local coordinating entities that act as a catalyst for diverse regions, communities, organizations, and citizens to undertake projects and programs for collaborative resource stewardship and interpretation.

SEC. 3. DEFINITIONS.

In this Act:

(1) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the entity designated by Congress—

(A) to develop, in partnership with others, the management plan for a National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(2) MANAGEMENT PLAN.—The term "management plan" means the plan prepared by the local coordinating entity for a National Heritage Area designated by Congress that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with section 7.

(3) NATIONAL HERITAGE AREA.—The term "National Heritage Area" means an area designated by Congress that is nationally important to the heritage of the United States and meets the criteria established under section 5(a).

(4) NATIONAL IMPORTANCE.—The term "national importance" means possession of—

(A) unique natural, historical, cultural, educational, scenic, or recreational resources of exceptional value or quality; and

(B) a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States.

(5) PROPOSED NATIONAL HERITAGE AREA.—The term "proposed National Heritage Area" means an area under study by the Secretary or other parties for potential designation by Congress as a National Heritage Area.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) STUDY.—The term "study" means a study conducted by the Secretary, or conducted by 1 or more other interested parties and reviewed by the Secretary, in accordance with the criteria and processes established under section 5, to determine whether an area meets the criteria to be designated as a National Heritage Area by Congress.

(8) SYSTEM.—The term "system" means the system of National Heritage Areas established under section 4(a).

SEC. 4. NATIONAL HERITAGE AREAS SYSTEM.

(a) IN GENERAL.—In order to recognize certain areas of the United States that tell nationally important stories and to protect, enhance, and interpret the natural, historic, scenic, and cultural resources of the areas that together illustrate significant aspects of the heritage of the United States, there is established a system of National Heritage Areas through which the Secretary shall provide technical and financial assistance to local coordinating entities to support the establishment, development, and continuity of the National Heritage Areas.

(b) SYSTEM.—The system of National Heritage Areas shall be composed of—

(1) National Heritage Areas established by Congress before or on the date of enactment of this Act; and

(2) National Heritage Areas established by Congress after the date of enactment of this Act, as provided for in this Act.

(c) RELATIONSHIP TO THE NATIONAL PARK SYSTEM.—

(1) RELATIONSHIP TO NATIONAL PARK UNITS.—The Secretary shall—

(A) ensure, to the maximum extent practicable, participation and assistance by units of the National Park System located near or encompassed by National Heritage Areas in local initiatives for National Heritage Areas that conserve and interpret resources consistent with an approved management plan; and

(B) work with National Heritage Areas to promote public enjoyment of units of the National Park System and park-related resources.

(2) APPLICABILITY OF LAWS.—National Heritage Areas shall not be—

(A) considered to be units of the National Park System; or

(B) subject to the laws applicable to units of the National Park System.

(d) DUTIES.—Under the system, the Secretary shall—

(1)(A) conduct studies, as directed by Congress, to assess the suitability and feasibility of designating proposed National Heritage Areas; or

(B) review and comment on studies undertaken by other parties to make such assessment;

(2) provide technical and financial assistance, on a reimbursable or non-reimbursable basis (as determined by the Secretary), for the development and implementation of management plans for designated National Heritage Areas;

(3) enter into cooperative agreements with interested parties to carry out this Act;

(4) provide information, promote understanding, and encourage research on National Heritage Areas in partnership with local coordinating entities;

(5) provide national oversight, analysis, coordination, and technical and financial assistance and support to ensure consistency and accountability under the system;

(6) submit annually to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the allocation and expenditure of funds for activities conducted with respect to National Heritage Areas under this Act; and

(7)(A) conduct an evaluation and prepare a report on the accomplishments, sustainability, and recommendations for the future of each designated National Heritage Area 3 years before cessation of Federal funding for the area under section 12; and

(B) submit a report on the findings of the evaluation to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 5. STUDIES.

(a) CRITERIA.—In conducting or reviewing a study, the Secretary shall apply the following criteria to determine the suitability and feasibility of designating a proposed National Heritage Area:

(1) An area—

(A) has an assemblage of natural, historic, cultural, educational, scenic, or recreational resources that together are nationally important to the heritage of the United States;

(B) represents distinctive aspects of the heritage of the United States worthy of recognition, conservation, interpretation, and continuing use;

(C) is best managed as such an assemblage through partnerships among public and private entities at the local or regional level;

(D) reflects traditions, customs, beliefs, and folklife that are a valuable part of the heritage of the United States;

(E) provides outstanding opportunities to conserve natural, historical, cultural, or scenic features;

(F) provides outstanding recreational or educational opportunities; and

(G) has resources and traditional uses that have national importance.

(2) Residents, business interests, nonprofit organizations, and governments (including relevant Federal land management agencies) within the proposed area are involved in the planning and have demonstrated significant support through letters and other means for National Heritage Area designation and management.

(3) The local coordinating entity responsible for preparing and implementing the management plan is identified.

(4) The proposed local coordinating entity and units of government supporting the designation are willing and have documented a significant commitment to work in partnership to protect, enhance, interpret, fund, manage, and develop resources within the National Heritage Area.

(5) The proposed local coordinating entity has developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government) in the management of the National Heritage Area.

(6) The proposal is consistent with continued economic activity within the area.

(7) A conceptual boundary map has been developed and is supported by the public and participating Federal agencies.

(b) CONSULTATION.—In conducting or reviewing a study, the Secretary shall consult with the managers of any Federal land within the proposed National Heritage Area and secure the concurrence of the managers with the findings of the study before making a determination for designation.

(c) APPROVAL.—On completion or receipt of a study for a National Heritage Area, the Secretary shall—

(1) review, comment on, and determine if the study meets the criteria specified in subsection (a) for designation as a National Heritage Area;

(2) consult with the Governor of each State in which the proposed National Heritage Area is located; and

(3) transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the study, including—

(A) any comments received from the Governor of each State in which the proposed National Heritage Area is located; and

(B) a finding as to whether the proposed National Heritage Area meets the criteria for designation.

(d) DISAPPROVAL.—If the Secretary determines that any proposed National Heritage Area does not meet the criteria for designation, the Secretary shall include within the study submitted under subsection (c)(3) a description of the reasons for the determination.

SEC. 6. DESIGNATION OF NATIONAL HERITAGE AREAS.

(a) IN GENERAL.—The designation of a National Heritage Area shall be—

(1) by Act of Congress; and

(2) contingent on the prior completion of a study and an affirmative determination by the Secretary that the area meets the criteria established under section 5(a).

(b) COMPONENT OF THE SYSTEM.—Any National Heritage Area designated under subsection (a) shall be a component of the system.

SEC. 7. MANAGEMENT PLANS.

(a) REQUIREMENTS.—The management plan for any National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this Act; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this Act until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this Act to implement an amendment to the management plan until the Secretary approves the amendment.

SEC. 8. LOCAL COORDINATING ENTITIES.

(a) DUTIES.—To further the purposes of the National Heritage Area, the local coordinating entity shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with section 7;

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this Act, specifying—

(A) the specific performance goals and accomplishments of the local coordinating entity;

(B) the expenses and income of the local coordinating entity;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this Act, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this Act to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal laws or programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this Act to acquire any interest in real property.

SEC. 9. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this Act—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 10. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this Act—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State or local agency, or conveys any land use or other regulatory authority to any local coordinating entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 11. PARTNERSHIP SUPPORT.

(a) TECHNICAL ASSISTANCE.—On termination of the 15-year period for which assistance is provided under section 12, the Secretary may, on request of a local coordinating entity, continue to provide technical assistance to a National Heritage Area under section 4.

(b) GRANT ASSISTANCE.—

(1) IN GENERAL.—The Secretary may establish a grant program under which the Secretary provides grants, on a competitive basis, to local coordinating entities for the conduct of individual projects at National Heritage Areas for which financial assistance has terminated under section 12.

(2) CONDITIONS.—The provision of a grant under paragraph (1) shall be subject to the condition that—

(A) a project must be approved by the local coordinating entity as promoting the purposes of the management plan required under section 7;

(B) a project may receive only 1 grant of no more than $250,000 in any 1 fiscal year;

(C) a maximum of $250,000 may be received by a local coordinating entity for projects funded under this subsection in any 1 fiscal year; and

(D) a project shall not be eligible for funding under this section in any fiscal year that a local coordinating entity receives an appropriation through the National Park Service (excluding technical assistance) for the National Heritage Area at which the project is being conducted.

(c) REPORT.—For each fiscal year in which assistance is provided under this section, the Secretary shall submit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate a list of the projects provided assistance for the fiscal year.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) STUDIES.—There is authorized to be appropriated to conduct and review studies under section 5 $750,000 for each fiscal year, of which not more than $250,000 for any fiscal year may be used for any individual study for a proposed National Heritage Area.

(b) LOCAL COORDINATING ENTITIES.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out section 8 $25,000,000 for each fiscal year, of which not more than—

(A) $1,000,000 may be made available for any fiscal year for any individual National Heritage Area, to remain available until expended; and

(B) a total of $10,000,000 may be made available for all such fiscal years for any individual National Heritage Area.

(2) TERMINATION DATE.—

(A) IN GENERAL.—The authority of the Secretary to provide financial assistance to an individual local coordinating entity under this section (excluding technical assistance and administrative oversight) shall terminate on the date that is 15 years after the date of the initial receipt of the assistance by the local coordinating entity.

(B) DESIGNATION.—A National Heritage Area shall retain the designation as a National Heritage Area after the termination date prescribed in subparagraph (A).

(3) ADMINISTRATION.—Not more than 5 percent of the amount of funds made available under paragraph (1) for a fiscal year may be used by the Secretary for technical assistance, oversight, and administrative purposes.

(c) HERITAGE PARTNERSHIP GRANT ASSISTANCE.—There is authorized to be appropriated to the Secretary to carry out section 11 $5,000,000 for each fiscal year.

(d) MATCHING FUNDS.—

(1) IN GENERAL.—As a condition of receiving a grant under this Act, the recipient of the grant shall provide matching funds in an amount that is equal to the amount of the grant.

(2) ADMINISTRATION.—The recipient matching funds—

(A) shall be derived from non-Federal sources; and

(B) may be made in the form of in-kind contributions of goods or services fairly valued.

SA 1587. Ms. COLLINS (for Mr. DOMENICI) proposed an amendment to the bill S. 264, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii; as follows:

On page 2, strike lines 1 through 5 and insert the following:

SEC. 2. HAWAII RECLAMATION PROJECTS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating the second section 1636 (as added by section 1(b) of Public Law 108–316 (118 Stat. 1202)) as section 1637; and

(2) by adding at the end the following:

"SEC. 1638. HAWAII RECLAMATION PROJECTS.

On page 3, strike line 13 and all that follows through the matter following line 14 and insert the following:

is amended by striking the item relating to the second section 1636 (as added by section 2 of Public Law 108-316 (118 Stat. 1202)) and inserting the following:

"Sec. 1637. Williamson County, Texas, Water Recylcing and Reuse Project.
"Sec. 1638. Hawaii reclamation projects.".

SA 1588. Ms. COLLINS (for Mr. DOMENICI) proposed an amendment to the bill S. 128, to designate certain public land in Humboldt, Del Norte, Mendocino, Lake, and Napa Counties in the State of California as wilderness, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northern California Coastal Wild Heritage Wilderness Act".

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term "Secretary" means—

(1) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(2) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

SEC. 3. DESIGNATION OF WILDERNESS AREAS.

In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State of California are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) SNOW MOUNTAIN WILDERNESS ADDITION.—

(A) IN GENERAL.—Certain land in the Mendocino National Forest, comprising approximately 23,312 acres, as generally depicted on the maps described in subparagraph (B), is incorporated in and shall considered to be a part of the "Snow Mountain Wilderness", as designated by section 101(a)(31) of the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–425).

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled "Skeleton Glade Unit, Snow Mountain Proposed Wilderness Addition, Mendocino National Forest" and dated April 21, 2005; and

(ii) the map entitled "Bear Creek/Deafy Glade Unit, Snow Mountain Wilderness Addition, Mendocino National Forest" and dated April 21, 2005.

(2) SANHEDRIN WILDERNESS.—Certain land in the Mendocino National Forest, comprising approximately 10,571 acres, as generally depicted on the map entitled "Sanhedrin Proposed Wilderness, Mendocino National Forest" and dated April 21, 2005, which shall be known as the "Sanhedrin Wilderness".

(3) YUKI WILDERNESS.—Certain land in the Mendocino National Forest and certain land administered by the Bureau of Land Management in Lake and Mendocino Counties, California, together comprising approximately 53,887 acres, as generally depicted on the map entitled "Yuki Proposed Wilderness" and dated May 23, 2005, which shall be known as the "Yuki Wilderness".

(4) YOLLA BOLLY-MIDDLE EEL WILDERNESS ADDITION.—Certain land in the Mendocino National Forest and certain land administered by the Bureau of Land Management in Mendocino County, California, together comprising approximately 27,036 acres, as generally depicted on the map entitled "Middle Fork Eel, Smokehouse and Big Butte Units, Yolla Bolly-Middle Eel Proposed Wilderness Addition" and dated June 7, 2005, is incorporated in and shall considered to be a part of the Yolla Bolly-Middle Eel Wilderness, as designated by section 3 of the Wilderness Act (16 U.S.C. 1132).

(5) MAD RIVER BUTTES WILDERNESS.—Certain land in the Six Rivers National Forest, comprising approximately 5,506 acres, as generally depicted on the map entitled "Mad River Buttes, Mad River Proposed Wilderness" and dated June 28, 2005, which shall be known as the "Mad River Buttes Wilderness".

(6) SISKIYOU WILDERNESS ADDITION.—

(A) IN GENERAL.—Certain land in the Six Rivers National Forest, comprising approximately 44,801 acres, as generally depicted on the maps described in subparagraph (B), is incorporated in and shall be considered to be a part of the Siskiyou Wilderness, as designated by section 101(a)(30) of the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98-425).

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled "Bear Basin Butte Unit, Siskiyou Proposed Wilderness Additions, Six Rivers National Forest" and dated June 28, 2005;

(ii) the map entitled "Blue Creek Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest" and dated October 28, 2004;

(iii) the map entitled "Blue Ridge Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest" and dated June 28, 2005;

(iv) the map entitled "Broken Rib Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest" and dated June 28, 2005; and

(v) the map entitled "Wooly Bear Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest" and dated June 28, 2005.

(7) MOUNT LASSIC WILDERNESS.—Certain land in the Six Rivers National Forest, comprising approximately 7,279 acres, as generally depicted on the map entitled "Mt. Lassic Proposed Wilderness" and dated June 7, 2005, which shall be known as the "Mount Lassic Wilderness".

(8) TRINITY ALPS WILDERNESS ADDITION.—

(A) IN GENERAL.—Certain land in the Six Rivers National Forest, comprising approximately 28,805 acres, as generally depicted on the maps described in subparagraph (B) and which is incorporated in and shall be considered to be a part of the Trinity Alps Wilderness as designated by section 101(a)(34) of the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–425).

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled "Orleans Mountain Unit (Boise Creek), Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest", and dated October 28, 2004;

(ii) the map entitled "East Fork Unit, Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest" and dated September 17, 2004;

(iii) the map entitled "Horse Linto Unit, Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest" and dated September 17, 2004; and

(iv) the map entitled "Red Cap Unit, Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest" and dated June 7, 2005.

(9) UNDERWOOD WILDERNESS.—Certain land in the Six Rivers National Forest, comprising approximately 2,705 acres, as generally depicted on the map entitled "Underwood Proposed Wilderness, Six Rivers National Forest" and dated June 28, 2005, which shall be known as the "Underwood Wilderness".

(10) CACHE CREEK WILDERNESS.—Certain land administered by the Bureau of Land Management in Lake County, California, comprising approximately 31,025 acres, as generally depicted on the map entitled "Cache Creek Wilderness Area" and dated June 16, 2005, which shall be known as the "Cache Creek Wilderness".

(11) CEDAR ROUGHS WILDERNESS.—Certain land administered by the Bureau of Land Management in Napa County, California, comprising approximately 6,350 acres, as generally depicted on the map entitled "Cedar Roughs Wilderness Area" and dated September 27, 2004, which shall be known as the "Cedar Roughs Wilderness".

(12) SOUTH FORK EEL RIVER WILDERNESS.—Certain land administered by the Bureau of Land Management in Mendocino County, California, comprising approximately 12,915 acres, as generally depicted on the map entitled "South Fork Eel River Wilderness Area and Elkhorn Ridge Potential Wilderness" and dated June 16, 2005, which shall be known as the "South Fork Eel River Wilderness".

(13) KING RANGE WILDERNESS.—

(A) IN GENERAL.—Certain land administered by the Bureau of Land Management in

Humboldt and Mendocino Counties, California, comprising approximately 42,585 acres, as generally depicted on the map entitled ‘‘King Range Wilderness’’, and dated November 12, 2004, which shall be known as the ‘‘King Range Wilderness’’.

(B) APPLICABLE LAW.—With respect to the wilderness designated by subparagraph (A), in the case of a conflict between this Act and Public Law 91-476 (16 U.S.C. 460y et seq.), the more restrictive provision shall control.

(14) ROCKS AND ISLANDS.—

(A) IN GENERAL.—All Federally-owned rocks, islets, and islands (whether named or unnamed and surveyed or unsurveyed) that are located—

(i) not more than 3 geographic miles off the coast of the King Range National Conservation Area; and

(ii) above mean high tide.

(B) APPLICABLE LAW.—In the case of a conflict between this Act and Proclamation No. 7264 (65 Fed. Reg. 2821), the more restrictive provision shall control.

SEC. 4. ADMINISTRATION OF WILDERNESS AREAS.

(a) MANAGEMENT.—Subject to valid existing rights, each area designated as wilderness by this Act shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary that has jurisdiction over the wilderness.

(b) MAP AND DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated by this Act with—

(A) the Committee on Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(2) FORCE OF LAW.—A map and legal description filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be filed and made available for public inspection in the appropriate office of the Secretary.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land within the boundary of a wilderness area designated by this Act that is acquired by the Federal Government shall—

(1) become part of the wilderness area in which the land is located; and

(2) be managed in accordance with this Act, the Wilderness Act (16 U.S.C. 1131 et seq.), and any other applicable law.

(d) WITHDRAWAL.—Subject to valid rights in existence on the date of enactment of this Act, the Federal land designated as wilderness by this Act is withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(e) FIRE, INSECT, AND DISEASE MANAGEMENT ACTIVITIES.—

(1) IN GENERAL.—The Secretary may take such measures in the wilderness areas designated by this Act as are necessary for the control and prevention of fire, insects, and diseases, in accordance with—

(A) section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)); and

(B) House Report No. 98–40 of the 98th Congress.

(2) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Secretary shall review existing policies applicable to the wilderness areas designated by this Act to ensure that authorized approval procedures for any fire management measures allow a timely and efficient response to fire emergencies in the wilderness areas.

(f) ACCESS TO PRIVATE PROPERTY.—

(1) IN GENERAL.—The Secretary shall provide any owner of private property within the boundary of a wilderness area designated by this Act adequate access to such property to ensure the reasonable use and enjoyment of the property by the owner.

(2) KING RANGE WILDERNESS.—

(A) IN GENERAL.—Subject to subparagraph (B), within the wilderness designated by section 3(13), the access route depicted on the map for private landowners shall also be available for invitees of the private landowners.

(B) LIMITATION.—Nothing in subparagraph (A) requires the Secretary to provide any access to the landowners or invitees beyond the access that would be available if the wilderness had not been designated.

(g) SNOW SENSORS AND STREAM GAUGES.—If the Secretary determines that hydrologic, meteorologic, or climatological instrumentation is appropriate to further the scientific, educational, and conservation purposes of the wilderness areas designated by this Act, nothing in this Act prevents the installation and maintenance of the instrumentation within the wilderness areas.

(h) MILITARY ACTIVITIES.—Nothing in this Act precludes low-level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over wilderness areas designated by this Act.

(i) LIVESTOCK.—Grazing of livestock and the maintenance of existing facilities related to grazing in wilderness areas designated by this Act, where established before the date of enactment of this Act, shall be permitted to continue in accordance with—

(1) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(2) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(j) FISH AND WILDLIFE MANAGEMENT.—

(1) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the Secretary may carry out management activities to maintain or restore fish and wildlife populations and fish and wildlife habitats in wilderness areas designated by this Act if such activities are—

(A) consistent with applicable wilderness management plans; and

(B) carried out in accordance with applicable guidelines and policies.

(2) STATE JURISDICTION.—Nothing in this Act affects the jurisdiction of the State of California with respect to fish and wildlife on the public land located in the State.

(k) USE BY MEMBERS OF INDIAN TRIBES.—

(1) ACCESS.—In recognition of the past use of wilderness areas designated by this Act by members of Indian tribes for traditional cultural and religious purposes, the Secretary shall ensure that Indian tribes have access to the wilderness areas for traditional cultural and religious purposes.

(2) TEMPORARY CLOSURES.—

(A) IN GENERAL.—In carrying out this section, the Secretary, on request of an Indian tribe, may temporarily close to the general public 1 or more specific portions of a wilderness area to protect the privacy of the members of the Indian tribe in the conduct of the traditional cultural and religious activities in the wilderness area.

(B) REQUIREMENT.—Any closure under subparagraph (A) shall be made in such a manner as to affect the smallest practicable area for the minimum period of time necessary for the activity to be carried out.

(3) APPLICABLE LAW.—Access to the wilderness areas under this subsection shall be in accordance with—

(A) Public Law 95–341 (commonly known as the ‘‘American Indian Religious Freedom Act’’) (42 U.S.C. 1996 et seq.); and

(B) the Wilderness Act (16 U.S.C. 1131 et seq.).

(l) ADJACENT MANAGEMENT.—

(1) IN GENERAL.—Nothing in this Act creates protective perimeters or buffer zones around any wilderness area designated by this Act.

(2) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area designated by this Act shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

SEC. 5. RELEASE OF WILDERNESS STUDY AREAS.

(a) FINDING.—Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as wilderness by this Act or any previous Act has been adequately studied for wilderness.

(b) DESCRIPTION OF STUDY AREAS.—The study areas referred to in subsection (a) are—

(1) the King Range Wilderness Study Area;

(2) the Chemise Mountain Instant Study Area;

(3) the Red Mountain Wilderness Study Area;

(4) the Cedar Roughs Wilderness Study Area; and

(5) those portions of the Rocky Creek/Cache Creek Wilderness Study Area in Lake County, California which are not in R. 5 W., T. 12 N., sec. 22, Mount Diablo Meridian.

(c) RELEASE.—Any portion of a wilderness study area described in subsection (b) that is not designated as wilderness by this Act or any other Act enacted before the date of enactment of this Act shall not be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

SEC. 6. ELKHORN RIDGE POTENTIAL WILDERNESS AREA.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), certain public land in the State administered by the Bureau of Land Management, compromising approximately 11,271 acres, as generally depicted on the map entitled ‘‘South Fork Eel River Wilderness Area and Elkhorn Ridge Potential Wilderness’’ and dated June 16, 2005, is designated as a potential wilderness area.

(b) MANAGEMENT.—Except as provided in subsection (c) and subject to valid existing rights, the Secretary shall manage the potential wilderness area as wilderness until the potential wilderness area is designated as wilderness.

(c) ECOLOGICAL RESTORATION.—

(1) IN GENERAL.—For purposes of ecological restoration (including the elimination of non-native species, removal of illegal, unused, or decommissioned roads, repair of skid tracks, and any other activities necessary to restore the natural ecosystems in the potential wilderness area), the Secretary may used motorized equipment and mechanized transport in the potential wilderness area until the potential wilderness area is designated as wilderness.

(2) LIMITATION.—To the maximum extent practicable, the Secretary shall use the minimum tool or administrative practice necessary to accomplish ecological restoration with the least amount of adverse impact on wilderness character and resources.

(d) WILDERNESS DESIGNATION.—

(1) IN GENERAL.—The potential wilderness area shall be designated as wilderness and as a component of the National Wilderness Preservation System on the earlier of—

(A) the date on which the Secretary publishes in the Federal Register notice that the conditions in the potential wilderness area that are incompatible with the Wilderness Act (16 U.S.C. 1131 et seq.) have been removed; or

(B) the date that is 5 years after the date of enactment of this Act.

(2) ADMINISTRATION.—On designation as wilderness under paragraph (1), the potential wilderness area shall be—

(A) known as the "Elkhorn Ridge Wilderness"; and

(B) administered in accordance with this Act and the Wilderness Act (16 U.S.C. 1131 et seq.).

SEC. 7. WILD AND SCENIC RIVER DESIGNATION.

(a) DESIGNATION OF BLACK BUTTE RIVER, CALIFORNIA.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

"(167) BLACK BUTTE RIVER, CALIFORNIA.—The following segments of the Black Butte River in the State of California, to be administered by the Secretary of Agriculture:

"(A) The 16 miles of Black Butte River, from the Mendocino County Line to its confluence with Jumpoff Creek, as a wild river.

"(B) The 3.5 miles of Black Butte River from its confluence with Jumpoff Creek to its confluence with Middle Eel River, as a scenic river.

"(C) The 1.5 miles of Cold Creek from the Mendocino County Line to its confluence with Black Butte River, as a wild river.".

(b) PLAN; REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress—

(A) a fire management plan for the Black Butte River segments designated by the amendment under subsection (a); and

(B) a report on the cultural and historic resources within those segments.

(2) TRANSMITTAL TO COUNTY.—The Secretary of Agriculture shall transmit to the Board of Supervisors of Mendocino County, California, a copy of the plan and report submitted under paragraph (1).

SEC. 8. KING RANGE NATIONAL CONSERVATION AREA BOUNDARY ADJUSTMENT.

Section 9 of Public Law 91–476 (16 U.S.C. 460y–8) is amended by adding at the end the following:

"(d) In addition to the land described in subsections (a) and (c), the land identified as the King Range National Conservation Area Additions on the map entitled 'King Range Wilderness' and dated November 12, 2004, is included in the Area.".

SA 1589. Ms. COLLINS (for Mr. DOMENICI) proposed an amendment to the bill S. 136, to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes: as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Table of contents.

TITLE I—YOSEMITE NATIONAL PARK AUTHORIZED PAYMENTS

Sec. 102. Payments for educational services.
Sec. 103. Authorization for park facilities to be located outside the boundaries of Yosemite National Park.

TITLE II—RANCHO CORRAL DE TIERRA GOLDEN GATE NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT

Sec. 201. Short title.
Sec. 202. Golden Gate National Recreation Area, California.

TITLE III—REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT.

Sec. 301. Short title.
Sec. 302. Redwood National Park boundary adjustment.

TITLE I—YOSEMITE NATIONAL PARK AUTHORIZED PAYMENTS

SEC. 101. PAYMENTS FOR EDUCATIONAL SERVICES.

(a) IN GENERAL.—(1) For fiscal years 2006 through 2009, the Secretary of the Interior may provide funds to the Bass Lake Joint Union Elementary School District and the Mariposa Unified School District in the State of California for educational services to students—

(A) who are dependents of persons engaged in the administration, operation, and maintenance of Yosemite National Park; or

(B) who live within or near the park upon real property owned by the United States.

(2) The Secretary's authority to make payments under this section shall terminate if the State of California or local education agencies do not continue to provide funding to the schools referred to in subsection (a) at per student levels that are no less than the amount provided in fiscal year 2005.

(b) LIMITATION ON USE OF FUNDS.—Payments made under this section shall only be used to pay public employees for educational services provided in accordance with subsection (a). Payments may not be used for construction, construction contracts, or major capital improvements.

(c) LIMITATION ON AMOUNT OF FUNDS.—Payments made under this section shall not exceed the lesser of—

(1) $400,000 in any fiscal year; or

(2) the amount necessary to provide students described in subsection (a) with educational services that are normally provided and generally available to students who attend public schools elsewhere in the State of California.

(d) SOURCE OF PAYMENTS.—(1) Except as otherwise provided in this subsection, the Secretary may use funds available to the National Park Service from appropriations, donations, or fees.

(2) Funds from the following sources shall not be used to make payments under this section:

(A) Any law authorizing the collection or expenditure of entrance or use fees at units of the National Park System, including—

(i) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 et seq.); and

(ii) the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801 et seq.).

(B) Any unexpended receipts collected through—

(i) the recreational fee demonstration program established under section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (16 U.S.C. 460l–6a note; Public Law 104–134); or

(ii) the national park passport program established under section 602 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5992).

(C) Emergency appropriations for flood recovery at Yosemite National Park.

(3)(A) The Secretary may use an authorized funding source to make payments under this section only if the funding available to Yosemite National Park from such source (after subtracting any payments to the school districts authorized under this section) is greater than or equal to the amount made available to the park for the prior fiscal year, or in fiscal year 2005, whichever is greater.

(B) It is the sense of Congress that any payments made under this section should not result in a reduction of funds to Yosemite National Park from any specific funding source, and that with respect to appropriated funds, funding levels should reflect annual increases in the park's operating base funds that are generally made to units of the National Park System.

SEC. 102. AUTHORIZATION FOR PARK FACILITIES TO BE LOCATED OUTSIDE THE BOUNDARIES OF YOSEMITE NATIONAL PARK.

(a) FUNDING AUTHORITY FOR TRANSPORTATION SYSTEMS AND EXTERNAL FACILITIES.—Section 814(c) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 346e) is amended—

(1) in the heading by inserting "and yosemite national park" after "zion national park";

(2) in the first sentence—

(A) by inserting "and Yosemite National Park" after "Zion National Park"; and

(B) by inserting "for transportation systems or" after "appropriated funds"; and

(3) in the second sentence by striking "facilities" and inserting "systems or facilities".

(b) CLARIFYING AMENDMENT FOR TRANSPORTATION FEE AUTHORITY.—Section 501 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5981) is amended in the first sentence by striking "service contract" and inserting "service contract, cooperative agreement, or other contractual arrangement".

TITLE II—RANCHO CORRAL DE TIERRA GOLDEN GATE NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act".

SEC. 202. GOLDEN GATE NATIONAL RECREATION AREA, CALIFORNIA.

Section 2(a) of Public Law 92–589 (16 U.S.C. 460bb–1(a)) is amended—

(1) by striking "The recreation area shall comprise" and inserting the following:

"(1) INITIAL LANDS.—The recreation area shall comprise"; and

(2) by striking "The following additional lands are also" and all that follows through the period at the end of the subsection and inserting the following new paragraphs:

"(2) ADDITIONAL LANDS.—In addition to the lands described in paragraph (1), the recreation area shall include the following:

"(A) The parcels numbered by the Assessor of Marin County, California, 119–040–04, 119–040–05, 119–040–18, 166–202–03, 166–010–06, 166–010–07, 166–010–24, 166–010–25, 119–240–19, 166–010–10, 166–010–22, 119–240–03, 119–240–51, 119–240–52, 119–240–54, 166–010–12, 166–010–13, and 119–235–10.

"(B) Lands and waters in San Mateo County generally depicted on the map entitled 'Sweeney Ridge Addition, Golden Gate National Recreation Area', numbered NRA GG–80,000–A, and dated May 1980.

"(C) Lands acquired under the Golden Gate National Recreation Area Addition Act of 1992 (16 U.S.C. 460bb–1 note; Public Law 102–299).

"(D) Lands generally depicted on the map entitled 'Additions to Golden Gate National Recreation Area', numbered NPS–80–076, and dated July 2000/PWR–PLRPC.

"(E) Lands generally depicted on the map entitled 'Rancho Corral de Tierra Additions to the Golden Gate National Recreation Area', numbered NPS–80,079E, and dated March 2004.

"(3) ACQUISITION LIMITATION.—The Secretary may acquire land described in paragraph (2)(E) only from a willing seller.".

TITLE III—REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT

SEC. 301. SHORT TITLE.

This title may be cited as the "Redwood National Park Boundary Adjustment Act of 2005".

SEC. 302. REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT.

Section 2(a) of the Act of Public Law 90–545 (16 U.S.C. 79b(a)) is amended—

(1) in the first sentence, by striking "(a) The area" and all that follows through the period at the end and inserting the following: "(a)(1) The Redwood National Park consists of the land generally depicted on the map entitled 'Redwood National Park, Revised Boundary', numbered 167/60502, and dated February, 2003.";

(2) by inserting after paragraph (1) (as designated by paragraph (1)) the following:

"(2) The map referred to in paragraph (1) shall be—

"(A) on file and available for public inspection in the appropriate offices of the National Park Service; and

"(B) provided by the Secretary of the Interior to the appropriate officers of Del Norte and Humboldt Counties, California."; and

(3) in the second sentence—

(A) by striking "The Secretary" and inserting the following:

"(3) The Secretary:"and

(B) by striking "one hundred and six thousand acres" and inserting "133,000 acres".

SA 1590. Ms. COLLINS (for Mr. DOMENICI) proposed an amendment to the bill S. 136, to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes; as follows:

Amend the title so as to read: "To authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes.".

SA 1591. Ms. COLLINS (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 279, to amend the Act of June 7, 1924, to provide for the exercise of criminal jurisdiction; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. INDIAN PUEBLO LAND ACT AMENDMENTS.

The Act of June 7, 1924 (43 Stat. 636, chapter 331), is amended by adding at the end the following:

"SEC. 20. CRIMINAL JURISDICTION.

"(a) IN GENERAL.—Except as otherwise provided by Congress, jurisdiction over offenses committed anywhere within the exterior boundaries of any grant from a prior sovereign, as confirmed by Congress or the Court of Private Land Claims to a Pueblo Indian tribe of New Mexico, shall be as provided in this section.

"(b) JURISDICTION OF THE PUEBLO.—The Pueblo has jurisdiction, as an act of the Pueblos' inherent power as an Indian tribe, over any offense committed by a member of the Pueblo or an Indian as defined in title 25, sections 1301(2) and 1301(4), or by any other Indian-owned entity.

"(c) JURISDICTION OF THE UNITED STATES.—The United States has jurisdiction over any offense described in chapter 53 of title 18, United States Code, committed by or against an Indian as defined in title 25, sections 1301(2) and 1301(4) or any Indian-owned entity, or that involves any Indian property or interest.

"(d) JURISDICTION OF THE STATE OF NEW MEXICO.—The State of New Mexico shall have jurisdiction over any offense committed by a person who is not a member of a Pueblo or an Indian as defined in title 25, sections 1301(2) and 1301(4), which offense is not subject to the jurisdiction of the United States.".

SA 1592. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1505 submitted by Mr. GRAHAM (for himself, Mr. WARNER, and Mr. MCCAIN) to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On Page 4, line 15, insert

"(d) FINAL DISPOSITION.—Not later than 2 years after a determination is made that the person detained is an unlawful enemy combatant, the person must be either charged in an appropriate district court of the United States, an international criminal tribunal, a United States military tribunal, or repatriated to the country in which the person was first detained or the person's country of origin, except where there are grounds to believe that the person would be in danger of being subjected to torture. With regard to detainees currently deemed unlawful enemy combatants before the enactment of this section, the United States has 180 days to dispose of the person's case under this subsection.

SA 1593. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 1522 submitted by Mrs. DOLE and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, add the following:

(c) REPORT.—Not later than September 30, 2006, the Secretary of Defense shall submit a report to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives regarding the implementation of the training programs under this section, including an assessment of the need for additional personnel in the defense acquisition workforce to carry out the requirements of this section.

SA 1594. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 1499 submitted by Mr. KERRY and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

(3) REPORT.—

(A) IN GENERAL.—The Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services and the Committee on Small Business of the House of Representatives on an annual basis a report setting forth the research programs identified under paragraph (1) during the preceding year.

(B) CONTENTS.—Each report under subparagraph (A) shall include, for the year covered by such report, a description of—

(i) the incentives and actions taken by prime contractors and program managers to increase Phase III awards under the Small Business Innovation Research Program; and

(ii) the requirements intended to be met by each program identified in the report.

(4) Funding Authority.—

(A) In General.—The Secretary of each military department is authorized to use not more than an amount equal to 1 percent of the funds available to the military department in each fiscal year for the Small Business Innovation Research Program for the accelerated process described in paragraph (1) to transition programs that have successfully completed Phase II of the Small Business Innovation Research Program to Phase III of the Program.

(B) Term.—The funding authority under subparagraph (A) shall terminate not later than 3 years after the date on which the accelerated transition program under paragraph (1) is initiated.

(C) Exemption.—The Phase III program activities authorized by this subsection shall not be subject to the limitations on the use of funds in section 9(f)(2) of the Small Business Act (15 U.S.C. 638).

SA 1595. Mr. GRAHAM (for himself and Mr. Kyl) submitted an amendment intended to be proposed to amendment SA 1505 submitted by Mr. Graham (for himself, Mr. Warner, and Mr. McCain) to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 1074. REVIEW OF DETENTION OF ENEMY COMBATANTS.

(a) Detention of Enemy Combatants.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

"(e) No court, justice, or judge shall have jurisdiction to consider—

"(1) an application for a writ of habeas corpus filed on behalf of an alien who is detained as an enemy combatant by the United States Government; or

"(2) any other action challenging any aspect of the detention of an alien who is detained by the Secretary of Defense as an enemy combatant, if the alien has been afforded an opportunity to challenge his detention pursuant to the procedures specified in paragraphs (1) and (2) of section 1073(b) of the National Defense Authorization Act for Fiscal Year 2006, to the extent modified by the President pursuant to the authority in paragraph (3) of such section.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to any application or other action pending on or after the date of the enactment of this Act.

SA 1596. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 762 proposed by Mr. Nelson of Florida (for himself, Mr. Hagel, Mr. Corzine, Mr. Nelson of Nebraska, Mr. Smith, Ms. Cantwell, Mr. Dayton, Mr. Kerry, Ms. Landrieu, Ms. Mikulski, Mrs. Murray, Ms. Stabenow, Mrs. Boxer, Mr. Pryor, Mr. Durbin, Mr. Jeffords, Mr. Johnson, and Mr. Salazar) to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. CURTAILMENT OF WASTE UNDER DEPARTMENT OF DEFENSE WEB-BASED TRAVEL SYSTEM.

(a) Prohibition on Use of Funds.—No funds available to the Department of Defense may be obligated or expended after October 1, 2005, for the further development, deployment, or operation of any web-based, end-to-end travel management system, or services under any contract for such travel services that provides for payment by the Department of Defense to the service provider above, or in addition to, a fixed price transaction fee for eTravel services under the General Services Administration eTravel contract.

(b) Construction of Prohibition.—Nothing in subsection (a) shall be construed as restricting the ability of the Department of Defense from obtaining eTravel services from any provider under the General Services Administration eTravel contract, provided that—

(1) such provider receives no payment for such services above, or in addition to, a fixed price transaction fee; and

(2) such provider provides to the Department of Defense a written guarantee that all commercial air travel is secured at the lowest available price, consistent with Federal Travel Regulations and the mission objective of the traveler.

SA 1597. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 1524 submitted by Mrs. Dole (for herself, Mr. Lautenberg, Mr. Kennedy, Mr. DeWine, Ms. Landrieu, Mr. Chafee, Ms. Mikulski, Mr. Chambliss, and Mr. Durbin) and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 718. MENTAL HEALTH COUNSELORS UNDER TRICARE.

(a) In General.—Section 1079(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(17) Services of mental health counselors, except that—

"(A) such services are limited to services provided by counselors who are licensed under applicable State law to provide mental health services;

"(B) such services may be provided independently of medical oversight and supervision only in areas identified by the Secretary as 'medically underserved areas' where the Secretary determines that 25 percent or more of the residents are located in primary shortage areas designated pursuant to section 332 of the Public Health Services Act (42 U.S.C. 254e); and

"(C) the provision of such services shall be consistent with such rules as may be prescribed by the Secretary of Defense, including criteria applicable to credentialing or certification of mental health counselors and a requirement that mental health counselors accept payment under this section as full payment for all services provided pursuant to this paragraph.".

(b) Authority to Enter Into Personal Services Contracts.—Section 704(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2799; 10 U.S.C. 1091 note) is amended by inserting "mental health counselors," after "psychologists,".

SA 1598. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 762 proposed by Mr. Nelson of Florida (for himself, Mr. Hagel, Mr. Corzine, Mr. Nelson of Nebraska, Mr. Smith, Ms. Cantwell, Mr. Dayton, Mr. Kerry, Ms. Landrieu, Ms. Mikulski, Mrs. Murray, Ms. Stabenow, Mrs. Boxer, Mr. Pryor, Mr. Durbin, Mr. Jeffords, Mr. Johnson, and Mr. Salazar) to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION ___. REQUIREMENT FOR DETERMINATION BY VETERANS' DISABILITY BENEFITS COMMISSION REGARDING REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION BEFORE CHANGES TO THOSE BENEFITS MAY BE IMPLEMENTED.

(a) Finding.—Congress finds that the Veterans' Disability Benefits Commission (in this section referred to as the "Commission") established by section 1501 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1676; 38 U.S.C. 1101 note) is currently performing a comprehensive review and study of the benefits provided under the laws of the United States to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service, and that the Commission should be required to make findings and submit recommendations regarding the integration of benefits under the Survivor Benefit Plan and Dependency and Indemnity Compensation prior to changes in the laws controlling those benefits are implemented.

(b) Further Findings.—Congress makes the following further findings:

(1) Significant changes have been enacted since 2003 in the laws affecting veterans, retiree, and survivor benefits, including—

(A) phased elimination of the bar on military retirees concurrently receiving military retired pay and veterans' disability;

(B) phased elimination of the reduction in Survivor Benefit Plan benefits when beneficiaries reach age 62;

(C) provision of Survivor Benefit Plan coverage at no cost to all military members serving on active duty;

(D) an increase in the death gratuity to $100,000; and

(E) an increase in the maximum available benefit under Servicemembers' Group Life Insurance to $400,000.

(2) In carrying out its study, the Commission is required to examine and make recommendations concerning the appropriateness of veterans' benefits under the laws in effect on November 24, 2003, and the level of such benefits.

(3) The study to be carried out by the Commission, under its legislative charter, must be a comprehensive evaluation and assessment of the benefits provided under the laws of the United States to compensate veterans and their survivors for disability or death attributable to military service together with any related issues that the commission determines are relevant to the purposes of the study.

(4) Not later than 15 months after the date on which the Commission first met on May 8, 2005, the Commission is required to submit to the President and Congress a report on the study that shall include the findings and conclusions of the Commission and recommendations of the commission for revising the benefits provided by the United States to veterans and their survivors for disability and death attributable to military service.

(c) ADDITIONAL MATTER FOR COMMISSION STUDY.—Section 1501(c) of the National Defense Authorization Act for Fiscal Year 2004 (117 Stat. 1678; 38 U.S.C. 1101 note) is amended by adding at the end the following new paragraph:

"(4) The laws and regulations for determining eligibility for dependency and indemnity compensation under chapter 13 of title 38, United States Code, and for benefits under the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code.".

SA 1599. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 1366 submitted by Mr. FEINGOLD and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. REPORTS ON IMPROVEMENTS IN TRANSITION ASSISTANCE PROGRAMS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Comptroller General of the United States, pursuant to section 598 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1938), performed a study (GAO–05–544, entitled "Enhanced Services Could Improve Transition Assistance for Reserves and National Guard") on transition assistance programs for members separating from the Armed Forces.

(2) The Comptroller General found that Federal agencies, including the Department of Defense, the Department of Veterans Affairs, and the Department of Labor, have taken actions to improve transition assistance program content and increase participation among full-time active duty military personnel.

(3) The Comptroller General found, however, that there are often significant challenges serving Reserve and National Guard members because of their rapid demobilization.

(4) The Comptroller General recommended that the Department of Defense, in conjunction with the Department of Labor and the Department of Veterans Affairs, determine what demobilizing Reserve and National Guard members need to make a smooth transition and explore options to enhance their participation in transition assistance programs.

(5) In addition, the Comptroller General recommended that the Department of Veterans Affairs take actions to determine the level of participation in disabled transition assistance programs to ensure those who may have especially complex needs are being served.

(b) REPORTS ON TRANSITION ASSISTANCE PROGRAMS.—

(1) REPORT ON EFFECTIVE FUNCTION OF ALL PROGRAMS.—Not later than 60 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Secretary of Labor and the Secretary of Veterans Affairs, shall submit to Congress a report on the actions that the Secretary has taken in order to ensure that Transition Assistance Programs for members of the Armed Forces separating from the Armed Forces(including members of regular and reserve components of the Armed Forces but particularly members of the reserve components who have previously been deployed to Operation Iraqi Freedom, Operation Enduring Freedom, and all other contingency operations) function effectively to ensure that such members of the Armed Forces receive timely and comprehensive transition assistance.

(2) REPORT ON DEPARTMENT OF DEFENSE ACTIVITIES.—Not later than 1 March 2006, the Secretary of Defense shall submit to Congress a proposal for such legislation as the Secretary considers necessary to enhance the capability of the Department of Defense to provide transition assistance to members of the Armed Forces.

SA 1600. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 1406 submitted by Mr. LUGAR and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 1205. SECURITY AND STABILIZATION ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Defense may, upon the request of the Secretary of State, authorize the use or transfer of defense articles, services, or training to provide reconstruction, security, or stabilization assistance to a foreign country for the purpose of restoring or maintaining peace and security in that country if the Secretary of Defense determines that—

(1) an unforeseen emergency exists in that country that requires the immediate provision of such assistance; and

(2) the provision of such assistance is in the national security interests of the United States.

(b) LIMITATION.—The aggregate value of assistance provided under the authority of this section may not exceed $200,000,000.

(c) COMPLEMENTARY AUTHORITY.—The authority to provide assistance under this section shall be in addition to any other authority to provide assistance to a foreign country.

(d) EXPIRATION.—The authority to provide assistance and transfer funds under this section shall expire on September 30, 2006.

SA 1601. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

SEC. ___. EFFECT OF CERTAIN PROVISIONS.

(a) COUNTERFEIT-RESISTANT TECHNOLOGIES.—

(1) INCORPORATION OF COUNTERFEIT-RESISTANT TECHNOLOGIES INTO PRESCRIPTION DRUG PACKAGING.—Notwithstanding any other provision of this title (or the amendments made by this title), the Secretary of Health and Human Services shall require that the packaging of any drug subject to section 503(b) incorporate—

(A) overt optically variable counterfeit-resistant technologies that are—

(i) visible to the naked eye, providing for visual identification of product authenticity without the need for readers, microscopes, lighting devices, or scanners;

(ii) similar to that used by the Bureau of Engraving and Printing to secure United States currency;

(iii) manufactured and distributed in a highly secure, tightly controlled environment; and

(iv) incorporate additional layers of non-visible covert security features up to and including forensic capability, described in paragraph (2) and comply with the standards of paragraph (3); or

(B) technologies that have an equivalent function of security, as determined by the Secretary.

(2) STANDARDS FOR PACKAGING.—For the purpose of making it more difficult to counterfeit the packaging of drugs subject to section 503(b), manufacturers of the drugs shall incorporate the technologies described in paragraph (2) into multiple elements of the physical packaging of the drugs, including blister packs, shrink wrap, package labels, package seals, bottles, and boxes.

(3) EFFECTIVE DATE.—This subsection shall take effect 180 days after the date of enactment of this title.

(b) WEBSITE INFORMATION.—The Secretary of Health and Human Services shall publish, on the Internet website of the Food and Drug Administration described under section ___4(g) of this title, information regarding the suspension and termination of any registration of a registered importer or exporter under section 804 of the Federal Food, Drug, and Cosmetic Act (as added by this title).

(c) USER FEES.—Notwithstanding any other provisions of title (and the amendments made by this title), the Secretary may prohibit a registrant that is required to pay a user fee under section ___4(e)(9) of this title and that fails to pay such user fee within 30 days after the date on which it is due, from importing or offering for importation a prescription drug under section 804 of the Federal Food, Drug, and Cosmetic Act (as added by this title) until such fee is paid.

SA 1602. Mr. HATCH (for himself, Mr. INHOFE, Mr. BENNETT, and Mr. CHAMBLISS) submitted an amendment intended to be proposed to amendment SA 1567 submitted by Mr. WARNER and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in Amendment 1567 insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING DEPOT MAINTENANCE.

(a) FINDINGS.—The Senate finds that—

(1) the Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements;

(2) since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the service has made great progress toward modernizing all 3 of its Depots, in order to maintain their status as "world class" maintenance repair and overhaul operations;

(3) 1 of the indispensable components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate $150,000,000 a year over 6 years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of our Nation's 3 Air Force depots; and

(4) the funds expended to date have ensured that transformation projects, such as the initial implementation of "Lean" and "Six Sigma" production techniques, have achieved great success in dramatically reducing the time necessary to perform depot maintenance on aircraft.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting its commitment to invest $150,000,000 a year over 6 years, since fiscal year 2004, in the Nation's 3 Air Force Depots; and

(2) the Air Force should continue to fully fund its commitment of $150,000,000 a year through fiscal year 2009 in investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

SA 1603. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. LASER NEUTRALIZATION SYSTEM.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $1,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), $1,000,000 may be available for Advanced Weapons Technology (PE #602307A) for the Laser Neutralization System (LNS).

(c) OFFSET.—The amount authorized to be appropriated by section 101(4) for procurement of ammunition for the Army is hereby reduced by $1,000,000, with the amount of the reduction to be allocated to amounts available for Ammunition Production Base Support, Production Base Support for the Missile Recycling Center (MRC).

SA 1604. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, line 17, insert before the period the following: ", of which $1,500,000 shall be available for Civilian Manpower and Personnel for a Human Resources Benefit Call Center in Machias, Maine".

* * *

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 26, 2005, at 10 a.m., to conduct a hearing on the nominations of the Honorable CHRISTOPHER COX, of California, to be a member of the Securities and Exchange Commission; Mr. Roel C. Campos, of Texas, to be a member of the Securities and Exchange Commission; and Ms. Annette Nazareth, of the District of Columbia, to be a member of the Securities and Exchange Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 26, 2005, at 2:30 p.m., to conduct a hearing on the nominations of Mr. John C. Dugan, of Maryland, to be Comptroller of the Currency; Mr. John M. Reich, of Virginia, to be Director of the Office of Thrift Supervision; and Mr. Martin J. Gruenberg, of Maryland, to be a member and vice chairman of the Board of Directors of the Federal Deposit Insurance Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Tuesday, July 26, 2005, at 10 a.m., to consider an original bill entitled, "The National Employee Savings and Trust Equity Guarantee Act of 2005."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 26, 2005, at 10 a.m. to hold a hearing on Energy Trends in China and India: Implications for the U.S.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 26, 2005, at 2:15 p.m. to hold a Business Meeting to markup nominations, treaties, and legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, July 26, 2005, at 10 a.m., in Room 216 of the Hart Senate Office Building to conduct an oversight hearing on legislation to resolve the lawsuit of Cobell v. Norton and to address a number of areas of Indian trust reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Comprehensive Immigration Reform" on Tuesday, July 26, 2005, at 9:30 a.m., in Dirksen Senate Office Building Room 226.

Witness List

Panel I: The Honorable Edward Kennedy, U.S. Senator, D-MA;

The Honorable John McCain, U.S. Senator, R-AZ;

The Honorable Jon Kyl, U.S. Senator, R-AZ;

The Honorable John Cornyn, U.S. Senator, R–TX;

Panel II: The Honorable Michael Chertoff, Secretary, Department of Homeland Defense, Washington, DC;

The Honorable Elaine L. Chao, Secretary, Department of Labor, Washington, DC;

Tamar Jacoby, Senior Fellow, Manhattan Institute, New York, NY;

Gary Endelman, Author and Immigration Practitioner, Houston, TX;

Hal Daub, President and CEO, The American Health Care Association (AHCA), and testifying on behalf of the Essential Worker Immigration Coalition, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on the nomination of Timothy Elliot Flanigan to be Deputy Attorney General on Tuesday, July 26, 2005, at 4 p.m., in Dirksen Senate Office Building, Room 226.

Witness List

Panel I: TBA.

Panel II: Timothy Elliott Flanigan to be Deputy Attorney General.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 26, 2005, at 2:30 p.m., to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION AND INTERNATIONAL SECURITY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Tuesday, July 26, 2005, at 2:30 p.m., for a hearing regarding "GSA—Is the Taxpayer Getting the Best Deal?"

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTRY, CONSERVATION, AND RURAL REVITALIZATION

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Forestry, Conservation, and Rural Revitalization be authorized to conduct a hearing during the session of the Senate on Tuesday, July 26, 2005 at 10 am in SR-328A, Russell Senate Office Building. The purpose of this subcommittee hearing will be to discuss how farm bill programs can better support species conservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTELLECTUAL PROPERTY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Intellectual Property be authorized to meet to conduct a hearing on "Perspective on Patents: Harmonization and Other Matters" on Tuesday, July 26, 2005 at 2:30 p.m. in Dirksen 226.

Witness List

The Honorable Gerald J. Mossinghoff, Former Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, and Senior Counsel Oblon, Spivak, McClelland, Maier & Neustadt, Alexandria, VA;

The Honorable Q. Todd Dickinson, Former Assistant Secretary of Commerce and Commissioner of Patents and Trademarks and Vice President and Chief Intellectual Property Counsel, General Electric Company, Fairfield, CT;

Christine J. Siwik, Partner, Rakoczy Molino Mazzochi Siwik LLP, on behalf of Barr Laboratories, Inc., Chicago, IL;

Marshall C. Phelps, Jr., Corporate Vice President and Deputy General Counsel for Intellectual Property Microsoft Corporation, Redmond, WA;

Charles E. Phelps, Provost, University of Rochester on behalf of the Association of American Universities, Rochester, NY;

David Beier, Senior Vice President of Global Government Affairs Amgen, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND AND WASTE MANAGEMENT

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Superfund and Waste Management be authorized to hold an oversight hearing on Tuesday, July 25 at 2:30 am to discuss electronic waste.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. REED. Mr. President, I ask unanimous consent that two of my staff members, Steve Eichenauer and Elyse Wasch, be granted the privileges of the floor during the debate and pending votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Maine is recognized.

THE CALENDAR

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the following calendar items en bloc: Calendar Nos. 11, 18, 20, 21, 22, 24, 27, 28, 29, 30, 32, 33, 36, 37, 38, 41, 42, 43, 44, 45, 46, 47, 50, 52, 53, 54, 55, 58, 62, 63, 64, 65, 66, 95, and 106.

I ask unanimous consent that the amendments at the desk be agreed to en bloc; the committee-reported amendments, as amended, if amended, be agreed to en bloc; the bills, as amended, if amended, be read a third time and passed; the motions to reconsider be laid upon the table en bloc; the amendments to the titles, where applicable, be agreed to; and that any statements related to the bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

SODA ASH ROYALTY REDUCTION ACT OF 2005

The Senate proceeded to consider the bill (S. 203) to designate the United States courthouse located at 501 I Street in Sacramento, California, as the "Robert T. Matsui United States Courthouse".

S. 203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Soda Ash Royalty Reduction Act of 2005".

SEC. 2. REDUCTION IN ROYALTY RATE ON SODA ASH.

Notwithstanding section 102(a)(9) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701(a)(9)), section 24 of the Mineral Leasing Act (30 U.S.C. 262), and the terms of any lease under that Act, the royalty rate on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market from Federal land in the 5-year period beginning on the date of the enactment of this Act shall be 2 percent.

SEC. 3. STUDY.

After the end of the 4-year period beginning on the date of the enactment of this Act, and before the end of the 5-year period beginning on that date, the Secretary of the Interior shall report to the Congress on the effects of the royalty reduction under this Act, including—

(1) the amount of sodium compounds and related products at the point of shipment to market from Federal land during that 4-year period;

(2) the number of jobs that have been created or maintained during the royalty reduction period;

(3) the total amount of royalty paid to the United States on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market produced during that 4-year period, and the portion of such royalty paid to States; and

(4) a recommendation of whether the reduced royalty rate should apply after the end of the 5-year period beginning on the date of the enactment of this Act.

The amendment (No. 1584) was agreed to, as follows:

Amend the title so as to read: "A bill to reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes.".

The bill (S. 203) was read the third time and passed.

PECOS NATIONAL HISTORICAL PARK LAND EXCHANGE ACT OF 2005

The bill (S. 47) to provide for the exchange of certain Federal land in the Santa Fe National Forest and certain non-Federal land in the Pecos National Historical Park in the State of New Mexico was read the third time and passed, as follows:

S. 47

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pecos National Historical Park Land Exchange Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) Federal land.—The term "Federal land" means the approximately 160 acres of Federal land within the Santa Fe National Forest in the State, as depicted on the map.

(2) Landowner.—The term "landowner" means the 1 or more owners of the non-Federal land.

(3) Map.—The term "map" means the map entitled "Proposed Land Exchange for Pecos National Historical Park", numbered 430/80,054, dated November 19, 1999, and revised September 18, 2000.

(4) Non-federal land.—The term "non-Federal land" means the approximately 154 acres of non-Federal land in the Park, as depicted on the map.

(5) Park.—The term "Park" means the Pecos National Historical Park in the State.

(6) Secretaries.—The term "Secretaries" means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.

(7) State.—The term "State" means the State of New Mexico.

SEC. 3. LAND EXCHANGE.

(a) In General.—On conveyance by the landowner to the Secretary of the Interior of the non-Federal land, title to which is acceptable to the Secretary of the Interior—

(1) the Secretary of Agriculture shall, subject to the conditions of this Act, convey to the landowner the Federal land; and

(2) the Secretary of the Interior shall, subject to the conditions of this Act, grant to the landowner the easement described in subsection (b).

(b) Easement.—

(1) In general.—The easement referred to in subsection (a)(2) is an easement (including an easement for service access) for water pipelines to 2 well sites located in the Park, as generally depicted on the map.

(2) Route.—The Secretary of the Interior, in consultation with the landowner, shall determine the appropriate route of the easement through the Park.

(3) Terms and conditions.—The easement shall include such terms and conditions relating to the use of, and access to, the well sites and pipeline, as the Secretary of the Interior, in consultation with the landowner, determines to be appropriate.

(4) Applicable law.—The easement shall be established, operated, and maintained in compliance with applicable Federal law.

(c) Valuation, Appraisals, and Equalization.—

(1) In general.—The value of the Federal land and non-Federal land—

(A) shall be equal, as determined by appraisals conducted in accordance with paragraph (2); or

(B) if the value is not equal, shall be equalized in accordance with paragraph (3).

(2) Appraisals.—

(A) In general.—The Federal land and non-Federal land shall be appraised by an independent appraiser selected by the Secretaries.

(B) Requirements.—An appraisal conducted under subparagraph (A) shall be conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisition; and

(ii) the Uniform Standards of Professional Appraisal Practice.

(C) Approval.—The appraisals conducted under this paragraph shall be submitted to the Secretaries for approval.

(3) Equalization of values.—

(A) In general.—If the values of the non-Federal land and the Federal land are not equal, the values may be equalized by—

(i) the Secretary of the Interior making a cash equalization payment to the landowner;

(ii) the landowner making a cash equalization payment to the Secretary of Agriculture; or

(iii) reducing the acreage of the non-Federal land or the Federal land, as appropriate.

(B) Cash equalization payments.—Any amounts received by the Secretary of Agriculture as a cash equalization payment under section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) shall—

(i) be deposited in the fund established by Public Law 90–171 (commonly known as the "Sisk Act") (16 U.S.C. 484a); and

(ii) be available for expenditure, without further appropriation, for the acquisition of land and interests in land in the State.

(d) Costs.—Before the completion of the exchange under this section, the Secretaries and the landowner shall enter into an agreement that allocates the costs of the exchange among the Secretaries and the landowner.

(e) Applicable Law.—Except as otherwise provided in this Act, the exchange of land and interests in land under this Act shall be in accordance with—

(1) section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716); and

(2) other applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(f) Additional Terms and Conditions.—The Secretaries may require, in addition to any requirements under this Act, such terms and conditions relating to the exchange of Federal land and non-Federal land and the granting of easements under this Act as the Secretaries determine to be appropriate to protect the interests of the United States.

(g) Completion of the Exchange.—

(1) In general.—The exchange of Federal land and non-Federal land shall be completed not later than 180 days after the later of—

(A) the date on which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been met;

(B) the date on which the Secretary of the Interior approves the appraisals under subsection (c)(2)(C); or

(C) the date on which the Secretaries and the landowner agree on the costs of the exchange and any other terms and conditions of the exchange under this section.

(2) Notice.—The Secretaries shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives notice of the completion of the exchange of Federal land and non-Federal land under this Act.

SEC. 4. ADMINISTRATION.

(a) In General.—The Secretary of the Interior shall administer the non-Federal land acquired under this Act in accordance with the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (commonly known as the "National Park Service Organic Act") (16 U.S.C. 1 et seq.).

(b) Maps.—

(1) In general.—The map shall be on file and available for public inspection in the appropriate offices of the Secretaries.

(2) Transmittal of revised map to Congress.—Not later than 180 days after completion of the exchange, the Secretaries shall transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a revised map that depicts—

(A) the Federal land and non-Federal land exchanged under this Act; and

(B) the easement described in section 3(b).

RIM OF THE VALLEY CORRIDORS STUDY ACT

The bill (S. 153) to direct the Secretary of the Interior to conduct a resource study of the Rim of the Valley Corridor in the State of California to evaluate alternatives for protecting the resources of the Corridor, and for other purposes, was read the third time and passed, as follows:

S. 153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rim of the Valley Corridor Study Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) Corridor.—

(A) In general.—The term "Corridor" means the land, water, and interests of the area in the State known as the "Rim of the Valley Corridor".

(B) Inclusions.—The term "Corridor" includes the mountains surrounding the San Fernando, La Crescenta, Santa Clarita, Simi, and Conejo valleys in the State.

(2) Recreation area.—The term "Recreation Area" means the Santa Monica Mountains National Recreation Area in the State.

(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

(4) State.—The term "State" means the State of California.

SEC. 3. RESOURCE STUDY OF THE RIM OF THE VALLEY CORRIDOR, CALIFORNIA.

(a) In General.—The Secretary shall conduct a resource study of the Corridor to evaluate various alternatives for protecting the resources of the Corridor, including designating all or a portion of the Corridor as a unit of the Recreation Area.

(b) Requirements.—In conducting the study under subsection (a), the Secretary shall—

(1) seek to achieve the objectives of—

(A) protecting wildlife populations in the Recreation Area by preserving habitat linkages and wildlife movement corridors between large blocks of habitat in adjoining regional open space;

(B) establishing connections along the State-designated Rim of the Valley Trail System for the purposes of—

(i) creating a single contiguous Rim of the Valley Trail; and

(ii) encompassing major feeder trails connecting adjoining communities and regional transit to the Rim of the Valley Trail System;

(C) preserving recreational opportunities;

(D) facilitating access to open space for a variety of recreational users;

(E) protecting—

(i) rare, threatened, or endangered plant and animal species; and

(ii) rare or unusual plant communities and habitats;

(F) protecting historically significant landscapes, districts, sites, and structures; and

(G) respecting the needs of communities in, or in the vicinity of, the Corridor;

(2) analyze the potential impact of each alternative on staffing and other potential costs to Federal, State, and local agencies and other organizations; and

(3) analyze the potential impact that designating all or a portion of the Corridor as a unit of the Recreation Area would have on land in or bordering the area that is privately owned as of the date on which the study is conducted.

(c) CONSULTATION.—In conducting the study, the Secretary shall consult with appropriate Federal, State, county, and local government entities.

(d) APPLICABLE LAW.—Section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)) shall apply to the conduct and completion of the study required by subsection (a).

SEC. 4. REPORT.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are first made available for the study, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives a report that describes the results of the study conducted under section 3.

(b) INCLUSION.—The report submitted under subsection 4(a) shall include the concerns of private landowners within the boundaries of the Recreation Area.

VALLES CALDERA PRESERVATION ACT OF 2005

The bill (S. 212) to amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes, was read the third time and passed, as follows:

S. 212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Valles Caldera Preservation Act of 2005".

SEC. 2. AMENDMENTS TO THE VALLES CALDERA PRESERVATION ACT.

(a) ACQUISITION OF OUTSTANDING MINERAL INTERESTS.—Section 104(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v-2(e)) is amended—

(1) by striking "The acquisition" and inserting the following:

"(1) IN GENERAL.—The acquisition";

(2) by striking "The Secretary" and inserting the following:

"(2) ACQUISITION.—The Secretary";

(3) by striking "on a willing seller basis";

(4) by striking "Any such" and inserting the following:

"(3) ADMINISTRATION.—Any such"; and

(5) by adding at the end the following:

"(4) AVAILABLE FUNDS.—Any such interests shall be acquired with available funds.

"(5) DECLARATION OF TAKING.—

"(A) IN GENERAL.—If negotiations to acquire the interests are unsuccessful by the date that is 60 days after the date of enactment of this paragraph, the Secretary shall acquire the interests pursuant to section 3114 of title 40, United States Code.

"(B) SOURCE OF FUNDS.—Any difference between the sum of money estimated to be just compensation by the Secretary and the amount awarded shall be paid from the permanent judgment appropriation under section 1304 of title 31, United States Code.".

(b) OBLIGATIONS AND EXPENDITURES.—Section 106(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v-4(e)) is amended by adding at the end the following:

"(4) OBLIGATIONS AND EXPENDITURES.—Subject to the laws applicable to Government corporations, the Trust shall determine—

"(A) the character of, and the necessity for, any obligations and expenditures of the Trust; and

"(B) the manner in which obligations and expenditures shall be incurred, allowed, and paid.".

(c) SOLICITATION OF DONATIONS.—Section 106(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v-4(g)) is amended by striking "The Trust may solicit" and inserting "The members of the Board of Trustees, the executive director, and 1 additional employee of the Trust in an executive position designated by the Board of Trustees or the executive director may solicit".

(d) USE OF PROCEEDS.—Section 106(h)(1) of the Valles Caldera Preservation Act (16 U.S.C. 698v-4(h)(1)) is amended by striking "subsection (g)" and inserting "subsection (g), from claims, judgments, or settlements arising from activities occurring on the Baca Ranch or the Preserve after October 27, 1999,".

SEC. 3. BOARD OF TRUSTEES.

Section 107(e) of the Valles Caldera Preservation Act (U.S.C. 698v-5(e)) is amended—

(1) in paragraph (2), by striking "Trustees" and inserting "Except as provided in paragraph (3), trustees"; and

(2) in paragraph (3)—

(A) by striking "Trustees" and inserting the following:

"(A) SELECTION.—Trustees"; and

(B) by adding at the end the following:

"(B) COMPENSATION.—On request of the chair, the chair may be compensated at a rate determined by the Board of Trustees, but not to exceed the daily equivalent of the annual rate of pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) in which the chair is engaged in the performance of duties of the Board of Trustees.

"(C) MAXIMUM RATE OF PAY.—The total amount of compensation paid to the chair for a fiscal year under subparagraph (B) shall not exceed 25 percent of the annual rate of pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code.".

SEC. 4. RESOURCE MANAGEMENT.

(a) PROPERTY DISPOSAL LIMITATIONS.—Section 108(c)(3) of the Valles Caldera Preservation Act (16 U.S.C. 698v-6(c)(3)) is amended—

(1) in the first sentence, by striking "The Trust may not dispose" and inserting the following:

"(A) IN GENERAL.—The Trust may not dispose";

(2) in the second sentence, by striking "The Trust" and inserting the following:

"(B) MAXIMUM DURATION.—The Trust";

(3) in the last sentence, by striking "Any such" and inserting the following:

"(C) TERMINATION.—The"; and

(4) by adding at the end the following:

"(D) EXCLUSIONS.—For the purposes of this paragraph, the disposal of real property does not include the sale or other disposal of forage, forest products, or marketable renewable resources.".

(b) LAW ENFORCEMENT AND FIRE MANAGEMENT.—Section 108(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v-6(g)) is amended—

(1) in the first sentence, by striking "The Secretary" and inserting the following:

"(1) LAW ENFORCEMENT.—

"(A) IN GENERAL.—The Secretary";

(2) in the second sentence, by striking "The Trust" and inserting the following:

"(B) FEDERAL AGENCY.—The Trust"; and

(3) by striking "At the request of the Trust" and all that follows through the end of the paragraph and inserting the following:

"(2) FIRE MANAGEMENT.—

"(A) NON-REIMBURSABLE SERVICES.—

"(i) DEVELOPMENT OF PLAN.—The Secretary shall, in consultation with the Trust, develop a plan to carry out fire preparedness, suppression, and emergency rehabilitation services on the Preserve.

"(ii) CONSISTENCY WITH MANAGEMENT PROGRAM.—The plan shall be consistent with the management program developed pursuant to subsection (d).

"(iii) COOPERATIVE AGREEMENT.—To the extent generally authorized at other units of the National Forest System, the Secretary shall provide the services to be carried out pursuant to the plan under a cooperative agreement entered into between the Secretary and the Trust.

"(B) REIMBURSABLE SERVICES.—To the extent generally authorized at other units of the National Forest System, the Secretary may provide presuppression and nonemergency rehabilitation and restoration services for the Trust at any time on a reimbursable basis.".

FEDERAL LAND RECREATIONAL VISITOR PROTECTION ACT OF 2005

The Senate proceeded to consider the bill (S. 225) to direct the Secretary of the Interior to undertake a program to reduce the risks from and mitigate the effects of avalanches on recreational users of public land, which had been reported from the Committee on Energy and Natural Resources, with an amendment.

(Strike the part shown in black brackets and insert the part printed in italic.)

S. 225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Federal Land Recreational Visitor Protection Act of 2005".

[SEC. 2. DEFINITIONS.

[In this Act:

[(1) PROGRAM.—The term "program" means the avalanche protection program established under section 3(a).

[(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[SEC. 3. AVALANCHE PROTECTION PROGRAM.

[(a) ESTABLISHMENT.—The Secretary shall establish a coordinated avalanche protection program—

[(1) to provide early identification of the potential for avalanches that could endanger the safety of recreational users of public land, including skiers, backpackers, snowboarders, and campers and visitors to units of the National Park System; and

[(2) to reduce the risks and mitigate the effects of avalanches on visitors, recreational users, neighboring communities, and transportation corridors.

[(b) COORDINATION.—

[(1) IN GENERAL.—In developing and implementing the program, the Secretary shall consult with the Secretary of Agriculture, and coordinate the program, to ensure adequate levels of protection for recreational users of public land under the jurisdiction of the Secretary, including units of the National Park System, National Recreation Areas, wilderness and backcountry areas, components of the National Wild and Scenic Rivers System, and other areas that are subject to the potential threat of avalanches.

[(2) RESOURCES.—In carrying out this section, the Secretary and the Secretary of Agriculture—

[(A) shall, to the maximum extent practicable, use the resources of the National Avalanche Center of the Forest Service; and

[(B) may use such other resources as the Secretary has available in the development and implementation of the program.

[(c) ADVISORY COMMITTEE.—

[(1) IN GENERAL.—The Secretary and the Secretary of Agriculture shall jointly establish an advisory committee to assist in the development and implementation of the program.

[(2) MEMBERSHIP.—

[(A) IN GENERAL.—The Advisory Committee shall consist of 11 members, appointed by the Secretaries, who represent authorized users of artillery, other military weapons, or weapons alternatives used for avalanche control.

[(B) REPRESENTATIVES.—The membership of the Advisory Committee shall include representatives of—

[(i) Federal land management agencies and concessionaires or permittees that are exposed to the threat of avalanches;

[(ii) State departments of transportation that have experience in dealing with the effects of avalanches; and

[(iii) Federal- or State-owned railroads that have experience in dealing with the effects of avalanches.

[(d) CENTRAL DEPOSITORY.—The Secretary, the Secretary of Agriculture, and the Secretary of the Army shall establish a central depository for weapons, ammunition, and parts for avalanche control purposes, including an inventory that can be made available to Federal and non-Federal entities for avalanche control purposes under the program.

[(e) GRANTS.—

[(1) IN GENERAL.—The Secretary and the Secretary of Agriculture may make grants to carry out projects and activities under the program—

[(A) to assist in the prevention, forecasting, detection, and mitigation of avalanches for the safety and protection of persons, property, and at-risk communities;

[(B) to maintain essential transportation and communications affected or potentially affected by avalanches;

[(C) to assist avalanche artillery users to ensure the availability of adequate supplies of artillery and other unique explosives required for avalanche control in or affecting—

[(i) units of the National Park System; and

[(ii) other Federal land used for recreation purposes; and

[(iii) adjacent communities, and essential transportation corridors, that are at risk of avalanches; and

[(D) to assist public or private persons and entities in conducting research and development activities for cost-effective and reliable alternatives to minimize reliance on military weapons for avalanche control.

[(2) PRIORITY.—For each fiscal year for which funds are made available under section 4, the Secretary shall give priority to projects and activities carried out in avalanche zones—

[(A) with a high frequency or severity of avalanches; or

[(B) in which deaths or serious injuries to individuals, or loss or damage to public facilities and communities, have occurred or are likely to occur.

[(f) SURPLUS ORDINANCE.—Section 549(c)(3) of title 40, United States Code, is amended—

[(1) in subparagraph (A), by striking "or" after the semicolon at the end;

[(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

[(3) by adding at the end the following:

["(C) in the case of surplus artillery ordinance that is suitable for avalanche control purposes, to a user of such ordinance.".

[SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

[There is authorized to be appropriated to carry out this Act $15,000,000 for each of fiscal years 2006 through 2010.]

SEC. 1. SHORT TITLE.

This Act may be cited as the "Federal Land Recreational Visitor Protection Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) PROGRAM.—The term "program" means the avalanche protection program established under section 3(a).

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 3. AVALANCHE PROTECTION PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of the Interior, shall establish a coordinated avalanche protection program—

(1) to provide early identification of the potential for avalanches that could endanger the safety of recreational users of public land, including skiers, backpackers, snowboarders, and campers and visitors to units of the National Park System; and

(2) to reduce the risks and mitigate the effects of avalanches on visitors, recreational users, neighboring communities, and transportation corridors.

(b) COORDINATION.—

(1) IN GENERAL.—In developing and implementing the program, the Secretary shall consult with the Secretary of the Interior, and coordinate the program, to ensure adequate levels of protection for recreational users of public land under the jurisdiction of the Secretary of the Interior, including units of the National Park System, National Recreation Areas, wilderness and backcountry areas, components of the National Wild and Scenic Rivers System, and other areas that are subject to the potential threat of avalanches.

(2) RESOURCES.—In carrying out this section, the Secretary and the Secretary of the Interior—

(A) shall, to the maximum extent practicable, use the resources of the National Avalanche Center of the Forest Service; and

(B) may use such other resources as the Secretary has available in the development and implementation of the program.

(c) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Secretary and the Secretary of the Interior shall jointly establish an advisory committee to assist in the development and implementation of the program.

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Advisory Committee shall consist of 11 members, appointed by the Secretaries, who represent authorized users of artillery, other military weapons, or weapons alternatives used for avalanche control.

(B) REPRESENTATIVES.—The membership of the Advisory Committee shall include representatives of—

(i) Federal land management agencies and concessionaires or permittees that are exposed to the threat of avalanches;

(ii) State departments of transportation that have experience in dealing with the effects of avalanches; and

(iii) Federal- or State-owned railroads that have experience in dealing with the effects of avalanches.

(d) CENTRAL DEPOSITORY.—The Secretary, the Secretary of the Interior, and the Secretary of the Army shall establish a central depository for weapons, ammunition, and parts for avalanche control purposes, including an inventory that can be made available to Federal and non-Federal entities for avalanche control purposes under the program.

(e) GRANTS.—

(1) IN GENERAL.—The Secretary and the Secretary of the Interior may make grants to carry out projects and activities under the program—

(A) to assist in the prevention, forecasting, detection, and mitigation of avalanches for the safety and protection of persons, property, and at-risk communities;

(B) to maintain essential transportation and communications affected or potentially affected by avalanches;

(C) to assist avalanche artillery users to ensure the availability of adequate supplies of artillery and other unique explosives required for avalanche control in or affecting—

(i) units of the National Park System; and

(ii) other Federal land used for recreation purposes; and

(iii) adjacent communities, and essential transportation corridors, that are at risk of avalanches; and

(D) to assist public or private persons and entities in conducting research and development activities for cost-effective and reliable alternatives to minimize reliance on military weapons for avalanche control.

(2) PRIORITY.—For each fiscal year for which funds are made available under section 4, the Secretary shall give priority to projects and activities carried out in avalanche zones—

(A) with a high frequency or severity of avalanches; or

(B) in which deaths or serious injuries to individuals, or loss or damage to public facilities and communities, have occurred or are likely to occur.

(f) SURPLUS ORDNANCE.—Section 549(c)(3) of title 40, United States Code, is amended—

(1) in subparagraph (A), by striking "or" after the semicolon at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) in the case of surplus artillery ordnance that is suitable for avalanche control purposes, to a user of such ordnance.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $15,000,000 for each of fiscal years 2006 through 2010.

Amend the title so as to read: "A bill to direct the Secretary of Agriculture to undertake a program to reduce the risks from and mitigate the effects of avalanches on recreational users of public land.".

The Committee amendment in the nature of a substitute was agreed to.

The bill (S. 225), as amended, was read the third time and passed.

OJITO WILDERNESS ACT

The Senate proceeded to consider the bill (S. 156) to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ojito Wilderness Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term "map" means the map entitled "Ojito Wilderness Act" and dated October 1, 2004.

(2) PUEBLO.—The term "Pueblo" means the Pueblo of Zia.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) STATE.—The term "State" means the State of New Mexico.

SEC. 3. DESIGNATION OF THE OJITO WILDERNESS.

(a) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), there is hereby designated as wilderness, and, therefore, as a component of the National Wilderness Preservation System, certain land in the Albuquerque District-Bureau of Land Management, New Mexico, which **[**comprise**]** *comprises* approximately 11,183 acres, as generally depicted on the map, and which shall be known as the "Ojito Wilderness".

(b) MAP AND LEGAL DESCRIPTION.—The map and a legal description of the wilderness area designated by this Act shall—

(1) be filed by the Secretary with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives as soon as practicable after the date of enactment of this Act;

(2) have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the legal description and map; and

(3) be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(c) MANAGEMENT OF WILDERNESS.—Subject to valid existing rights, the wilderness area designated by this Act shall be managed by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect to the wilderness area designated by this Act, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(d) MANAGEMENT OF NEWLY ACQUIRED LAND.—If acquired by the United States, the following land shall become part of the wilderness area designated by this Act and shall be managed in accordance with this Act and other applicable law:

(1) Section 12 of township 15 north, range 01 west, New Mexico Principal Meridian.

(2) Any land within the boundaries of the wilderness area designated by this Act.

(e) MANAGEMENT OF LANDS TO BE ADDED.—The lands generally depicted on the map as "Lands to be Added" shall become part of the wilderness area designated by this Act if the United States acquires, or alternative adequate access is available to, section 12 of township 15 north, range 01 west, *New Mexico Principal Meridian*.

(f) RELEASE.—The Congress hereby finds and directs that the lands generally depicted on the map as "Lands to be Released" have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) and no longer are subject to the requirement of section 603(c) of such Act (43 U.S.C. 1782(c)) pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

(g) GRAZING.—Grazing of livestock in the wilderness area designated by this Act, where established before the date of enactment of this Act, shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in Appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the One Hundred First Congress (H. Rept. 101-405).

(h) FISH AND WILDLIFE.—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this section shall be construed as affecting the jurisdiction or responsibilities of the State with respect to fish and wildlife in the State.

(i) WATER RIGHTS.—

(1) FINDINGS.—Congress finds that—

(A) the land designated as wilderness by this Act is arid in nature and is generally not suitable for use or development of new water resource facilities; and

(B) because of the unique nature and hydrology of the desert land designated as wilderness by this Act, it is possible to provide for proper management and protection of the wilderness and other values of lands in ways different from those used in other legislation.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act—

(A) shall constitute or be construed to constitute either an express or implied reservation by the United States of any water or water rights with respect to the land designated as wilderness by this Act;

(B) shall affect any water rights in the State existing on the date of enactment of this Act, including any water rights held by the United States;

(C) shall be construed as establishing a precedent with regard to any future wilderness designations;

(D) shall affect the interpretation of, or any designation made pursuant to, any other Act; or

(E) shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State and other States.

(3) STATE WATER LAW.—The Secretary shall follow the procedural and substantive requirements of the law of the State in order to obtain and hold any water rights not in existence on the date of enactment of this Act with respect to the wilderness area designated by this Act.

(4) NEW PROJECTS.—

(A) WATER RESOURCE FACILITY.—As used in this subsection, the term "water resource facility"—

(i) means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures; and

(ii) does not include wildlife guzzlers.

(B) RESTRICTION ON NEW WATER RESOURCE FACILITIES.—Except as otherwise provided in this Act, on and after the date of enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the wilderness area designated by this Act.

(j) WITHDRAWAL.—Subject to valid existing rights, the wilderness area designated by this Act, the lands to be added under subsection (e), and lands identified on the map as the "BLM Lands Authorized to be Acquired by the Pueblo of Zia" are withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(k) EXCHANGE.—Not later than 3 years after the date of enactment of this Act, the Secretary shall seek to complete an exchange for State land within the boundaries of the wilderness area designated by this Act.

SEC. 4. LAND HELD IN TRUST.

(a) IN GENERAL.—Subject to valid existing rights and the conditions under subsection (d), all right, title, and interest of the United States in and to the lands (including improvements, appurtenances, and mineral rights to the lands) generally depicted on the map as "BLM Lands Authorized to be Acquired by the Pueblo of Zia" shall, on receipt of consideration under subsection (c) and adoption and approval of regulations under subsection (d), be declared by the Secretary to be held in trust by the United States for the Pueblo and shall be part of the Pueblo's Reservation.

(b) DESCRIPTION OF LANDS.—The boundary of the lands authorized by this section for acquisition by the Pueblo where generally depicted on the map as immediately adjacent to CR906, CR923, and Cucho Arroyo Road shall be 100 feet from the center line of the road.

(c) CONSIDERATION.—

(1) IN GENERAL.—In consideration for the conveyance authorized under subsection (a), the Pueblo shall pay to the Secretary the amount that is equal to the fair market value of the land conveyed, as subject to the terms and conditions in subsection (d), as determined by an independent appraisal.

(2) APPRAISAL.—To determine the fair market value, the Secretary shall conduct an appraisal paid for by the Pueblo that is performed in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(3) AVAILABILITY.—Any amounts paid under paragraph (1) shall be available to the Secretary, without further appropriation and until expended, for the acquisition from willing sellers of land or interests in land in the State.

(d) PUBLIC ACCESS.—

(1) In General.—Subject to paragraph (2), the declaration of trust and conveyance under subsection (a) shall be subject to the continuing right of the public to access the land for recreational, scenic, scientific, educational, paleontological, and conservation uses, subject to any regulations for land management and the preservation, protection, and enjoyment of the natural characteristics of the land that are adopted by the Pueblo and approved by the Secretary: *Provided*, That the Secretary shall ensure that the rights provided for in this paragraph are protected and that a process for resolving any complaints by an aggrieved party is established.

(2) Conditions.—Except as provided in **[**subsection (f)**]** *subsection (e)*—

(A) the land conveyed under subsection (a) shall be maintained as open space and the natural characteristics of the land shall be preserved in perpetuity; and

(B) the use of motorized vehicles (except on existing roads or as is necessary for the maintenance and repair of facilities used in connection with grazing operations), mineral extraction, housing, gaming, and other commercial enterprises shall be prohibited within the boundaries of the land conveyed under subsection (a).

(e) Rights of Way.—

(1) Existing rights of way.—Nothing in this section shall affect—

(A) any validly issued right-of-way or the renewal thereof; or

(B) the access for customary construction, operation, maintenance, repair, and replacement activities in any right-of-way issued, granted, or permitted by the Secretary.

(2) New rights of way and renewals.—

(A) In general.—The Pueblo shall grant any reasonable request for rights-of-way for utilities and pipelines over the land acquired under subsection (a) that is designated as the "Rights-of-Way corridor #1" in the Rio Puerco Resource Management Plan that is in effect on the date of the grant.

(B) Administration.—Any right-of-way issued or renewed after the date of enactment of this Act located on land authorized to be acquired under this section shall be administered in accordance with the rules, regulations, and fee payment schedules of the Department of the Interior, including the Rio Puerco Resources Management Plan that is in effect on the date of issuance or renewal of the right-of-way.

(f) Judicial Relief.—

(1) In general.—To enforce subsection (d), any person may bring a civil action in the United States District Court for the District of New Mexico seeking declaratory or injunctive relief.

(2) Sovereign immunity.—The Pueblo shall not assert sovereign immunity as a defense or bar to a civil action brought under paragraph (1).

(3) Effect.—Nothing in this section—

(A) authorizes a civil action against the Pueblo for money damages, costs, or attorneys fees; or

(B) except as provided in paragraph (2), abrogates the sovereign immunity of the Pueblo.

The committee amendments were agreed to.

The bill (S. 156), as amended, was read the third time and passed, as follows:

S. 156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ojito Wilderness Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) Map.—The term "map" means the map entitled "Ojito Wilderness Act" and dated October 1, 2004.

(2) Pueblo.—The term "Pueblo" means the Pueblo of Zia.

(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

(4) State.—The term "State" means the State of New Mexico.

SEC. 3. DESIGNATION OF THE OJITO WILDERNESS.

(a) In General.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), there is hereby designated as wilderness, and, therefore, as a component of the National Wilderness Preservation System, certain land in the Albuquerque District-Bureau of Land Management, New Mexico, which comprises approximately 11,183 acres, as generally depicted on the map, and which shall be known as the "Ojito Wilderness".

(b) Map and Legal Description.—The map and a legal description of the wilderness area designated by this Act shall—

(1) be filed by the Secretary with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives as soon as practicable after the date of enactment of this Act;

(2) have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the legal description and map; and

(3) be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(c) Management of Wilderness.—Subject to valid existing rights, the wilderness area designated by this Act shall be managed by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect to the wilderness area designated by this Act, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(d) Management of Newly Acquired Land.—If acquired by the United States, the following land shall become part of the wilderness area designated by this Act and shall be managed in accordance with this Act and other applicable law:

(1) Section 12 of township 15 north, range 01 west, New Mexico Principal Meridian.

(2) Any land within the boundaries of the wilderness area designated by this Act.

(e) Management of Lands to Be Added.—The lands generally depicted on the map as "Lands to be Added" shall become part of the wilderness area designated by this Act if the United States acquires, or alternative adequate access is available to, section 12 of township 15 north, range 01 west, New Mexico Principal Meridian.

(f) Release.—The Congress hereby finds and directs that the lands generally depicted on the map as "Lands to be Released" have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) and no longer are subject to the requirement of section 603(c) of such Act (43 U.S.C. 1782(c)) pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

(g) Grazing.—Grazing of livestock in the wilderness area designated by this Act, where established before the date of enactment of this Act, shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in Appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the One Hundred First Congress (H. Rept. 101–405).

(h) Fish and Wildlife.—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this section shall be construed as affecting the jurisdiction or responsibilities of the State with respect to fish and wildlife in the State.

(i) Water Rights.—

(1) Findings.—Congress finds that—

(A) the land designated as wilderness by this Act is arid in nature and is generally not suitable for use or development of new water resource facilities; and

(B) because of the unique nature and hydrology of the desert land designated as wilderness by this Act, it is possible to provide for proper management and protection of the wilderness and other values of lands in ways different from those used in other legislation.

(2) Statutory construction.—Nothing in this Act—

(A) shall constitute or be construed to constitute either an express or implied reservation by the United States of any water or water rights with respect to the land designated as wilderness by this Act;

(B) shall affect any water rights in the State existing on the date of enactment of this Act, including any water rights held by the United States;

(C) shall be construed as establishing a precedent with regard to any future wilderness designations;

(D) shall affect the interpretation of, or any designation made pursuant to, any other Act; or

(E) shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State and other States.

(3) State water law.—The Secretary shall follow the procedural and substantive requirements of the law of the State in order to obtain and hold any water rights not in existence on the date of enactment of this Act with respect to the wilderness area designated by this Act.

(4) New projects.—

(A) Water resource facility.—As used in this subsection, the term "water resource facility"—

(i) means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures; and

(ii) does not include wildlife guzzlers.

(B) Restriction on new water resource facilities.—Except as otherwise provided in this Act, on and after the date of enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the wilderness area designated by this Act.

(j) Withdrawal.—Subject to valid existing rights, the wilderness area designated by this Act, the lands to be added under subsection (e), and lands identified on the map as the "BLM Lands Authorized to be Acquired by the Pueblo of Zia" are withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(k) EXCHANGE.—Not later than 3 years after the date of enactment of this Act, the Secretary shall seek to complete an exchange for State land within the boundaries of the wilderness area designated by this Act.

SEC. 4. LAND HELD IN TRUST.

(a) IN GENERAL.—Subject to valid existing rights and the conditions under subsection (d), all right, title, and interest of the United States in and to the lands (including improvements, appurtenances, and mineral rights to the lands) generally depicted on the map as "BLM Lands Authorized to be Acquired by the Pueblo of Zia" shall, on receipt of consideration under subsection (c) and adoption and approval of regulations under subsection (d), be declared by the Secretary to be held in trust by the United States for the Pueblo and shall be part of the Pueblo's Reservation.

(b) DESCRIPTION OF LANDS.—The boundary of the lands authorized by this section for acquisition by the Pueblo where generally depicted on the map as immediately adjacent to CR906, CR923, and Cucho Arroyo Road shall be 100 feet from the center line of the road.

(c) CONSIDERATION.—

(1) IN GENERAL.—In consideration for the conveyance authorized under subsection (a), the Pueblo shall pay to the Secretary the amount that is equal to the fair market value of the land conveyed, as subject to the terms and conditions in subsection (d), as determined by an independent appraisal.

(2) APPRAISAL.—To determine the fair market value, the Secretary shall conduct an appraisal paid for by the Pueblo that is performed in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(3) AVAILABILITY.—Any amounts paid under paragraph (1) shall be available to the Secretary, without further appropriation and until expended, for the acquisition from willing sellers of land or interests in land in the State.

(d) PUBLIC ACCESS.—

(1) IN GENERAL.—Subject to paragraph (2), the declaration of trust and conveyance under subsection (a) shall be subject to the continuing right of the public to access the land for recreational, scenic, scientific, educational, paleontological, and conservation uses, subject to any regulations for land management and the preservation, protection, and enjoyment of the natural characteristics of the land that are adopted by the Pueblo and approved by the Secretary: *Provided*, That the Secretary shall ensure that the rights provided for in this paragraph are protected and that a process for resolving any complaints by an aggrieved party is established.

(2) CONDITIONS.—Except as provided in subsection (e)—

(A) the land conveyed under subsection (a) shall be maintained as open space and the natural characteristics of the land shall be preserved in perpetuity; and

(B) the use of motorized vehicles (except on existing roads or as is necessary for the maintenance and repair of facilities used in connection with grazing operations), mineral extraction, housing, gaming, and other commercial enterprises shall be prohibited within the boundaries of the land conveyed under subsection (a).

(e) RIGHTS OF WAY.—

(1) EXISTING RIGHTS OF WAY.—Nothing in this section shall affect—

(A) any validly issued right-of-way or the renewal thereof; or

(B) the access for customary construction, operation, maintenance, repair, and replacement activities in any right-of-way issued, granted, or permitted by the Secretary.

(2) NEW RIGHTS OF WAY AND RENEWALS.—

(A) IN GENERAL.—The Pueblo shall grant any reasonable request for rights-of-way for utilities and pipelines over the land acquired under subsection (a) that is designated as the "Rights-of-Way corridor #1" in the Rio Puerco Resource Management Plan that is in effect on the date of the grant.

(B) ADMINISTRATION.—Any right-of-way issued or renewed after the date of enactment of this Act located on land authorized to be acquired under this section shall be administered in accordance with the rules, regulations, and fee payment schedules of the Department of the Interior, including the Rio Puerco Resources Management Plan that is in effect on the date of issuance or renewal of the right-of-way.

(f) JUDICIAL RELIEF.—

(1) IN GENERAL.—To enforce subsection (d), any person may bring a civil action in the United States District Court for the District of New Mexico seeking declaratory or injunctive relief.

(2) SOVEREIGN IMMUNITY.—The Pueblo shall not assert sovereign immunity as a defense or bar to a civil action brought under paragraph (1).

(3) EFFECT.—Nothing in this section—

(A) authorizes a civil action against the Pueblo for money damages, costs, or attorneys fees; or

(B) except as provided in paragraph (2), abrogates the sovereign immunity of the Pueblo.

NEW MEXICO WATER PLANNING ASSISTANCE ACT

The bill (S. 178) to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes, was read the third time and passed, as follows:

S. 178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Mexico Water Planning Assistance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey.

(2) STATE.—The term "State" means the State of New Mexico.

SEC. 3. COMPREHENSIVE WATER PLAN ASSISTANCE.

(a) IN GENERAL.—Upon the request of the Governor of the State and subject to subsections (b) through (f), the Secretary shall—

(1) provide to the State technical assistance and grants for the development of comprehensive State water plans;

(2) conduct water resources mapping in the State; and

(3) conduct a comprehensive study of groundwater resources (including potable, brackish, and saline water resources) in the State to assess the quantity, quality, and interaction of groundwater and surface water resources.

(b) TECHNICAL ASSISTANCE.—Technical assistance provided under subsection (a) may include—

(1) acquisition of hydrologic data, groundwater characterization, database development, and data distribution;

(2) expansion of climate, surface water, and groundwater monitoring networks;

(3) assessment of existing water resources, surface water storage, and groundwater storage potential;

(4) numerical analysis and modeling necessary to provide an integrated understanding of water resources and water management options;

(5) participation in State planning forums and planning groups;

(6) coordination of Federal water management planning efforts;

(7) technical review of data, models, planning scenarios, and water plans developed by the State; and

(8) provision of scientific and technical specialists to support State and local activities.

(c) ALLOCATION.—In providing grants under subsection (a), the Secretary shall, subject to the availability of appropriations, allocate—

(1) $5,000,000 to develop hydrologic models and acquire associated equipment for the New Mexico Rio Grande main stem sections and Rios Pueblo de Taos and Hondo, Rios Nambe, Pojoaque and Teseque, Rio Chama, and Lower Rio Grande tributaries;

(2) $1,500,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for the San Juan River and tributaries;

(3) $1,000,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for Southwest New Mexico, including the Animas Basin, the Gila River, and tributaries;

(4) $4,500,000 for statewide digital orthophotography mapping; and

(5) such sums as are necessary to carry out additional projects consistent with subsection (b).

(d) COST-SHARING REQUIREMENT.—

(1) IN GENERAL.—The non-Federal share of the total cost of any activity carried out using a grant provided under subsection (a) shall be 50 percent.

(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share under paragraph (1) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the activity assisted.

(e) NON-REIMBURSABLE BASIS.—Any assistance or grants provided to the State under this Act shall be made on a non-reimbursable basis.

(f) AUTHORIZED TRANSFERS.—On request of the State, the Secretary shall directly transfer to 1 or more Federal agencies any amounts made available to the State to carry out this Act.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $3,000,000 for each of fiscal years 2006 through 2010.

UNITED STATES-MEXICO TRANSBOUNDARY AQUIFER ASSESSMENT ACT

The Senate proceeded to consider the bill (S. 214) to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes.

S. 214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Mexico Transboundary Aquifer Assessment Act".

SEC. 2. PURPOSE.

The purpose of this Act is to direct the Secretary of the Interior to establish a United States-Mexico transboundary aquifer assessment program to—

(1) systematically assess priority transboundary aquifers; and

(2) provide the scientific foundation necessary for State and local officials to address pressing water resource challenges in the United States-Mexico border region.

SEC. 3. DEFINITIONS.

In this Act:

(1) AQUIFER.—The term "aquifer" means a subsurface water-bearing geologic formation from which significant quantities of water may be extracted.

(2) BORDER STATE.—The term "Border State" means each of the States of Arizona, California, New Mexico, and Texas.

(3) INDIAN TRIBE.—The term "Indian tribe" means an Indian tribe, band, nation, or other organized group or community—

(A) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(B) the reservation of which includes a transboundary aquifer within the exterior boundaries of the reservation.

(4) PRIORITY TRANSBOUNDARY AQUIFER.—The term "priority transboundary aquifer" means a transboundary aquifer that has been designated for study and analysis under the program.

(5) PROGRAM.—The term "program" means the United States-Mexico transboundary aquifer assessment program established under section 4(a).

(6) RESERVATION.—The term "reservation" means land that has been set aside or that has been acknowledged as having been set aside by the United States for the use of an Indian tribe, the exterior boundaries of which are more particularly defined in a final tribal treaty, agreement, executive order, Federal statute, secretarial order, or judicial determination.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(8) TRANSBOUNDARY AQUIFER.—The term "transboundary aquifer" means an aquifer that underlies the boundary between the United States and Mexico.

(9) TRI-REGIONAL PLANNING GROUP.—The term "Tri-Regional Planning Group" means the binational planning group comprised of—

(A) the Junta Municipal de Agua y Saneamiento de Ciudad Juarez;

(B) the El Paso Water Utilities Public Service Board; and

(C) the Lower Rio Grande Water Users Organization.

(10) WATER RESOURCES RESEARCH INSTITUTES.—The term "water resources research institutes" means the institutes within the Border States established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

SEC. 4. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation and cooperation with the Border States, the water resources research institutes, Sandia National Laboratories, and other appropriate entities in the United States and Mexico, shall carry out the United States-Mexico transboundary aquifer assessment program to characterize, map, and model transboundary groundwater resources along the United States-Mexico border at a level of detail determined to be appropriate for the particular aquifer.

(b) OBJECTIVES.—The objectives of the program are to—

(1) develop and implement an integrated scientific approach to assess transboundary groundwater resources, including—

(A)(i) identifying fresh and saline transboundary aquifers; and

(ii) prioritizing the transboundary aquifers for further analysis by assessing—

(I) the proximity of the transboundary aquifer to areas of high population density;

(II) the extent to which the transboundary aquifer is used;

(III) the susceptibility of the transboundary aquifer to contamination; and

(IV) any other relevant criteria;

(B) evaluating all available data and publications as part of the development of study plans for each priority transboundary aquifer;

(C) creating a new, or enhancing an existing, geographic information system database to characterize the spatial and temporal aspects of each priority transboundary aquifer; and

(D) using field studies, including support for and expansion of ongoing monitoring and metering efforts, to develop—

(i) the additional data necessary to adequately define aquifer characteristics; and

(ii) scientifically sound groundwater flow models to assist with State and local water management and administration, including modeling of relevant groundwater and surface water interactions;

(2) expand existing agreements, as appropriate, between the United States Geological Survey, the Border States, the water resources research institutes, and appropriate authorities in the United States and Mexico, to—

(A) conduct joint scientific investigations;

(B) archive and share relevant data; and

(C) carry out any other activities consistent with the program; and

(3) produce scientific products for each priority transboundary aquifer that—

(A) are capable of being broadly distributed; and

(B) provide the scientific information needed by water managers and natural resource agencies on both sides of the United States-Mexico border to effectively accomplish the missions of the managers and agencies.

(c) DESIGNATION OF PRIORITY TRANSBOUNDARY AQUIFERS.—

(1) IN GENERAL.—For purposes of the program, the Secretary shall designate as priority transboundary aquifers—

(A) the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico; and

(B) the Santa Cruz River Valley aquifers underlying Arizona and Sonora, Mexico.

(2) ADDITIONAL AQUIFERS.—The Secretary shall, using the criteria under subsection (b)(1)(A)(ii), evaluate and designate additional priority transboundary aquifers.

(d) COOPERATION WITH MEXICO.—To ensure a comprehensive assessment of transboundary aquifers, the Secretary shall, to the maximum extent practicable, work with appropriate Federal agencies and other organizations to develop partnerships with, and receive input from, relevant organizations in Mexico to carry out the program.

(e) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may provide grants or enter into cooperative agreements and other agreements with the water resources research institutes and other Border State entities to carry out the program.

SEC. 5. IMPLEMENTATION OF PROGRAM.

(a) COORDINATION WITH STATES, TRIBES, AND OTHER ENTITIES.—The Secretary shall coordinate the activities carried out under the program with—

(1) the appropriate water resource agencies in the Border States;

(2) any affected Indian tribes; and

(3) any other appropriate entities that are conducting monitoring and metering activity with respect to a priority transboundary aquifer.

(b) NEW ACTIVITY.—After the date of enactment of this Act, the Secretary shall not initiate any new field studies or analyses under the program before consulting with, and coordinating the activity with, any Border State water resource agencies that have jurisdiction over the aquifer.

(c) STUDY PLANS; COST ESTIMATES.—

(1) IN GENERAL.—The Secretary shall work closely with appropriate Border State water resource agencies, water resources research institutes, and other relevant entities to develop a study plan, timeline, and cost estimate for each priority transboundary aquifer to be studied under the program.

(2) REQUIREMENTS.—A study plan developed under paragraph (1) shall, to the maximum extent practicable—

(A) integrate existing data collection and analyses conducted with respect to the priority transboundary aquifer;

(B) if applicable, improve and strengthen existing groundwater flow models developed for the priority transboundary aquifer; and

(C) be consistent with appropriate State guidelines and goals.

SEC. 6. EFFECT.

Nothing in this Act affects—

(1) the jurisdiction or responsibility of a Border State with respect to managing surface or groundwater resources in the Border State; or

(2) the water rights of any person or entity using water from a transboundary aquifer.

SEC. 7. REPORTS.

Not later than 5 years after the date of enactment of this Act, and on completion of the program in fiscal year 2014, the Secretary shall submit to the appropriate water resource agency in the Border States, an interim and final report, respectively, that describes—

(1) any activities carried out under the program;

(2) any conclusions of the Secretary relating to the status of transboundary aquifers; and

(3) the level of participation in the program of entities in Mexico.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act

$50,000,000 for the period of fiscal years 2006 through 2015.

(b) Distribution of Funds.—Of the amounts made available under subsection (a), 50 percent shall be made available to the water resources research institutes to provide funding to appropriate entities in the Border States (including Sandia National Laboratories, State agencies, universities, the Tri-Regional Planning Group, and other relevant organizations) and Mexico to conduct activities under the program, including the binational collection and exchange of scientific data.

The amendment (No. 1585) was agreed to, as follows:

(Purpose: To designate the San Pedro aquifers as priority transboundary aquifers)

On page 7, strike lines 15 through 19 and insert the following:

(A) the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico;

(B) the Santa Cruz River Valley aquifers underlying Arizona and Sonora, Mexico; and

(C) the San Pedro aquifers underlying Arizona and Sonora, Mexico.

The bill (S. 214), as amended, was read the third time and passed, as follows:

S. 214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Mexico Transboundary Aquifer Assessment Act".

SEC. 2. PURPOSE.

The purpose of this Act is to direct the Secretary of the Interior to establish a United States-Mexico transboundary aquifer assessment program to—

(1) systematically assess priority transboundary aquifers; and

(2) provide the scientific foundation necessary for State and local officials to address pressing water resource challenges in the United States-Mexico border region.

SEC. 3. DEFINITIONS.

In this Act:

(1) Aquifer.—The term "aquifer" means a subsurface water-bearing geologic formation from which significant quantities of water may be extracted.

(2) Border State.—The term "Border State" means each of the States of Arizona, California, New Mexico, and Texas.

(3) Indian tribe.—The term "Indian tribe" means an Indian tribe, band, nation, or other organized group or community—

(A) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(B) the reservation of which includes a transboundary aquifer within the exterior boundaries of the reservation.

(4) Priority transboundary aquifer.—The term "priority transboundary aquifer" means a transboundary aquifer that has been designated for study and analysis under the program.

(5) Program.—The term "program" means the United States-Mexico transboundary aquifer assessment program established under section 4(a).

(6) Reservation.—The term "reservation" means land that has been set aside or that has been acknowledged as having been set aside by the United States for the use of an Indian tribe, the exterior boundaries of which are more particularly defined in a final tribal treaty, agreement, executive order, Federal statute, secretarial order, or judicial determination.

(7) Secretary.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(8) Transboundary aquifer.—The term "transboundary aquifer" means an aquifer that underlies the boundary between the United States and Mexico.

(9) Tri-regional planning group.—The term "Tri-Regional Planning Group" means the binational planning group comprised of—

(A) the Junta Municipal de Agua y Saneamiento de Ciudad Juarez;

(B) the El Paso Water Utilities Public Service Board; and

(C) the Lower Rio Grande Water Users Organization.

(10) Water resources research institutes.—The term "water resources research institutes" means the institutes within the Border States established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

SEC. 4. ESTABLISHMENT OF PROGRAM.

(a) In General.—The Secretary, in consultation and cooperation with the Border States, the water resources research institutes, Sandia National Laboratories, and other appropriate entities in the United States and Mexico, shall carry out the United States-Mexico transboundary aquifer assessment program to characterize, map, and model transboundary groundwater resources along the United States-Mexico border at a level of detail determined to be appropriate for the particular aquifer.

(b) Objectives.—The objectives of the program are to—

(1) develop and implement an integrated scientific approach to assess transboundary groundwater resources, including—

(A)(i) identifying fresh and saline transboundary aquifers; and

(ii) prioritizing the transboundary aquifers for further analysis by assessing—

(I) the proximity of the transboundary aquifer to areas of high population density;

(II) the extent to which the transboundary aquifer is used;

(III) the susceptibility of the transboundary aquifer to contamination; and

(IV) any other relevant criteria;

(B) evaluating all available data and publications as part of the development of study plans for each priority transboundary aquifer;

(C) creating a new, or enhancing an existing, geographic information system database to characterize the spatial and temporal aspects of each priority transboundary aquifer; and

(D) using field studies, including support for and expansion of ongoing monitoring and metering efforts, to develop—

(i) the additional data necessary to adequately define aquifer characteristics; and

(ii) scientifically sound groundwater flow models to assist with State and local water management and administration, including modeling of relevant groundwater and surface water interactions;

(2) expand existing agreements, as appropriate, between the United States Geological Survey, the Border States, the water resources research institutes, and appropriate authorities in the United States and Mexico, to—

(A) conduct joint scientific investigations;

(B) archive and share relevant data; and

(C) carry out any other activities consistent with the program; and

(3) produce scientific products for each priority transboundary aquifer that—

(A) are capable of being broadly distributed; and

(B) provide the scientific information needed by water managers and natural resource agencies on both sides of the United States-Mexico border to effectively accomplish the missions of the managers and agencies.

(c) Designation of Priority Transboundary Aquifers.—

(1) In general.—For purposes of the program, the Secretary shall designate as priority transboundary aquifers—

(A) the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico;

(B) the Santa Cruz River Valley aquifers underlying Arizona and Sonora, Mexico; and

(C) the San Pedro aquifers underlying Arizona and Sonora, Mexico.

(2) Additional aquifers.—The Secretary shall, using the criteria under subsection (b)(1)(A)(ii), evaluate and designate additional priority transboundary aquifers.

(d) Cooperation With Mexico.—To ensure a comprehensive assessment of transboundary aquifers, the Secretary shall, to the maximum extent practicable, work with appropriate Federal agencies and other organizations to develop partnerships with, and receive input from, relevant organizations in Mexico to carry out the program.

(e) Grants and Cooperative Agreements.—The Secretary may provide grants or enter into cooperative agreements and other agreements with the water resources research institutes and other Border State entities to carry out the program.

SEC. 5. IMPLEMENTATION OF PROGRAM.

(a) Coordination With States, Tribes, and Other Entities.—The Secretary shall coordinate the activities carried out under the program with—

(1) the appropriate water resource agencies in the Border States;

(2) any affected Indian tribes; and

(3) any other appropriate entities that are conducting monitoring and metering activity with respect to a priority transboundary aquifer.

(b) New Activity.—After the date of enactment of this Act, the Secretary shall not initiate any new field studies or analyses under the program before consulting with, and coordinating the activity with, any Border State water resource agencies that have jurisdiction over the aquifer.

(c) Study Plans; Cost Estimates.—

(1) In general.—The Secretary shall work closely with appropriate Border State water resource agencies, water resources research institutes, and other relevant entities to develop a study plan, timeline, and cost estimate for each priority transboundary aquifer to be studied under the program.

(2) Requirements.—A study plan developed under paragraph (1) shall, to the maximum extent practicable—

(A) integrate existing data collection and analyses conducted with respect to the priority transboundary aquifer;

(B) if applicable, improve and strengthen existing groundwater flow models developed for the priority transboundary aquifer; and

(C) be consistent with appropriate State guidelines and goals.

SEC. 6. EFFECT.

Nothing in this Act affects—

(1) the jurisdiction or responsibility of a Border State with respect to managing surface or groundwater resources in the Border State; or

(2) the water rights of any person or entity using water from a transboundary aquifer.

SEC. 7. REPORTS.

Not later than 5 years after the date of enactment of this Act, and on completion of the program in fiscal year 2014, the Secretary shall submit to the appropriate water resource agency in the Border States, an interim and final report, respectively, that describes—

(1) any activities carried out under the program;

(2) any conclusions of the Secretary relating to the status of transboundary aquifers; and

(3) the level of participation in the program of entities in Mexico.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated to carry out this Act $50,000,000 for the period of fiscal years 2006 through 2015.

(b) Distribution of Funds.—Of the amounts made available under subsection (a), 50 percent shall be made available to the water resources research institutes to provide funding to appropriate entities in the Border States (including Sandia National Laboratories, State agencies, universities, the Tri-Regional Planning Group, and other relevant organizations) and Mexico to conduct activities under the program, including the binational collection and exchange of scientific data.

ALBUQUERQUE BIOLOGICAL PARK TITLE CLARIFICATION ACT

The bill (S. 229) to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, and for other purposes, was read the third time and passed, as follows:

S. 229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Albuquerque Biological Park Title Clarification Act".

SEC. 2. PURPOSE.

The purpose of this Act is to direct the Secretary of the Interior to issue a quitclaim deed conveying any right, title, and interest the United States may have in and to Tingley Beach or San Gabriel Park to the City, thereby removing the cloud on the City's title to these lands.

SEC. 3. DEFINITIONS.

In this Act:

(1) City.—The term "City" means the City of Albuquerque, New Mexico.

(2) Middle Rio Grande Conservancy District.—The terms "Middle Rio Grande Conservancy District" and "MRGCD" mean a political subdivision of the State of New Mexico, created in 1925 to provide and maintain flood protection and drainage, and maintenance of ditches, canals, and distribution systems for irrigation and water delivery and operations in the Middle Rio Grande Valley.

(3) Middle Rio Grande Project.—The term "Middle Rio Grande Project" means the works associated with water deliveries and operations in the Rio Grande basin as authorized by the Flood Control Act of 1948 (Public Law 80–858; 62 Stat. 1175) and the Flood Control Act of 1950 (Public Law 81-516; 64 Stat. 170).

(4) San Gabriel Park.—The term "San Gabriel Park" means the tract of land containing 40.2236 acres, more or less, situated within Section 12 and Section 13, T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

(5) Tingley Beach.—The term "Tingley Beach" means the tract of land containing 25.2005 acres, more or less, situated within Section 13 and Section 24, T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

SEC. 4. CLARIFICATION OF PROPERTY INTEREST.

(a) Required Action.—The Secretary of the Interior shall issue a quitclaim deed conveying any right, title, and interest the United States may have in and to Tingley Beach and San Gabriel Park to the City.

(b) Timing.—The Secretary shall carry out the action in subsection (a) as soon as practicable after the date of enactment of this title and in accordance with all applicable law.

(c) No Additional Payment.—The City shall not be required to pay any additional costs to the United States for the value of San Gabriel Park and Tingley Beach.

SEC. 5. OTHER RIGHTS, TITLE, AND INTERESTS UNAFFECTED.

(a) In General.—Except as expressly provided in section 4, nothing in this Act shall be construed to affect any right, title, or interest in and to any land associated with the Middle Rio Grande Project.

(b) Ongoing Litigation.—Nothing contained in this Act shall be construed or utilized to affect or otherwise interfere with any position set forth by any party in the lawsuit pending before the United States District Court for the District of New Mexico, No. CV 99-1320 JP/RLP-ACE, entitled Rio Grande Silvery Minnow v. John W. Keys, III, concerning the right, title, or interest in and to any property associated with the Middle Rio Grande Project.

ROCKY MOUNTAIN NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 2005

The bill (S. 55) to adjust the boundary of Rocky Mountain National Park in the State of Colorado was read the third time and passed, as follows:

S. 55

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rocky Mountain National Park Boundary Adjustment Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) Federal parcel.—The term "Federal parcel" means the parcel of approximately 70 acres of Federal land near MacGregor Ranch, Larimer County, Colorado, as depicted on the map.

(2) Map.—The term "map" means the map numbered 121/80,154, dated June 2004.

(3) Non-federal parcels.—The term "non-Federal parcels" means the 3 parcels of non-Federal land comprising approximately 5.9 acres that are located near MacGregor Ranch, Larimer County, Colorado, as depicted on the map.

(4) Park.—The term "Park" means Rocky Mountain National Park in the State of Colorado.

SEC. 3. ROCKY MOUNTAIN NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) Exchange of Land.—

(1) In general.—The Secretary shall accept an offer to convey all right, title, and interest in and to the non-Federal parcels to the United States in exchange for the Federal parcel.

(2) Conveyance.—Not later than 60 days after the date on which the Secretary receives an offer under paragraph (1), the Secretary shall convey the Federal parcel in exchange for the non-Federal parcels.

(3) Conservation easement.—As a condition of the exchange of land under paragraph (2), the Secretary shall reserve a perpetual easement to the Federal parcel for the purposes of protecting, preserving, and enhancing the conservation values of the Federal parcel.

(b) Boundary Adjustment; Management of Land.—On acquisition of the non-Federal parcels under subsection (a)(2), the Secretary shall—

(1) adjust the boundary of the Park to reflect the acquisition of the non-Federal parcels; and

(2) manage the non-Federal parcels as part of the Park, in accordance with any laws (including regulations) applicable to the Park.

WIND CAVE NATIONAL PARK BOUNDARY REVISION ACT OF 2005

The bill (S. 276) to revise the boundary of the Wind Cave National Park in the State of South Dakota was read the third time and passed, as follows:

S. 276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wind Cave National Park Boundary Revision Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) Map.—The term "map" means the map entitled "Wind Cave National Park Boundary Revision", numbered 108/80,030, and dated June 2002.

(2) Park.—The term "Park" means the Wind Cave National Park in the State.

(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

(4) State.—The term "State" means the State of South Dakota.

SEC. 3. LAND ACQUISITION.

(a) Authority.—

(1) In general.—The Secretary may acquire the land or interest in land described in subsection (b)(1) for addition to the Park.

(2) Means.—An acquisition of land under paragraph (1) may be made by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

(b) Boundary.—

(1) Map and acreage.—The land referred to in subsection (a)(1) shall consist of approximately 5.675 acres, as generally depicted on the map.

(2) Availability of map.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) Revision.—The boundary of the Park shall be adjusted to reflect the acquisition of land under subsection (a)(1).

SEC. 4. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer any land acquired under section 3(a)(1) as part of the Park in accordance with laws (including regulations) applicable to the Park.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—The Secretary shall transfer from the Director of the Bureau of Land Management to the Director of the National Park Service administrative jurisdiction over the land described in paragraph (2).

(2) MAP AND ACREAGE.—The land referred to in paragraph (1) consists of the approximately 80 acres of land identified on the map as "Bureau of Land Management land".

SEC. 5. GRAZING.

(a) GRAZING PERMITTED.—Subject to any permits or leases in existence as of the date of acquisition, the Secretary may permit the continuation of livestock grazing on land acquired under section 3(a)(1).

(b) LIMITATION.—Grazing under subsection (a) shall be at not more than the level existing on the date on which the land is acquired under section 3(a)(1).

(c) PURCHASE OF PERMIT OR LEASE.—The Secretary may purchase the outstanding portion of a grazing permit or lease on any land acquired under section 3(a)(1).

(d) TERMINATION OF LEASES OR PERMITS.—The Secretary may accept the voluntary termination of a permit or lease for grazing on any acquired land.

UPPER CONNECTICUT RIVER PARTNERSHIP ACT

The Senate proceeded to consider the bill (S. 301) to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont, which had been reported from the Committee on Energy and Natural Resources, with amendment, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Upper Connecticut River Partnership Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the upper Connecticut River watershed in the States of New Hampshire and Vermont is a scenic region of historic villages located in a working landscape of farms, forests, and the mountainous headwaters and broad fertile floodplains of New England's longest river, the Connecticut River;

(2) the River provides outstanding fish and wildlife habitat, recreation, and hydropower generation for the New England region;

(3) the upper Connecticut River watershed has been recognized by Congress as part of the Silvio O. Conte National Fish and Wildlife Refuge, established by the Silvio O. Conte National Fish and Wildlife Refuge Act (16 U.S.C. 668dd note; Public Law 102-212);

(4) the demonstrated interest in stewardship of the River by the citizens living in the watershed led to the Presidential designation of the River as 1 of 14 American Heritage Rivers on July 30, 1998;

(5) the River is home to the bistate Connecticut River Scenic Byway, which will foster heritage tourism in the region;

(6) each of the legislatures of the States of Vermont and New Hampshire has established a commission for the Connecticut River watershed, and the 2 commissions, known collectively as the "Connecticut River Joint Commissions"—

(A) have worked together since 1989; and

(B) serve as the focal point for cooperation between Federal agencies, States, communities, and citizens;

(7) in 1997, as directed by the legislatures, the Connecticut River Joint Commissions, with the substantial involvement of 5 bistate local river subcommittees appointed to represent riverfront towns, produced the 6-volume Connecticut River Corridor Management Plan, to be used as a blueprint in educating agencies, communities, and the public in how to be good neighbors to a great river;

(8) this year, by Joint Legislative Resolution, the legislatures have requested that Congress provide for continuation of cooperative partnerships and support for the Connecticut River Joint Commissions from the New England Federal Partners for Natural Resources, a consortium of Federal agencies, in carrying out recommendations of the Connecticut River Corridor Management Plan;

(9) this Act effectuates certain recommendations of the Connecticut River Corridor Management Plan that are most appropriately directed by the States through the Connecticut River Joint Commissions, with assistance from the National Park Service and United States Fish and Wildlife Service; and

(10) where implementation of those recommendations involves partnership with local communities and organizations, support for the partnership should be provided by the Secretary.

(b) PURPOSE.—The purpose of this Act is to authorize the Secretary to provide to the States of New Hampshire and Vermont (including communities in those States), through the Connecticut River Joint Commissions, technical and financial assistance for management of the River.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) STATE.—The term "State" means—

(A) the State of New Hampshire; or

(B) the State of Vermont.

SEC. 4. CONNECTICUT RIVER GRANTS AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a Connecticut River Grants and Technical Assistance Program to provide grants and technical assistance to State and local governments, nonprofit organizations, and the private sector to carry out projects for the conservation, restoration, and interpretation of historic, cultural, recreational, and natural resources in the Connecticut River watershed.

(b) CRITERIA.—The Secretary, in consultation with the Connecticut River Joint Commissions, shall develop criteria for determining the eligibility of applicants for, and reviewing and prioritizing applications for, grants or technical assistance under the program.

(c) COST-SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of carrying out a grant project under subsection (a) shall not exceed 75 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of a project may be provided in the form of in-kind contributions of services or materials.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $1,000,000 [for each fiscal year] *for each of fiscal years 2006 through 2015.*

The committee amendment was agreed to.

The bill (S. 301), as amended, was read a third time and passed, as follows:

S. 301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Upper Connecticut River Partnership Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the upper Connecticut River watershed in the States of New Hampshire and Vermont is a scenic region of historic villages located in a working landscape of farms, forests, and the mountainous headwaters and broad fertile floodplains of New England's longest river, the Connecticut River;

(2) the River provides outstanding fish and wildlife habitat, recreation, and hydropower generation for the New England region;

(3) the upper Connecticut River watershed has been recognized by Congress as part of the Silvio O. Conte National Fish and Wildlife Refuge, established by the Silvio O. Conte National Fish and Wildlife Refuge Act (16 U.S.C. 668dd note; Public Law 102-212);

(4) the demonstrated interest in stewardship of the River by the citizens living in the watershed led to the Presidential designation of the River as 1 of 14 American Heritage Rivers on July 30, 1998;

(5) the River is home to the bistate Connecticut River Scenic Byway, which will foster heritage tourism in the region;

(6) each of the legislatures of the States of Vermont and New Hampshire has established a commission for the Connecticut River watershed, and the 2 commissions, known collectively as the "Connecticut River Joint Commissions"—

(A) have worked together since 1989; and

(B) serve as the focal point for cooperation between Federal agencies, States, communities, and citizens;

(7) in 1997, as directed by the legislatures, the Connecticut River Joint Commissions, with the substantial involvement of 5 bistate local river subcommittees appointed to represent riverfront towns, produced the 6-volume Connecticut River Corridor Management Plan, to be used as a blueprint in educating agencies, communities, and the public in how to be good neighbors to a great river;

(8) this year, by Joint Legislative Resolution, the legislatures have requested that Congress provide for continuation of cooperative partnerships and support for the Connecticut River Joint Commissions from the New England Federal Partners for Natural Resources, a consortium of Federal agencies, in carrying out recommendations of the Connecticut River Corridor Management Plan;

(9) this Act effectuates certain recommendations of the Connecticut River Corridor Management Plan that are most appropriately directed by the States through the Connecticut River Joint Commissions, with assistance from the National Park Service and United States Fish and Wildlife Service; and

(10) where implementation of those recommendations involves partnership with local communities and organizations, support for the partnership should be provided by the Secretary.

(b) PURPOSE.—The purpose of this Act is to authorize the Secretary to provide to the States of New Hampshire and Vermont (including communities in those States), through the Connecticut River Joint Commissions, technical and financial assistance for management of the River.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) STATE.—The term "State" means—

(A) the State of New Hampshire; or

(B) the State of Vermont.

SEC. 4. CONNECTICUT RIVER GRANTS AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a Connecticut River Grants and Technical Assistance Program to provide grants and technical assistance to State and local governments, nonprofit organizations, and the private sector to carry out projects for the conservation, restoration, and interpretation of historic, cultural, recreational, and natural resources in the Connecticut River watershed.

(b) CRITERIA.—The Secretary, in consultation with the Connecticut River Joint Commissions, shall develop criteria for determining the eligibility of applicants for, and reviewing and prioritizing applications for, grants or technical assistance under the program.

(c) COST-SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of carrying out a grant project under subsection (a) shall not exceed 75 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of a project may be provided in the form of in-kind contributions of services or materials.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $1,000,000 for each fiscal year for each of fiscal years 2006 through 2015.

BUFFALO SOLDIERS COMMEMORATION ACT OF 2005

The Senate proceeded to consider the bill (S. 205) to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the part shown in black brackets and insert the part shown in italic]

S. 205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Buffalo Soldiers [commemoration] *Commemoration* Act of 2005".

SEC. 2. ESTABLISHMENT OF BUFFALO SOLDIERS MEMORIAL.

(a) AUTHORIZATION.—The American Battle Monuments Commission is authorized to establish a memorial to honor the Buffalo Soldiers in or around the City of New Orleans on land donated for such purpose or on Federal land with the consent of the appropriate land manager.

(b) CONTRIBUTIONS.—The Commission shall solicit and accept contributions for the construction and maintenance of the memorial.

(c) COOPERATIVE AGREEMENTS.—The Commission may enter into a cooperative agreement with a private or public entity for the purpose of fundraising for the construction and maintenance of the memorial.

(d) MAINTENANCE AGREEMENT.—Prior to beginning construction of the memorial, the Commission shall enter into an agreement with an appropriate public or private entity to provide for the permanent maintenance of the memorial and shall have sufficient funds, or assurance that it will receive sufficient funds, to complete the memorial.

SEC. 3. BUFFALO SOLDIERS MEMORIAL ACCOUNT.

(a) ESTABLISHMENT.—The Commission shall maintain an escrow account ("account") to pay expenses incurred in constructing the memorial.

(b) DEPOSITS INTO THE ACCOUNT.—The Commission shall deposit into the account any principal and interest by the United States that the Chairman determines has a suitable maturity.

(c) USE OF ACCOUNT.—Amounts in the account, including proceeds of any investments, may be used to pay expenses incurred in establishing the memorial. After construction of the memorial amounts in the account shall be transferred by the Commission to the entity providing for permanent maintenance of the memorial under such terms and conditions as the Commission determines will ensure the proper use and accounting of the amounts.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The committee amendment was agreed to.

The bill (S. 205), as amended, was read the third time and passed, as follows:

S. 205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Buffalo Soldiers Commemoration Act of 2005".

SEC. 2. ESTABLISHMENT OF BUFFALO SOLDIERS MEMORIAL.

(a) AUTHORIZATION.—The American Battle Monuments Commission is authorized to establish a memorial to honor the Buffalo Soldiers in or around the City of New Orleans on land donated for such purpose or on Federal land with the consent of the appropriate land manager.

(b) CONTRIBUTIONS.—The Commission shall solicit and accept contributions for the construction and maintenance of the memorial.

(c) COOPERATIVE AGREEMENTS.—The Commission may enter into a cooperative agreement with a private or public entity for the purpose of fundraising for the construction and maintenance of the memorial.

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SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

JEAN LAFITTE NATIONAL HISTORICAL PARK AND PRESERVE BOUNDARY ADJUSTMENT ACT OF 2005

The bill (S. 207) to adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes, was read the third time and passed, as follows:

S. 207

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jean Lafitte National Historical Park and Preserve Boundary Adjustment Act of 2005".

SEC. 2. JEAN LAFITTE NATIONAL HISTORICAL PARK AND PRESERVE BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—Section 901 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230) is amended in the second sentence by striking "twenty thousand acres generally depicted on the map entitled 'Barataria Marsh Unit-Jean Lafitte National Historical Park and Preserve' numbered 90,000B and dated April 1978," and inserting "23,000 acres generally depicted on the map entitled 'Boundary Map, Barataria Preserve Unit, Jean Lafitte National Historical Park and Preserve', numbered 467/80100, and dated August 2002,".

(b) ACQUISITION OF LAND.—Section 902 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230a) is amended—

(1) in subsection (a)—

(A) by striking "(a) Within the" and all that follows through the first sentence and inserting the following:

"(a) IN GENERAL.—

"(1) BARATARIA PRESERVE UNIT.—

"(A) IN GENERAL.—The Secretary may acquire any land, water, and interests in land and water within the boundary of the Barataria Preserve Unit, as depicted on the map described in section 901, by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange.

"(B) LIMITATIONS.—

"(i) IN GENERAL.—With respect to the areas on the map identified as 'Bayou aux Carpes Addition' and 'CIT Tract Addition'—

"(I) any Federal land acquired in the areas shall be transferred without consideration to the administrative jurisdiction of the National Park Service; and

"(II) any private land in the areas may be acquired by the Secretary only with the consent of the owner of the land.

"(ii) EASEMENTS.—Any Federal land in the area identified on the map as 'CIT Tract Addition' that is transferred under clause (i)(I) shall be subject to any easements that have been agreed to by the Secretary and the Secretary of the Army.";

(B) in the second sentence, by striking "The Secretary may also" and inserting the following:

"(2) FRENCH QUARTER.—The Secretary may";

(C) in the third sentence, by striking "Lands, waters, and interests therein" and inserting the following:

"(3) ACQUISITION OF STATE LAND.—Land, water, and interests in land and water"; and

(D) in the fourth sentence, by striking "In acquiring" and inserting the following:

"(4) ACQUISITION OF OIL AND GAS RIGHTS.—In acquiring";

(2) by striking subsections (b) through (f) and inserting the following:

"(b) RESOURCE PROTECTION.—With respect to the land, water, and interests in land and water of the Barataria Preserve Unit, the Secretary shall preserve and protect—

"(1) fresh water drainage patterns;

"(2) vegetative cover;

"(3) the integrity of ecological and biological systems; and

"(4) water and air quality."; and

(3) by redesignating subsection (g) as subsection (c).

(c) HUNTING, FISHING, AND TRAPPING.—Section 905 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230d) is amended in the first sentence by striking "within the core area and on those lands acquired by the Secretary pursuant to section 902(c) of this title, he" and inserting "the Secretary".

(d) ADMINISTRATION.—Section 906 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230e) is amended—

(1) by striking the first sentence; and

(2) in the second sentence, by striking "Pending such establishment and thereafter the" and inserting "The".

SEC. 3. REFERENCES IN LAW.

(a) IN GENERAL.—Any reference in a law (including regulations), map, document, paper, or other record of the United States—

(1) to the Barataria Marsh Unit shall be considered to be a reference to the Barataria Preserve Unit; or

(2) to the Jean Lafitte National Historical Park shall be considered to be a reference to the Jean Lafitte National Historical Park and Preserve.

(b) CONFORMING AMENDMENTS.—Title IX of the National Parks and Recreation Act of 1978 (16 U.S.C. 230 et seq.) is amended—

(1) by striking "Barataria Marsh Unit" each place it appears and inserting "Barataria Preserve Unit"; and

(2) by striking "Jean Lafitte National Historical Park" each place it appears and inserting "Jean Lafitte National Historical Park and Preserve".

* * *

NATIONAL HERITAGE PARTNERSHIP ACT

The Senate proceeded to consider the bill (S. 243) to establish a program and criteria for National Heritage Areas in the United States, and for other purposes.

S. 243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Heritage Partnership Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. National Heritage Areas program.
Sec. 4. Studies.
Sec. 5. Management plans.
Sec. 6. Local coordinating entities.
Sec. 7. Relationship to other Federal agencies.
Sec. 8. Private property and regulatory protections.
Sec. 9. Authorization of appropriations.

SEC. 2. DEFINITIONS.

In this Act:

(1) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the entity designated by Congress—

(A) to develop, in partnership with others, the management plan for a National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(2) MANAGEMENT PLAN.—The term "management plan" means the plan prepared by the local coordinating entity for a National Heritage Area designated by Congress that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with section 5.

(3) NATIONAL HERITAGE AREA.—The term "National Heritage Area" means an area designated by Congress that is nationally important to the heritage of the United States and meets the criteria established under section 4(a).

(4) NATIONAL IMPORTANCE.—The term "national importance" means possession of—

(A) unique natural, historical, cultural, educational, scenic, or recreational resources of exceptional value or quality; and

(B) a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States.

(5) PROGRAM.—The term "program" means the National Heritage Areas program established under section 3(a).

(6) PROPOSED NATIONAL HERITAGE AREA.—The term "proposed National Heritage Area" means an area under study by the Secretary or other parties for potential designation by Congress as a National Heritage Area.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(8) STUDY.—The term "study" means a study conducted by the Secretary, or conducted by 1 or more other interested parties and reviewed by the Secretary, in accordance with the criteria and processes established under section 4, to determine whether an area meets the criteria to be designated as a National Heritage Area by Congress.

SEC. 3. NATIONAL HERITAGE AREAS PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a National Heritage Areas program under which the Secretary shall provide technical and financial assistance to local coordinating entities to support the establishment of National Heritage Areas.

(b) DUTIES.—Under the program, the Secretary shall—

(1)(A) conduct studies, as directed by Congress, to assess the suitability and feasibility of designating proposed National Heritage Areas; or

(B) review and comment on studies undertaken by other parties to make such assessment;

(2) provide technical assistance, on a reimbursable or non-reimbursable basis (as determined by the Secretary), for the development and implementation of management plans for designated National Heritage Areas;

(3) enter into cooperative agreements with interested parties to carry out this Act;

(4) provide information, promote understanding, and encourage research on National Heritage Areas in partnership with local coordinating entities;

(5) provide national oversight, analysis, coordination, and technical assistance and support to ensure consistency and accountability under the program; and

(6) submit annually to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the allocation and expenditure of funds for activities conducted with respect to National Heritage Areas under this Act.

SEC. 4. STUDIES.

(a) CRITERIA.—In conducting or reviewing a study, the Secretary shall apply the following criteria to determine the suitability and feasibility of designating a proposed National Heritage Area:

(1) An area—

(A) has an assemblage of natural, historic, cultural, educational, scenic, or recreational resources that together are nationally important to the heritage of the United States;

(B) represents distinctive aspects of the heritage of the United States worthy of recognition, conservation, interpretation, and continuing use;

(C) is best managed as such an assemblage through partnerships among public and private entities at the local or regional level;

(D) reflects traditions, customs, beliefs, and folklife that are a valuable part of the heritage of the United States;

(E) provides outstanding opportunities to conserve natural, historical, cultural, or scenic features;

(F) provides outstanding recreational or educational opportunities; and

(G) has resources and traditional uses that have national importance.

(2) Residents, business interests, nonprofit organizations, and governments (including relevant Federal land management agencies) within the proposed area are involved in the planning and have demonstrated significant support through letters and other means for National Heritage Area designation and management.

(3) The local coordinating entity responsible for preparing and implementing the management plan is identified.

(4) The proposed local coordinating entity and units of government supporting the designation are willing and have documented a significant commitment to work in partnership to protect, enhance, interpret, fund, manage, and develop resources within the National Heritage Area.

(5) The proposed local coordinating entity has developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government) in the management of the National Heritage Area.

(6) The proposal is consistent with continued economic activity within the area.

(7) A conceptual boundary map has been developed and is supported by the public and participating Federal agencies.

(b) Consultation.—In conducting or reviewing a study, the Secretary shall consult with the managers of any Federal land within the proposed National Heritage Area and secure the concurrence of the managers with the findings of the study before making a determination for designation.

(c) Transmittal.—On completion or receipt of a study for a National Heritage Area, the Secretary shall—

(1) review, comment, and make findings (in accordance with the criteria specified in subsection (a)) on the feasibility of designating the National Heritage Area;

(2) consult with the Governor of each State in which the proposed National Heritage Area is located; and

(3) transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the study, including—

(A) any comments received from the Governor of each State in which the proposed National Heritage Area is located; and

(B) a finding as to whether the proposed National Heritage Area meets the criteria for designation.

(d) Disapproval.—If the Secretary determines that any proposed National Heritage Area does not meet the criteria for designation, the Secretary shall include within the study submitted under subsection (c)(3) a description of the reasons for the determination.

(e) Designation.—The designation of a National Heritage Area shall be—

(1) by Act of Congress; and

(2) contingent on the prior completion of a study and an affirmative determination by the Secretary that the area meets the criteria established under subsection (a).

SEC. 5. MANAGEMENT PLANS.

(a) Requirements.—The management plan for any National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this Act; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) Deadline.—

(1) In general.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) Termination of funding.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this Act until such time as the management plan is submitted to and approved by the Secretary.

(c) Approval of Management Plan.—

(1) Review.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) Consultation.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) Criteria for approval.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) Disapproval.—

(A) In general.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) Deadline.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) Amendments.—

(A) In general.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) Implementation.—The local coordinating entity shall not use Federal funds authorized by this Act to implement an amendment to the management plan until the Secretary approves the amendment.

SEC. 6. LOCAL COORDINATING ENTITIES.

(a) Duties.—To further the purposes of the National Heritage Area, the local coordinating entity shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with section 5;

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating committee receives Federal funds under this Act, specifying—

(A) the specific performance goals and accomplishments of the local coordinating committee;

(B) the expenses and income of the local coordinating committee;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this Act, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) Authorities.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this Act to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal laws or programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) Prohibition on Acquisition of Real Property.—The local coordinating entity may not use Federal funds authorized under this Act to acquire any interest in real property.

SEC. 7. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) In General.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) Consultation and Coordination.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) Other Federal Agencies.—Nothing in this Act—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 8. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this Act—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State or local agency, or conveys any land use or other regulatory authority to any local coordinating entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) Studies.—There is authorized to be appropriated to conduct and review studies under section 4 $750,000 for each fiscal year, of which not more than $250,000 for any fiscal year may be used for any individual study for a proposed National Heritage Area.

(b) Local Coordinating Entities.—

(1) In general.—There is authorized to be appropriated to carry out section 6 $15,000,000 for each fiscal year, of which not more than—

(A) $1,000,000 may be made available for any fiscal year for any individual National Heritage Area, to remain available until expended; and

(B) a total of $10,000,000 may be made available for all such fiscal years for any individual National Heritage Area.

(2) Termination date.—

(A) In general.—The authority of the Secretary to provide financial assistance to an individual local coordinating entity under this Act (excluding technical assistance and administrative oversight) shall terminate on the date that is 15 years after the date of the initial receipt of the assistance by the local coordinating committee.

(B) Designation.—A National Heritage Area shall retain the designation as a National Heritage Area after the termination date prescribed in subparagraph (A).

(3) Administration.—Not more than 5 percent of the amount of funds made available under paragraph (1) for a fiscal year may be used by the Secretary for technical assistance, oversight, and administrative purposes.

(c) Matching Funds.—

(1) In general.—As a condition of receiving a grant under this Act, the recipient of the grant shall provide matching funds in an amount that is equal to the amount of the grant.

(2) Administration.—The recipient matching funds—

(A) shall be derived from non-Federal sources; and

(B) may be made in the form of in-kind contributions of goods or services fairly valued.

The amendment (No. 1586) was agreed to as follows:

(The amendment is printed in today's Record under "Text of Amendments.")

The bill (S. 243), as amended, was read the third time and passed.

WILD SKY WILDERNESS ACT OF 2005

The Senate proceeded to consider the bill (S. 152) to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with amendments, as follows:

[Strike the parts shown in black bracket and insert the parts shown in italic.]

S. 152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wild Sky Wilderness Act of 2005".

SEC. 2. ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM.

(a) Additions.—The following Federal lands in the State of Washington are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System: certain lands which comprise approximately 106,000 acres, as generally depicted on a map entitled "Wild Sky Wilderness Proposal", "Map #1", and dated January 7, 2003, which shall be known [as the Wild Sky Wilderness.] *as the "Wild Sky Wilderness".*

(b) Maps and Legal Descriptions.—As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file a map and a legal description for the wilderness area designated under this Act with the Committee on Energy and Natural Resources of the [United States] Senate and the Committee on Resources of the [United States] House of Representatives. The map and description shall have the same force and effect as if included in this Act, except that the Secretary of Agriculture may correct clerical and typographical errors in the legal description and map. The map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

SEC. 3. ADMINISTRATION PROVISIONS.

(a) In General.—

(1) Subject to valid existing rights, lands designated as wilderness by this Act shall be managed by the Secretary of Agriculture in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect to any wilderness areas designated by this Act, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(2) To fulfill the purposes of this Act and the Wilderness Act and to achieve administrative efficiencies, the Secretary of Agriculture may manage the area designated by this Act as a comprehensive part of the larger complex of adjacent and nearby wilderness areas.

(b) New Trails.—

(1) The Secretary of Agriculture shall consult with interested parties and shall establish a trail plan for Forest Service lands in order to [develop:] *develop—*

(A) a system of hiking and equestrian trails within the wilderness designated by this Act in a manner consistent with the Wilderness Act[, Public Law 88–577] (16 U.S.C. 1131 et seq.); and

(B) a system of trails adjacent to or to provide access to the wilderness designated by this Act.

(2) Within two years after the date of enactment of this Act, the Secretary of Agriculture shall complete a report on the implementation of the trail plan required under this Act. This report shall include the identification of priority [trail] *trails* for development.

(c) Repeater Site.—Within the Wild Sky Wilderness, the Secretary of Agriculture is authorized to use helicopter access to construct and maintain a joint Forest Service and Snohomish County telecommunications repeater site, in compliance with a Forest Service approved communications site plan, for the purposes of improving communications for safety, health, and emergency services.

(d) Float Plane Access.—As provided by section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)), the use of floatplanes on Lake Isabel, where such use has already become established, shall be permitted to continue subject to such reasonable restrictions as the Secretary of Agriculture determines to be desirable.

(e) Evergreen Mountain Lookout.—The designation under this Act shall not preclude the operation and maintenance of the existing Evergreen Mountain Lookout in the same manner and degree in which the operation and maintenance of such lookout was occurring as of the date of enactment of this Act.

SEC. 4. AUTHORIZATION FOR LAND ACQUISITION.

(a) IN GENERAL.—The Secretary of Agriculture is authorized to acquire lands and interests therein, by purchase, donation, or exchange, and shall give priority consideration to those lands identified as "Priority Acquisition Lands" on the map described in section 2(a)[(1)]. The boundaries of the Mt. Baker-Snoqualmie National Forest and the Wild Sky Wilderness shall be adjusted to encompass any lands acquired pursuant to this section.

(b) ACCESS.—Consistent with section 5(a) of the Wilderness Act [(Public Law 88–577;] 16 U.S.C. 1134(a)), the Secretary of Agriculture shall ensure adequate access to private inholdings within the Wild Sky Wilderness.

(c) APPRAISAL.—Valuation of private lands shall be determined without reference to any restrictions on access or use which arise out of designation as a wilderness area as a result of this Act.

SEC. 5. LAND EXCHANGES.

The Secretary of Agriculture shall exchange lands and interests in lands, as generally depicted on a [map entitled Chelan County Public Utility District Exchange and] *map entitled "Chelan County Public Utility District Exchange" and* dated May 22, 2002, with the Chelan County Public Utility District in accordance with the following provisions:

(1) If the Chelan County Public Utility District, within ninety days after the date of enactment of this Act, offers to the Secretary of Agriculture approximately 371.8 acres within the Mt. Baker-Snoqualmie National Forest in the State of Washington, the Secretary shall accept such lands.

(2) Upon acceptance of title by the Secretary of Agriculture to such lands and interests therein, the Secretary of Agriculture shall convey to the Chelan County Public Utility District a permanent easement, including helicopter access, consistent with such levels as used as of date of enactment, to maintain an existing telemetry site to monitor snow pack on 1.82 acres on the Wenatchee National Forest in the State of Washington.

(3) The exchange directed by this Act shall be consummated if Chelan County Public Utility District conveys title acceptable to the Secretary and provided there is no hazardous material on the site, which is objectionable to the Secretary.

(4) In the event Chelan County Public Utility District determines there is no longer a need to maintain a telemetry site to monitor the snow pack for calculating expected runoff into the Lake Chelan hydroelectric project and the hydroelectric projects in the Columbia River Basin, the Secretary shall be notified in writing and the easement shall be extinguished and all rights conveyed by this exchange shall revert to the United States.

The committee amendments were agreed to.

The bill (S. 152), as amended, was read the third time and passed, as follows:

S. 152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wild Sky Wilderness Act of 2005".

SEC. 2. ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM.

(a) ADDITIONS.—The following Federal lands in the State of Washington are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System: certain lands which comprise approximately 106,000 acres, as generally depicted on a map entitled "Wild Sky Wilderness Proposal", "Map #1", and dated January 7, 2003, which shall be known as the "Wild Sky Wilderness".

(b) MAPS AND LEGAL DESCRIPTIONS.—As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file a map and a legal description for the wilderness area designated under this Act with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives. The map and description shall have the same force and effect as if included in this Act, except that the Secretary of Agriculture may correct clerical and typographical errors in the legal description and map. The map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

SEC. 3. ADMINISTRATION PROVISIONS.

(a) IN GENERAL.—

(1) Subject to valid existing rights, lands designated as wilderness by this Act shall be managed by the Secretary of Agriculture in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect to any wilderness areas designated by this Act, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(2) To fulfill the purposes of this Act and the Wilderness Act and to achieve administrative efficiencies, the Secretary of Agriculture may manage the area designated by this Act as a comprehensive part of the larger complex of adjacent and nearby wilderness areas.

(b) NEW TRAILS.—

(1) The Secretary of Agriculture shall consult with interested parties and shall establish a trail plan for Forest Service lands in order to develop—

(A) a system of hiking and equestrian trails within the wilderness designated by this Act in a manner consistent with the Wilderness Act (16 U.S.C. 1131 et seq.); and

(B) a system of trails adjacent to or to provide access to the wilderness designated by this Act.

(2) Within two years after the date of enactment of this Act, the Secretary of Agriculture shall complete a report on the implementation of the trail plan required under this Act. This report shall include the identification of priority trail for development.

(c) REPEATER SITE.—Within the Wild Sky Wilderness, the Secretary of Agriculture is authorized to use helicopter access to construct and maintain a joint Forest Service and Snohomish County telecommunications repeater site, in compliance with a Forest Service approved communications site plan, for the purposes of improving communications for safety, health, and emergency services.

(d) FLOAT PLANE ACCESS.—As provided by section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)), the use of floatplanes on Lake Isabel, where such use has already become established, shall be permitted to continue subject to such reasonable restrictions as the Secretary of Agriculture determines to be desirable.

(e) EVERGREEN MOUNTAIN LOOKOUT.—The designation under this Act shall not preclude the operation and maintenance of the existing Evergreen Mountain Lookout in the same manner and degree in which the operation and maintenance of such lookout was occurring as of the date of enactment of this Act.

SEC. 4. AUTHORIZATION FOR LAND ACQUISITION.

(a) IN GENERAL.—The Secretary of Agriculture is authorized to acquire lands and interests therein, by purchase, donation, or exchange, and shall give priority consideration to those lands identified as "Priority Acquisition Lands" on the map described in section 2(a). The boundaries of the Mt. Baker-Snoqualmie National Forest and the Wild Sky Wilderness shall be adjusted to encompass any lands acquired pursuant to this section.

(b) ACCESS.—Consistent with section 5(a) of the Wilderness Act 16 U.S.C. 1134(a)), the Secretary of Agriculture shall ensure adequate access to private inholdings within the Wild Sky Wilderness.

(c) APPRAISAL.—Valuation of private lands shall be determined without reference to any restrictions on access or use which arise out of designation as a wilderness area as a result of this Act.

SEC. 5. LAND EXCHANGES.

The Secretary of Agriculture shall exchange lands and interests in lands, as generally depicted on a map entitled "Chelan County Public Utility District Exchange" and dated May 22, 2002, with the Chelan County Public Utility District in accordance with the following provisions:

(1) If the Chelan County Public Utility District, within ninety days after the date of enactment of this Act, offers to the Secretary of Agriculture approximately 371.8 acres within the Mt. Baker-Snoqualmie National Forest in the State of Washington, the Secretary shall accept such lands.

(2) Upon acceptance of title by the Secretary of Agriculture to such lands and interests therein, the Secretary of Agriculture shall convey to the Chelan County Public Utility District a permanent easement, including helicopter access, consistent with such levels as used as of date of enactment, to maintain an existing telemetry site to monitor snow pack on 1.82 acres on the Wenatchee National Forest in the State of Washington.

(3) The exchange directed by this Act shall be consummated if Chelan County Public Utility District conveys title acceptable to the Secretary and provided there is no hazardous material on the site, which is objectionable to the Secretary.

(4) In the event Chelan County Public Utility District determines there is no longer a need to maintain a telemetry site to monitor the snow pack for calculating expected runoff into the Lake Chelan hydroelectric project and the hydroelectric projects in the Columbia River Basin, the Secretary shall be notified in writing and the easement shall be extinguished and all rights conveyed by this exchange shall revert to the United States.

EXTENSION OF THE DEADLINE FOR COMMENCEMENT OF A HYDROELECTRIC PLANT IN THE STATE OF ALASKA

The bill (S. 176) to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska was read the third time and passed, as follows:

S. 176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 11480, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods beyond the date that is 4 years after the date of issuance of the license.

WALLOWA LAKE DAM REHABILITATION AND WATER MANAGEMENT ACT OF 2005

The bill (S. 231) to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes, was read the third time and passed, as follows:

S. 231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wallowa Lake Dam Rehabilitation and Water Management Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) ASSOCIATED DITCH COMPANIES, INCORPORATED.—The term "Associated Ditch Companies, Incorporated" means the nonprofit corporation established under the laws of the State of Oregon that operates Wallowa Lake Dam.

(2) PHASE II AND PHASE III OF THE WALLOWA VALLEY WATER MANAGEMENT PLAN.—The term "Phase II and Phase III of the Wallowa Valley Water Management Plan" means the Phase II program for fish passage improvements and water conservation measures, and the Phase III program for implementation of water exchange infrastructure, developed for the Wallowa River watershed, as contained in the document entitled "Wallowa Lake Dam Rehabilitation and Water Management Plan Vision Statement", dated February 2001, and on file with the Bureau of Reclamation.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(4) WALLOWA LAKE DAM REHABILITATION PROGRAM.—The term "Wallowa Lake Dam Rehabilitation Program" means the program for the rehabilitation of the Wallowa Lake Dam in Oregon, as contained in the engineering document entitled, "Phase I Dam Assessment and Preliminary Engineering Design", dated December 2002, and on file with the Bureau of Reclamation.

SEC. 3. AUTHORIZATION TO PARTICIPATE IN PROGRAM.

(a) Grants and Cooperative Agreements.—The Secretary may provide grants to, or enter into cooperative or other agreements with, tribal, State, and local governmental entities and the Associated Ditch Companies, Incorporated, to plan, design, and construct facilities needed to implement the Wallowa Lake Dam Rehabilitation Program and Phase II and Phase III of the Wallowa Valley Water Management Plan.

(b) Conditions.—As a condition of providing funds under subsection (a), the Secretary shall ensure that—

(1) the Wallowa Lake Dam Rehabilitation Program meets the standards of the dam safety program of the State of Oregon;

(2) the Associated Ditch Companies, Incorporated, agrees to assume liability for any work performed, or supervised, with funds provided to it under this Act; and

(3) the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to a facility rehabilitated or constructed under this Act.

(c) Cost Sharing.—

(1) In general.—The Federal share of the costs of activities authorized under this Act shall not exceed 80 percent.

(2) Exclusions from Federal share.—There shall not be credited against the Federal share of such costs—

(A) any expenditure by the Bonneville Power Administration in the Wallowa River watershed; and

(B) expenditures made by individual agricultural producers in any Federal commodity or conservation program.

(d) Compliance With State Law.—In carrying out this Act, the Secretary shall comply with otherwise applicable State water law.

(e) Prohibition on Holding Title.—The Federal Government shall not hold title to any facility rehabilitated or constructed under this Act.

(f) Prohibition on Operation and Maintenance.—The Federal Government shall not be responsible for the operation and maintenance of any facility constructed or rehabilitated under this Act.

(g) Ownership and Operation of Fish Passage Facility.—Any facility constructed using Federal funds authorized by this Act located at Wallowa Lake Dam for trapping and transportation of migratory adult salmon may be owned and operated only by the Nez Perce Tribe.

SEC. 4. RELATIONSHIP TO OTHER LAW.

An activity funded under this Act shall not be considered a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary to the pay the Federal share of the costs of activities authorized under this Act $25,600,000.

FISH PASSAGE AND SCREENING FACILITIES AT NON-FEDERAL WATER PROJECTS

The bill (S. 232) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purposes, was read the third time and passed, as follows:

S. 232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

As used in this Act—

(1) "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation;

(2) "Reclamation" means the Bureau of Reclamation, United States Department of the Interior;

(3) "Fish passage and screening facilities" means ladders, collection devices, and all other kinds of facilities which enable fish to pass through, over, or around water diversion structures; facilities and other constructed works which modify, consolidate, or replace water diversion structures in order to achieve fish passage; screens and other devices which reduce or prevent entrainment and impingement of fish in a water diversion, delivery, or distribution system; and any other facilities, projects, or constructed works or strategies which are designed to provide for or improve fish passage while maintaining water deliveries and to reduce or prevent entrainment and impingement of fish in a water storage, diversion, delivery, or distribution system of a water project;

(4) "Federal reclamation project" means a water resources development project constructed, operated, and maintained pursuant to the Reclamation Act of 1902 (32 Stat. 388), and acts amendatory thereof and supplementary thereto;

(5) "Non-Federal party" means any non-Federal party, including federally recognized Indian tribes, non-Federal governmental and quasi-governmental entities, private entities (both profit and non-profit organizations), and private individuals;

(6) "Snake River Basin" means the entire drainage area of the Snake River, including all tributaries, from the headwaters to the confluence of the Snake River with the Columbia River;

(7) "Columbia River Basin" means the entire drainage area of the Columbia River located in the United States, including all tributaries, from the headwaters to the Columbia River estuary; and

(8) "Habitat improvements" means work to improve habitat for aquatic plants and animals within a currently existing stream channel below the ordinary high water mark, including stream reconfiguration to rehabilitate and protect the natural function of streambeds, and riverine wetland construction and protection.

SEC. 2. AUTHORIZATION.

(a) In General.—Subject to the requirements of this Act, the Secretary is authorized to plan, design, and construct, or provide financial assistance to non-Federal parties to plan, design, and construct, fish passage and screening facilities or habitat improvements at any non-Federal water diversion or storage project located anywhere in the Columbia River Basin when the Secretary determines that such facilities would enable Reclamation to meet its obligations under section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)) regarding the construction and continued operation and maintenance of all Federal reclamation projects located in the Columbia River Basin, excluding the Federal reclamation projects located in the Snake River Basin.

(b) Prohibition of Acquisition of Land for Habitat Improvements.—Notwithstanding subsection (a), nothing in this Act authorizes the acquisition of land for habitat improvements.

SEC. 3. LIMITATIONS.

(a) Written Agreement.—The Secretary may undertake the construction of, or provide financial assistance covering the cost to the non-Federal parties to construct, fish passage and screening facilities at non-Federal water diversion and storage projects or habitat improvements located anywhere in the Columbia River Basin only after entering into a voluntary, written agreement with the non-Federal party or parties who own, operate, or maintain the project, or any associated lands involved.

(b) FEDERAL SHARE.—The Federal share of the total costs of constructing the fish passage and screening facility or habitat improvements shall be not more than 75 percent.

(c) NON-FEDERAL SHARE.—

(1) Except as provided in paragraph (4), a written agreement entered into under subsection (a) shall provide that the non-Federal party agrees to pay the non-Federal share of the total costs of constructing the fish passage and screening facility or habitat improvements.

(2) The non-Federal share may be provided in the form of cash or in-kind services.

(3) The Secretary shall—

(A) require the non-Federal party to provide appropriate documentation of any in-kind services provided; and

(B) determine the value of the in-kind services.

(4) The requirements of this subsection shall not apply to Indian tribes.

(d) GRANT AND COOPERATIVE AGREEMENTS.—Any financial assistance made available pursuant to this Act shall be provided through grant agreements or cooperative agreements entered into pursuant to and in compliance with chapter 63 of title 31, United States Code.

(e) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions as will ensure performance by the non-Federal party, protect the Federal investment in fish passage and screening facilities or habitat improvements, define the obligations of the Secretary and the non-Federal party, and ensure compliance with this Act and all other applicable Federal, State, and local laws.

(f) RIGHTS AND DUTIES OF NON-FEDERAL PARTIES.—All right and title to, and interest in, any fish passage and screening facilities constructed or funded pursuant to the authority of this Act shall be held by the non-Federal party or parties who own, operate, and maintain the non-Federal water diversion and storage project, and any associated lands, involved. The operation, maintenance, and replacement of such facilities shall be the sole responsibility of such party or parties and shall not be a project cost assignable to any Federal reclamation project.

SEC. 4. OTHER REQUIREMENTS.

(a) PERMITS.—The Secretary may assist a non-Federal party who owns, operates, or maintains a non-Federal water diversion or storage project, and any associated lands, to obtain and comply with any required State, local, or tribal permits.

(b) FEDERAL LAW.—In carrying out this Act, the Secretary shall be subject to all Federal laws applicable to activities associated with the construction of a fish passage and screening facility or habitat improvements.

(c) STATE WATER LAW.—

(1) In carrying out this Act, the Secretary shall comply with any applicable State water laws.

(2) Nothing in this Act affects any water or water-related right of a State, an Indian tribe, or any other entity or person.

(d) REQUIRED COORDINATION.—The Secretary shall coordinate with the Northwest Power and Conservation Council; appropriate agencies of the States of Idaho, Oregon, and Washington; and appropriate federally recognized Indian tribes in carrying out the program authorized by this Act.

SEC. 5. INAPPLICABILITY OF FEDERAL RECLAMATION LAW.

(a) IN GENERAL.—The Reclamation Act of 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto, shall not apply to the non-Federal water projects at which the fish passage and screening facilities authorized by this Act are located, nor to the lands which such projects irrigate.

(b) NONREIMBURSABLE AND NONRETURNABLE EXPENDITURES.—Notwithstanding any provision of law to the contrary, the expenditures made by the Secretary pursuant to this Act shall not be a project cost assignable to any Federal reclamation project (either as a construction cost or as an operation and maintenance cost) and shall be non-reimbursable and non-returnable to the United States Treasury.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such amounts as are necessary for the purposes of this Act.

EXTENSION OF THE DEADLINE FOR COMMENCEMENT OF CONSTRUCTION OF A HYDROELECTRIC PLANT IN THE STATE OF WYOMING

The bill (S. 244) to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming, was read the third and passed, as follows:

S. 244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR THE FEDERAL ENERGY REGULATORY COMMISSION HYDROELECTRIC PROJECT.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 1651, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods from the date of the expiration of the extension originally issued by the Commission.

HAWAII WATER RESOURCES ACT OF 2005

The Senate proceeded to consider the bill (S. 264), to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

S. 264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hawaii Water Resources Act of 2005".

SEC. 2. HAWAII RECLAMATION PROJECTS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended by adding at the end the following:

"SEC. 1637. HAWAII RECLAMATION PROJECTS.

"(a) AUTHORIZATION.—The Secretary may—

"(1) in cooperation with the Board of Water Supply, City and County of Honolulu, Hawaii, participate in the design, planning, and construction of a project in Kalaeloa, Hawaii, to desalinate and distribute seawater for direct potable use within the service area of the Board;

"(2) in cooperation with the County of Hawaii Department of Environmental Management, Hawaii, participate in the design, planning, and construction of facilities in Kealakehe, Hawaii, for the treatment and distribution of recycled water and for environmental purposes within the County; and

"(3) in cooperation with the County of Maui Wastewater Reclamation Division, Hawaii, participate in the design, planning, and construction of, and acquire land for, facilities in Lahaina, Hawaii, for the distribution of recycled water from the Lahaina Wastewater Reclamation Facility for non-potable uses within the County.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—Funds provided by the Secretary shall not be used for the operation and maintenance of a project described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended by inserting after the item relating to section 1636 the following:

"Sec. 1637. Hawaii reclamation projects.".

The amendment (No. 1587) was agreed to, as follows:

(Purpose: To make technical corrections)

On page 2, strike lines 1 through 5 and insert the following:

SEC. 2. HAWAII RECLAMATION PROJECTS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating the second section 1636 (as added by section 1(b) of Public Law 108-316 (118 Stat. 1202)) as section 1637; and

(2) by adding at the end the following:

"SEC. 1638. HAWAII RECLAMATION PROJECTS.

On page 3, strike line 13 and all that follows through the matter following line 14 and insert the following:

is amended by striking the item relating to the second section 1636 (as added by section 2 of Public Law 108-316 (118 Stat. 1202)) and inserting the following:

"Sec. 1637. Williamson County, Texas, Water Recylcing and Reuse Project.
"Sec. 1638. Hawaii reclamation projects.".

The bill (S. 264), as amended, was read the third time and passed, as follows:

S. 264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hawaii Water Resources Act of 2005".

SEC. 2. HAWAII RECLAMATION PROJECTS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating the second section 1636 (as added by section 1(b) of Public Law 108–316 (118 Stat. 1202)) as section 1637; and

(2) by adding at the end the following:

"SEC. 1638. HAWAII RECLAMATION PROJECTS.

"(a) Authorization.—The Secretary may—

"(1) in cooperation with the Board of Water Supply, City and County of Honolulu, Hawaii, participate in the design, planning, and construction of a project in Kalaeloa, Hawaii, to desalinate and distribute seawater for direct potable use within the service area of the Board;

"(2) in cooperation with the County of Hawaii Department of Environmental Management, Hawaii, participate in the design, planning, and construction of facilities in Kealakehe, Hawaii, for the treatment and distribution of recycled water and for environmental purposes within the County; and

"(3) in cooperation with the County of Maui Wastewater Reclamation Division, Hawaii, participate in the design, planning, and construction of, and acquire land for, facilities in Lahaina, Hawaii, for the distribution of recycled water from the Lahaina Wastewater Reclamation Facility for non-potable uses within the County.

"(b) Cost Share.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.—Funds provided by the Secretary shall not be used for the operation and maintenance of a project described in subsection (a).

"(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

(b) Conforming Amendment.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended by striking the item relating to the second section 1636 (as added by section 2 of Public Law 108–316 (118 Stat. 1202)) and inserting the following:

"Sec. 1637. Williamson County, Texas, Water Recylcing and Reuse Project.
"Sec. 1638. Hawaii reclamation projects.".

CARIBBEAN NATIONAL FOREST ACT OF 2005

The Senate proceeded to consider the bill (S. 272) to designate certain National Forest System land in the Commonwealth of Puerto Rico as a component of the National Wilderness Preservation System, which had been reported from the Committee on Energy and Natural Resources, with amendments and an amendment to the title, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Caribbean National Forest Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) Map.—The term "map" means the map dated April 13, [2004] *2004*, and entitled "El Toro Proposed Wilderness Area".

(2) Secretary.—The term "Secretary" means the Secretary of Agriculture.

SEC. 3. WILDERNESS DESIGNATION, CARIBBEAN NATIONAL FOREST, PUERTO RICO.

(a) El Toro Wilderness.—

(1) In general.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. [1113] *1131* et seq.), the approximately 10,000 acres of land in the Caribbean National Forest/Luquillo Experimental Forest in the Commonwealth of Puerto Rico [described in] *as generally depicted on* the map are designated as wilderness and as a component of the National Wilderness Preservation System.

(2) Designation.—The land designated in paragraph (1) shall be known as the El Toro Wilderness.

(3) Wilderness boundaries.—The El Toro Wilderness shall consist of the land [described in] *generally depicted* on the map.

(b) Map and Boundary Description.—

(1) In general.—As soon as practicable after the date of enactment of this Act, the Secretary shall—

(A) prepare a boundary description of the El Toro Wilderness; and

(B) submit the map and the boundary description to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(2) Public inspection and treatment.—The map and the boundary description prepared under paragraph (1)(A)—

(A) shall be on file and available for public inspection in the office of the Chief of the Forest Service; and

(B) shall have the same force and effect as if included in this Act.

(3) Errors.—The Secretary may correct clerical and typographical errors in the map and the boundary description prepared under paragraph (1)(A).

(c) Administration.—

(1) In general.—Subject to valid existing rights, the Secretary shall administer the El Toro Wilderness in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act.

(2) Effective date of wilderness act.—With respect to the El Toro Wilderness, any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of that Act shall be deemed to be a reference to the date of the enactment of this Act.

(d) Special Management Considerations.—Consistent with the Wilderness Act (16 U.S.C. 1131 et seq.), nothing in this Act precludes the installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and remote transmission facilities, or any combination of those facilities, in any case in which the Secretary determines that the facilities are essential to the scientific research purposes of the Luquillo Experimental Forest.

Amend the title so as to read: "A bill to designate certain National Forest System land in the Commonwealth of Puerto Rico as a component of the National Wilderness Preservation System.".

The committee amendments were agreed to.

The amendment to the title was agreed to.

The bill (S. 272), as amended, was agreed to, as follows:

S. 272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Caribbean National Forest Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) Map.—The term "map" means the map dated April 13, 2004, and entitled "El Toro Proposed Wilderness Area".

(2) Secretary.—The term "Secretary" means the Secretary of Agriculture.

SEC. 3. WILDERNESS DESIGNATION, CARIBBEAN NATIONAL FOREST, PUERTO RICO.

(a) El Toro Wilderness.—

(1) In general.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the approximately 10,000 acres of land in the Caribbean National Forest/Luquillo Experimental Forest in the Commonwealth of Puerto Rico as generally depicted on the map are designated as wilderness and as a component of the National Wilderness Preservation System.

(2) Designation.—The land designated in paragraph (1) shall be known as the El Toro Wilderness.

(3) Wilderness boundaries.—The El Toro Wilderness shall consist of the land generally depicted on the map.

(b) Map and Boundary Description.—

(1) In general.—As soon as practicable after the date of enactment of this Act, the Secretary shall—

(A) prepare a boundary description of the El Toro Wilderness; and

(B) submit the map and the boundary description to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(2) Public inspection and treatment.—The map and the boundary description prepared under paragraph (1)(A)—

(A) shall be on file and available for public inspection in the office of the Chief of the Forest Service; and

(B) shall have the same force and effect as if included in this Act.

(3) Errors.—The Secretary may correct clerical and typographical errors in the map and the boundary description prepared under paragraph (1)(A).

(c) Administration.—

(1) In general.—Subject to valid existing rights, the Secretary shall administer the El Toro Wilderness in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act.

(2) Effective date of wilderness act.—With respect to the El Toro Wilderness, any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of that Act shall be deemed to be a reference to the date of the enactment of this Act.

(d) Special Management Considerations.—Consistent with the Wilderness Act (16 U.S.C. 1131 et seq.), nothing in this Act precludes the installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and remote transmission facilities, or any combination of those facilities, in any case in which the Secretary determines that the facilities are essential to the scientific research purposes of the Luquillo Experimental Forest.

PALEONTOLOGICAL RESOURCES PRESERVATION ACT

The Senate proceeded to consider the bill (S. 263) to provide for the protection of paleontological resources on Federal lands, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paleontological Resources Preservation Act".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) CASUAL COLLECTING.—The term "casual collecting" means the collecting of a reasonable amount of common invertebrate and plant paleontological resources for non-commercial personal use, either by surface collection or the use of non-powered hand tools resulting in only negligible disturbance to the Earth's surface and other resources. As used in this paragraph, the terms "reasonable amount", "common invertebrate and plant paleontological resources" and "negligible disturbance" shall be determined by the Secretary.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior with respect to lands controlled or administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System Lands controlled or administered by the Secretary of Agriculture.

(3) FEDERAL LANDS.—The term "Federal lands" means—

(A) lands controlled or administered by the Secretary of the Interior, except Indian lands; or

(B) National Forest System lands controlled or administered by the Secretary of Agriculture.

(4) INDIAN LANDS.—The term "Indian Land" means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(5) STATE.—The term "State" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(6) PALEONTOLOGICAL RESOURCE.—The term "paleontological resource" means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust, that are of paleontological interest and that provide information about the history of life on earth, except that the term does not include—

(A) any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

(B) any cultural item (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)).

SEC. 3. MANAGEMENT.

(a) IN GENERAL.—The Secretary shall manage and protect paleontological resources on Federal lands using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

(b) COORDINATION.—To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this Act.

SEC. 4. PUBLIC AWARENESS AND EDUCATION PROGRAM.

The Secretary shall establish a program to increase public awareness about the significance of paleontological resources.

SEC. 5. COLLECTION OF PALEONTOLOGICAL RESOURCES.

(a) PERMIT REQUIREMENT.—

(1) IN GENERAL.—Except as provided in this Act, a paleontological resource may not be collected from Federal lands without a permit issued under this Act by the Secretary.

(2) CASUAL COLLECTING EXCEPTION.—The Secretary may allow casual collecting without a permit on Federal lands controlled or administered by the Bureau of Land Management, the Bureau of Reclamation, and the Forest Service, where such collection is consistent with the laws governing the management of those Federal lands and this Act.

(3) PREVIOUS PERMIT EXCEPTION.—Nothing in this section shall affect a valid permit issued prior to the date of enactment of this Act.

(b) CRITERIA FOR ISSUANCE OF A PERMIT.—The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;

(3) the permitted activity is consistent with any management plan applicable to the Federal lands concerned; and

(4) the proposed methods of collecting will not threaten significant natural or cultural resources.

(c) PERMIT SPECIFICATIONS.—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this Act. Every permit shall include requirements that—

(1) the paleontological resource that is collected from Federal lands under the permit will remain the property of the United States;

(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

(d) MODIFICATION, SUSPENSION, AND REVOCATION OF PERMITS.—

(1) The Secretary may modify, suspend, or revoke a permit issued under this section—

(A) for resource, safety, or other management considerations; or

(B) when there is a violation of term or condition of a permit issued pursuant to this section.

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under [section 9] *section 7* or is assessed a civil penalty under [section 10] *section 8*.

(e) AREA CLOSURES.—In order to protect paleontological or other resources and to provide for public safety, the Secretary may restrict access to or close areas under the Secretary's jurisdiction to the collection of paleontological resources.

SEC. 6. CURATION OF RESOURCES.

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

SEC. 7. PROHIBITED ACTS; CRIMINAL PENALTIES.

(a) IN GENERAL.—A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands unless such activity is conducted in accordance with this Act;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated or removed from Federal lands in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this Act; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated, removed, sold, purchased, exchanged, transported, or received from Federal lands.

(b) FALSE LABELING OFFENSES.—A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal lands.

(c) PENALTIES.—A person who knowingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both; but if the sum of the commercial and paleontological value of the paleontological resources involved and the cost of restoration and repair of such resources does not exceed $500, such person shall be fined in accordance with title 18, United States Code, or imprisoned not more than one year, or both.

(d) GENERAL EXCEPTION.—Nothing in subsection (a) shall apply to any person with respect to any paleontological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

SEC. 8. CIVIL PENALTIES.

(a) IN GENERAL.—

(1) HEARING.—A person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) AMOUNT OF PENALTY.—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this Act, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved, as determined by the Secretary.

(B) The cost of response, restoration, and repair of the resource and the paleontological site involved.

(C) Any other factors considered relevant by the Secretary assessing the penalty.

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) LIMITATION.—The amount of any penalty assessed under this subsection for any one violation shall not exceed an amount

equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.—

(1) JUDICIAL REVIEW.—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred within the 30-day period beginning on the date the order making the assessment was issued. Upon notice of such filing, the Secretary shall promptly file such a certified copy of the record on which the order was issued. The court shall hear the action on the record made before the Secretary and shall sustain the action if it is supported by substantial evidence on the record considered as a whole.

(2) FAILURE TO PAY.—If any person fails to pay a penalty under this section within 30 days—

(A) after the order making assessment has become final and the person has not filed a petition for judicial review of the order in accordance with paragraph (1); or

(B) after a court in an action brought in paragraph (1) has entered a final judgment upholding the assessment of the penalty, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which the person if found, resides, or transacts business, to collect the penalty (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). The district court shall have jurisdiction to hear and decide any such action. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings.

(c) HEARINGS.—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code.

(d) USE OF RECOVERED AMOUNTS.—Penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.

(2) To provide educational materials to the public about paleontological resources and sites.

(3) To provide for the payment of rewards as provided in [section 11] *section 9*.

SEC. 9. REWARDS AND FORFEITURE.

(a) REWARDS.—The Secretary may pay from penalties collected under [section 9 or 10] *section 7 or 8*—

(1) consistent with amounts established in regulations by the Secretary; or

(2) if no such regulation exists, an amount equal to the lesser of one-half of the penalty or $500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) FORFEITURE.—All paleontological resources with respect to which a violation under [section 9 or 10] *section 7 or 8* occurred and which are in the possession of any person, and all vehicles and equipment of any person that were used in connection with the violation, shall be subject to civil forfeiture, or upon conviction, to criminal forfeiture. All provisions of law relating to the seizure, forfeiture, and condemnation of property for a violation of this Act, the disposition of such property or the proceeds from the sale thereof, and remission or mitigation of such forfeiture, as well as the procedural provisions of chapter 46 of title 18, United States Code, shall apply to the seizures and forfeitures incurred or alleged to have incurred under the provisions of this Act.

(c) TRANSFER OF SEIZED RESOURCES.—The Secretary may transfer administration of seized paleontological resources to Federal or non-Federal educational institutions to be used for scientific or educational purposes.

SEC. 10. CONFIDENTIALITY.

Information concerning the nature and specific location of a paleontological resource the collection of which requires a permit under this Act or under any other provision of Federal law shall be exempt from disclosure under section 552 of title 5, United States Code, and any other law unless the Secretary determines that disclosure would—

(1) further the purposes of this Act;

(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) be in accordance with other applicable laws.

SEC. 11. REGULATIONS.

As soon as practical after the date of the enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this Act, providing opportunities for public notice and comment.

SEC. 12. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to—

(1) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under the general mining laws, the mineral or geothermal leasing laws, laws providing for minerals materials disposal, or laws providing for the management or regulation of the activities authorized by the aforementioned laws including but not limited to the Federal Land Policy Management Act (43 U.S.C. 1701–1784), [the Mining in the Parks Act] *Public Law 94-429 (commonly known as the "Mining in the Parks Act") (16 U.S.C. 1901 et seq.)*, the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1358), and the Organic Administration Act (16 U.S.C. 478, 482, 551);

(2) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under existing laws and authorities relating to reclamation and multiple uses of Federal lands;

(3) apply to, or require a permit for, casual collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this Act;

(4) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands;

(5) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontological resources on Federal lands in addition to the protection provided under this Act; or

(6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The committee amendments were agreed to.

The bill (S. 263), as amended, was read the third time and passed, as follows:

S. 263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paleontological Resources Preservation Act".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) CASUAL COLLECTING.—The term "casual collecting" means the collecting of a reasonable amount of common invertebrate and plant paleontological resources for non-commercial personal use, either by surface collection or the use of non-powered hand tools resulting in only negligible disturbance to the Earth's surface and other resources. As used in this paragraph, the terms "reasonable amount", "common invertebrate and plant paleontological resources" and "negligible disturbance" shall be determined by the Secretary.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior with respect to lands controlled or administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System Lands controlled or administered by the Secretary of Agriculture.

(3) FEDERAL LANDS.—The term "Federal lands" means—

(A) lands controlled or administered by the Secretary of the Interior, except Indian lands; or

(B) National Forest System lands controlled or administered by the Secretary of Agriculture.

(4) INDIAN LANDS.—The term "Indian Land" means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(5) STATE.—The term "State" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(6) PALEONTOLOGICAL RESOURCE.—The term "paleontological resource" means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust, that are of paleontological interest and that provide information about the history of life on earth, except that the term does not include—

(A) any materials associated with an archaeological resource (as defined in section

3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

(B) any cultural item (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)).

SEC. 3. MANAGEMENT.

(a) IN GENERAL.—The Secretary shall manage and protect paleontological resources on Federal lands using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

(b) COORDINATION.—To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this Act.

SEC. 4. PUBLIC AWARENESS AND EDUCATION PROGRAM.

The Secretary shall establish a program to increase public awareness about the significance of paleontological resources.

SEC. 5. COLLECTION OF PALEONTOLOGICAL RESOURCES.

(a) PERMIT REQUIREMENT.—

(1) IN GENERAL.—Except as provided in this Act, a paleontological resource may not be collected from Federal lands without a permit issued under this Act by the Secretary.

(2) CASUAL COLLECTING EXCEPTION.—The Secretary may allow casual collecting without a permit on Federal lands controlled or administered by the Bureau of Land Management, the Bureau of Reclamation, and the Forest Service, where such collection is consistent with the laws governing the management of those Federal lands and this Act.

(3) PREVIOUS PERMIT EXCEPTION.—Nothing in this section shall affect a valid permit issued prior to the date of enactment of this Act.

(b) CRITERIA FOR ISSUANCE OF A PERMIT.—The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;

(3) the permitted activity is consistent with any management plan applicable to the Federal lands concerned; and

(4) the proposed methods of collecting will not threaten significant natural or cultural resources.

(c) PERMIT SPECIFICATIONS.—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this Act. Every permit shall include requirements that—

(1) the paleontological resource that is collected from Federal lands under the permit will remain the property of the United States;

(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

(d) MODIFICATION, SUSPENSION, AND REVOCATION OF PERMITS.—

(1) The Secretary may modify, suspend, or revoke a permit issued under this section—

(A) for resource, safety, or other management considerations; or

(B) when there is a violation of term or condition of a permit issued pursuant to this section.

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under section 7 or is assessed a civil penalty under section 8.

(e) AREA CLOSURES.—In order to protect paleontological or other resources and to provide for public safety, the Secretary may restrict access to or close areas under the Secretary's jurisdiction to the collection of paleontological resources.

SEC. 6. CURATION OF RESOURCES.

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

SEC. 7. PROHIBITED ACTS; CRIMINAL PENALTIES.

(a) IN GENERAL.—A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands unless such activity is conducted in accordance with this Act;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated or removed from Federal lands in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this Act; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated, removed, sold, purchased, exchanged, transported, or received from Federal lands.

(b) FALSE LABELING OFFENSES.—A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal lands.

(c) PENALTIES.—A person who knowingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both; but if the sum of the commercial and paleontological value of the paleontological resources involved and the cost of restoration and repair of such resources does not exceed $500, such person shall be fined in accordance with title 18, United States Code, or imprisoned not more than one year, or both.

(d) GENERAL EXCEPTION.—Nothing in subsection (a) shall apply to any person with respect to any paleontological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

SEC. 8. CIVIL PENALTIES.

(a) IN GENERAL.—

(1) HEARING.—A person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) AMOUNT OF PENALTY.—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this Act, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved, as determined by the Secretary.

(B) The cost of response, restoration, and repair of the resource and the paleontological site involved.

(C) Any other factors considered relevant by the Secretary assessing the penalty.

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) LIMITATION.—The amount of any penalty assessed under this subsection for any one violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.—

(1) JUDICIAL REVIEW.—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred within the 30-day period beginning on the date the order making the assessment was issued. Upon notice of such filing, the Secretary shall promptly file such a certified copy of the record on which the order was issued. The court shall hear the action on the record made before the Secretary and shall sustain the action if it is supported by substantial evidence on the record considered as a whole.

(2) FAILURE TO PAY.—If any person fails to pay a penalty under this section within 30 days—

(A) after the order making assessment has become final and the person has not filed a petition for judicial review of the order in accordance with paragraph (1); or

(B) after a court in an action brought in paragraph (1) has entered a final judgment upholding the assessment of the penalty, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which the person if found, resides, or transacts business, to collect the penalty (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). The district court shall have jurisdiction to hear and decide any such action. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings.

(c) HEARINGS.—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code.

(d) USE OF RECOVERED AMOUNTS.—Penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites

with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.

(2) To provide educational materials to the public about paleontological resources and sites.

(3) To provide for the payment of rewards as provided in section 9.

SEC. 9. REWARDS AND FORFEITURE.

(a) Rewards.—The Secretary may pay from penalties collected under section 7 or 8—

(1) consistent with amounts established in regulations by the Secretary; or

(2) if no such regulation exists, an amount equal to the lesser of one-half of the penalty or $500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) Forfeiture.—All paleontological resources with respect to which a violation under section 7 or 8 occurred and which are in the possession of any person, and all vehicles and equipment of any person that were used in connection with the violation, shall be subject to civil forfeiture, or upon conviction, to criminal forfeiture. All provisions of law relating to the seizure, forfeiture, and condemnation of property for a violation of this Act, the disposition of such property or the proceeds from the sale thereof, and remission or mitigation of such forfeiture, as well as the procedural provisions of chapter 46 of title 18, United States Code, shall apply to the seizures and forfeitures incurred or alleged to have incurred under the provisions of this Act.

(c) Transfer of Seized Resources.—The Secretary may transfer administration of seized paleontological resources to Federal or non-Federal educational institutions to be used for scientific or educational purposes.

SEC. 10. CONFIDENTIALITY.

Information concerning the nature and specific location of a paleontological resource the collection of which requires a permit under this Act or under any other provision of Federal law shall be exempt from disclosure under section 552 of title 5, United States Code, and any other law unless the Secretary determines that disclosure would—

(1) further the purposes of this Act;

(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) be in accordance with other applicable laws.

SEC. 11. REGULATIONS.

As soon as practical after the date of the enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this Act, providing opportunities for public notice and comment.

SEC. 12. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to—

(1) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under the general mining laws, the mineral or geothermal leasing laws, laws providing for minerals materials disposal, or laws providing for the management or regulation of the activities authorized by the aforementioned laws including but not limited to the Federal Land Policy Management Act (43 U.S.C. 1701-1784), Public Law 94-429 (commonly known as the "Mining in the Parks Act") (16 U.S.C. 1901 et seq.), the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1358), and the Organic Administration Act (16 U.S.C. 478, 482, 551);

(2) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under existing laws and authorities relating to reclamation and multiple uses of Federal lands;

(3) apply to, or require a permit for, casual collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this Act;

(4) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands;

(5) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontological resources on Federal lands in addition to the protection provided under this Act; or

(6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

BIG HORN BENTONITE ACT

The bill (S. 97) to provide for the sale of bentonite in Big Horn County, Wyoming, was read the third time and passed; as follows:

S. 97

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Big Horn Bentonite Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) Covered land.—The term "covered land" means the approximately 20 acres of previously withdrawn land located in the E½ NE¼ SE¼ of sec. 32, T. 56N., R. 95W., sixth principal meridian, Big Horn County, Wyoming.

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. AUTHORIZATION OF MINING AND REMOVAL OF BENTONITE.

(a) In General.—Notwithstanding the withdrawal of the covered land for military purposes, the Secretary may, with the consent of the Secretary of the Army, permit the mining and removal of bentonite on the covered land.

(b) Sole-Source Contract.—The Secretary shall enter into a sole-source contract for the mining and removal of the bentonite from the covered land that provides for the payment to the Secretary of $1.00 per ton of bentonite removed from the covered land.

(c) Terms and Conditions.—

(1) In general.—Mining and removal of bentonite under this Act shall be subject to such terms and conditions as the Secretary may prescribe for—

(A) the prevention of unnecessary or undue degradation of the covered land; and

(B) the reclamation of the covered land after the bentonite is removed.

(2) Requirements.—The terms and conditions prescribed under paragraph (1) shall be at least as protective of the covered land as the terms and conditions established for Pit No. 144L (BLM Case File WYW136110).

(3) Land use plan.—In carrying out the provisions of this Act, the Secretary is not required to amend any land use plan under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(4) Termination of interest.—On completion of the mining and reclamation authorized under this Act, any party that has entered into the sole-source contract with the Secretary under subsection (b) shall have no remaining interest in the covered land.

SEC. 4. CLOSURE.

(a) In General.—If the Secretary of the Army notifies the Secretary that closure of the covered land is required because of a national emergency or for the purpose of national defense or national security, the Secretary shall—

(1) order the suspension of any activity authorized by this Act on the covered land; and

(2) close the covered land until the Secretary of the Army notifies the Secretary that the closure is no longer necessary.

(b) Liability.—Neither the Secretary nor the Secretary of the Army shall be liable for damages from a closure of the covered land under subsection (a).

DANDINI RESEARCH PARK CONVEYANCE ACT

The bill (S. 252) to direct the Secretary of the Interior to convey certain land in Washoe County, Nevada, to the Board of Regents of the University and Community College system of Nevada, was read the third time and passed, as follows:

S. 252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dandini Research Park Conveyance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) Board of regents.—The term "Board of Regents" means the Board of Regents of the University and Community College System of Nevada.

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. CONVEYANCE TO THE UNIVERSITY AND COMMUNITY COLLEGE SYSTEM OF NEVADA.

(a) Conveyance.—

(1) In general.—The Secretary shall convey to the Board of Regents, without consideration, all right, title, and interest of the United States in and to the approximately 467 acres of land located in Washoe County, Nevada, patented to the University of Nevada under the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.), and described in paragraph (2).

(2) Description of land.—The land referred to in paragraph (1) is—

(A) the parcel of land consisting of approximately 309.11 acres and more particularly described as T. 20 N., R. 19 E., Sec. 25, lots 1, 2, 3, 4, 5, and 11, SE¼NW¼, NE¼SW¼, Mount Diablo Meridian, Nevada; and

(B) the parcel of land consisting of approximately 158.22 acres and more particularly described as T. 20 N., R. 19 E., Sec. 25, lots 6 and 7, SW¼NE¼, NW¼SE¼, Mount Diablo Meridian, Nevada.

(b) COSTS.—The Board of Regents shall pay to the United States an amount equal to the costs of the Secretary associated with the conveyance under subsection (a)(1).

(c) CONDITIONS.—If the Board of Regents sells any portion of the land conveyed to the Board of Regents under subsection (a)(1)—

(1) the amount of consideration for the sale shall reflect fair market value, as determined by an appraisal; and

(2) the Board of Regents shall pay to the Secretary an amount equal to the net proceeds of the sale, for use by the Director of the Bureau of Land Management in the State of Nevada, without further appropriation.

EDWARD H. McDANIEL AMERICAN LEGION POST NO. 22 LAND CONVEYANCE ACT

The Senate proceeded to consider the bill (S. 253) to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Edward H. McDaniel American Legion Post No. 22 Land Conveyance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) POST NO. 22.—The term "Post No. 22" means the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 3. CONVEYANCE OF LAND TO EDWARD H. MCDANIEL AMERICAN LEGION POST NO. 22.

(a) CONVEYANCE ON CONDITION SUBSEQUENT.—Not later than 180 days after the date of enactment of this Act, subject to valid existing rights and the condition stated in subsection (c) and in accordance with the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.), the Secretary shall convey to Post No. 22, for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in [subsection (b)] *subsection (a)* is the parcel of Bureau of Land Management land that—

(1) is bounded by Route 160, Bride Street, and Dandelion Road in Nye County, Nevada;

(2) consists of approximately 4.5 acres of land; and

(3) is more particularly described as a portion of the S ½ of section 29, T. 20 S., R. 54 E., Mount Diablo and Base Meridian.

(c) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—Post No. 22 and any successors of Post No. 22 shall use the parcel of land described in [section (b)] *subsection (b)* for the construction and operation of a post building and memorial park for use by Post No. 22, other veterans groups, and the local community for events and activities.

(2) REVERSION.—Except as provided in paragraph (3), if the Secretary, after notice to Post No. 22 and an opportunity for a hearing, makes a finding that Post No. 22 has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1) and Post No. 22 fails to discontinue that use, title to the parcel shall revert to the United States, to be administered by the Secretary.

(3) WAIVER.—The Secretary may waive the requirements of paragraph (2) if the Secretary determines that a waiver would be in the best interests of the United States.

The committee amendments were agreed to.

The bill (S. 253), as amended, was read the third time and passed, as follows:

S. 253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Edward H. McDaniel American Legion Post No. 22 Land Conveyance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) POST NO. 22.—The term "Post No. 22" means the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 3. CONVEYANCE OF LAND TO EDWARD H. MCDANIEL AMERICAN LEGION POST NO. 22.

(a) CONVEYANCE ON CONDITION SUBSEQUENT.—Not later than 180 days after the date of enactment of this Act, subject to valid existing rights and the condition stated in subsection (c) and in accordance with the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.), the Secretary shall convey to Post No. 22, for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the parcel of Bureau of Land Management land that—

(1) is bounded by Route 160, Bride Street, and Dandelion Road in Nye County, Nevada;

(2) consists of approximately 4.5 acres of land; and

(3) is more particularly described as a portion of the S ¼ of section 29, T. 20 S., R. 54 E., Mount Diablo and Base Meridian.

(c) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—Post No. 22 and any successors of Post No. 22 shall use the parcel of land described in subsection (b) for the construction and operation of a post building and memorial park for use by Post No. 22, other veterans groups, and the local community for events and activities.

(2) REVERSION.—Except as provided in paragraph (3), if the Secretary, after notice to Post No. 22 and an opportunity for a hearing, makes a finding that Post No. 22 has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1) and Post No. 22 fails to discontinue that use, title to the parcel shall revert to the United States, to be administered by the Secretary.

(3) WAIVER.—The Secretary may waive the requirements of paragraph (2) if the Secretary determines that a waiver would be in the best interests of the United States.

NORTHERN ARIZONA LAND EXCHANGE AND VERDE RIVER BASIN PARNERSHIP ACT OF 2005

The bill (S. 161) to provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership, was read the third time and passed, as follows:

S. 161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—NORTHERN ARIZONA LAND EXCHANGE

Sec. 101. Definitions.
Sec. 102. Land exchange.
Sec. 103. Description of non-Federal land.
Sec. 104. Description of Federal land.
Sec. 105. Status and management of land after exchange.
Sec. 106. Miscellaneous provisions.
Sec. 107. Conveyance of additional land.

TITLE II—VERDE RIVER BASIN PARTNERSHIP

Sec. 201. Purpose.
Sec. 202. Definitions.
Sec. 203. Verde River Basin Partnership.
Sec. 204. Verde River Basin studies.
Sec. 205. Verde River Basin Partnership final report.
Sec. 206. Memorandum of understanding.
Sec. 207. Effect.

TITLE I—NORTHERN ARIZONA LAND EXCHANGE

SEC. 101. DEFINITIONS.

In this title:

(1) CAMP.—The term "camp" means Camp Pearlstein, Friendly Pines, Patterdale Pines, Pine Summit, Sky Y, and Young Life Lost Canyon camps in the State of Arizona.

(2) CITIES.—The term "cities" means the cities of Flagstaff, Williams, and Camp Verde, Arizona.

(3) FEDERAL LAND.—The term "Federal land" means the land described in section 104.

(4) NON-FEDERAL LAND.—The term "non-Federal land" means the land described in section 103.

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(6) YAVAPAI RANCH.—The term "Yavapai Ranch" means the Yavapai Ranch Limited Partnership, an Arizona Limited Partnership, and the Northern Yavapai, L.L.C., an Arizona Limited Liability Company.

SEC. 102. LAND EXCHANGE.

(a) In General.—(1) Upon the conveyance by Yavapai Ranch of title to the non-Federal land identified in section 103, the Secretary shall simultaneously convey to Yavapai Ranch title to the Federal land identified in section 104.

(2) Title to the lands to be exchanged shall be in a form acceptable to the Secretary and Yavapai Ranch.

(3) The Federal and non-Federal lands to be exchanged under this title may be modified prior to the exchange as provided in this title.

(4)(A) By mutual agreement, the Secretary and Yavapai Ranch may make minor and technical corrections to the maps and legal descriptions of the lands and interests therein exchanged or retained under this title, including changes, if necessary to conform to surveys approved by the Bureau of Land Management.

(B) In the case of any discrepancy between a map and legal description, the map shall prevail unless the Secretary and Yavapai Ranch agree otherwise.

(b) Exchange Process.—(1) Except as otherwise provided in this title, the land exchange under subsection (a) shall be undertaken in accordance with section 206 of the Federal Land Policy and Management Act (43 U.S.C. 1716).

(2) Before completing the land exchange under this title, the Secretary shall perform any necessary land surveys and pre-exchange inventories, clearances, reviews, and approvals, including those relating to hazardous materials, threatened and endangered species, cultural and historic resources, and wetlands and flood plains.

(c) Equal Value Exchange.—(1) The value of the Federal land and the non-Federal land shall be equal, or equalized by the Secretary by adjusting the acreage of the Federal land in accordance with paragraph (2).

(2) If the final appraised value of the Federal land exceeds the final appraised value of the non-Federal land, prior to making other adjustments, the Federal lands shall be adjusted by deleting all or part of the parcels or portions of the parcels in the following order:

(A) A portion of the Camp Verde parcel described in section 104(a)(4), comprising approximately 316 acres, located in the Prescott National Forest, and more particularly described as lots 1, 5, and 6 of section 26, the NE¼NE¼ portion of section 26 and the N½N½ portion of section 27, Township 14 North, Range 4 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(B) A portion of the Camp Verde parcel described in section 104(a)(4), comprising approximately 314 acres, located in the Prescott National Forest, and more particularly described as lots 2, 7, 8, and 9 of section 26, the SE¼NE¼ portion of section 26, and the S½N½ of section 27, Township 14 North, Range 4 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(C) Beginning at the south boundary of section 31, Township 20 North, Range 5 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 33 and 35, Township 20 North, Range 6 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, by adding to the non-Federal land to be conveyed to the United States in ⅛-section increments (E-W 64th line) while deleting from the conveyance to Yavapai Ranch Federal land in the same incremental portions of section 32, Township 20 North, Range 5 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 32, 34, and 36 in Township 20 North, Range 6 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, to establish a linear and continuous boundary that runs east-to-west across the sections.

(D) Any other parcels, or portions thereof, agreed to by the Secretary and Yavapai Ranch.

(3) If any parcel of Federal land or non-Federal land is not conveyed because of any reason, that parcel of land, or portion thereof, shall be excluded from the exchange and the remaining lands shall be adjusted as provided in this subsection.

(4) If the value of the Federal land exceeds the value of the non-Federal land by more than $50,000, the Secretary and Yavapai Ranch shall, by mutual agreement, delete additional Federal land from the exchange until the value of the Federal land and non-Federal land is, to the maximum extent practicable, equal.

(d) Appraisals.—(1) The value of the Federal land and non-Federal land shall be determined by appraisals prepared in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(2)(A) After the Secretary has reviewed and approved the final appraised values of the Federal land and non-Federal land to be exchanged, the Secretary shall not be required to reappraise or update the final appraised values before the completion of the land exchange.

(B) This paragraph shall apply during the three-year period following the approval by the Secretary of the final appraised values of the Federal land and non-Federal land unless the Secretary and Yavapai Ranch have entered into an agreement to implement the exchange.

(3) During the appraisal process, the appraiser shall determine the value of each parcel of Federal land and non-Federal land (including the contributory value of each individual section of the intermingled Federal and non-Federal land of the property described in sections 103(a) and 104(a)(1)) as an assembled transaction.

(4)(A) To ensure the timely and full disclosure to the public of the final appraised values of the Federal land and non-Federal land, the Secretary shall provide public notice of any appraisals approved by the Secretary and copies of such appraisals shall be available for public inspection in appropriate offices of the Prescott, Coconino, and Kaibab National Forests.

(B) The Secretary shall also provide copies of any approved appraisals to the cities and the owners of the camps described in section 101(1).

(e) Contracting.—(1) If the Secretary lacks adequate staff or resources to complete the exchange by the date specified in section 106(c), Yavapai Ranch, subject to the agreement of the Secretary, may contract with independent third-party contractors to carry out any work necessary to complete the exchange by that date.

(2) If, in accordance with this subsection, Yavapai Ranch contracts with an independent third-party contractor to carry out any work that would otherwise be performed by the Secretary, the Secretary shall reimburse Yavapai Ranch for the costs for the third-party contractors.

(f) Easements.—(1) The exchange of non-Federal and Federal land under this title shall be subject to any easements, rights-of-way, utility lines, and any other valid encumbrances in existence on the date of enactment of this Act, including acquired easements for water pipelines as generally depicted on the map entitled "Yavapai Ranch Land Exchange, YRLP Acquired Easements for Water Lines" dated August 2004, and any other reservations that may be agreed to by the Secretary and Yavapai Ranch.

(2) Upon completion of the land exchange under this title, the Secretary and Yavapai Ranch shall grant each other at no charge reciprocal easements for access and utilities across, over, and through—

(A) the routes depicted on the map entitled "Yavapai Ranch Land Exchange, Road and Trail Easements, Yavapai Ranch Area" dated August 2004; and

(B) any relocated routes that are agreed to by the Secretary and Yavapai Ranch.

(3) An easement described in paragraph (2) shall be unrestricted and non-exclusive in nature and shall run with and benefit the land.

(g) Conveyance of Federal Land to Cities and Camps.—(1) Prior to the completion of the land exchange between Yavapai Ranch and the Secretary, the cities and the owners of the camps may enter into agreements with Yavapai Ranch whereby Yavapai Ranch, upon completion of the land exchange, will convey to the cities or the owners of the camps the applicable parcel of Federal land or portion thereof.

(2) If Yavapai Ranch and the cities or camp owners have not entered into agreements in accordance with paragraph (1), the Secretary shall, on notification by the cities or owners of the camps no later than 30 days after the date the relevant approved appraisal is made publicly available, delete the applicable parcel or portion thereof from the land exchange between Yavapai Ranch and the United States as follows:

(A) Upon request of the City of Flagstaff, Arizona, the parcels, or portion thereof, described in section 104(a)(2).

(B) Upon request of the City of Williams, Arizona, the parcels, or portion thereof, described in section 104(a)(3).

(C) Upon request of the City of Camp Verde, Arizona, a portion of the parcel described in section 104(a)(4), comprising approximately 514 acres located southeast of the southeastern boundary of the I–17 right-of-way, and more particularly described as the SE¼ portion of the southeast quarter of section 26, the E½ and the E½W½ portions of section 35, and lots 5 through 7 of section 36, Township 14 North, Range 4 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(D) Upon request of the owners of the Younglife Lost Canyon camp, the parcel described in section 104(a)(5).

(E) Upon request of the owner of Friendly Pines Camp, Patterdale Pines Camp, Camp Pearlstein, Pine Summit, or Sky Y Camp, as applicable, the corresponding parcel described in section 104(a)(6).

(3)(A) Upon request of the specific city or camp referenced in paragraph (2), the Secretary shall convey to such city or camp all right, title, and interest of the United States in and to the applicable parcel of Federal land or portion thereof, upon payment of the fair market value of the parcel and subject to any terms and conditions the Secretary may require.

(B) A conveyance under this paragraph shall not require new administrative or environmental analyses or appraisals beyond those prepared for the land exchange.

(4) A city or owner of a camp purchasing land under this subsection shall reimburse

Yavapai Ranch for any costs incurred which are directly associated with surveys and appraisals of the specific property conveyed.

(5) A conveyance of land under this subsection shall not affect the timing of the land exchange.

(6) Nothing in this subsection limits the authority of the Secretary or Yavapai Ranch to delete any of the parcels referenced in this subsection from the land exchange.

(7)(A) The Secretary shall deposit the proceeds of any sale under paragraph (2) in a special account in the fund established under Public Law 90–171 (commonly known as the "Sisk Act") (16 U.S.C. 484a).

(B) Amounts deposited under subparagraph (A) shall be available to the Secretary, without further appropriation, to be used for the acquisition of land in the State of Arizona for addition to the National Forest System, including the land to be exchanged under this title.

SEC. 103. DESCRIPTION OF NON-FEDERAL LAND.

(a) In General.—The non-Federal land referred to in this title consists of approximately 35,000 acres of privately-owned land within the boundaries of the Prescott National Forest, as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Non-Federal Lands", dated August 2004.

(b) Easements.—(1) The conveyance of non-Federal land to the United States under section 102 shall be subject to the reservation of—

(A) water rights and perpetual easements that run with and benefit the land retained by Yavapai Ranch for—

(i) the operation, maintenance, repair, improvement, development, and replacement of not more than 3 wells in existence on the date of enactment of this Act;

(ii) related storage tanks, valves, pumps, and hardware; and

(iii) pipelines to point of use; and

(B) easements for reasonable access to accomplish the purposes of the easements described in subparagraph (A).

(2) Each easement for an existing well referred to in paragraph (1) shall be 40 acres in area, and to the maximum extent practicable, centered on the existing well.

(3) The United States shall be entitled to one-half the production of each existing or replacement well, not to exceed a total of 3,100,000 gallons of water annually for National Forest System purposes.

(4) The locations of the easements and wells shall be as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Reserved Easements for Water Lines and Wells", dated August 2004.

SEC. 104. DESCRIPTION OF FEDERAL LAND.

(a) In General.—The Federal land referred to in this title consists of the following:

(1) Certain land comprising approximately 15,300 acres located in the Prescott National Forest, as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Yavapai Ranch Area Federal Lands", dated August 2004.

(2) Certain land located in the Coconino National Forest—

(A) comprising approximately 1,500 acres as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Flagstaff Federal Lands Airport Parcel", dated August 2004; and

(B) comprising approximately 28.26 acres in two separate parcels, as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Flagstaff Federal Lands Wetzel School and Mt. Elden Parcels", dated August 2004.

(3) Certain land located in the Kaibab National Forest, and referred to as the Williams Airport, Williams golf course, Williams Sewer, Buckskinner Park, Williams Railroad, and Well parcels number 2, 3, and 4, cumulatively comprising approximately 950 acres, as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Williams Federal Lands", dated August 2004.

(4) Certain land located in the Prescott National Forest, comprising approximately 2,200 acres, as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Camp Verde Federal Land General Crook Parcel", dated August 2004.

(5) Certain land located in the Kaibab National Forest, comprising approximately 237.5 acres, as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Younglife Lost Canyon", dated August 2004.

(6) Certain land located in the Prescott National Forest, including the "Friendly Pines", "Patterdale Pines", "Camp Pearlstein", "Pine Summit", and "Sky Y" camps, cumulatively comprising approximately 200 acres, as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Prescott Federal Lands, Summer Youth Camp Parcels", dated August 2004.

(b) Condition of Conveyance of Camp Verde Parcel.—(1) To conserve water in the Verde Valley, Arizona, and to minimize the adverse impacts from future development of the Camp Verde General Crook parcel described in subsection (a)(4) on current and future holders of water rights in existence of the date of enactment of this Act and the Verde River and National Forest System lands retained by the United States, the United States shall limit in perpetuity the use of water on the parcel by reserving conservation easements that—

(A) run with the land;

(B) prohibit golf course development on the parcel;

(C) require that any public park or greenbelt on the parcel be watered with treated wastewater;

(D) limit total post-exchange water use on the parcel to not more than 300 acre-feet of water per year;

(E) provide that any water supplied by municipalities or private water companies shall count towards the post-exchange water use limitation described in subparagraph (D); and

(F) except for water supplied to the parcel by municipal water service providers or private water companies, require that any water used for the parcel not be withdrawn from wells perforated in the saturated Holocene alluvium of the Verde River.

(2) If Yavapai Ranch conveys the Camp Verde parcel described in subsection (a)(4), or any portion thereof, the terms of conveyance shall include a recorded and binding agreement of the quantity of water available for use on the land conveyed, as determined by Yavapai Ranch, except that total water use on the Camp Verde parcel may not exceed the amount specified in paragraph (1)(D).

(3) The Secretary may enter into a memorandum of understanding with the State or political subdivision of the State to enforce the terms of the conservation easement.

SEC. 105. STATUS AND MANAGEMENT OF LAND AFTER EXCHANGE.

(a) In General.—Land acquired by the United States under this title shall become part of the Prescott National Forest and shall be administered by the Secretary in accordance with this title and the laws applicable to the National Forest System.

(b) Grazing.—Where grazing on non-Federal land acquired by the Secretary under this title occurs prior to the date of enactment of this Act, the Secretary may manage the land to allow for continued grazing use, in accordance with the laws generally applicable to domestic livestock grazing on National Forest System land.

(c) Timber Harvesting.—(1) After completion of the land exchange under this title, except as provided in paragraph (2), commercial timber harvesting shall be prohibited on the non-Federal land acquired by the United States.

(2) Timber harvesting may be conducted on the non-Federal land acquired under this title if the Secretary determines that such harvesting is necessary—

(A) to prevent or control fires, insects, and disease through forest thinning or other forest management techniques;

(B) to protect or enhance grassland habitat, watershed values, native plants and wildlife species; or

(C) to improve forest health.

SEC. 106. MISCELLANEOUS PROVISIONS.

(a) Revocation of Orders.—Any public orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(b) Withdrawal of Federal Land.—Subject to valid existing rights, the Federal land is withdrawn from all forms of entry and appropriation under the public land laws; location, entry, and patent under the mining laws; and operation of the mineral leasing and geothermal leasing laws, until the date on which the land exchange is completed.

(c) Completion of Exchange.—It is the intent of Congress that the land exchange authorized and directed under this title be completed not later than 18 months after the date of enactment of this Act.

SEC. 107. CONVEYANCE OF ADDITIONAL LAND.

(a) In General.—The Secretary shall convey to a person that represents the majority of landowners with encroachments on the lot by quitclaim deed the parcel of land described in subsection (b).

(b) Description of Land.—The parcel of land referred to in subsection (a) is lot 8 in section 11, T. 21 N., R. 7 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(c) Amount of Consideration.—In exchange for the land described in subsection (b), the person acquiring the land shall pay to the Secretary consideration in the amount of—

(1) $2500; plus

(2) any costs of re-monumenting the boundary of land.

(d) Timing.—(1) Not later than 90 days after the date on which the Secretary receives a power of attorney executed by the person acquiring the land, the Secretary shall convey to the person the land described in subsection (b).

(2) If, by the date that is 270 days after the date of enactment of this Act, the Secretary does not receive the power of attorney described in paragraph (1)—

(A) the authority provided under this section shall terminate; and

(B) any conveyance of the land shall be made under Public Law 97–465 (16 U.S.C. 521c et seq.).

TITLE II—VERDE RIVER BASIN PARTNERSHIP

SEC. 201. PURPOSE.

The purpose of this title is to authorize assistance for a collaborative and science-based water resource planning and management partnership for the Verde River Basin in the State of Arizona, consisting of members that represent—

(1) Federal, State, and local agencies; and

(2) economic, environmental, and community water interests in the Verde River Basin.

SEC. 202. DEFINITIONS.

In this title:

(1) Director.—The term "Director" means the Director of the Arizona Department of Water Resources.

(2) Partnership.—The term "Partnership" means the Verde River Basin Partnership.

(3) Plan.—The term "plan" means the plan for the Verde River Basin required by section 204(a)(1).

(4) Secretary.—The term "Secretary" means the Secretary of Agriculture.

(5) State.—The term "State" means the State of Arizona.

(6) Verde river basin.—The term "Verde River Basin" means the land area designated by the Arizona Department of Water Resources as encompassing surface water and groundwater resources, including drainage and recharge areas with a hydrologic connection to the Verde River.

(7) Water budget.—The term "water budget" means the accounting of—

(A) the quantities of water leaving the Verde River Basin—

(i) as discharge to the Verde River and tributaries;

(ii) as subsurface outflow;

(iii) as evapotranspiration by riparian vegetation;

(iv) as surface evaporation;

(v) for agricultural use; and

(vi) for human consumption; and

(B) the quantities of water replenishing the Verde River Basin by precipitation, infiltration, and subsurface inflows.

SEC. 203. VERDE RIVER BASIN PARTNERSHIP.

(a) In General.—The Secretary may participate in the establishment of a partnership, to be known as the "Verde River Basin Partnership", made up of Federal, State, local governments, and other entities with responsibilities and expertise in water to coordinate and cooperate in the identification and implementation of comprehensive science-based policies, projects, and management activities relating to the Verde River Basin.

(b) Authorization of Appropriations.—On establishment of the Partnership, there are authorized to be appropriated to the Secretary and the Secretary of the Interior such sums as are necessary to carry out the activities of the Partnership for each of fiscal years 2006 through 2010.

SEC. 204. VERDE RIVER BASIN STUDIES.

(a) Studies.—

(1) In general.—The Partnership shall prepare a plan for conducting water resource studies in the Verde River Basin that identifies—

(A) the primary study objectives to fulfill water resource planning and management needs for the Verde River Basin; and

(B) the water resource studies, hydrologic models, surface and groundwater monitoring networks, and other analytical tools helpful in the identification of long-term water supply management options within the Verde River Basin.

(2) Requirements.—At a minimum, the plan shall—

(A) include a list of specific studies and analyses that are needed to support Partnership planning and management decisions;

(B) identify any ongoing or completed water resource or riparian studies that are relevant to water resource planning and management for the Verde River Basin;

(C) describe the estimated cost and duration of the proposed studies and analyses; and

(D) designate as a study priority the compilation of a water budget analysis for the Verde Valley.

(b) Verde Valley Water Budget Analysis.—

(1) In general.—Subject to the availability of appropriations, not later than 14 months after the date of enactment of this Act, the Director of the U.S. Geological Survey, in cooperation with the Director, shall prepare and submit to the Partnership a report that provides a water budget analysis of the portion of the Verde River Basin within the Verde Valley.

(2) Components.—The report submitted under paragraph (1) shall include—

(A) a summary of the information available on the hydrologic flow regime for the portion of the Middle Verde River from the Clarkdale streamgauging station to the city of Camp Verde at United States Geological Survey Stream Gauge 09506000;

(B) with respect to the portion of the Middle Verde River described in subparagraph (A), estimates of—

(i) the inflow and outflow of surface water and groundwater;

(ii) annual consumptive water use; and

(iii) changes in groundwater storage; and

(C) an analysis of the potential long-term consequences of various water use scenarios on groundwater levels and Verde River flows.

(c) Preliminary Report and Recommendations.—

(1) In general.—Not later than 16 months after the date of enactment of this Act, using the information provided in the report submitted under subsection (b) and any other relevant information, the Partnership shall submit to the Secretary, the Governor of Arizona, and representatives of the Verde Valley communities, a preliminary report that sets forth the findings and recommendations of the Partnership regarding the long-term available water supply within the Verde Valley.

(2) Consideration of recommendations.—The Secretary may take into account the recommendations included in the report submitted under paragraph (1) with respect to decisions affecting land under the jurisdiction of the Secretary, including any future sales or exchanges of Federal land in the Verde River Basin after the date of enactment of this Act.

(3) Effect.—Any recommendations included in the report submitted under paragraph (1) shall not affect the land exchange process or the appraisals of the Federal land and non-Federal land conducted under sections 103 and 104.

SEC. 205. VERDE RIVER BASIN PARTNERSHIP FINAL REPORT.

Not later than 4 years after the date of enactment of this Act, the Partnership shall submit to the Secretary and the Governor of Arizona a final report that—

(1) includes a summary of the results of any water resource assessments conducted under this title in the Verde River Basin;

(2) identifies any areas in the Verde River Basin that are determined to have groundwater deficits or other current or potential water supply problems;

(3) identifies long-term water supply management options for communities and water resources within the Verde River Basin; and

(4) identifies water resource analyses and monitoring needed to support the implementation of management options.

SEC. 206. MEMORANDUM OF UNDERSTANDING.

The Secretary (acting through the Chief of the Forest Service) and the Secretary of the Interior, shall enter into a memorandum of understanding authorizing the United States Geological Survey to access Forest Service land (including stream gauges, weather stations, wells, or other points of data collection on the Forest Service land) to carry out this title.

SEC. 207. EFFECT.

Nothing in this title diminishes or expands State or local jurisdiction, responsibilities, or rights with respect to water resource management or control.

UINTAH RESEARCH AND CURATORIAL CENTER ACT

The Senate proceeded to consider the bill (S. 182) to provide for the establishment of the Uintah Research and Curatorial Center for Dinosaur National Monument in the States of Colorado and Utah, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uintah Research and Curatorial Center Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) Center.—The term "Center" means the Uintah Research and Curatorial Center.

(2) Map.—The term "map" means the map entitled "Proposed Location of the [Uintah] *Uinta* Research and Curatorial Center", numbered 122/80.080, and dated May 2004.

(3) Monument.—The term "Monument" means the Dinosaur National Monument in the States of Colorado and Utah.

(4) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. UINTAH RESEARCH AND CURATORIAL CENTER.

(a) In General.—To provide for the unified and cost-effective curation of the paleontological, natural, and cultural objects of the Monument and the surrounding area, the Secretary shall establish the Uintah Research and Curatorial Center on land located outside the boundary of the Monument acquired under subsection (b).

(b) Acquisition of Land.—The Secretary may acquire by donation land for the Center consisting of not more than 5 acres located in Uintah County, in the vicinity of Vernal, Utah, as generally depicted on the map.

(c) Availability of Map.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) Use.—The Center shall be used for the curation of, storage of, and research on items in—

(1) the museum collection of the Monument; and

(2) any collection maintained by an entity described in subsection (e)(2) that enters into a cooperative agreement with the Secretary.

(e) Administration.—

(1) In general.—The Secretary shall—

(A) administer the land acquired under subsection (b); and

(B) promulgate any regulations that the Secretary determines to be appropriate for the use and management of the land.

(2) Cooperative Agreements.—The Secretary may enter into a cooperative agreement with a Federal, State, and local agency, academic institution, Indian tribe, or nonprofit entity to provide for—

(A) the curation of and research on the museum collection at the Center; and

(B) the development, use, management, and operation of the Center.

(3) Limitation.—The land acquired by the Secretary under subsection (b) shall not—

(A) be a part of the Monument; or

(B) be subject to the laws (including regulations) applicable to the Monument.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $8,800,000.

The committee amendment was agreed to.

The bill (S. 182), as amended, was read the third time and passed.

LAND CONVEYANCE TO BEAVER COUNTY, UTAH

The bill (S. 52) to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah, was read the third time and passed, as follows:

S. 52

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE TO BEAVER COUNTY, UTAH.

(a) In General.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall, without consideration and subject to valid existing rights, convey to Beaver County, Utah (referred to in this Act as the "County"), all right, title, and interest of the United States in and to the approximately 200 acres depicted as "Minersville State Park" on the map entitled "S. 2285, Minersville State Park" and dated April 30, 2004, for use for public recreation.

(b) Reconveyance by Beaver County.—

(1) In general.—Notwithstanding subsection (a), Beaver County may sell, for not less than fair market value, a portion of the property conveyed to the County under this section, if the proceeds of such sale are used by the County solely for maintenance of public recreation facilities located on the remainder of the property conveyed to the County under this section.

(2) Limitation.—If the County does not comply with the requirements of paragraph (1) in the conveyance of the property under that paragraph—

(A) the County shall pay to the United States the proceeds of the conveyance; and

(B) the Secretary of the Interior may require that all property conveyed under subsection (a) (other than the property sold by the County under paragraph (1)) revert to the United States.

NATIONAL TRAILS SYSTEM ACT AMENDMENTS

The Senate proceeded to consider the bill (S. 54) to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 54

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF FEASIBILITY AND SUITABILITY STUDIES OF EXISTING NATIONAL HISTORIC TRAILS.

Section 5 of the National Trails System Act (16 U.S.C. 1244) is amended by inserting the following new subsection:

["(g) The Secretary shall revise the feasibility and suitability studies for certain national trails for consideration of possible additions to the trails.

["(1) In general.—

["(A) Definitions.—In this subsection:

["(i) Route.—The term 'route' includes a trail segment commonly known as a cutoff.

["(ii) Shared route.—The term 'shared route' means a route that was a segment of more than one historic trail, including a route shared with an existing national historic trail.

["(B) Study requirements and objectives.—The study requirements and objectives specified in subsection (b) shall apply to a study required by this subsection.

["(C) Completion and submission of study.—A study listed in this subsection shall be completed and submitted to the Congress not later than three complete fiscal years from the date funds are made available for the study.

["(2) Oregon National Historic Trail.—]

"(g) Revision of Feasibility and Suitability Studies of Existing National Historic Trails.—

"(1) Definitions.—In this subsection:

"(A) Route.—The term 'route' includes a trail segment commonly known as a cutoff.

"(B) Shared route.—The term 'shared route' means a route that was a segment of more than one historic trail, including a route shared with an existing national historic trail.

"(2) Requirements for revision.—

"(A) In general.—The Secretary shall revise the feasibility and suitability studies for certain national trails for consideration of possible additions to the trails.

"(B) Study requirements and objectives.—The study requirements and objectives specified in subsection (b) shall apply to a study required by this subsection.

"(C) Completion and submission of study.—A study listed in this subsection shall be completed and submitted to Congress not later than 3 complete fiscal years from the date funds are made available for the study.

"(3) Oregon National Historic Trail.—

"(A) Study required.—The Secretary of the Interior shall undertake a study of the routes of the Oregon Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other routes of the Oregon Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Oregon National Historic Trail.

"(B) Covered routes.—The routes to be studied under subparagraph (A) shall include the following:

"(i) Whitman Mission route.

"(ii) Upper Columbia River.

"(iii) Cowlitz River route.

"(iv) Meek cutoff.

"(v) Free Emigrant Road.

"(vi) North Alternate Oregon Trail.

"(vii) Goodale's cutoff.

"(viii) North Side alternate route.

"(ix) Cutoff to Barlow road.

"(x) Naches Pass Trail.

"[(3)] *(4) Pony Express National Historic Trail.—The Secretary of the Interior shall undertake a study of the approximately 20-mile southern alternative route of the Pony Express Trail from Wathena, Kansas, to Troy, Kansas, and such other routes of the Pony Express Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Pony Express National Historic Trail.'*

"[(4)] *(5) California National Historic Trail.—*

"(A) Study required.—The Secretary of the Interior shall undertake a study of the Missouri Valley, central, and western routes of the California Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other and shared Missouri Valley, central, and western routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the California National Historic Trail.

"(B) Covered routes.—The routes to be studied under subparagraph (A) shall include the following:

"(i) Missouri Valley routes.—

"(I) Blue Mills-Independence Road.

"(II) Westport Landing Road.

"(III) Westport-Lawrence Road.

"(IV) Fort Leavenworth-Blue River route.

"(V) Road to Amazonia.

"(VI) Union Ferry Route.

"(VII) Old Wyoming-Nebraska City cutoff.

"(VIII) Lower Plattsmouth Route.

"(IX) Lower Bellevue Route.

"(X) Woodbury cutoff.

"(XI) Blue Ridge cutoff.

"(XII) Westport Road.

"(XIII) Gum Springs-Fort Leavenworth route.

"(XIV) Atchison/Independence Creek routes.

"(XV) Fort Leavenworth-Kansas River route.

"(XVI) Nebraska City cutoff routes.

"(XVII) Minersville-Nebraska City Road.

"(XVIII) Upper Plattsmouth route.

"(XIX) Upper Bellevue route.

"(ii) Central routes.—

"(I) Cherokee Trail, including splits.

"(II) Weber Canyon route of Hastings cutoff.

"(III) Bishop Creek cutoff.

"(IV) McAuley cutoff.

"(V) Diamond Springs cutoff.

"(VI) Secret Pass.

"(VII) Greenhorn cutoff.

"(VIII) Central Overland Trail.

"(iii) Western routes.—

"(I) Bidwell-Bartleson route.

"(II) Georgetown/Dagget Pass Trail.

"(III) Big Trees Road.

"(IV) Grizzly Flat cutoff.

"(V) Nevada City Road.

"(VI) Yreka Trail.

"(VII) Henness Pass route.

"(VIII) Johnson cutoff.

"(IX) Luther Pass Trail.

"(X) Volcano Road.

"(XI) Sacramento-Coloma Wagon Road.

"(XII) Burnett cutoff.

"(XIII) Placer County Road to Auburn.

"[(5)] *(6) Mormon Pioneer National Historic Trail.—*

"(A) Study required.—The Secretary of the Interior shall undertake a study of the routes of

the Mormon Pioneer Trail listed in subparagraph (B) and generally depicted in the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other routes of the Mormon Pioneer Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Mormon Pioneer National Historic Trail.

"(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

"(i) 1846 Subsequent routes A and B (Lucas and Clarke Counties, Iowa).

"(ii) 1856–57 Handcart route (Iowa City to Council Bluffs).

"(iii) Keokuk route (Iowa).

"(iv) 1847 Alternative Elkhorn and Loup River Crossings in Nebraska.

"(v) Fort Leavenworth Road; Ox Bow route and alternates in Kansas and Missouri (Oregon and California Trail routes used by Mormon emigrants).

"(vi) 1850 Golden Pass Road in Utah.

"[(6)]* (7) SHARED CALIFORNIA AND OREGON TRAIL ROUTES.—*

"(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the shared routes of the California Trail and Oregon Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other shared routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as shared components of the California National Historic Trail and the Oregon National Historic Trail.

"(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

"(i) St. Joe Road.

"(ii) Council Bluffs Road.

"(iii) Sublette cutoff.

"(iv) Applegate route.

"(v) Old Fort Kearny Road (Oxbow Trail).

"(vi) Childs cutoff.

"(vii) Raft River to Applegate.".

The committee amendments were agreed to.

The bill (S. 54), as amended, was read the third time and passed, as follows:

S. 54

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF FEASIBILITY AND SUITABILITY STUDIES OF EXISTING NATIONAL HISTORIC TRAILS.

Section 5 of the National Trails System Act (16 U.S.C. 1244) is amended by inserting the following new subsection:

"(g) REVISION OF FEASIBILITY AND SUITABILITY STUDIES OF EXISTING NATIONAL HISTORIC TRAILS.—

"(1) DEFINITIONS.—In this subsection:

"(A) ROUTE.—The term 'route' includes a trail segment commonly known as a cutoff.

"(B) SHARED ROUTE.—The term 'shared route' means a route that was a segment of more than one historic trail, including a route shared with an existing national historic trail.

"(2) REQUIREMENTS FOR REVISION.—

"(A) IN GENERAL.—The Secretary shall revise the feasibility and suitability studies for certain national trails for consideration of possible additions to the trails.

"(B) STUDY REQUIREMENTS AND OBJECTIVES.—The study requirements and objectives specified in subsection (b) shall apply to a study required by this subsection.

"(C) COMPLETION AND SUBMISSION OF STUDY.—A study listed in this subsection shall be completed and submitted to Congress not later than 3 complete fiscal years from the date funds are made available for the study.

"(3) OREGON NATIONAL HISTORIC TRAIL.—

"(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the routes of the Oregon Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other routes of the Oregon Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Oregon National Historic Trail.

"(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

"(i) Whitman Mission route.

"(ii) Upper Columbia River.

"(iii) Cowlitz River route.

"(iv) Meek cutoff.

"(v) Free Emigrant Road.

"(vi) North Alternate Oregon Trail.

"(vii) Goodale's cutoff.

"(viii) North Side alternate route.

"(ix) Cutoff to Barlow road.

"(x) Naches Pass Trail.

"(4) PONY EXPRESS NATIONAL HISTORIC TRAIL.—The Secretary of the Interior shall undertake a study of the approximately 20-mile southern alternative route of the Pony Express Trail from Wathena, Kansas, to Troy, Kansas, and such other routes of the Pony Express Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Pony Express National Historic Trail.

"(5) CALIFORNIA NATIONAL HISTORIC TRAIL.—

"(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the Missouri Valley, central, and western routes of the California Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other and shared Missouri Valley, central, and western routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the California National Historic Trail.

"(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

"(i) MISSOURI VALLEY ROUTES.—

"(I) Blue Mills-Independence Road.

"(II) Westport Landing Road.

"(III) Westport-Lawrence Road.

"(IV) Fort Leavenworth-Blue River route.

"(V) Road to Amazonia.

"(VI) Union Ferry Route.

"(VII) Old Wyoming-Nebraska City cutoff.

"(VIII) Lower Plattsmouth Route.

"(IX) Lower Bellevue Route.

"(X) Woodbury cutoff.

"(XI) Blue Ridge cutoff.

"(XII) Westport Road.

"(XIII) Gum Springs-Fort Leavenworth route.

"(XIV) Atchison/Independence Creek routes.

"(XV) Fort Leavenworth-Kansas River route.

"(XVI) Nebraska City cutoff routes.

"(XVII) Minersville-Nebraska City Road.

"(XVIII) Upper Plattsmouth route.

"(XIX) Upper Bellevue route.

"(ii) CENTRAL ROUTES.—

"(I) Cherokee Trail, including splits.

"(II) Weber Canyon route of Hastings cutoff.

"(III) Bishop Creek cutoff.

"(IV) McAuley cutoff.

"(V) Diamond Springs cutoff.

"(VI) Secret Pass.

"(VII) Greenhorn cutoff.

"(VIII) Central Overland Trail.

"(iii) WESTERN ROUTES.—

"(I) Bidwell-Bartleson route.

"(II) Georgetown/Dagget Pass Trail.

"(III) Big Trees Road.

"(IV) Grizzly Flat cutoff.

"(V) Nevada City Road.

"(VI) Yreka Trail.

"(VII) Henness Pass route.

"(VIII) Johnson cutoff.

"(IX) Luther Pass Trail.

"(X) Volcano Road.

"(XI) Sacramento-Coloma Wagon Road.

"(XII) Burnett cutoff.

"(XIII) Placer County Road to Auburn.

"(6) MORMON PIONEER NATIONAL HISTORIC TRAIL.—

"(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the routes of the Mormon Pioneer Trail listed in subparagraph (B) and generally depicted in the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other routes of the Mormon Pioneer Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Mormon Pioneer National Historic Trail.

"(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

"(i) 1846 Subsequent routes A and B (Lucas and Clarke Counties, Iowa).

"(ii) 1856-57 Handcart route (Iowa City to Council Bluffs).

"(iii) Keokuk route (Iowa).

"(iv) 1847 Alternative Elkhorn and Loup River Crossings in Nebraska.

"(v) Fort Leavenworth Road; Ox Bow route and alternates in Kansas and Missouri (Oregon and California Trail routes used by Mormon emigrants).

"(vi) 1850 Golden Pass Road in Utah.

"(7) SHARED CALIFORNIA AND OREGON TRAIL ROUTES.—

"(A) STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the shared routes of the California Trail and Oregon Trail listed in subparagraph (B) and generally depicted on the map entitled 'Western Emigrant Trails 1830/1870' and dated 1991/1993, and of such other shared routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as shared components of the California National Historic Trail and the Oregon National Historic Trail.

"(B) COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:

"(i) St. Joe Road.

"(ii) Council Bluffs Road.

"(iii) Sublette cutoff.

"(iv) Applegate route.

"(v) Old Fort Kearny Road (Oxbow Trail).

"(vi) Childs cutoff.

"(vii) Raft River to Applegate.".

RIO GRANDE NATURAL AREA ACT

The bill (S. 56) to establish the Rio Grande Natural Area in the State of Colorado, and for other purposes, was read the third time and passed, as follows:

S. 56

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Grande Natural Area Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) Commission.—The term "Commission" means the Rio Grande Natural Area Commission established by section 4(a).

(2) Natural Area.—The term "Natural Area" means the Rio Grande Natural Area established by section 3(a).

(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. ESTABLISHMENT OF RIO GRANDE NATURAL AREA.

(a) In General.—There is established the Rio Grande Natural Area in the State of Colorado to conserve, restore, and protect the natural, historic, cultural, scientific, scenic, wildlife, and recreational resources of the Natural Area.

(b) Boundaries.—The Natural Area shall include the Rio Grande River from the southern boundary of the Alamosa National Wildlife Refuge to the New Mexico State border, extending ¼ mile on either side of the bank of the River.

(c) Map and Legal Description.—

(1) In general.—As soon as practicable after the date of enactment of this Act, the Secretary shall prepare a map and legal description of the Natural Area.

(2) Effect.—The map and legal description of the Natural Area shall have the same force and effect as if included in this Act, except that the Secretary may correct any minor errors in the map and legal description.

(3) Public availability.—The map and legal description of the Natural Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. ESTABLISHMENT OF THE COMMISSION.

(a) Establishment.—There is established the Rio Grande Natural Area Commission.

(b) Purpose.—The Commission shall—

(1) advise the Secretary with respect to the Natural Area; and

(2) prepare a management plan relating to non-Federal land in the Natural Area under section 6(b)(2)(A).

(c) Membership.—The Commission shall be composed of 9 members appointed by the Secretary, of whom—

(1) 1 member shall represent the Colorado State Director of the Bureau of Land Management;

(2) 1 member shall be the manager of the Alamosa National Wildlife Refuge, ex officio;

(3) 3 members shall be appointed based on the recommendation of the Governor of Colorado, of whom—

(A) 1 member shall represent the Colorado Division of Wildlife;

(B) 1 member shall represent the Colorado Division of Water Resources; and

(C) 1 member shall represent the Rio Grande Water Conservation District; and

(4) 4 members shall—

(A) represent the general public;

(B) be citizens of the local region in which the Natural Area is established; and

(C) have knowledge and experience in the fields of interest relating to the preservation, restoration, and use of the Natural Area.

(d) Terms of Office.—

(1) In general.—Except for the manager of the Alamosa National Wildlife Refuge, the term of office of a member of the Commission shall be 5 years.

(2) Reappointment.—A member may be reappointed to the Commission on completion of the term of office of the member.

(e) Compensation.—A member of the Commission shall serve without compensation for service on the Commission.

(f) Chairperson.—The Commission shall elect a chairperson of the Commission.

(g) Meetings.—

(1) In general.—The Commission shall meet at least quarterly at the call of the chairperson.

(2) Public meetings.—A meeting of the Commission shall be open to the public.

(3) Notice.—Notice of any meeting of the Commission shall be published in advance of the meeting.

(h) Technical Assistance.—The Secretary and the heads of other Federal agencies shall, to the maximum extent practicable, provide any information and technical services requested by the Commission to assist in carrying out the duties of the Commission.

SEC. 5. POWERS OF THE COMMISSION.

(a) Hearings.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) Cooperative Agreements.—

(1) In general.—For purposes of carrying out the management plan on non-Federal land in the Natural Area, the Commission may enter into a cooperative agreement with the State of Colorado, a political subdivision of the State, or any person.

(2) Requirements.—A cooperative agreement entered into under paragraph (1) shall establish procedures for providing notice to the Commission of any action proposed by the State of Colorado, a political subdivision of the State, or any person that may affect the implementation of the management plan on non-Federal land in the Natural Area.

(3) Effect.—A cooperative agreement entered into under paragraph (1) shall not enlarge or diminish any right or duty of a Federal agency under Federal law.

(c) Prohibition of Acquisition of Real Property.—The Commission may not acquire any real property or interest in real property.

(d) Implementation of Management Plan.—

(1) In general.—The Commission shall assist the Secretary in implementing the management plan by carrying out the activities described in paragraph (2) to preserve and interpret the natural, historic, cultural, scientific, scenic, wildlife, and recreational resources of the Natural Area.

(2) Authorized activities.—In assisting with the implementation of the management plan under paragraph (1), the Commission may—

(A) assist the State of Colorado in preserving State land and wildlife within the Natural Area;

(B) assist the State of Colorado and political subdivisions of the State in increasing public awareness of, and appreciation for, the natural, historic, scientific, scenic, wildlife, and recreational resources in the Natural Area;

(C) encourage political subdivisions of the State of Colorado to adopt and implement land use policies that are consistent with—

(i) the management of the Natural Area; and

(ii) the management plan; and

(D) encourage and assist private landowners in the Natural Area in the implementation of the management plan.

SEC. 6. MANAGEMENT PLAN.

(a) In General.—Not later than 4 years after the date of enactment of this Act, the Secretary and the Commission, in coordination with appropriate agencies in the State of Colorado, political subdivisions of the State, and private landowners in the Natural Area, shall prepare management plans for the Natural Area as provided in subsection (b).

(b) Duties of Secretary and Commission.—

(1) Secretary.—The Secretary shall prepare a management plan relating to the management of Federal land in the Natural Area.

(2) Commission.—

(A) In general.—The Commission shall prepare a management plan relating to the management of the non-Federal land in the Natural Area.

(B) Approval or disapproval.—

(i) In general.—The Commission shall submit to the Secretary the management plan prepared under subparagraph (A) for approval or disapproval.

(ii) Action following disapproval.—If the Secretary disapproves the management plan submitted under clause (i), the Secretary shall—

(I) notify the Commission of the reasons for the disapproval; and

(II) allow the Commission to submit to the Secretary revisions to the management plan submitted under clause (i).

(3) Cooperation.—The Secretary and the Commission shall cooperate to ensure that the management plans relating to the management of Federal land and non-Federal land are consistent.

(c) Requirements.—The management plans shall—

(1) take into consideration Federal, State, and local plans in existence on the date of enactment of this Act to present a unified preservation, restoration, and conservation plan for the Natural Area;

(2) with respect to Federal land in the Natural Area—

(A) be developed in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712);

(B) be consistent, to the maximum extent practicable, with the management plans adopted by the Director of the Bureau of Land Management for land adjacent to the Natural Area; and

(C) be considered to be an amendment to the San Luis Resource Management Plan of the Bureau of Land Management; and

(3) include—

(A) an inventory of the resources contained in the Natural Area (including a list of property in the Natural Area that should be preserved, restored, managed, developed, maintained, or acquired to further the purposes of the Natural Area); and

(B) a recommendation of policies for resource management, including the use of intergovernmental cooperative agreements, that—

(i) protect the resources of the Natural Area; and

(ii) provide for solitude, quiet use, and pristine natural values of the Natural Area.

(d) Publication.—The Secretary shall publish notice of the management plans in the Federal Register.

SEC. 7. ADMINISTRATION OF NATURAL AREA.

(a) In General.—The Secretary shall administer the Federal land in the Natural Area—

(1) in accordance with—

(A) the laws (including regulations) applicable to public land; and

(B) the management plan; and

(2) in a manner that provides for—

(A) the conservation, restoration, and protection of the natural, historic, scientific, scenic, wildlife, and recreational resources of the Natural Area;

(B) the continued use of the Natural Area for purposes of education, scientific study, and limited public recreation in a manner that does not substantially impair the purposes for which the Natural Area is established;

(C) the protection of the wildlife habitat of the Natural Area;

(D) a prohibition on the construction of water storage facilities in the Natural Area; and

(E) the reduction in the use of or removal of roads in the Natural Area and, to the maximum extent practicable, the reduction in or prohibition against the use of motorized vehicles in the Natural Area (including the removal of roads and a prohibition against motorized use on Federal land in the area on the western side of the Rio Grande River from Lobatos Bridge south to the New Mexico State line).

(b) CHANGES IN STREAMFLOW.—The Secretary is encouraged to negotiate with the State of Colorado, the Rio Grande Water Conservation District, and affected water users in the State to determine if changes in the streamflow that are beneficial to the Natural Area may be accommodated.

(c) PRIVATE LAND.—The management plan prepared under section 6(b)(2)(A) shall apply to private land in the Natural Area only to the extent that the private landowner agrees in writing to be bound by the management plan.

(d) WITHDRAWAL.—Subject to valid existing rights, all Federal land in the Natural Area is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under the mineral leasing laws (including geothermal leasing laws).

(e) ACQUISITION OF LAND.—

(1) IN GENERAL.—The Secretary may acquire from willing sellers by purchase, exchange, or donation land or an interest in land in the Natural Area.

(2) ADMINISTRATION.—Any land or interest in land acquired under paragraph (1) shall be administered in accordance with the management plan and this Act.

(f) APPLICABLE LAW.—Section 5(d)(1) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(d)(1)) shall not apply to the Natural Area.

SEC. 8. EFFECT.

Nothing in this Act—

(1) amends, modifies, or is in conflict with the Rio Grande Compact, consented to by Congress in the Act of May 31, 1939 (53 Stat. 785, ch. 155);

(2) authorizes the regulation of private land in the Natural Area;

(3) authorizes the imposition of any mandatory streamflow requirements;

(4) creates an express or implied Federal reserved water right;

(5) imposes any Federal water quality standard within or upstream of the Natural Area that is more restrictive than would be applicable had the Natural Area not been established; or

(6) prevents the State of Colorado from acquiring an instream flow through the Natural Area under the terms, conditions, and limitations of State law to assist in protecting the natural environment to the extent and for the purposes authorized by State law.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SEC. 10. TERMINATION OF COMMISSION.

The Commission shall terminate on the date that is 10 years after the date of enactment of this Act.

LAND CONVEYANCE TO FRANNIE, WYOMING

The bill (S. 101) to convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation, was read the third time and passed, as follows:

S. 101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF LAND TO THE TOWN OF FRANNIE, WYOMING.

(a) CONVEYANCE.—Subject to valid existing rights, the Secretary of the Interior shall convey by quitclaim deed, without consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the town of Frannie, Wyoming.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the parcel of land withdrawn by the Commissioner of Reclamation—

(1) consisting of approximately 37,500 square feet;

(2) located in the town of Frannie, Wyoming; and

(3) more particularly described in the approved Plat of Survey of Frannie Townsite, Wyoming, as the North ½ of Block 26, T. 58 N, R. 97 W.

(c) RESERVATION OF MINERAL RIGHTS.—The conveyance under subsection (a) shall be subject to the reservation by the United States of any oil and gas rights.

(d) REVOCATIONS.—

(1) SPECIAL USE PERMIT.—The special use permit issued by the Commissioner of Reclamation, numbered O-LM-60-L1413, and dated April 20, 1990, is revoked with respect to the land described in subsection (b).

(2) SECRETARIAL ORDERS.—The following Secretarial Orders issued by the Commissioner of Reclamation are revoked with respect to the land described in subsection (b):

(A) The Secretarial Order for the withdrawal of land for the Shoshone Reclamation Project dated October 21, 1913, as amended.

(B) The Secretarial Order for the withdrawal of land for the Frannie Townsite Reservation dated April 19, 1920.

NORTHERN CALIFORNIA COASTAL WILD HERITAGE WILDERNESS ACT

The Senate proceeded to consider the bill (S. 128) to designate certain public land in Humboldt, Del Norte, Mendocino, Lake, and Napa Counties in the State of California as wilderness, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, and for other purposes.

S. 128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northern California Coastal Wild Heritage Wilderness Act".

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term "Secretary" means—

(1) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(2) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

SEC. 3. DESIGNATION OF WILDERNESS AREAS.

In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State of California are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) SNOW MOUNTAIN WILDERNESS ADDITION.—

(A) IN GENERAL.—Certain land in the Mendocino National Forest, comprising approximately 23,312 acres, as generally depicted on the maps described in subparagraph (B), is incorporated in and shall considered to be a part of the "Snow Mountain Wilderness", as designated by section 101(a)(31) of the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98-425).

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled "Skeleton Glade Unit, Snow Mountain Proposed Wilderness Addition, Mendocino National Forest" and dated September 17, 2004; and

(ii) the map entitled "Bear Creek/Deafy Glade Unit, Snow Mountain Wilderness Addition, Mendocino National Forest" and dated September 17, 2004.

(2) SANHEDRIN WILDERNESS.—Certain land in the Mendocino National Forest, comprising approximately 10,571 acres, as generally depicted on the map entitled "Sanhedrin Proposed Wilderness, Mendocino National Forest" and dated September 17, 2004, which shall be known as the "Sanhedrin Wilderness".

(3) YUKI WILDERNESS.—Certain land in the Mendocino National Forest and certain land administered by the Bureau of Land Management in Lake and Mendocino Counties, California, together comprising approximately 54,087 acres, as generally depicted on the map entitled "Yuki Proposed Wilderness" and dated October 28, 2004, which shall be known as the "Yuki Wilderness".

(4) YOLLA BOLLY-MIDDLE EEL WILDERNESS ADDITION.—Certain land in the Mendocino National Forest and certain land administered by the Bureau of Land Management in Mendocino County, California, together comprising approximately 25,806 acres, as generally depicted on the map entitled "Middle Fork Eel, Smokehouse and Big Butte Units, Yolla Bolly-Middle Eel Proposed Wilderness Addition" and dated October 28, 2004, is incorporated in and shall considered to be a part of the Yolla Bolly-Middle Eel Wilderness, as designated by section 3 of the Wilderness Act (16 U.S.C. 1132).

(5) MAD RIVER BUTTES WILDERNESS.—Certain land in the Six Rivers National Forest, comprising approximately 6,494 acres, as generally depicted on the map entitled "Mad River Buttes, Mad River Proposed Wilderness" and dated September 17, 2004, which shall be known as the "Mad River Buttes Wilderness".

(6) SISKIYOU WILDERNESS ADDITION.—

(A) IN GENERAL.—Certain land in the Six Rivers National Forest, comprising approximately 48,754 acres, as generally depicted on the maps described in subparagraph (B), is incorporated in and shall be considered to be a part of the Siskiyou Wilderness, as designated by section 101(a)(30) of the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–425).

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled "Bear Basin Butte Unit, Siskiyou Proposed Wilderness Additions, Six Rivers National Forest" and dated October 28, 2004;

(ii) the map entitled "Blue Creek Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest" and dated October 28, 2004;

(iii) the map entitled "Blue Ridge Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest" and dated September 17, 2004;

(iv) the map entitled "Broken Rib Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest" and dated September 17, 2004; and

(v) the map entitled "Wooly Bear Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest" and dated September 27, 2004.

(7) MOUNT LASSIC WILDERNESS.—Certain land in the Six Rivers National Forest, comprising approximately 7,279 acres, as generally depicted on the map entitled "Mt. Lassic Proposed Wilderness" and dated September 17, 2004, which shall be known as the "Mount Lassic Wilderness".

(8) TRINITY ALPS WILDERNESS ADDITION.—

(A) IN GENERAL.—Certain land in the Six Rivers National Forest, comprising approximately 28,805 acres, as generally depicted on the maps described in subparagraph (B) and which is incorporated in and shall be considered to be a part of the Trinity Alps Wilderness as designated by section 101(a)(34) of the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–425).

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled "Orleans Mountain Unit (Boise Creek), Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest", and dated October 28, 2004;

(ii) the map entitled "East Fork Unit, Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest" and dated September 17, 2004;

(iii) the map entitled "Horse Linto Unit, Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest" and dated September 17, 2004; and

(iv) the map entitled "Red Cap Unit, Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest" and dated September 17, 2004.

(9) UNDERWOOD WILDERNESS.—Certain land in the Six Rivers National Forest, comprising approximately 2,977 acres, as generally depicted on the map entitled "Underwood Proposed Wilderness, Six Rivers National Forest" and dated September 17, 2004, which shall be known as the "Underwood Wilderness".

(10) CACHE CREEK WILDERNESS.—Certain land administered by the Bureau of Land Management in Lake County, California, comprising approximately 30,870 acres, as generally depicted on the map entitled "Cache Creek Wilderness Area" and dated September 27, 2004, which shall be known as the "Cache Creek Wilderness".

(11) CEDAR ROUGHS WILDERNESS.—Certain land administered by the Bureau of Land Management in Napa County, California, comprising approximately 6,350 acres, as generally depicted on the map entitled "Cedar Roughs Wilderness Area" and dated September 27, 2004, which shall be known as the "Cedar Roughs Wilderness".

(12) SOUTH FORK EEL RIVER WILDERNESS.—Certain land administered by the Bureau of Land Management in Mendocino County, California, comprising approximately 12,915 acres, as generally depicted on the map entitled "South Fork Eel River Wilderness Area and Elkhorn Ridge Potential Wilderness" and dated September 27, 2004, which shall be known as the "South Fork Eel River Wilderness".

(13) KING RANGE WILDERNESS.—

(A) IN GENERAL.—Certain land administered by the Bureau of Land Management in Humboldt and Mendocino Counties, California, comprising approximately 42,585 acres, as generally depicted on the map entitled "King Range Wilderness", and dated November 12, 2004, which shall be known as the "King Range Wilderness".

(B) APPLICABLE LAW.—With respect to the wilderness designated by subparagraph (A), in the case of a conflict between this Act and Public Law 91-476 (16 U.S.C. 460y et seq.), the more restrictive provision shall control.

(14) ROCKS AND ISLANDS.—

(A) IN GENERAL.—All Federally-owned rocks, islets, and islands (whether named or unnamed and surveyed or unsurveyed) that are located—

(i) not more than 3 geographic miles off the coast of the King Range National Conservation Area; and

(ii) above mean high tide.

(B) APPLICABLE LAW.—In the case of a conflict between this Act and Proclamation No. 7264 (65 Fed. Reg. 2821), the more restrictive provision shall control.

SEC. 4. ADMINISTRATION OF WILDERNESS AREAS.

(a) MANAGEMENT.—Subject to valid existing rights, each area designated as wilderness by this Act shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary that has jurisdiction over the wilderness.

(b) MAP AND DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated by this Act with—

(A) the Committee on Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(2) FORCE OF LAW.—A map and legal description filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be filed and made available for public inspection in the appropriate office of the Secretary.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land within the boundary of a wilderness area designated by this Act that is acquired by the Federal Government shall—

(1) become part of the wilderness area in which the land is located; and

(2) be managed in accordance with this Act, the Wilderness Act (16 U.S.C. 1131 et seq.), and any other applicable law.

(d) WITHDRAWAL.—Subject to valid rights in existence on the date of enactment of this Act, the Federal land designated as wilderness by this Act is withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(e) FIRE, INSECT, AND DISEASE MANAGEMENT ACTIVITIES.—

(1) IN GENERAL.—The Secretary may take such measures in the wilderness areas designated by this Act as are necessary for the control and prevention of fire, insects, and diseases, in accordance with—

(A) section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)); and

(B) House Report No. 98-40 of the 98th Congress.

(2) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Secretary shall review existing policies applicable to the wilderness areas designated by this Act to ensure that authorized approval procedures for any fire management measures allow a timely and efficient response to fire emergencies in the wilderness areas.

(f) ACCESS TO PRIVATE PROPERTY.—

(1) IN GENERAL.—The Secretary shall provide any owner of private property within the boundary of a wilderness area designated by this Act adequate access to such property to ensure the reasonable use and enjoyment of the property by the owner.

(2) KING RANGE WILDERNESS.—

(A) IN GENERAL.—Subject to subparagraph (B), within the wilderness designated by section 3(13), the access route depicted on the map for private landowners shall also be available for invitees of the private landowners.

(B) LIMITATION.—Nothing in subparagraph (A) requires the Secretary to provide any access to the landowners or invitees beyond the access that would be available if the wilderness had not been designated.

(g) SNOW SENSORS AND STREAM GAUGES.—If the Secretary determines that hydrologic, meteorologic, or climatological instrumentation is appropriate to further the scientific, educational, and conservation purposes of the wilderness areas designated by this Act, nothing in this Act prevents the installation and maintenance of the instrumentation within the wilderness areas.

(h) MILITARY ACTIVITIES.—Nothing in this Act precludes low-level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over wilderness areas designated by this Act.

(i) LIVESTOCK.—Grazing of livestock and the maintenance of existing facilities related to grazing in wilderness areas designated by this Act, where established before the date of enactment of this Act, shall be permitted to continue in accordance with—

(1) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(2) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101-405).

(j) FISH AND WILDLIFE MANAGEMENT.—

(1) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et

seq.), the Secretary may carry out management activities to maintain or restore fish and wildlife populations and fish and wildlife habitats in wilderness areas designated by this Act if such activities are—

(A) consistent with applicable wilderness management plans; and

(B) carried out in accordance with applicable guidelines and policies.

(2) STATE JURISDICTION.—Nothing in this Act affects the jurisdiction of the State of California with respect to fish and wildlife on the public land located in the State.

(k) USE BY MEMBERS OF INDIAN TRIBES.—

(1) ACCESS.—In recognition of the past use of wilderness areas designated by this Act by members of Indian tribes for traditional cultural and religious purposes, the Secretary shall ensure that Indian tribes have access to the wilderness areas for traditional cultural and religious purposes.

(2) TEMPORARY CLOSURES.—

(A) IN GENERAL.—In carrying out this section, the Secretary, on request of an Indian tribe, may temporarily close to the general public 1 or more specific portions of a wilderness area to protect the privacy of the members of the Indian tribe in the conduct of the traditional cultural and religious activities in the wilderness area.

(B) REQUIREMENT.—Any closure under subparagraph (A) shall be made in such a manner as to affect the smallest practicable area for the minimum period of time necessary for the activity to be carried out.

(3) APPLICABLE LAW.—Access to the wilderness areas under this subsection shall be in accordance with—

(A) Public Law 95–341 (commonly known as the "American Indian Religious Freedom Act") (42 U.S.C. 1996 et seq.); and

(B) the Wilderness Act (16 U.S.C. 1131 et seq.).

(l) ADJACENT MANAGEMENT.—

(1) IN GENERAL.—Nothing in this Act creates protective perimeters or buffer zones around any wilderness area designated by this Act.

(2) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area designated by this Act shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

SEC. 5. RELEASE OF WILDERNESS STUDY AREAS.

(a) FINDING.—Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as wilderness by this Act or any previous Act has been adequately studied for wilderness.

(b) DESCRIPTION OF STUDY AREAS.—The study areas referred to in subsection (a) are—

(1) the King Range Wilderness Study Area;

(2) the Chemise Mountain Instant Study Area;

(3) the Red Mountain Wilderness Study Area;

(4) the Cedar Roughs Wilderness Study Area; and

(5) those portions of the Rocky Creek/Cache Creek Wilderness Study Area in Lake County, California which are not in R. 5 W., T. 12 N., sec. 22, Mount Diablo Meridian.

(c) RELEASE.—Any portion of a wilderness study area described in subsection (b) that is not designated as wilderness by this Act or any other Act enacted before the date of enactment of this Act shall not be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

SEC. 6. ELKHORN RIDGE POTENTIAL WILDERNESS AREA.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), certain public land in the State administered by the Bureau of Land Management, compromising approximately 9,655 acres, as generally depicted on the map entitled "South Fork Eel River Wilderness Area and Elkhorn Ridge Potential Wilderness" and dated September 27, 2004, is designated as a potential wilderness area.

(b) MANAGEMENT.—Except as provided in subsection (c) and subject to valid existing rights, the Secretary shall manage the potential wilderness area as wilderness until the potential wilderness area is designated as wilderness.

(c) ECOLOGICAL RESTORATION.—

(1) IN GENERAL.—For purposes of ecological restoration (including the elimination of non-native species, removal of illegal, unused, or decommissioned roads, repair of skid tracks, and any other activities necessary to restore the natural ecosystems in the potential wilderness area), the Secretary may used motorized equipment and mechanized transport in the potential wilderness area until the potential wilderness area is designated as wilderness.

(2) LIMITATION.—To the maximum extent practicable, the Secretary shall use the minimum tool or administrative practice necessary to accomplish ecological restoration with the least amount of adverse impact on wilderness character and resources.

(d) WILDERNESS DESIGNATION.—

(1) IN GENERAL.—The potential wilderness area shall be designated as wilderness and as a component of the National Wilderness Preservation System on the earlier of—

(A) the date on which the Secretary publishes in the Federal Register notice that the conditions in the potential wilderness area that are incompatible with the Wilderness Act (16 U.S.C. 1131 et seq.) have been removed; or

(B) the date that is 5 years after the date of enactment of this Act.

(2) ADMINISTRATION.—On designation as wilderness under paragraph (1), the potential wilderness area shall be—

(A) known as the "Elkhorn Ridge Wilderness"; and

(B) administered in accordance with this Act and the Wilderness Act (16 U.S.C. 1131 et seq.).

SEC. 7. WILD AND SCENIC RIVER DESIGNATION.

(a) DESIGNATION OF BLACK BUTTE RIVER, CALIFORNIA.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

"(167) BLACK BUTTE RIVER, CALIFORNIA.—The following segments of the Black Butte River in the State of California, to be administered by the Secretary of Agriculture:

"(A) The 16 miles of Black Butte River, from the Mendocino County Line to its confluence with Jumpoff Creek, as a wild river.

"(B) The 3.5 miles of Black Butte River from its confluence with Jumpoff Creek to its confluence with Middle Eel River, as a scenic river.

"(C) The 1.5 miles of Cold Creek from the Mendocino County Line to its confluence with Black Butte River, as a wild river.".

(b) PLAN; REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress—

(A) a fire management plan for the Black Butte River segments designated by the amendment under subsection (a); and

(B) a report on the cultural and historic resources within those segments.

(2) TRANSMITTAL TO COUNTY.—The Secretary of Agriculture shall transmit to the Board of Supervisors of Mendocino County, California, a copy of the plan and report submitted under paragraph (1).

SEC. 8. KING RANGE NATIONAL CONSERVATION AREA BOUNDARY ADJUSTMENT.

Section 9 of Public Law 91-476 (16 U.S.C. 460y–8) is amended by adding at the end the following:

"(d) In addition to the land described in subsections (a) and (c), the land identified as the King Range National Conservation Area Additions on the map entitled 'King Range Wilderness' and dated November 12, 2004, is included in the Area.".

The amendment (No. 1588) was agreed to.

(The amendment is printed in todays RECORD under "Test of Amendments.")

The bill (S. 128), as amended, was read the third time and passed.

YOSEMITE NATIONAL PARK AND GOLDEN GATE NATIONAL RECREATION AREA

The Senate proceeded to consider the bill (S. 136) to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, which had been reported from the Committee on Energy ND Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Table of contents.

TITLE I—YOSEMITE NATIONAL PARK AUTHORIZED PAYMENTS

Sec. 102. Payments for educational services.
Sec. 103. Authorization for park facilities to be located outside the boundaries of Yosemite National Park.

TITLE II—RANCHO CORRAL DE TIERRA GOLDEN GATE NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT

Sec. 201. Short title.
Sec. 202. Golden Gate National Recreation Area, California.

TITLE I—YOSEMITE NATIONAL PARK AUTHORIZED PAYMENTS

SEC. 101. PAYMENTS FOR EDUCATIONAL SERVICES.

(a) IN GENERAL.—(1) For fiscal years 2006 through 2009, the Secretary of the Interior may provide funds to the Bass Lake Joint Union Elementary School District and the Mariposa Unified School District in the State of California for educational services to students—

(A) who are dependents of persons engaged in the administration, operation, and maintenance of Yosemite National Park; or

(B) who live within or near the park upon real property owned by the United States.

(2) The Secretary's authority to make payments under this section shall terminate if the State of California or local education agencies do not continue to provide funding to the schools referred to in subsection (a) at per student levels that are no less than the amount provided in fiscal year 2005.

(b) LIMITATION ON USE OF FUNDS.—Payments made under this section shall only be used to pay public employees for educational services provided in accordance with subsection (a). Payments may not be used for construction, construction contracts, or major capital improvements.

(c) LIMITATION ON AMOUNT OF FUNDS.—Payments made under this section shall not exceed the lesser of—

(1) $400,000 in any fiscal year; or

(2) the amount necessary to provide students described in subsection (a) with educational services that are normally provided and generally available to students who attend public schools elsewhere in the State of California.

(d) SOURCE OF PAYMENTS.—(1) Except as otherwise provided in this subsection, the Secretary may use funds available to the National Park Service from appropriations, donations, or fees.

(2) Funds from the following sources shall not be used to make payments under this section:

❚(A) Any law authorizing the collection or expenditure of entrance or use fees at units of the National Park System, including the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 et seq.); the recreational fee demonstration program established under section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (16 U.S.C. 460l-6a note); and the National Park Passport Program established under section 602 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5992).

❚(B) Emergency appropriations for flood recovery at Yosemite National Park.❚

(A) Any law authorizing the collection or expenditure of entrance or use fees at units of the National Park System, including—

(i) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); and

(ii) the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801 et seq.).

(B) Any unexpended receipts collected through—

(i) the recreational fee demonstration program established under section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (16 U.S.C. 460l-6a note; Public Law 104–134); or

(ii) the national park passport program established under section 602 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5992).

(C) Emergency appropriations for flood recovery at Yosemite National Park.

(3)(A) The Secretary may use an authorized funding source to make payments under this section only if the funding available to Yosemite National Park from such source (after subtracting any payments to the school districts authorized under this section) is greater than or equal to the amount made available to the park for the prior fiscal year, or in fiscal year 2005, whichever is greater.

(B) It is the sense of Congress that any payments made under this section should not result in a reduction of funds to Yosemite National Park from any specific funding source, and that with respect to appropriated funds, funding levels should reflect annual increases in the park's operating base funds that are generally made to units of the National Park System.

SEC. 102. AUTHORIZATION FOR PARK FACILITIES TO BE LOCATED OUTSIDE THE BOUNDARIES OF YOSEMITE NATIONAL PARK.

(a) FUNDING AUTHORITY FOR TRANSPORTATION SYSTEMS AND EXTERNAL FACILITIES.—Section 814(c) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 346e) is amended—

(1) in the heading by inserting "**AND YOSEMITE NATIONAL PARK**" after "**ZION NATIONAL PARK**";

(2) in the first sentence—

(A) by inserting "and Yosemite National Park" after "Zion National Park"; and

(B) by inserting "for transportation systems or" after "appropriated funds"; and

(3) in the second sentence by striking "facilities" and inserting "systems or facilities".

(b) CLARIFYING AMENDMENT FOR TRANSPORTATION FEE AUTHORITY.—Section 501 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5981) is amended in the first sentence by striking "service contract" and inserting "service contract, cooperative agreement, or other contractual arrangement".

TITLE II—RANCHO CORRAL DE TIERRA GOLDEN GATE NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act".

SEC. 202. GOLDEN GATE NATIONAL RECREATION AREA, CALIFORNIA.

❚(a)❚ Section 2(a) of Public Law 92–589 (16 U.S.C. 460bb–1(a)) is amended—

(1) by striking "The recreation area shall comprise" and inserting the following:

"(1) INITIAL LANDS.—The recreation area shall comprise"; and

(2) by striking "The following additional lands are also" and all that follows through the period at the end of the subsection and inserting the following new paragraphs:

"(2) ADDITIONAL LANDS.—In addition to the lands described in paragraph (1), the recreation area shall include the following:

"(A) The parcels numbered by the Assessor of Marin County, California, 119-040-04, 119-040–05, 119–040–18, 166–202–03, 166–010–06, 166–010-07, 166-010-24, 166-010-25, 119-240-19, 166-010–10, 166–010–22, 119–240–03, 119–240–51, 119–240–52, 119–240–54, 166–010–12, 166–010–13, and 119-235-10.

"(B) Lands and waters in San Mateo County generally depicted on the map entitled 'Sweeney Ridge Addition, Golden Gate National Recreation Area', numbered NRA GG-80,000–A, and dated May 1980.

"(C) Lands acquired under the Golden Gate National Recreation Area Addition Act of 1992 (16 U.S.C. 460bb–1 note; Public Law 102–299).

"(D) Lands generally depicted on the map entitled 'Additions to Golden Gate National Recreation Area', numbered NPS-80–076, and dated July 2000/PWR-PLRPC.

"(E) Lands generally depicted on the map entitled 'Rancho Corral de Tierra Additions to the Golden Gate National Recreation Area', numbered NPS–80,079E, and dated March 2004.

"(3) ACQUISITION LIMITATION.—The Secretary may acquire land described in paragraph (2)(E) only from a willing seller.".

The committee amendments were agreed to.

The amendment (No. 1589), in the nature of a substitute was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Table of contents.

TITLE I—YOSEMITE NATIONAL PARK AUTHORIZED PAYMENTS

Sec. 101. Payments for educational services.
Sec. 102. Authorization for park facilities to be located outside the boundaries of Yosemite National Park.

TITLE II—RANCHO CORRAL DE TIERRA GOLDEN GATE NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT

Sec. 201. Short title.
Sec. 202. Golden Gate National Recreation Area, California.

TITLE III—REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT.

Sec. 301. Short title.
Sec. 302. Redwood National Park boundary adjustment.

TITLE I—YOSEMITE NATIONAL PARK AUTHORIZED PAYMENTS

SEC. 101. PAYMENTS FOR EDUCATIONAL SERVICES.

(a) IN GENERAL.—(1) For fiscal years 2006 through 2009, the Secretary of the Interior may provide funds to the Bass Lake Joint Union Elementary School District and the Mariposa Unified School District in the State of California for educational services to students—

(A) who are dependents of persons engaged in the administration, operation, and maintenance of Yosemite National Park; or

(B) who live within or near the park upon real property owned by the United States.

(2) The Secretary's authority to make payments under this section shall terminate if the State of California or local education agencies do not continue to provide funding to the schools referred to in subsection (a) at per student levels that are no less than the amount provided in fiscal year 2005.

(b) LIMITATION ON USE OF FUNDS.—Payments made under this section shall only be used to pay public employees for educational services provided in accordance with subsection (a). Payments may not be used for construction, construction contracts, or major capital improvements.

(c) LIMITATION ON AMOUNT OF FUNDS.—Payments made under this section shall not exceed the lesser of—

(1) $400,000 in any fiscal year; or

(2) the amount necessary to provide students described in subsection (a) with educational services that are normally provided and generally available to students who attend public schools elsewhere in the State of California.

(d) SOURCE OF PAYMENTS.—(1) Except as otherwise provided in this subsection, the Secretary may use funds available to the National Park Service from appropriations, donations, or fees.

(2) Funds from the following sources shall not be used to make payments under this section:

(A) Any law authorizing the collection or expenditure of entrance or use fees at units of the National Park System, including—

(i) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.); and

(ii) the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801 et seq.).

(B) Any unexpended receipts collected through—

(i) the recreational fee demonstration program established under section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (16 U.S.C. 4601–6a note; Public Law 104–134); or

(ii) the national park passport program established under section 602 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5992).

(C) Emergency appropriations for flood recovery at Yosemite National Park.

(3)(A) The Secretary may use an authorized funding source to make payments under this section only if the funding available to Yosemite National Park from such source (after subtracting any payments to the school districts authorized under this section) is greater than or equal to the amount made available to the park for the prior fiscal year, or in fiscal year 2005, whichever is greater.

(B) It is the sense of Congress that any payments made under this section should not result in a reduction of funds to Yosemite National Park from any specific funding source, and that with respect to appropriated funds, funding levels should reflect annual increases in the park's operating base funds that are generally made to units of the National Park System.

SEC. 102. AUTHORIZATION FOR PARK FACILITIES TO BE LOCATED OUTSIDE THE BOUNDARIES OF YOSEMITE NATIONAL PARK.

(a) FUNDING AUTHORITY FOR TRANSPORTATION SYSTEMS AND EXTERNAL FACILITIES.—Section 814(c) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 346e) is amended—

(1) in the heading by inserting "**AND YOSEMITE NATIONAL PARK**" after "**ZION NATIONAL PARK**";

(2) in the first sentence—

(A) by inserting "and Yosemite National Park" after "Zion National Park"; and

(B) by inserting "for transportation systems or" after "appropriated funds"; and

(3) in the second sentence by striking "facilities" and inserting "systems or facilities".

(b) CLARIFYING AMENDMENT FOR TRANSPORTATION FEE AUTHORITY.—Section 501 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5981) is amended in the first sentence by striking "service contract" and inserting "service contract, cooperative agreement, or other contractual arrangement".

TITLE II—RANCHO CORRAL DE TIERRA GOLDEN GATE NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act".

SEC. 202. GOLDEN GATE NATIONAL RECREATION AREA, CALIFORNIA.

Section 2(a) of Public Law 92–589 (16 U.S.C. 460bb–1(a)) is amended—

(1) by striking "The recreation area shall comprise" and inserting the following:

"(1) INITIAL LANDS.—The recreation area shall comprise"; and

(2) by striking "The following additional lands are also" and all that follows through the period at the end of the subsection and inserting the following new paragraphs:

"(2) ADDITIONAL LANDS.—In addition to the lands described in paragraph (1), the recreation area shall include the following:

"(A) The parcels numbered by the Assessor of Marin County, California, 119–040–04, 119–040–05, 119–040–18, 166–202–03, 166–010–06, 166–010–07, 166–010–24, 166–010–25, 119–240–19, 166–010–10, 166–010–22, 119–240–03, 119–240–51, 119–240–52, 119–240–54, 166–010–12, 166–010–13, and 119–235–10.

"(B) Lands and waters in San Mateo County generally depicted on the map entitled 'Sweeney Ridge Addition, Golden Gate National Recreation Area', numbered NRA GG–80,000–A, and dated May 1980.

"(C) Lands acquired under the Golden Gate National Recreation Area Addition Act of 1992 (16 U.S.C. 460bb–1 note; Public Law 102–299).

"(D) Lands generally depicted on the map entitled 'Additions to Golden Gate National Recreation Area', numbered NPS–80–076, and dated July 2000/PWR–PLRPC.

"(E) Lands generally depicted on the map entitled 'Rancho Corral de Tierra Additions to the Golden Gate National Recreation Area', numbered NPS–80,079E, and dated March 2004.

"(3) ACQUISITION LIMITATION.—The Secretary may acquire land described in paragraph (2)(E) only from a willing seller.".

TITLE III—REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT

SEC. 301. SHORT TITLE.

This title may be cited as the "Redwood National Park Boundary Adjustment Act of 2005".

SEC. 302. REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT.

Section 2(a) of the Act of Public Law 90–545 (16 U.S.C. 79b(a)) is amended—

(1) in the first sentence, by striking "(a) The area" and all that follows through the period at the end and inserting the following: "(a)(1) The Redwood National Park consists of the land generally depicted on the map entitled 'Redwood National Park, Revised Boundary', numbered 167/60502, and dated February, 2003.";

(2) by inserting after paragraph (1) (as designated by paragraph (1)) the following:

"(2) The map referred to in paragraph (1) shall be—

"(A) on file and available for public inspection in the appropriate offices of the National Park Service; and

"(B) provided by the Secretary of the Interior to the appropriate officers of Del Norte and Humboldt Counties, California."; and

(3) in the second sentence—

(A) by striking "The Secretary" and inserting the following:

"(3) The Secretary;"and

(B) by striking "one hundred and six thousand acres" and inserting "133,000 acres".

The amendment (No. 1590) was agreed to, as follows:

Amend the title so as to read: "To authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes.".

The bill (S. 136), as amended, was read the third time and passed, as follows:

S. 136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Table of contents.

TITLE I—YOSEMITE NATIONAL PARK AUTHORIZED PAYMENTS

Sec. 102. Payments for educational services.
Sec. 103. Authorization for park facilities to be located outside the boundaries of Yosemite National Park.

TITLE II—RANCHO CORRAL DE TIERRA GOLDEN GATE NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT

Sec. 201. Short title.
Sec. 202. Golden Gate National Recreation Area, California.

TITLE III—REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT

Sec. 301. Short title.
Sec. 302. Redwood National Park boundary adjustment.

TITLE I—YOSEMITE NATIONAL PARK AUTHORIZED PAYMENTS

SEC. 101. PAYMENTS FOR EDUCATIONAL SERVICES.

(a) IN GENERAL.—(1) For fiscal years 2006 through 2009, the Secretary of the Interior may provide funds to the Bass Lake Joint Union Elementary School District and the Mariposa Unified School District in the State of California for educational services to students—

(A) who are dependents of persons engaged in the administration, operation, and maintenance of Yosemite National Park; or

(B) who live within or near the park upon real property owned by the United States.

(2) The Secretary's authority to make payments under this section shall terminate if the State of California or local education agencies do not continue to provide funding to the schools referred to in subsection (a) at per student levels that are no less than the amount provided in fiscal year 2005.

(b) LIMITATION ON USE OF FUNDS.—Payments made under this section shall only be used to pay public employees for educational services provided in accordance with subsection (a). Payments may not be used for construction, construction contracts, or major capital improvements.

(c) LIMITATION ON AMOUNT OF FUNDS.—Payments made under this section shall not exceed the lesser of—

(1) $400,000 in any fiscal year; or

(2) the amount necessary to provide students described in subsection (a) with educational services that are normally provided and generally available to students who attend public schools elsewhere in the State of California.

(d) SOURCE OF PAYMENTS.—(1) Except as otherwise provided in this subsection, the Secretary may use funds available to the National Park Service from appropriations, donations, or fees.

(2) Funds from the following sources shall not be used to make payments under this section:

(A) Any law authorizing the collection or expenditure of entrance or use fees at units of the National Park System, including—

(i) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.); and

(ii) the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801 et seq.).

(B) Any unexpended receipts collected through—

(i) the recreational fee demonstration program established under section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (16 U.S.C. 460l–6a note; Public Law 104–134); or

(ii) the national park passport program established under section 602 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5992).

(C) Emergency appropriations for flood recovery at Yosemite National Park.

(3)(A) The Secretary may use an authorized funding source to make payments under this section only if the funding available to Yosemite National Park from such source (after subtracting any payments to the school districts authorized under this section) is greater than or equal to the amount made available to the park for the prior fiscal year, or in fiscal year 2005, whichever is greater.

(B) It is the sense of Congress that any payments made under this section should not result in a reduction of funds to Yosemite National Park from any specific funding source, and that with respect to appropriated funds, funding levels should reflect annual increases in the park's operating base funds that are generally made to units of the National Park System.

SEC. 102. AUTHORIZATION FOR PARK FACILITIES TO BE LOCATED OUTSIDE THE BOUNDARIES OF YOSEMITE NATIONAL PARK.

(a) Funding Authority for Transportation Systems and External Facilities.—Section 814(c) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 346e) is amended—

(1) in the heading by inserting "**AND YOSEMITE NATIONAL PARK**" after "**ZION NATIONAL PARK**";

(2) in the first sentence—

(A) by inserting "and Yosemite National Park" after "Zion National Park"; and

(B) by inserting "for transportation systems or" after "appropriated funds"; and

(3) in the second sentence by striking "facilities" and inserting "systems or facilities".

(b) Clarifying Amendment for Transportation Fee Authority.—Section 501 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5981) is amended in the first sentence by striking "service contract" and inserting "service contract, cooperative agreement, or other contractual arrangement".

TITLE II—RANCHO CORRAL DE TIERRA GOLDEN GATE NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act".

SEC. 202. GOLDEN GATE NATIONAL RECREATION AREA, CALIFORNIA.

Section 2(a) of Public Law 92–589 (16 U.S.C. 460bb–1(a)) is amended—

(1) by striking "The recreation area shall comprise" and inserting the following:

"(1) Initial lands.—The recreation area shall comprise"; and

(2) by striking "The following additional lands are also" and all that follows through the period at the end of the subsection and inserting the following new paragraphs:

"(2) Additional lands.—In addition to the lands described in paragraph (1), the recreation area shall include the following:

"(A) The parcels numbered by the Assessor of Marin County, California, 119–040–04, 119–040–05, 119–040–18, 166–202–03, 166–010–06, 166–010–07, 166–010–24, 166–010–25, 119–240–19, 166–010–10, 166–010–22, 119–240–03, 119–240–51, 119–240–52, 119–240–54, 166–010–12, 166–010–13, and 119–235–10.

"(B) Lands and waters in San Mateo County generally depicted on the map entitled 'Sweeney Ridge Addition, Golden Gate National Recreation Area', numbered NRA GG–80,000–A, and dated May 1980.

"(C) Lands acquired under the Golden Gate National Recreation Area Addition Act of 1992 (16 U.S.C. 460bb–1 note; Public Law 102–299).

"(D) Lands generally depicted on the map entitled 'Additions to Golden Gate National Recreation Area', numbered NPS–80–076, and dated July 2000/PWR–PLRPC.

"(E) Lands generally depicted on the map entitled 'Rancho Corral de Tierra Additions to the Golden Gate National Recreation Area', numbered NPS–80,079E, and dated March 2004.

"(3) Acquisition limitation.—The Secretary may acquire land described in paragraph (2)(E) only from a willing seller.".

TITLE III—REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT

SEC. 301. SHORT TITLE.

This title may be cited as the "Redwood National Park Boundary Adjustment Act of 2005".

SEC. 302. REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT.

Section 2(a) of the Act of Public Law 90–545 (16 U.S.C. 79b(a)) is amended—

(1) in the first sentence, by striking "(a) The area" and all that follows through the period at the end and inserting the following: "(a)(1) The Redwood National Park consists of the land generally depicted on the map entitled 'Redwood National Park, Revised Boundary', numbered 167/60502, and dated February, 2003.";

(2) by inserting after paragraph (1) (as designated by paragraph (1)) the following:

"(2) The map referred to in paragraph (1) shall be—

"(A) on file and available for public inspection in the appropriate offices of the National Park Service; and

"(B) provided by the Secretary of the Interior to the appropriate officers of Del Norte and Humboldt Counties, California."; and

(3) in the second sentence—

(A) by striking "The Secretary" and inserting the following:

"(3) The Secretary;" and

(B) by striking "one hundred and six thousand acres" and inserting "133,000 acres".

WATER STORAGE FOR CHEYENNE, WYOMING

The bill (H.R. 1046) to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming, was read the third time and passed.

H.R. 1046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WATER STORAGE CONTRACTS.

(a) Definitions.—In this Act:

(1) City.—The term "city" means—

(A) the city of Cheyenne, Wyoming;

(B) the Board of Public Utilities of the city; and

(C) any agency, public utility, or enterprise of the city.

(2) Kendrick project.—The term "Kendrick Project" means the Bureau of Reclamation project on the North Platte River that was authorized by a finding of feasibility approved by the President on August 30, 1935, and constructed for irrigation and electric power generation, the major features of which include—

(A) Seminoe Dam, Reservoir, and Powerplant; and

(B) Alcova Dam and Powerplant.

(3) Secretary.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(4) State.—The term "State" means the State of Wyoming.

(b) Contracts.—

(1) In general.—The Secretary may enter into 1 or more contracts with the city for annual storage of the city's water for municipal and industrial use in Seminoe Dam and Reservoir of the Kendrick Project.

(2) Conditions.—

(A) Term; renewal.—A contract under paragraph (1) shall—

(i) have a term of not more than 40 years; and

(ii) may be renewed on terms agreeable to the Secretary and the city, for successive terms of not more than 40 years per term.

(B) Revenues.—Notwithstanding the Act of May 9, 1938 (52 Stat. 322, chapter 187; 43 U.S.C. 392a)—

(i) any operation and maintenance charges received under a contract executed under paragraph (1) shall be credited against applicable operation and maintenance costs of the Kendrick Project; and

(ii) any other revenues received under a contract executed under paragraph (1) shall be credited to the Reclamation Fund as a credit to the construction costs of the Kendrick Project.

(C) Effect on existing contractors.—A contract under paragraph (1) shall not adversely affect the Kendrick Project, any existing Kendrick Project contractor, or any existing Reclamation contractor on the North Platte River System.

Mr. McCAIN. Mr. President, I am pleased that the Senate passed S. 161, the Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005. It is my hope that this bill will be considered quickly by the House of Representatives and sent to the President for his signature in the near future.

I want to thank Senator Kyl and his staff for their work in helping to develop this compromise legislation. I also want to thank Senators Domenici and Bingaman, and their staffs on the Senate Energy and Natural Resources Committee, for their efforts in reaching an agreement on this legislation during the last Congress and helping to move it through the legislative process. In addition, I want to recognize the work of Congressmen Renzi and Hayworth who have championed this legislation in the House of Representatives.

Late last year, after several years of negotiation and compromise, the Senate passed by unanimous consent a nearly identical measure. This bill provides a sound framework for a fair and equal value exchange of 50,000 acres of private and public land in Northern Arizona. It also addresses water issues associated with the exchange of lands located within the Verde River Basin watershed by limiting water usage on certain exchanged lands and by supporting the development of a collaborative science-based water resource planning and management entity for the Verde River Basin watershed.

The Arizona delegation and a broad array of local area officials are strongly supportive of the legislation because it will offer significant benefits for all parties. Benefits will accrue to the U.S. Forest Service and the public with the consolidation of checkerboard lands and the protection and enhanced management of extensive forest and grasslands. The communities of Flagstaff, Williams, and Camp Verde also will benefit in terms of economic development opportunities, water supply, and other important purposes.

While facilitating the exchange of public and private lands is a very important objective of this legislation, and indeed, was the original purpose when we began working on it several years ago, the provisions concerning water management are perhaps even more important. Since introducing the original legislation over 2 years ago, I have heard from hundreds of Arizonans and learned first-hand of the significant water issues raised by the transfer of Federal land into private ownership. We have modified the bill to take into account many of the concerns raised during meetings held throughout northern Arizona, including removing certain lands entirely from the exchange.

There is growing recognition of the need to develop and promote the wise management of Arizona's limited water supplies, particularly with the extended drought coupled with rapid population growth. As such, the bill passed by the Senate would not only limit water usage on the exchanged lands, but also provide an opportunity to encourage sound water management in northern Arizona through the creation of a collaborative, science-based decision-making body to advance essential planning and management at the State and local level in Northern Arizona.

To be successful, this effort will require the involvement of all the stakeholders with water supply responsibilities and interests. It will also require a solid foundation of knowledge about available resources and existing demands. We are fortunate to have an existing model of collaborative science-based water resource planning and management with the Upper San Pedro Partnership in the Sierra Vista subwatershed of Arizona. In my view, the establishment of a similar, cooperative body in the Verde Basin will be a vital step in assuring the wise use of our limited water resources.

Again, I want to thank all of the parties involved with this legislation.

DESIGNATING A PORTION OF THE WHITE SALMON RIVER AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

FURTHERING THE PURPOSES OF THE SAND CREEK MASSACRE NATIONAL HISTORIC SITE ESTABLISHMENT ACT OF 2000

DIRECTING THE SECRETARY OF AGRICULTURE TO CONVEY CERTAIN LAND TO LANDER COUNTY, NEVADA, AND THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LAND TO EUREKA COUNTY, NEVADA, FOR CONTINUED USE AS CEMETERIES

Ms. COLLINS. I ask consent that the committee be discharged from further consideration of H.R. 38, H.R. 481, and H.R. 541, and the Senate proceed to the measures en bloc, provided that the bills be read a third time and passed en bloc, and any statements related to the bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bills (H.R. 38), (H.R. 481) and (H.R. 541) were read the third time and passed en bloc.

MEASURES INDEFINITELY POSTPONED—CALENDAR NOS. 19, 23, 31, 40

Ms. COLLINS. Finally, I ask unanimous consent that calendar Nos. 19, 23, 31, and 40 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESTABLISHING THE TREATMENT OF ACTUAL RENTAL PROCEEDS FROM LEASES OF LAND ACQUIRED UNDER AN ACT PROVIDING FOR LOANS TO INDIAN TRIBES AND TRIBAL CORPORATIONS

AMENDING THE INDIAN LAND CONSOLIDATION ACT TO PROVIDE FOR PROBATE REFORM

AMENDING THE ACT OF AUGUST 9, 1955, TO PROVIDE FOR BINDING ARBITRATION FOR GILA RIVER INDIAN COMMUNITY RESERVATION CONTRACTS

AMENDING THE CARL D. PERKINS VOCATIONAL AND TECHNICAL EDUCATION ACT OF 1998 TO MODIFY THE DEFINITION OF "INDIAN STUDENT COUNT"

AMENDING THE FALLON PAIUTE SHOSHONE INDIAN TRIBES WATER RIGHTS SETTLEMENT ACT OF 1990

AMENDING THE ACT OF AUGUST 9, 1955, TO EXTEND THE AUTHORIZATION OF CERTAIN LEASES

Ms. COLLINS. I ask unanimous consent the Senate proceed to en bloc consideration of the following bills introduced earlier today: S. 1480, S. 1481, S. 1482, S. 1483, S. 1484, and S. 1485.

There being no objection, the Senate proceeded to consider the bills.

Ms. COLLINS. I further ask unanimous consent the bills be read a third time and passed, the motions to reconsider be laid upon the table, all en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bills considered and agreed to en bloc are as follows:

S. 1480

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIFICATION OF RENTAL PROCEEDS.

Notwithstanding any other provision of law, any actual rental proceeds from the lease of land acquired under the first section of the Act entitled "An Act to provide for loans to Indian tribes and tribal corporations, and for other purposes" (25 U.S.C. 488) certified by the Secretary of the Interior shall be deemed—

(1) to constitute the rental value of that land; and

(2) to satisfy the requirement for appraisal of that land.

S. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Land Probate Reform Technical Corrections Act of 2005".

SEC. 2. PARTITION OF HIGHLY FRACTIONATED INDIAN LAND.

Section 205 of the Indian Land Consolidation Act (25 U.S.C. 2204) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) PURCHASE OF LAND.—

"(1) IN GENERAL.—Subject to subsection (b), any Indian tribe may purchase, at not less than fair market value and with the consent of the owners of the interests, part or all of the interests in—

"(A) any tract of trust or restricted land within the boundaries of the reservation of the tribe; or

"(B) land that is otherwise subject to the jurisdiction of the tribe.

"(2) REQUIRED CONSENT.—

"(A) IN GENERAL.—The Indian tribe may purchase all interests in a tract described in paragraph (1) with the consent of the owners of undivided interests equal to at least 50 percent of the undivided interest in the tract.

"(B) INTEREST OWNED BY TRIBE.—Interests owned by an Indian tribe in a tract may be included in the computation of the percentage of ownership of the undivided interests in that tract for purposes of determining whether the consent requirement under subparagraph (A) has been met.";

(2) by redesignating subsection (d) as subsection (c); and

(3) in subsection (c) (as redesignated by paragraph (2))—

(A) in paragraph (2)—

(i) in subparagraph (G)(ii)(I), by striking "a higher valuation of the land" and inserting "a value of the land that is equal to or greater than that of the earlier appraisal"; and

(ii) in subparagraph (I)(iii)—

(I) in subclause (III), by inserting "(if any)" after "this section"; and

(II) in subclause (IV)—

(aa) in item (aa), by striking "less" and inserting "more"; and

(bb) in item (bb), by striking "to implement this section" and inserting "under paragraph (5)"; and

(B) in paragraph (5), in the second sentence, by striking "shall" and inserting "may".

SEC. 3. TRIBAL PROBATE CODES.

Section 206 of the Indian Land Consolidation Act (25 U.S.C. 2205) is amended—

(1) in subsection (b)(3), by striking subparagraph (A) and inserting the following:

"(A) the date that is 1 year after the date on which the Secretary makes the certification required under section 8(a)(4) of the American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108-374); or"; and

(2) in subsection (c)—

(A) in paragraph (1)(A), by striking "section" and all that follows through "the Indian tribe" and inserting "section 207(b)(2)(A)(ii), the Indian tribe"; and

(B) in paragraph (2)(A)(i)(II)(bb), by inserting "in writing" after "agrees".

SEC. 4. DESCENT AND DISTRIBUTION.

(a) IN GENERAL.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended—

(1) by redesignating subsections (h) through (p) as subsections (g) through (o), respectively;

(2) in subsection (g) (as redesignated by paragraph (1))—

(A) in paragraph (2)—

(i) by inserting "specifically" after "pertains"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) the allotted land (or any interest relating to such land) of 1 or more specific Indian tribes expressly identified in Federal law, including any of the Federal laws governing the probate or determination of heirs associated with, or otherwise relating to, the land, interest in land, or other interests or assets that are owned by individuals in—

"(i) Five Civilized Tribes restricted fee status; or

"(ii) Osage Tribe restricted fee status."; and

(B) by adding at the end the following:

"(3) EFFECT OF SUBSECTION.—Except to the extent that this Act otherwise affects the application of a Federal law described in paragraph (2), nothing in this subsection limits the application of this Act to trust or restricted land, interests in such land, or any other trust or restricted interests or assets.";

(3) in subsection (h) (as redesignated by paragraph (1))—

(A) in paragraph (6), by striking "(25 U.S.C. 2205)"; and

(B) in paragraph (7), by inserting "in trust or restricted status" after "testator";

(4) in subsection (j) (as redesignated by paragraph (1))—

(A) in paragraph (2)(A)—

(i) in clause (ii)(I), by striking "the date of enactment of this subparagraph" and inserting "the date that is 1 year after the date on which the Secretary publishes a notice of certification under section 8(a)(4) of the American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108-374)"; and

(ii) in clause (iii), by striking "the provisions of section 207(a)(2)(A)" and inserting "subsection (a)(2)(A)";

(B) in paragraph (8)(D), by striking "the provisions of section 207(a)(2)(D) (25 U.S.C. 2206(a)(2)(D))" and inserting "subsection (a)(2)(D)"; and

(C) in paragraph (9)(C)—

(i) by striking "section 207(e) (25 U.S.C. 2206(e))" and inserting "subsection (e)"; and

(ii) by striking "section 207(p) (25 U.S.C. 2206(p))" and inserting "subsection (o)"; and

(5) in subsection (o) (as redesignated by paragraph (1))—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "section 207(a)(2)(A) or (D)" and inserting "subparagraph (A) or (D) of subsection (a)(2)"; and

(ii) in subparagraph (A), by striking "section 207(b)(1)(A)" and inserting "subsection (b)(1)(A)";

(B) in paragraph (3)(B), by striking "section 207(a)(2)(A) or (D)" and inserting "subparagraph (A) or (D) of subsection (a)(2)"; and

(C) in paragraph (6)—

(i) in the first sentence, by striking "Proceeds" and inserting the following:

"(A) IN GENERAL.—Proceeds"; and

(ii) by striking the second sentence and inserting the following:

"(B) HOLDING IN TRUST.—Proceeds described in subparagraph (A) shall be deposited and held in an account as trust personalty if the interest sold would otherwise pass to—

"(i) the heir, by intestate succession under subsection (a); or

"(ii) the devisee in trust or restricted status under subsection (b)(1).".

(b) NONTESTAMENTARY DISPOSITION.—Section 207(a)(2)(D)(iv)(I)(aa) of the Indian Land Consolidation Act (25 U.S.C. 2206(a)(2)(D)(iv)(I)(aa)) is amended—

(1) by striking "clause (iii)" and inserting "this subparagraph"; and

(2) in subitem (BB), by striking "any coowner" and inserting "not more than 1 coowner".

(c) JOINT TENANCY; RIGHT OF SURVIVORSHIP.—Section 207(c) of the Indian Land Consolidation Act (25 U.S.C. 2206(c)) is amended by striking the subsection heading and inserting the following:

"(c) JOINT TENANCY; RIGHT OF SURVIVORSHIP.—".

(d) ESTATE PLANNING ASSISTANCE.—Section 207(f)(3) of the Indian Land Consolidation Act (25 U.S.C. 2206(f)(3)) is amended in the matter preceding subparagraph (A) by inserting ", including noncompetitive grants," after "grants".

SEC. 5. FRACTIONAL INTEREST ACQUISITION PROGRAM.

Section 213 of the Indian Land Consolidation Act (25 U.S.C. 2212) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 213. FRACTIONAL INTEREST ACQUISITION PROGRAM.";

and

(2) in subsection (a)(1), by striking "(25 U.S.C. 2206(p))".

SEC. 6. ESTABLISHING FAIR MARKET VALUE.

Section 215 of the Indian Land Consolidation Act (25 U.S.C. 2214) is amended by striking the last sentence and inserting the following: "Such a system may govern the amounts offered for the purchase of interests in trust or restricted land under this Act.".

SEC. 7. LAND OWNERSHIP INFORMATION.

Section 217(e) of the Indian Land Consolidation Act (25 U.S.C. 2216(e)) is amended by striking "be made available to" and inserting "be made available to—".

SEC. 8. CONFORMING AMENDMENTS.

(a) PROBATE REFORM.—The American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108-374) is amended—

(1) in section 4, by striking "(as amended by section 6(a)(2))"; and

(2) in section 9, by striking "section 205(d)(2)(I)(i)" and inserting "section 205(c)(2)(I)(i) of the Indian Land Consolidation Act (25 U.S.C. 2204(c)(2)(I)(i))".

(b) TRANSFER AND EXCHANGE OF LAND.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464) is amended to read as follows:

"SEC. 4. TRANSFER AND EXCHANGE OF RESTRICTED INDIAN LAND AND SHARES OF INDIAN TRIBES AND CORPORATIONS.

"(a) APPROVAL.—Except as provided in this section, no sale, devise, gift, exchange, or other transfer of restricted Indian land or shares in the assets of an Indian tribe or corporation organized under this Act shall be made or approved.

"(b) TRANSFER TO INDIAN TRIBE.—

"(1) IN GENERAL.—Land or shares described in subsection (a) may be sold, devised, or otherwise transferred to the Indian tribe on the reservation of which the land is located, or in the corporation of which the shares are held or were derived (or a successor of such a corporation), with the approval of the Secretary of the Interior.

"(2) DESCENT AND DEVISE.—Land and shares transferred under paragraph (1) shall descend or be devised to any member of the Indian tribe or corporation (or an heir of such a member) in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.), including a tribal probate code approved under that Act (including regulations).

"(c) VOLUNTARY EXCHANGES.—The Secretary of the Interior may authorize a voluntary exchange of land or shares described in subsection (a) that the Secretary determines to be of equal value if the Secretary determines that the exchange is—

"(1) expedient;

"(2) beneficial for, or compatible with, achieving proper consolidation of Indian land; and

"(3) for the benefit of cooperative organizations.".

SEC. 9. EFFECTIVE DATE.

The amendments made by this Act shall be effective as if included in the American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108-374).

S. 1482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BINDING ARBITRATION FOR GILA RIVER INDIAN COMMUNITY RESERVATION CONTRACTS.

(a) AMENDMENTS.—Subsection (f) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(f)), is amended—

(1) in the first sentence—

(A) by striking "Any lease" and all that follows through "affecting land" and inserting "Any contract, including a lease, affecting land"; and

(B) by striking "such lease or contract" and inserting "the contract"; and

(2) in the second sentence, by striking "Such leases or contracts entered into pursuant to such Acts" and inserting "Such contracts".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective beginning on April 4, 2002.

S. 1483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF INDIAN STUDENT COUNT.

Section 117(h) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2327(h)) is amended by striking paragraph (2) and inserting the following:

"(2) INDIAN STUDENT COUNT.—

"(A) IN GENERAL.—The term 'Indian student count' means a number equal to the total number of Indian students enrolled in each tribally-controlled postsecondary vocational and technical institution, as determined in accordance with subparagraph (B).

"(B) DETERMINATION.—

"(i) ENROLLMENT.—For each academic year, the Indian student count shall be determined on the basis of the enrollments of Indian students as in effect at the conclusion of—

"(I) in the case of the fall term, the third week of the fall term; and

"(II) in the case of the spring term, the third week of the spring term.

"(ii) CALCULATION.—For each academic year, the Indian student count for a tribally-controlled postsecondary vocational and technical institution shall be the quotient obtained by dividing—

"(I) the sum of the credit-hours of all Indian students enrolled in the tribally-controlled postsecondary vocational and technical institution (as determined under clause (i)); by

"(II) 12.

"(iii) SUMMER TERM.—Any credit earned in a class offered during a summer term shall be counted in the determination of the Indian student count for the succeeding fall term.

"(iv) STUDENTS WITHOUT SECONDARY SCHOOL DEGREES.—

"(I) IN GENERAL.—A credit earned at a tribally-controlled postsecondary vocational and technical institution by any Indian student that has not obtained a secondary school degree (or the recognized equivalent of such a degree) shall be counted toward the determination of the Indian student count if the institution at which the student is enrolled has established criteria for the admission of the student on the basis of the ability of the student to benefit from the education or training of the institution.

"(II) PRESUMPTION.—The institution shall be presumed to have established the criteria described in subclause (I) if the admission procedures for the institution include counseling or testing that measures the aptitude of a student to successfully complete a course in which the student is enrolled.

"(III) CREDITS TOWARD SECONDARY SCHOOL DEGREE.—No credit earned by an Indian student for the purpose of obtaining a secondary school degree (or the recognized equivalent of such a degree) shall be counted toward the determination of the Indian student count under this clause.

"(v) CONTINUING EDUCATION PROGRAMS.—Any credit earned by an Indian student in a continuing education program of a tribally-controlled postsecondary vocational and technical institution shall be included in the determination of the sum of all credit hours of the student if the credit is converted to a credit-hour basis in accordance with the system of the institution for providing credit for participation in the program.".

S. 1484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FALLON PAIUTE SHOSHONE TRIBES SETTLEMENT.

(a) SETTLEMENT FUND.—Section 102 of the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990 (Public Law 101-618; 104 Stat. 3289) is amended—

(1) in subsection (C)—

(A) in paragraph (1)—

(i) by striking the matter preceding subparagraph (a) and inserting the following: "Notwithstanding any conflicting provision in the original Fund plan during Fund fiscal year 2006 or any subsequent Fund fiscal year, 6 percent of the average quarterly market value of the Fund during the immediately preceding 3 Fund fiscal years (referred to in this title as the 'Annual 6 percent Amount'), plus any unexpended and unobligated portion of the Annual 6 percent Amount from any of the 3 immediately preceding Fund fiscal years that are subsequent to Fund fiscal year 2005, less any negative income that may accrue on that portion, may be expended or obligated only for the following purposes:"; and

(ii) by adding at the end the following:

"(g) Fees and expenses incurred in connection with the investment of the Fund, for investment management, investment consulting, custodianship, and other transactional services or matters."; and

(B) by striking paragraph (4) and inserting the following:

"(4) No monies from the Fund other than the amounts authorized under paragraphs (1) and (3) may be expended or obligated for any purpose.

"(5) Notwithstanding any conflicting provision in the original Fund plan, during Fund fiscal year 2006 and during each subsequent Fund fiscal year, not more than 20 percent of the Annual 6 percent Amount for the Fund fiscal year (referred to in this title as the 'Annual 1.2 percent Amount') may be expended or obligated under paragraph (1)(c) for per capita distributions to tribal members, except that during each Fund fiscal year subsequent to Fund fiscal year 2006, any unexpended and unobligated portion of the Annual 1.2 percent Amount from any of the 3 immediately preceding Fund fiscal years that are subsequent to Fund fiscal year 2005, less any negative income that may accrue on that portion, may also be expended or obligated for such per capita payments."; and

(2) in subsection (D), by adding at the end the following: "Notwithstanding any conflicting provision in the original Fund plan, the Fallon Business Council, in consultation with the Secretary, shall promptly amend the original Fund plan for purposes of conforming the Fund plan to this title and making nonsubstantive updates, improvements, or corrections to the original Fund plan.".

(b) DEFINITIONS.—Section 107 of the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990 (Public Law 101-618; 104 Stat. 3293) is amended—

(1) by redesignating subsections (D), (E), (F), and (G) as subsections (F), (G), (H), and (I), respectively; and

(2) by striking subsections (B) and (C) and inserting the following:

"(B) the term 'Fund fiscal year' means a fiscal year of the Fund (as defined in the Fund plan);

"(C) the term 'Fund plan' means the plan established under section 102(F), including the original Fund plan (the 'Plan for Investment, Management, Administration and Expenditure dated December 20, 1991') and all amendments of the Fund plan under subsection (D) or (F)(1) of section 102;

"(D) the term 'income' means the total net return from the investment of the Fund, consisting of all interest, dividends, realized and unrealized gains and losses, and other earnings, less all related fees and expenses incurred for investment management, investment consulting, custodianship and transactional services or matters;

"(E) the term 'principal' means the total amount appropriated to the Fallon Paiute Shoshone Tribal Settlement Fund under section 102(B);".

S. 1485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF 99-YEAR LEASES.

(a) IN GENERAL.—Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence—

(1) by striking "Moapa Indian reservation" and inserting "Moapa Indian Reservation";

(2) by inserting "the reservation of the Confederated Tribes of the Umatilla Indian Reservation," before "the Burns Paiute Reservation";

(3) by inserting "the" before "Yavapai-Prescott";

(4) by inserting "the Muckleshoot Indian Reservation and land held in trust for the Muckleshoot Indian tribe," after "the Cabazon Indian reservation,";

(5) by striking "Washington,," and inserting "Washington,";

(6) by inserting "land held in trust for the Prairie Band Potawatomi Nation," before "land held in trust for the Cherokee Nation of Oklahoma";

(7) by inserting "land held in trust for the Fallon Paiute Shoshone tribes," before "land held in trust for the Pueblo of Santa Clara"; and

(8) by inserting "land held in trust for the Yurok tribe, land held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria," after "Pueblo of Santa Clara,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any lease entered into or renewed after the date of enactment of this Act.

S. 1480—CERTIFICATION OF INDIAN RENTAL PROCEEDS ACT OF 2005

Mr. McCAIN. Mr. President, the Certification of Indian Rental Proceeds Act of 2005 was originally introduced as a component of the Native American Omnibus Act of 2005. I am pleased to be joined by the vice chairman of the Senate Committee on Indian Affairs, Senator BYRON DORGAN, and Senator TIM JOHNSON as original co-sponsors of this bill.

The Certification of Indian rental proceeds amends Title 25 USC Section 488 to permit actual rental proceeds from a lease to constitute the rental value of that land, and to satisfy the requirement for appraisal of that land.

S. 1481—INDIAN LAND PROBATE REFORM TECHNICAL CORRECTIONS ACT OF 2005

Mr. McCAIN. Mr. President, the Indian Land Probate Reform Technical Corrections Act of 2005, was originally introduced as a component of the Native American Omnibus Act of 2005. I'm pleased to be joined by the vice chairman of the Senate Indian Affairs Committee, BYRON DORGAN, on this bill.

The Indian probate reform technical corrections amendments, amends the American Indian Probate Reform Act of 2004 by correcting provisions relating to non-testamentary disposition, partition of highly fractionated Indian land, and Tribal probate codes.

S. 1482—GILA RIVER INDIAN COMMUNITY RESERVATION CONTRACTS ACT OF 2005

Mr. McCAIN. Mr. President, the Gila River Indian Community Reservation Contracts Act of 2005 was originally introduced as a component of the Native American Omnibus Act of 2005. I'm pleased to be joined by the vice chairman of the Senate Indian Affairs Committee, BYRON DORGAN, on this bill.

The Gila River Indian Community reservation contracts, is a technical amendment to allow binding arbitration in all contracts and not just leases on the Gila River Indian Community reservation.

S. 1483—DEFINITION OF INDIAN STUDENT COUNT ACT OF 2005

Mr. McCAIN. Mr. President, the Definition of Indian Student Count Act of 2005 was originally introduced as a component of the Native American Omnibus Act of 2005. I'm pleased to be joined by the vice chairman of the Senate Indian Affairs Committee, BYRON DORGAN, on this bill.

The definition of Indian student count, amends the Carl D. Perkins Vocational Act of 1998 to include the registration of Indian students in the Spring semester.

CONVEYING ALL RIGHT, TITLE, AND INTEREST OF THE UNITED STATES IN AND TO THE LAND DESCRIBED IN THIS ACT TO THE SECRETARY OF THE INTERIOR FOR THE PRAIRIE ISLAND INDIAN COMMUNITY IN MINNESOTA

AMENDING THE ACT OF JUNE 7, 1924, TO PROVIDE FOR THE EXERCISE OF CRIMINAL JURISDICTION

CORRECTING THE SOUTH BOUNDARY OF THE COLORADO RIVER INDIAN RESERVATION IN ARIZONA

Ms. COLLINS. I now ask unanimous consent that the Indian Affairs Committee be discharged and the Senate proceed to the en bloc consideration of H.R. 794, S. 706, and S. 279.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. I ask unanimous consent that the amendment to S. 279 be agreed to, the bills, as amended, if amended, be read a third time and passed, and the motions to reconsider be laid on the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 794) was read the third time and passed.

The bill (S. 706) was read the third time and passed, as follows:

S. 706

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prairie Island Land Conveyance Act of 2005".

SEC. 2. PRAIRIE ISLAND LAND CONVEYANCE.

(a) IN GENERAL.—The Secretary of the Army shall convey all right, title, and interest of the United States in and to the land described in subsection (b), including all improvements, cultural resources, and sites on the land, subject to the flowage and sloughing easement described in subsection (d) and to the conditions stated in subsection (f), to the Secretary of the Interior, to be—

(1) held in trust by the United States for the benefit of the Prairie Island Indian Community in Minnesota; and

(2) included in the Prairie Island Indian Community Reservation in Goodhue County, Minnesota.

(b) LAND DESCRIPTION.—The land to be conveyed under subsection (a) is the approximately 1290 acres of land associated with the Lock and Dam #3 on the Mississippi River in Goodhue County, Minnesota, located in tracts identified as GO-251, GO-252, GO-271, GO–277, GO–278, GO–284, GO–301 through GO–313, GO-314A, GO-314B, GO-329, GO-330A, GO-330B, GO–331A, GO–331B, GO–331C, GO–332, GO-333, GO-334, GO-335A, GO-335B, GO-336 through GO-338, GO-339A, GO-339B, GO-339C, GO–339D, GO–339E, GO–340A, GO–340B, GO–358, GO-359A, GO-359B, GO-359C, GO-359D, and GO–360, as depicted on the map entitled "United States Army Corps of Engineers survey map of the Upper Mississippi River 9-Foot Project, Lock & Dam No. 3 (Red Wing), Land & Flowage Rights" and dated December 1936.

(c) BOUNDARY SURVEY.—Not later than 5 years after the date of conveyance under subsection (a), the boundaries of the land conveyed shall be surveyed as provided in section 2115 of the Revised Statutes (25 U.S.C. 176).

(d) EASEMENT.—

(1) IN GENERAL.—The Corps of Engineers shall retain a flowage and sloughing easement for the purpose of navigation and purposes relating to the Lock and Dam No. 3 project over the portion of the land described in subsection (b) that lies below the elevation of 676.0.

(2) INCLUSIONS.—The easement retained under paragraph (1) includes—

(A) the perpetual right to overflow, flood, and submerge property as the District Engineer determines to be necessary in connection with the operation and maintenance of the Mississippi River Navigation Project; and

(B) the continuing right to clear and remove any brush, debris, or natural obstructions that, in the opinion of the District Engineer, may be detrimental to the project.

(e) OWNERSHIP OF STURGEON LAKE BED UNAFFECTED.—Nothing in this section diminishes or otherwise affects the title of the State of Minnesota to the bed of Sturgeon Lake located within the tracts of land described in subsection (b).

(f) CONDITIONS.—The conveyance under subsection (a) is subject to the conditions that the Prairie Island Indian Community shall not—

(1) use the conveyed land for human habitation;

(2) construct any structure on the land without the written approval of the District Engineer; or

(3) conduct gaming (within the meaning of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) on the land.

(g) NO EFFECT ON ELIGIBILITY FOR CERTAIN PROJECTS.—Notwithstanding the conveyance under subsection (a), the land shall continue to be eligible for environmental management planning and other recreational or natural resource development projects on the same basis as before the conveyance.

(h) EFFECT OF SECTION.—Nothing in this section diminishes or otherwise affects the rights granted to the United States pursuant to letters of July 23, 1937, and November 20, 1937, from the Secretary of the Interior to the Secretary of War and the letters of the Secretary of War in response to the Secretary of the Interior dated August 18, 1937, and November 27, 1937, under which the Secretary of the Interior granted certain rights to the Corps of Engineers to overflow the portions of Tracts A, B, and C that lie within the Mississippi River 9-Foot Channel Project boundary and as more particularly shown and depicted on the map entitled "United States Army Corps of Engineers survey map of the Upper Mississippi River 9-Foot Project, Lock & Dam No. 3 (Red Wing), Land & Flowage Rights" and dated December 1936.

The amendment (No. 1591) was agreed to, as follows:

(Purpose: To provide a complete substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. INDIAN PUEBLO LAND ACT AMENDMENTS.

The Act of June 7, 1924 (43 Stat. 636, chapter 331), is amended by adding at the end the following:

"SEC. 20. CRIMINAL JURISDICTION.

"(a) IN GENERAL.—Except as otherwise provided by Congress, jurisdiction over offenses committed anywhere within the exterior boundaries of any grant from a prior sovereign, as confirmed by Congress or the Court of Private Land Claims to a Pueblo Indian tribe of New Mexico, shall be as provided in this section.

"(b) JURISDICTION OF THE PUEBLO.—The Pueblo has jurisdiction, as an act of the Pueblos' inherent power as an Indian tribe, over any offense committed by a member of the Pueblo or an Indian as defined in title 25, sections 1301(2) and 1301(4), or by any other Indian-owned entity.

"(c) JURISDICTION OF THE UNITED STATES.—The United States has jurisdiction over any offense described in chapter 53 of title 18, United States Code, committed by or against an Indian as defined in title 25, sections 1301(2) and 1301(4) or any Indian-owned entity, or that involves any Indian property or interest.

"(d) JURISDICTION OF THE STATE OF NEW MEXICO.—The State of New Mexico shall have jurisdiction over any offense committed by a person who is not a member of a Pueblo or an Indian as defined in title 25, sections 1301(2) and 1301(4), which offense is not subject to the jurisdiction of the United States.".

The bill (S. 279), as amended, was read the third time and passed.

CHILDREN'S HOSPITALS EDUCATIONAL EQUITY AND RESEARCH ACT

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 98, S. 285.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 285) to reauthorize the Children's Hospitals Graduate Medical Education Program.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment.

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Children's Hospitals Educational Equity and Research Act" or the "CHEER Act".

[SEC. 2. REAUTHORIZATION OF CHILDREN'S HOSPITALS GRADUATE MEDICAL EDUCATION PROGRAM.

[(a) EXTENSION OF PROGRAM.—Section 340E(a) of the Public Health Service Act (42 U.S.C. 256e(a)) is amended by striking "2005" and inserting "2010".

[(b) DIRECT GRADUATE MEDICAL EDUCATION.—Section 340E(c) of the Public Health Service Act (42 U.S.C. 256e(c)) is amended—

[(1) in paragraph (1)(B), by inserting "but without giving effect to section 1886(h)(7) of such Act)" after "section 1886(h)(4) of the Social Security Act"; and

[(2) in paragraph (2)(E)(ii), by striking "described in subparagraph (C)(ii)" and inserting "applied under section 1886(d)(3)(E) of the Social Security Act for discharges occurring during the preceding fiscal year".

[(c) NATURE OF PAYMENTS.—Section 340E(e)(3) of the Public Health Service Act (42 U.S.C. 256e(e)(3)) is amended by striking "made to pay" and inserting "made and pay".

[(d) AUTHORIZATION OF APPROPRIATIONS.—Section 340E(f) of the Public Health Service Act (42 U.S.C. 256e(f)) is amended—

[(1) in paragraph (1)(A)—

[(A) in clause (ii), by striking "and";

[(B) in clause (iii), by striking the period and inserting a semicolon; and

[(C) by adding at the end the following:

["(iv) for fiscal year 2006, $110,000,000; and

["(v) for each of fiscal years 2007 through 2010, such sums as may be necessary."; and

[(2) in paragraph (2)—

[(A) in the matter preceding subparagraph (A)—

[(i) by striking "There are hereby authorized" and inserting "There are authorized"; and

[(ii) by striking "(b)(1)(A)" and inserting "(b)(1)(B)";

[(B) in subparagraph (B), by striking "and";

[(C) in subparagraph (C), by striking the period and inserting a semicolon; and

[(D) by adding at the end the following:

["(D) for fiscal year 2006, $220,000,000; and

["(E) for each of fiscal years 2007 through 2010, such sums as may be necessary.".

[(e) TECHNICAL AMENDMENT.—Section 340E(e)(2) of the Public Health Service Act (42 U.S.C. 256e(e)(2)) is amended by striking the first sentence.

[SEC. 3. SENSE OF THE SENATE.

[It is the sense of the Senate that perinatal hospitals play an important role in providing quality care and ensuring the best possible outcomes for thousands of seriously ill newborns each year, and that medical training programs at perinatal hospitals give providers essential training in treating healthy mothers and babies as well as patients in neonatal intensive care units.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Hospitals Educational Equity and Research Act" or the "CHEER Act".

SEC. 2. REAUTHORIZATION OF CHILDREN'S HOSPITALS GRADUATE MEDICAL EDUCATION PROGRAM.

(a) EXTENSION OF PROGRAM.—Section 340E(a) of the Public Health Service Act (42 U.S.C. 256e(a)) is amended by striking "2005" and inserting "2010".

(b) DIRECT GRADUATE MEDICAL EDUCATION.—Section 340E(c) of the Public Health Service Act (42 U.S.C. 256e(c)) is amended—

(1) in paragraph (1)(B), by inserting "but without giving effect to section 1886(h)(7) of such Act)" after "section 1886(h)(4) of the Social Security Act"; and

(2) in paragraph (2)(E)(ii), by striking "described in subparagraph (C)(ii)" and inserting "applied under section 1886(d)(3)(E) of the Social Security Act for discharges occurring during the preceding fiscal year".

(c) NATURE OF PAYMENTS.—Section 340E(e)(3) of the Public Health Service Act (42 U.S.C. 256e(e)(3)) is amended by striking "made to pay" and inserting "made and pay".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 340E(f) of the Public Health Service Act (42 U.S.C. 256e(f)) is amended—

(1) in paragraph (1)(A)—

(A) in clause (ii), by striking "and";

(B) in clause (iii), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(iv) for fiscal year 2006, $110,000,000; and

"(v) for each of fiscal years 2007 through 2010, such sums as may be necessary."; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "There are hereby authorized" and inserting "There are authorized"; and

(ii) by striking "(b)(1)(A)" and inserting "(b)(1)(B)";

(B) in subparagraph (B), by striking "and";

(C) in subparagraph (C), by striking the period and inserting a semicolon; and

(D) by adding at the end the following:

"(D) for fiscal year 2006, $220,000,000; and

"(E) for each of fiscal years 2007 through 2010, such sums as may be necessary.".

(e) TECHNICAL AMENDMENT.—Section 340E(e)(2) of the Public Health Service Act (42 U.S.C. 256e(e)(2)) is amended by striking the first sentence.

SEC. 3. SENSE OF THE SENATE.

It is the sense of the Senate that perinatal hospitals play an important role in providing quality care and ensuring the best possible outcomes for thousands of seriously ill newborns each year, and that medical training programs at perinatal hospitals give providers essential training in treating healthy mothers and babies as well as patients in neonatal intensive care units.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the committee-reported amendment be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 285), as amended, was read the third time and passed.

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL—S. RES. 213

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL—S. RES. 214

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the en bloc consideration of two Senate resolutions which were submitted earlier today, S. Res. 213 and S. Res. 214.

The PRESIDING OFFICER. The clerk will report the resolutions by title, en bloc.

The legislative clerk read as follows:

A resolution (S. Res. 213) to authorize representation by the Senate Legal Counsel in the case of Keyter v. McCain, et al.

A resolution (S. Res. 214) to authorize representation by the Senate Legal Counsel in the case of Jones v. Salt River Pima-Maricopa Indian Community, et al.

There being no objection, the Senate proceeded to consider the resolutions.

Mr. FRIST. Mr. President, this resolution concerns a pro se civil action filed against Senators JOHN MCCAIN and JON KYL. Plaintiff complains that the Senator defendants violated their duties under the common law and the Federal Criminal Code by failing to investigate or prosecute the alleged commission of 1.6 million unspecified crimes. Plaintiff seeks $10 million in damages and an order compelling the Senator defendants to investigate or prosecute the alleged crimes.

This suit is subject to dismissal on numerous grounds, including lack of constitutional standing, legislative and qualified immunity, the political question doctrine, as well as on the merits. This resolution authorizes the Senate Legal Counsel to represent the Senator defendants in this suit and to move for its dismissal.

S. RES. 214

Mr. President, this resolution concerns a pro se civil action filed against Senators JOHN MCCAIN, JON KYL, and "51 percent of the unnamed" Members of the United States Senate. Plaintiff complains that the Senator defendants violated their oath of office and various provisions of the Constitution by enacting laws contained in Title 25 of the United States Code that allegedly resulted in the denial of plaintiffs rights while employed by a community of Native American tribes. Plaintiff seeks declaratory relief and damages.

This suit is subject to dismissal on numerous grounds, including lack of constitutional standing, legislative and qualified immunity, and failure to state a claim upon which relief may be granted. This resolution authorizes the Senate Legal Counsel to represent the Senator defendants in this suit and to move for its dismissal.

Mr. SESSIONS. I ask unanimous consent that the resolutions be agreed to, the preambles be agreed to, and the motions to reconsider be laid on the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions (S. Res. 213 and S. Res 214) were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. Res. 213

Whereas, in the case of Keyter v. McCain, et al., Civ. No. 05–1923, pending in the United States District Court for the District of Arizona, the plaintiff has named as defendants Senators John McCain and Jon Kyl;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senators John McCain and Jon Kyl in the case of Keyter v. McCain, et al.

S. Res. 214

Whereas, in the case of Jones v. Salt River Pima-Maricopa Indian Community, et al., Civ. No. 05-1944, pending in the United States District Court for the District of Arizona, the plaintiff has named as defendants Senators John McCain and Jon Kyl;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senators John McCain, Jon Kyl, and other unnamed Members of the Senate in the case of Jones v. Salt River Pima-Maricopa Indian Community, et al.

MEASURE READ THE FIRST TIME—H.R. 1797

Mr. SESSIONS. Mr. President, I understand that there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 1797) to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.

Mr. SESSIONS. I now ask for its second reading, and in order to place the bill on the calendar under rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

PROVIDING FOR THE SECRETARY OF HOMELAND SECURITY TO BE INCLUDED IN THE LINE OF PRESIDENTIAL SUCCESSION

Mr. SESSIONS. I ask unanimous consent that the Committee on Rules be discharged from further consideration of S. 442 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 442) to provide for the Secretary of Homeland Security to be included in the line of Presidential succession.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the measure be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 442) was read the third time and passed, as follows:

S. 442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SECRETARY OF HOMELAND SECURITY IN PRESIDENTIAL LINE OF SUCCESSION.

Section 19(d)(1) of title 3, United States Code, is amended by inserting "Secretary of Homeland Security," after "Attorney General,".

ORDERS FOR WEDNESDAY, JULY 27, 2005

Mr. SESSIONS. Mr. President, on behalf of our leader, Bill Frist, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., on Wednesday, July 27. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of the motion to proceed to S. 397. I further ask consent that the time from 10 a.m. to 2 p.m. be equally divided, with the majority controlling the first hour, the Democrats controlling the second hour, rotating in that fashion until 2 p.m. I further ask consent that at 2 p.m. the Senate proceed to a vote on the motion to proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SESSIONS. Tomorrow we will continue debate on the motion to proceed until 2. At 2 p.m. we will vote on the motion to proceed and begin consideration of the bill. As we stated since last week, there are a number of legislative matters to consider before we break for recess. I hope we can finish our work on this bill as expeditiously as possible. Members should be reminded that rollcall votes are expected each day this week until our work is complete.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SESSIONS. If there is no further business to come before the Senate, I ask unanimous cnosent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:09 p.m., adjourned until Wednesday, July 27, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, July 26, 2005*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. MARCHANT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 26, 2005.

I hereby appoint the Honorable KENNY MARCHANT to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from Colorado (Mr. BEAUPREZ) for 5 minutes.

REASONS TO SUPPORT THE CENTRAL AMERICAN FREE TRADE AGREEMENT

Mr. BEAUPREZ. Mr. Speaker, I would like to highlight just a few of the reasons why I am in favor of the Central American Free Trade Agreement, known as CAFTA.

CAFTA is going to level the playing field for U.S. workers and farmers. Right now, the CAFTA countries have virtually open access to our U.S. market. This agreement will give Americans the same free and fair access to their markets. The day CAFTA is signed, nearly $1 billion a year in tariffs on U.S. goods goes away, making us immediately more competitive. Somewhere in this world, farmers will be producing the food and workers will be making the goods to meet the growing demand of the CAFTA nations. I want this demand to be met by American workers.

CAFTA will protect existing American jobs, allow us to compete fairly for more international business and strengthen our relationships with these six developing democracies.

Mr. Speaker, neighbors help each other, and CAFTA is a good neighbor treaty. I urge its adoption.

HEALTH SAVINGS ACCOUNTS: A SOLUTION TO THE HIGH COST OF AMERICA'S HEALTH CARE SYSTEM

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Pennsylvania (Mr. FITZPATRICK) is recognized during morning hour debates for 5 minutes.

Mr. FITZPATRICK of Pennsylvania. Mr. Speaker, I rise today to address the high cost of America's health care system and also to highlight a solution to this problem that not only reduces the number of uninsured in the United States, but gives consumers the ability to rein in the high price of health care on their own terms.

Everyone in this Chamber and across the Nation knows that our Nation is in the midst of a health care crisis. The crisis not only affects patients, but our health care professionals as well. Rising health care costs have left nearly 45 million Americans without health insurance and thousands of small businesses struggling to cover their employees. In my home State of Pennsylvania, over 50 percent of Pennsylvanians surveyed said their family has had difficulty paying the cost of health care or obtaining insurance for their dependents.

Since 2001, the cost of health insurance has risen 59 percent. In 2004, employers who offered health insurance benefits were paying an average of 11 percent more for health insurance premiums, making that year the fourth year of double-digit increases in premiums.

Last year, President Bush spoke of the need to create an ownership society in America. His idea was simple: Pass laws to enable our families to take greater ownership in their investments, their financial security and their future. The idea of an ownership society has already resulted in a booming housing market, impressive job growth and historic economic productivity.

I come to the floor today to say that the ownership society can also change health care as we know it today through the use of Health Savings Accounts. Designed as part of the Medicare Modernization Act of 2003, Health Savings Accounts are tax-free accounts that empower consumers to take control over their own health care expenses.

The principle is simple: If a person has a health insurance plan with a high deductible of at least $1,000 for an individual or $2,000 for family coverage, that person can make pre-tax contributions to a savings account specifically designed to handle health insurance.

Health Savings Accounts are portable, interest-bearing financial instruments. Like a 401(k), contributions to HSAs are made with pre-tax income. Like an IRA, the account grows tax-free and can also be moved from job to job. There is no penalty for the removal of money from an HSA, and if an individual does not use any money from an HSA over the course of a year, the money is not lost. Instead, it is rolled over into the next year and without penalty.

Due to the ability of account holders to contribute 100 percent of their deductible in pre-tax income into an HSA, consumers gain an added benefit by having health insurance plans with higher deductibles. The higher the deductible, the more they are able to invest without a tax penalty.

For business owners, especially small businesses, HSAs allow employers to lower health care spending and simultaneously reap a tax benefit. These incentives will motivate more businesses to take advantage of Health Savings Accounts.

I can relate to you a first-hand account of the success of HSA for small businesses. Last week, I hosted a Small Business Forum back in my State of Pennsylvania that brought together small business owners and employees from across my district to discuss the issue of the cost of rising health care premiums.

The gentleman from Illinois (Chairman MANZULLO) and I heard from George Donovan, the principal of a small architectural firm that employs 30 people. Mr. Donovan testified that the health insurance he pays accounts for nearly 50 percent of his total insurance costs. Three years ago, his firm's health insurance premium was $120,000 per year. By switching to an HSA, he was able to cut that amount by half, to just $60,000, in his first year.

Like many employers, George Donovan does not believe in employing individuals without health insurance. He found through staff interviews that health insurance is the number one criteria for accepting a job or for staying with his firm. By all measures, his adoption of HSAs has helped his bottom line, as well as allowed him to retain trained and talented staff.

Health Savings Accounts empower Americans across the country to make informed choices. Instead of being tied into a traditional plan that limits choice and keeps the consumer at arm's length from the health care market, Health Savings Accounts allow individuals and businesses to take an active role in choosing how to spend their money.

According to Andy Laperriere in a Wall Street Journal article of January 24 of this year, "health care is the only sector in the economy where there is almost no price transparency and no price competition."

Laperriere's article is correct. How many of us actually understand the cost of a medical test or procedure? Most of the information in a medical or hospital bill is too complicated to understand, and most health insurance plans compound that confusion.

HSAs create an economic incentive for consumers to shop for care competitively, become involved in the market and save more money with HSAs. Since you are able to keep that money that you do not spend in your HSA, it makes sense to purchase the best care at the lowest possible price. Therefore, the widespread use of HSAs will create an educated class of consumers that will cut administrative costs, lower overhead and reduce the cost of health care for the majority of Americans.

Mr. Speaker, I call on my colleagues to support Health Savings Accounts and legislation that will expand and support their use. The best way to lower the cost of health care is to make the consumer an active participant in the market. Health Savings Accounts do just that, and bring us one step closer to an ownership society.

RECOGNIZING THE 15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from New Jersey (Mr. HOLT) is recognized during morning hour debates for 5 minutes.

Mr. HOLT. Mr. Speaker, I rise today to recognize the 15th anniversary of the Americans with Disabilities Act, enacted on July 26, 1990.

The ADA occupies a unique place in our political and social history, providing sweeping protections against discrimination for a group that had suffered legal inequities and indignities from time immemorial. The accommodations that ADA afforded to persons with disabilities, in employment, public and private services, transportation and telecommunications, demonstrated that all Americans are entitled to legal protection from discrimination.

Just as the Civil Rights Act of 1964 was essential to eliminating legal justifications for denying equal rights to African Americans and others, the Americans with Disabilities Act constituted a step forward by prohibiting discrimination against persons with disabilities; and just as passage of the Civil Rights Act was a necessary precursor to the elimination of racism in practice, we still have some distance to go in order to eliminate popular prejudice and stigmatization of persons with disabilities.

In Congress, I have worked with the disability community to ensure that all Americans are afforded the full protection of the law. I have introduced legislation to require that staff working with developmentally disabled persons call emergency services in the event of a life-threatening situation. Danielle's Law would extend the New Jersey law to the rest of the country.

I have introduced the Voter Confidence and Increased Accessibility Act, legislation to amend the Help America Vote Act, to require a voter-verified paper audit trail and to ensure that any system of verification be fully accessible for all voters.

In the Committee on Education and Workforce, I successfully amended H.R. 4278, the Improving Access to Assistive Technology For Individuals With Disabilities Act of 2004, in order to allow protection and advocacy agencies to carry over program income, funds generated by program activities, that is, for 2 additional years. This change will enable these programs to reinvest the earned funds into additional services and assistance in the acquisition, utilization and maintenance of assistive technology.

I have opposed the Department of Education's efforts to gut the Rehabilitation Services Administration, a program that has literally changed people's lives, providing the tools for disabled persons to live and work independently and with dignity. I fought for a full 40 percent funding for Individuals With Disability Education Act, the IDEA, which the Federal Government neglects. We are underfunding it by at least a factor of two.

The Americans with Disabilities Act has allowed great gains in the past 15 years, but there is much yet to be done. We must continue to ensure that jobs are open to persons with disabilities and that these valuable employees have the necessary accommodations. We must continue to make accessible transportation and housing options and grant access to community-based supports and services that promote independence and integration. We must also commit to continued education and job training for all Americans.

Since the passage of the ADA, I have been concerned with the interpretation of the law by Federal courts with regard to protections offered and individuals protected. The Federal courts' narrow interpretation of ADA has prevented it from achieving all that it was designed to do. As the Senate considers the nomination of a new Supreme Court justice, I hope the Senate will fully inquire as to his views on the application of the ADA.

Again, I would like to recognize the 15th anniversary of the Americans with Disabilities Act. I value the advances that our country has achieved because of legal protections it extends, and I look forward to continuing to work on behalf of Americans with disabilities.

PATRIOT ACT PROTECTS RIGHTS OF AMERICANS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentlewoman from Virginia (Mrs. DRAKE) is recognized during morning hour debates for 5 minutes.

Mrs. DRAKE. Mr. Speaker, I think it is important to point out that last week, before we left here, we did a very important thing on Thursday night, and that is that we reauthorized the PATRIOT Act. I think it is important to remember that in 2001, when this act was first put into place, that there were no "no" votes. But now, 4 years later, Mr. Speaker, there is a great deal of concern among the American people that our freedoms be protected, and we often hear the expression that if we give up a little bit of freedom for a little bit of security, that we would have neither.

As Americans, we value our freedoms. We value the freedom of speech, we value our freedom of privacy, we value the protections that we have against unnecessary search and seizure. But as Americans we also know that things have changed.

I do not think there is a parent or grandparent in America today that would tell you that their lives today are what they were when they were children. I can assure you, Mr. Speaker, when I have my grandchildren with me, they have very little freedom, and that I never take my eye off of them because we do live in a different day and a different time, and the securities that we felt as children just do not exist today.

As I drove home last week and I was stuck in traffic, which we all know is certainly a reoccurring thing in our society, but I was listening to a radio program about the PATRIOT Act. What really concerned me about what Americans are being told is that Americans are being told that somehow this is onerous, that we have done the PATRIOT Act, and that our freedoms are being impacted in this act.

What Americans are not being told is that the same provisions that exist in this act have been in place for many years in regards to criminal cases, in regards to child pornography, in regards to drug offenses, in regards to mob bosses.

What the PATRIOT Act did is added foreign terrorism into the same types of provisions that already exist. The PATRIOT Act also broke down walls to allow law enforcement officials to interact together and to make sure that information is being shared and that we as Americans are as safe as we can possibly be. I think that is an important element of the PATRIOT Act, is that it is not new. It is existing law enforcement that has been extended over.

But, Mr. Speaker, it is only fair to remind people that there are additional requirements that are placed in the PATRIOT Act on the provision of foreign terrorism. What some of those provisions are is that under the criminal code, law enforcement gets grand jury permission in order to do what they are doing. Under the PATRIOT Act, that required the permission of a Federal judge. With the amendments that we did Thursday night in regards to the one the American people talked about the most called the "library provision," or what we referred to as section 215, which would allow them to check books and records, now it will require that the Director of the FBI make that request to a Federal judge. So to imply to the American people that someone is checking what books we check out is just unfair, and it is unfair to all of us who do expect to put some safety and some security back into our lives and to the lives of our children.

Mr. Speaker, there is nothing else we can do except to really explain what is the PATRIOT Act, how does it keep us safer and how does it interact with our other criminal codes.

I would like to also point out that the "library act," as it is called, has been used many times in regards to the criminal code, but it has not once been used in regards to foreign terrorism. Is it something we should take away? No, absolutely not, because why should we tie the hands of our law enforcement professionals on one area that is so critical to us when this exists in other provisions of the law?

Mr. Speaker, I applaud the House of Representatives for reauthorizing the PATRIOT Act. I was a little distressed that we put additional requirements in place, but if that is what it takes for people to feel safe and secure, all right. But the most important thing is I think the public should know the truth. They should know how the PATRIOT Act is protecting them and defending them and not impacting their freedoms.

FINDING GOOD NEWS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Georgia (Mr. PRICE) is recognized during morning hour debates for 5 minutes.

Mr. PRICE of Georgia. Mr. Speaker, sometimes I get tired of all the bad news. You come here and you listen to the speeches that go before the House and you think, my goodness gracious, there must be all sorts of bad news out there.

When I go home and I talk to constituents at home about any issue, I often lead off with saying, "I am going to have to tell you some things that you haven't seen on television and that you haven't read in the newspaper," because the good news, the good news that is happening here, oftentimes gets smothered with all the bad news and all the political sniping that goes on.

I was pleased to hear the gentlewoman from Virginia (Mrs. DRAKE) just now get up and demonstrate her passion, her passion, for principles that we hold dear here in the United States. I was also wonderfully pleased to hear the gentleman from Pennsylvania (Mr. FITZPATRICK) earlier talk about the importance of health care and Health Savings Accounts, an exciting proposal, an exciting policy that we have here, that we have adopted in the Congress, that will allow individuals greater choice in health care. That is good news. That is good news.

When I read my local paper, I have got to get way down in that paper before I see good news. In terms of politics, all you see is who is fighting whom and what will not happen. It is remarkable.

So I am here to talk about a little good news today, because we have good news that we need to spread across this Nation.

There has been a remarkable turnaround in this Nation's economy. The policies that this Congress have adopted have helped our Nation recover from attacks at home, recover from corporate scandals, recover from the bursting of the tech bubble and the incredible demands that we have facing us as a Nation in the War on Terror. These are real challenges, incredible challenges, but we are a strong and a vibrant and a resourceful Nation, and we can overcome these challenges, and, frankly, any other that folks throw in our way.

But what are the principles that are guiding us? Strong, common sense, conservative principles that foster entrepreneurship and almost guarantee success. These are the true engines, entrepreneurship, of job growth and strength in our economy.

From tax relief, to a responsible decrease in areas of our Federal budget, this Republican major is leading the way with a return to fiscal discipline and economic growth as our guideline. And what are the results? What are the results? There used to be somebody on television that said, "Let's go the videotape." Here we say, "Let's go to the chart."

Look at this chart. This is May 2003 and these are the number of jobs that have been created in this Nation. May 2003. And look where we are in June 2005. It is a steady increase in growth in the number of jobs. That is exciting news. That is good news. Have you seen it in your newspaper? Have you heard about it on television or on the radio? Probably not. But that is good news, and it is good news that is happening because of the policies that this Congress has adopted.

More Americans are working now than ever before. More Americans are working than ever before in our Nation's history. Nearly 4 million jobs have been created over the past 2 years. The economy has had job growth, more job growth, 24 straight months. Look at that. 24 straight months. That is good news.

Unemployment is at 5 percent. Say, what is that? Well, it is lower than the averages for the 1970s, the 1980s and the 1990s. Unemployment is at an all-time low, given the averages over the last three decades. Unemployment is down for all levels of education, all races and all ages. This is great news.

So I ask my colleagues and I ask folks back home when they pick up their newspaper, do not look at the front page; go to page 7 or 8 or 9 or further, and you may find some good news there. Those are the kinds of stories that need to be on the front page.

Mr. Speaker, we in Congress here are going to continue to work in a positive and a confident way, one that is trustful of Americans and one that appreciates and believes in America. I look forward to being joined by my colleagues on both sides of the aisle to further these common sense principles.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 23 minutes p.m.), the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GINGREY) at 10 a.m.

PRAYER

The Reverend W. Don Young, Senior Pastor, Heartland Worship Center, Paducah, Kentucky, offered the following prayer:

My Lord God in heaven, the leaders of this Nation pause every day to acknowledge Your grace, Your mercy, and most of all Your blessings. They acknowledge by this exercise that this Nation was built on your principles.

And Father God, it appears that we are the players that will determine the destiny of this beloved United States of America. Good people all over the world believe we are standing on a precipice at this moment in history.

Either America renews her relationship with You, or we continue our moral free fall, which, sadly to say, will ultimately mean our demise. We, the pastors, political leaders, we just cannot allow that to happen. So God help us to guide this great people in such a way that You can bless America again.

Please help us to honor You and You alone with the decisions that will be made today and in future sessions. It is in my Lord's name that I ask these things. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Missouri (Mr. CARNAHAN) come forward and lead the House in the Pledge of Allegiance.

Mr. CARNAHAN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNIZING PASTOR W. DON YOUNG

(Mr. WHITFIELD asked and was given permission to address the House for 1 minute.)

Mr. WHITFIELD. Mr. Speaker, I want to thank Pastor Don Young of the Heartland Worship Center in Paducah, Kentucky, for leading today's opening prayer.

Pastor Young was born and raised in Childress, Texas, and following his graduation from Baptist Bible College in Springfield, Missouri, he became the founding pastor of the Bible Baptist Church in Paducah, Kentucky, where he ministered to the needs of the founding 29 members of that church.

Pastor Young has been there now for 45 years, and the church has 3,000 members and is now known as the Heartland Worship Center. Average Sunday attendance is 1,700, largely because of Pastor Young's unique preaching style and the programs he has initiated to meet the spiritual needs of people from all walks of life.

Heartland's vision statement is: Influencing people to come, instructing people to grow, inspiring people to go.

Under Pastor Young's leadership, the center supports 29 missionaries in foreign countries and the United States, assists the members of the congregation with counseling needs, supports the mission projects endorsed by the Southern Baptist Convention, helps with the spiritual and moral development of our youth, and honors our men and women in uniform as they prepare for deployment overseas.

Heartland Worship Center is blessed to have such a dedicated servant whose compassion and faith have guided him throughout his entire life.

Mr. Speaker, I hope you will join me in welcoming Pastor Young and thanking him for today's prayer.

THE MEDICAL PROFESSION NEEDS HELP

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, you remember the old Peanuts cartoon strip, and the booth with the sign on it that said, "The doctor is in"? Well, too many times these days nobody is in at the doctor's office, and we are not currently improving the situation.

Many doctors are being forced to shut their doors and leave the practice of medicine due to skyrocketing insurance premiums. In addition, medical schools are seeing fewer young people apply, not as many people interested in becoming doctors.

This week we will be talking a lot about problems and solutions to the challenges we face in health care, and a few questions we must answer are: Where will our doctors come from? What can we do to increase the number and maintain the quality of those wanting careers in medicine?

Skyrocketing medical school costs raise critical questions. Is the cost of medical schools preventing some of our best and brightest from choosing to become a doctor? How will this affect the quality of care for all patients?

Mr. Speaker, patient choice is about being able to choose the doctor that is right for you. If bright young people are not going into medicine, we all lose. Let us work to improve our system so patients will be able to have the right to choose the doctor that is best for them.

CAFTA IS BAD FOR AMERICA

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, the North American Free Trade Agreement caused 5.6 million well-paying jobs to leave the United States. If they were replaced at all, they were replaced by insecure, low-wage employment paying 77 percent less.

CAFTA, modeled after the North American Free Trade Agreement, will hurt workers in the United States and Central America. Under CAFTA workers are much more likely to lose their jobs than find better ones, especially if they work in U.S. manufacturing or Central American agriculture, small business or government.

U.S. workers will have to compete in a race to the bottom with sweatshop wages and low standards in Central America reinforced by the weak labor provisions in CAFTA. Provisions that will stay in effect are those like those in El Salvador where they fail to provide for reinstatement of workers fired because of antiunion discrimination; as in Guatemala, where the labor code mandates that unions obtain permission from the labor unions to strike; as in Honduras, where the law prohibits the formation of more than one trade union in a single enterprise.

CAFTA will result in lower wages for the people in this country. It will result in the loss of jobs in this country, and it should be defeated.

REEXAMINE THE BRAC PROCESS

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, I have some concerns with the base closure process currently taking place. Under the recommendations, Ellington Field in Houston, Texas, is scheduled to lose all of the F-16s and the 147th Fighter Wing. This would endanger the ability to protect southeast Texas.

The base closure criteria is based upon military and strategic importance, but it also needs to factor in homeland security risk assessments as well. The F-16s at Ellington Field protect Houston, the fourth largest city in the United States.

The city has two major airports. It has the largest medical center in the United States. It is, of course, the home of NASA. It has the Port of Houston, the second largest port in the United States, and two additional ports, Port Arthur and the Port of Beaumont where one-third of the military cargo goes to Iraq, not to mention the petrochemical area and the energy capital of the world.

So, Mr. Speaker, I plan on introducing a resolution in Congress this week that will call on the President to factor in homeland security in the base closure process and disapprove of any recommendation unless the President is convinced that the recommendations will not adversely affect homeland security in the United States. We need to keep the F-16s flying over Houston.

POSTAL MODERNIZATION

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, today we will be considering important legislation dealing with the modernization of the Postal Service. It contains some important provisions I have been working on since I came to Congress to make sure that the postal facilities, which are the cornerstone of a livable community, are, in fact, playing by the same rules as the rest of America.

Too often the Postal Service has not played by those rules, with bad results in site location, building and remodeling. While the Postal Service has made some improvements in recent years managing these facilities, this legislation makes clear that the Postal Service will obey local land zoning, planning and environmental regulations, very important developments, playing by the same rules as the rest of America.

It will hasten the day when the U.S. Government itself as the largest landlord, landowner and employer, will lead by example, and behave the way we expect the rest of Americans to behave. It will not cost any extra, but it will help make American families safer, healthier and more economically secure.

IMMIGRATION REFORM

(Mr. FLAKE asked and was given permission to address the House for 1 minute.)

Mr. FLAKE. Mr. Speaker, today the Senate will hold hearings to start the process for comprehensive immigration reform. We will soon start those same hearings hopefully in the House.

As we begin this, I simply want to remind everyone here that we believe in the rule of law. We need to enforce the rule of law. We need to enforce our Nation's laws, but in order to do so, we have to have laws that we can enforce.

Those who say let us enforce the law, the current law, and then have a temporary worker program have yet to offer a proposal to actually enforce the current law, which would require that the 10- to 15 million illegals who are now, most of them, working in jobs would actually be deported to their country of origin and subject to a 10-year bar from reentry.

If that is what people mean by enforcing the current law, then please offer a proposal to do so. But, if not, then let us work together on a comprehensive plan for comprehensive immigration reform that has a guest worker plan and also a provision to enforce the new law. That is what we need to do in this country.

NEED FOR ACCOUNTABILITY ON THE CIA OPERATIVE LEAK

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, as the sordid tale is unfolding about the Bush administration's outing of one of our covert intelligence agents, as that unfolds, there is an aspect that I just learned about, I wanted to share with my colleagues, last week.

Last week with some Senators, we had a hearing where we listened to former CIA agents about the impact of this event on our national security system, and these four agents spoke as one. And what they said was interesting to me, because what they said was the outing was bad enough where they destroyed the covert status of one of our spies, but what is almost as bad or worse is that the President has refused to take action to deal with whoever is responsible for that wrongful act.

And to them that was a message that the President just did not honor the trust we have to keep the secrecy of our spies secret. That makes it more difficult to recruit. We are trying to recruit people for cells in London right now. How are we going to recruit them when we out, the administration outs, a spy and does not take action to deal with that?

That is as disturbing as the outing originally. The President needs to act. We need to pass House Resolution 363 to get to the bottom of this.

SUPPORT CAFTA

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I have always believed that trade means jobs, and that is especially true on the Indiana farm. As we consider the Central America Free Trade Agreement, think of this.

Today U.S. agricultural goods exported to that region of the world face tariffs and barriers of 15 to 35 percent. By ending the one-way street, CAFTA will essentially result in my State seeing up to $41 million a year in additional agricultural exports.

Trade means jobs. Not that this is a new idea. Adam Smith wrote in A Wealth of Nations in 1776, "All for ourselves and nothing for other people seems, in every age of the world, to have been the vile maxim of the masters of mankind."

Even Benjamin Franklin said, "No nation was ever ruined by trade." And Ralph Waldo Emerson wrote in his personal journal, We rail at trade, but the historian of the world will see that it was the principle of liberty; that it settled America, destroyed feudalism, made peace and keeps peace, and abolished slavery.

All of those great American Founders and thinkers were right. Trade means jobs. I urge my colleagues to support CAFTA in that spirit.

OPPOSITION TO CAFTA

(Mr. CARNAHAN asked and was given permission to address the House for 1 minute.)

Mr. CARNAHAN. Mr. Speaker, I rise this morning to address my strong opposition to the Central American Free Trade Agreement. I oppose CAFTA not because I oppose trade, but because I oppose unfair trade agreements that fail to stand up for our national economic interests and protect American jobs.

□ 1015

There are a number of problems with this agreement that make it impossible for me and many of my colleagues on both sides of the aisle to support it. The blatant deficiencies regarding environmental standards, labor standards, and our agriculture interests are the most glaring.

Now, this Congress can consider the CAFTA proposal only on an up-or-down vote with no amendments allowed. Entering into an agreement that does not require the Central American countries to strengthen their environmental laws does a disservice to the workers and citizens of all countries involved.

Our choice is clear, Mr. Speaker. I urge each of my colleagues to reject this unfair trade agreement and send our representatives back to renegotiate a better deal for the American people.

HONORING SERGEANT SHAMUS GOARE

(Mr. NEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEY. Mr. Speaker, today I rise to reflect on the remarkable life of Staff Sergeant Shamus O. Goare, who died June 28 in service to his country. A native of Danville, Ohio, Sergeant Goare was killed when his Chinook transport helicopter came under attack by a rocket propelled grenade in the mountains of eastern Afghanistan. He was 28 year old.

Sergeant Goare gave the ultimate sacrifice to his country. By celebrating his life, we will ensure that in death he will not be forgotten.

Sergeant Goare joined the Army in 1994. As a member of the elite Night Stalkers, Sergeant Goare willingly took on some of the most dangerous missions presented. He was posthumously awarded the Bronze Star, the Purple Heart, the Meritorious Service Medal, and an Air Medal with Valor and the Combat Action Badge. It is clear that Sergeant Goare was an excellent soldier and a remarkable citizen. His devotion to his country is an inspiration to us all.

His sacrifice is a testament to his devotion to our great land, and his heroic efforts must never be forgotten. I extend my deepest condolences to his parents and other family and friends. It is an honor to pay tribute to Sergeant Goare's life, contributions, and dedication as an American. May God rest his soul.

AUCTIONING OFF THE PEOPLE'S HOUSE

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, the New York Times reports that during the Vioxx trial in Texas, a cardiologist testified that the pain killer likely led to the needless death of Robert Ernst. Mr. Ernst was a produce manager at Wal-Mart who also ran marathons and worked as a personal trainer.

He took Vioxx for 8 months before he died of an irregular heartbeat, making him one of the 55,000 people who needlessly died as a result of taking Vioxx.

As we debate medical malpractice legislation tomorrow, I hope my colleagues will keep Mr. Ernst's tragedy in mind. Only in this Congress would we consider legislation that specifically protects the drug manufacturers like Merck from any form of liability while a trial is presently ongoing that directly affects that legislation. I am not aware of any other industry that gets this type of liability protection just for going through a governmental approval process.

While families such as Mr. Ernst's fight for fairness in court, this body, the people's House, is fighting to protect the drug companies. I plan to introduce the Vioxx amendment striking this blatantly beneficial provision written for and by the pharmaceutical industry.

Mr. Speaker, when your gavel opens up the people's House, it should open up the people's House and their voices should be heard, not the auction house.

SMALL BUSINESS HEALTH FAIRNESS ACT

(Mrs. KELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KELLY. Mr. Speaker, I rise today to urge my colleagues to support the Small Business Health Fairness Act. We will vote on it later today.

We need to increase access and lower the cost of health insurance for small business owners, their employees, and their families.

I represent New York's Hudson Valley where small business owners and self-employed workers tell me time and time again that the toughest challenge they face is finding affordable health care coverage.

Seven out of 10 small businesses do not offer health insurance because they cannot afford the overwhelming costs on their own in the private market.

The Small Business Fairness Act would provide them with the lower costs they need by giving then the same group health insurance purchasing power already being enjoyed by unions and large corporations.

Small businesses on Main Street in towns like Warwick, Goshen, Wappinger, or Mount Kisco deserve the same health insurance advantages that the large firms have on Wall Street. Let us give our small businesses the option by passing this bill.

Studies show it will give 8 million currently uninsured small business workers the affordable access to health insurance they need. Please support America's small businesses and join me in voting for the Small Business Health Fairness Act.

CAFTA HURTS CANDY MAKERS

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, Chicago used to be known as the Candy Capital of the World. Unfortunately, sugar makers, food processors, and other sugar users have been driven out of the city by high prices.

Despite all of my other misgivings, I had hoped that CAFTA would provide us with some relief. But, unfortunately, to let in only 151,000 metric tons of sugar from CAFTA countries over a 15-year period will not put a dent in sugar prices. It will not help the candy makers and food processors in Chicago. Therefore, I shall vote against CAFTA and urge all of my colleagues to vote likewise.

HONORING THE CREW, SCIENTISTS, AND TECHNICIANS OF THE "DISCOVERY"

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, in just a few moments the Space Shuttle *Discovery* is due to lift off from its pad in Florida. Last year, Mr. Speaker, I was a member of the House Committee on Science; and in that role I want to acknowledge the wonderful work of the scientists and technicians and the crew of the *Discovery* who uphold the great tradition of our space program.

Barely 1 month into my first term in the 108th Congress, we lost the Space Shuttle *Columbia* over Texas. We felt the concussion from that blast in my north Texas district.

Mr. Speaker, the return to flight was pursued in a careful, methodical fashion with a mission of strict adherence to safety. On momentous occasions like today, we remember those who sacrificed their lives, and we honor them by continuing America's quest to observe and learn from our galaxy and universe. May God guard those members while they lift off from Florida and see them safely home.

NO STRAIGHT ANSWERS FROM BUSH WHITE HOUSE

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, for 2 years now the Bush White House has covered up its involvement in the leaking of a CIA agent's identity. Now it appears members of the administration are also misleading a grand jury investigating whether or not any laws were broken when Karl Rove, Scooter Libby, and possibly others leaked Valerie Plame's identity to reporters.

According to reports over the weekend, CHENEY's chief of staff, Scooter Libby, told the grand jury that he first heard about Valerie Plame's identity from NBC's Tim Russert, but Russert claims that that was impossible since he did not even know Plame was a CIA agent.

In the meantime, Karl Rove told the grand jury that his conversation with Time magazine's Matt Cooper was mostly about welfare reform until Rove leaked Valerie Plame's identity at the end of the conversation. But Cooper says he and Rove never discussed welfare reform. Instead, he says, the entire conversation was about Plame.

Now, despite these alarming discrepancies, Bush continues to support both men. Mr. Speaker, our covert CIA agents needs President Bush to stand firm against these actions now.

CAFTA BENEFITS AMERICAN BUSINESSES

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, today I rise in support of the United States-Dominican Republic-Central American Free Trade Agreement.

The United States and our neighbors in Central America and the Dominican Republic enjoy a healthy trading relationship with over $32.6 billion worth of goods traded between the United States and the six DR-CAFTA countries just last year. The agreement will not only increase exports and income for United States farmers, manufacturers and business, but it also will provide the United States with an opportunity to enhance the well-being of millions in Central America.

The DR-CAFTA countries are among the poorest in the world. According to the World Bank, the average person in Nicaragua makes a mere $710 a year. The average person in Costa Rica does a bit better, but still only makes $4,070 a year.

Rather than handouts or loans, the United States can quickly improve the well-being of millions of our neighbors by providing the DR-CAFTA countries improved access to our vast markets. New business opportunities create new jobs, not handouts. In turn, a virtuous circle can be created as wealth and income rises along with the demands for United States products and services.

I urge all of my colleagues to vote "yes" on CAFTA. It is good for America's business.

HEALTH CARE ACCESS FOR LATINOS

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, I rise today to address the Republican leadership's failure to bring up legislation that actually addresses the health care problems of American families.

Currently, 45 million Americans are uninsured. Uninsured numbers are even worse for the Latino communities which have the highest uninsured rate of any racial and ethnic group: 13 million Latinos are uninsured. That is more than one-third of the Nation's Latino population.

Latinos make up 14 percent of the U.S. population, nearly 42 million people. Yet the administration's leadership continues to ignore the significant population. This week's legislation on association health plans and medical malpractice demonstrates the Republican leadership's inability to acknowledge the devastating impact these proposals will have on my community.

These proposals will facilitate rampant fraud, raise premiums, and reduce benefits to Latino families. If the current Republican leadership really wants to reduce the number of uninsured and reduce health care costs, then it needs to bring up legislation to the floor that addresses health care problems for all American families, including the 9.1 million Latino families in the U.S.

CAFTA GOOD FOR WORKERS AND CONSUMERS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, this week we will debate CAFTA. All of the Nation's major newspaper editorial boards support CAFTA. Listen to these quotes.

The Washington Post cites a study that shows U.S. income would increase by $17 billion under CAFTA. The Wall Street Journal says CAFTA would expand the market for U.S. goods with the 44 million consumers of six Central American countries. The Journal goes on to say that American farmers would be among the biggest winners under CAFTA.

USA Today says CAFTA would slash tariffs on agriculture products coming from the U.S. The L.A. Times says the benefits of free trade are evenly spread across society, citing rapid growth and higher income of free trading nations.

Even the New York Times claims that this free trade agreement "deserves to approved."

In addition to these editorial boards, Central American workers and leaders overwhelmingly support this agreement. Mr. Speaker, they cannot all be wrong. I, therefore, urge my colleagues to vote in favor of CAFTA. More trade means more jobs.

MEDICAL MALPRACTICE RELIEF HURTS THE COUNTRY

(Mr. BERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BERRY. Mr. Speaker, we are going to be back here this week and try to convince the American people that we are trying to help them with their health care costs by passing yet again a medical malpractice insurance relief act.

The really sad thing about this is it does not help the cost of health care in this country. It does improve the bottom line considerably for the insurance companies. But the most egregious parts of this is the way it protects the irresponsible drug companies. We are going to provide tort protection. We are going to provide protection from lawsuits to Merck who knowingly put a product on the market that caused 139,000 Americans to have hearts attacks unnecessarily. And they knew it would do that when they put it on the market.

We are going to provide protection to an industry that cares nothing about the health of the people. It cares nothing about anything but making a few million more dollars.

I urge this House to defeat that measure.

INSPIRING DISABLED VETERANS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, after returning to the United States, many disabled veterans devote themselves to their community with the same dedication they displayed on the battlefields and bases around the world. Specifically, thousands of veterans put their skills and talents to use by operating successful small businesses.

Today, I am proud to announce an event that will pay special attention and tribute to service-disabled business owners. On August 19, Mr. Bernard Smith will host a charity golf tournament at Andrews Air Force Base to raise money for three disabled veterans groups. Twelve disabled veterans who served in Operation Iraqi Freedom have enthusiastically volunteered to participate in the golf tournament. These servicemembers are determined to lead full and successful lives and are an inspiration to all Americans.

Mr. Smith's leadership on this event is truly honorable. As a service-disabled business owner, he understands the importance of supporting those who have already given so much to our country.

In conclusion, God bless our troops; and we will never forget September 11 and the attacks on Egypt.

PRIVATIZING SOCIAL SECURITY

(Mr. CARDOZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDOZA. Mr. Speaker, when are Washington Republicans going to listen to the American people?

At the beginning of this year, President Bush unveiled a general plan that would lead to the privatization of Social Security. When his plan was met with a lukewarm response, President Bush decided that he would travel around the Nation for 60 days trying to sell the American people on the concept of privatizing Social Security.

□ 1030

The American people listened, and they gave President Bush a resounding no. Our constituents paid into Social Security, and they want it paid back to them when they retire. Cutting Social Security benefits that Americans have earned should always be a last resort.

And yet recently there was legislation introduced by the Republicans that would divert payroll contributions from Americans to create private accounts. By taking money away from Social Security, the Republican plan would explode the deficit or force deep cuts in guaranteed benefits our Nation's citizens have already been promised.

It is time to listen to our constituents and realize Americans are not going to back Social Security privatization. Let us strengthen Social Security rather than destroy it.

IN SUPPORT OF FREE TRADE AND CAFTA

(Mr. HENSARLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENSARLING. Mr. Speaker, this week Congress will consider the Central American Free Trade Agreement, the largest free trade agreement in over a decade. I am very proud to support this agreement that will create opportunities for the unemployed, increase wages and improve the standard of living for American workers.

According to a study of only 12 States by the U.S. Chamber of Commerce, CAFTA would create over 25,000 new jobs in these States in the first year alone. According to the American Farm Bureau, CAFTA will provide a substantial competitive advantage to U.S. farmers and ranchers, boosting agricultural exports by $1.5 billion annually.

Mr. Speaker, this historic agreement will also help consumers by delivering a greater choice of goods at lower prices. Through more trade, American families will be able to buy more, using less of their paychecks. We have over 200 years of history to prove it.

Mr. Speaker, I urge all my colleagues to reject protectionism and instead support jobs, support U.S. farmers, support consumers, and support freedom by supporting CAFTA.

WHY ARE REPUBLICANS NOT INVESTIGATING PLAME OUTING BY WHITE HOUSE OFFICIALS?

(Ms. WATSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON. Mr. Speaker, today, a grand jury continues to investigate into the leaking of an undercover agent's identity. Thank goodness a grand jury is taking this case seriously, since it does not appear that either the White House or House Republicans are interested in finding out who is responsible for leaking Valerie Plame's identity.

Back in the 1990s, House Republicans loved "Roving" around in the White House's business. House Republicans took 140 hours of testimony to investigate whether the Clinton White House misused its holiday card database. They also once asked President Clinton to explain how the White House responded to letters sent to the President's cat, Socks.

But now that we have an issue that is clearly begging for congressional oversight, House Republicans have been silent. They have not sent a single letter to the White House demanding answers. They have not held congressional hearings to investigate the impact such a leak could have on our ability to gather intelligence.

The leaking of a CIA agent's identity is a serious breach of our national security, and something must be done about it.

DOMINICAN REPUBLIC-CENTRAL AMERICAN FREE TRADE AGREEMENT

(Mrs. BIGGERT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BIGGERT. Mr. Speaker, I rise today in strong support of DR CAFTA. It is not often I agree with the editorial page of The Washington Post, but I want to commend the editorial staff for its outstanding piece today entitled "The Stakes in CAFTA."

The stakes in CAFTA are indeed high and go far beyond issues of tariffs and trade barriers. As the Post put it, "While the U.S. has been focusing on terrorism, a new challenge has been brewing in its own hemisphere. House Members should consider this challenge before voting to slam the door on Central America's pro-American leaders."

The Post concludes that CAFTA will help the poor of Latin America, creating 300,000 new jobs and a new mechanism for enforcing labor rights. I quote, "The defeat of CAFTA would help not antipoverty movements but anti-American demagogues, starting with Mr. Chavez of Venezuela. For them, the retreat of the U.S. from partnership with Central America would be a major victory."

Mr. Speaker, I would urge support of DR–CAFTA.

SOCIAL SECURITY

(Mrs. DAVIS of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Speaker, my colleagues have been saying all along that the recently introduced Social Security GROW Act does not address the future solvency of Social Security, that it will cut guaranteed Social Security benefits, and that it continues the raid on the Social Security Trust Fund, despite what its sponsors say.

Well, you do not have to take our word for it. Even my friends on the other side of the aisle have begun to publicly question their party's plan. The gentleman from Arizona (Mr. KOLBE) said in USA Today that "you must eat your spinach before having dessert, and this plan only offers dessert: the personal retirement accounts." Senator CHUCK GRASSLEY of Iowa said in the L.A. Times that he was "disappointed that the new House Republican bill did not address Social Security's impending insolvency." And the gentleman from Connecticut (Mr. SIMMONS) said to Bloomberg News, "I do not support legislation that takes tax dollars and diverts them to private accounts."

This legislation is not the way to preserve Social Security. As we prepare to celebrate the 70th anniversary of Social Security, we should be straightening it rather than jeopardizing our citizens' hard-earned retirement savings.

H.R. 2049, FEDERAL CONTRACTORS SECURITY ACT

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, the Washington Post carries an editorial this morning on illegal immigration, and it talks about the Senate beginning to take up that issue today. I look forward to our discussion and continued work on that issue here in the House. It is an issue that is of tremendous importance to my home State of Tennessee.

I would like to call the body's attention to a bill that I filed that deals with immigration reform, H.R. 2049, the Federal Contractors Security Act. What this does is to require those companies contracting with the Federal Government to use the basic worker verification program to ensure us, the taxpayers, that the individuals working for them are in the country legally and that they are who they claim to be.

Mr. Speaker, this is a national security issue, it is a homeland security issue, it is an issue of tremendous importance. I encourage the body to look at H.R. 2049, and I encourage our leadership to take aggressive action to fight illegal immigration.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GINGREY). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later in the day.

UNITED STATES TRADE RIGHTS ENFORCEMENT ACT

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3283) to enhance resources to enforce United States trade rights, as amended.

The Clerk read as follows:

H.R. 3283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Trade Rights Enforcement Act".

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) United States producers that believe they are injured by subsidized imports from nonmarket economy countries have not been able to obtain relief through countervailing duty actions because the Department of Commerce has declined to make countervailing duty determinations for nonmarket economy countries in part because it lacks explicit legal authority to do so;

(2) explicitly making the countervailing duty law under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) applicable to actions by nonmarket economy countries would give United States producers access to import relief measures that directly target government subsidies;

(3) the Bureau of Customs and Border Protection of the Department of Homeland Security has encountered particular problems in collecting countervailing and antidumping duties from new shippers who default on their bonding obligations;

(4) this behavior may detract from the ability of United States companies to recover from competition found to be unfair under international trade laws;

(5) accordingly, it is appropriate, for a test period, to suspend the availability of bonds for new shippers and instead require cash deposits;

(6) more analysis and assessment is needed to determine the appropriate policy to respond to this and other problems experienced in the collection of duties and the impact that policy changes could have on legitimate United States trade and United States trade obligations;

(7) given the developments in the ongoing World Trade Organization (WTO) negotiations relating to trade remedies, Congress reiterates its resolve as expressed in House Concurrent Resolution 262 (107th Congress), which was overwhelmingly approved by the House of Representatives on November 7, 2001, by a vote of 410 to 4;

(8) the United States Trade Representative should monitor compliance by United States trading partners with their trade obligations and systematically identify areas of noncompliance;

(9) the United States Trade Representative should then aggressively resolve noncompliance through consultations with United States trading partners;

(10) however, should efforts to resolve disputes through consultation fail, the United States Trade Representative should vigorously pursue United States rights through dispute settlement in every available forum;

(11) given the huge growth in trade with the People's Republic of China, its impact on the United States economy, and the complaints voiced by many United States interests that China is not complying with its international trade obligations, the United States Trade Representative should place particular emphasis on identifying and resolving disputes with China that limit United States exports, particularly concerning compliance with obligations relating to intellectual property rights and enforcement, tariff and nontariff barriers, subsidies, technical barriers to trade, sanitary and phytosanitary issues, nonmarket-based industrial policies, distribution rights, and regulatory transparency;

(12) in addition, the United States Trade Representative should place particular emphasis on trade barriers imposed by Japan, specifically the Japanese trade ban on United States beef without scientific justification, the Japanese sanitary and phytosanitary restrictions on United States agricultural products, Japanese policies on pharmaceutical and medical device reference pricing, insurance cross-subsidization, and privatization in a variety of sectors that discriminate against United States companies;

(13) the fixed exchange rate that the People's Republic of China has maintained until recently has been a substantial distortion to world markets, blocking the price mechanism, impeding adjustment of international imbalances, and serving as a source of large and increasing risk to the Chinese economy;

(14) such behavior has effectively prevented market forces from operating efficiently in the People's Republic of China, distorting world trade;

(15) in a welcome move, the People's Republic of China has now begun to move to a more flexible exchange rate, and it should continue to so move to a market-based exchange rate as soon as possible;

(16) in light of this recent positive development, the Secretary of Treasury should provide to Congress a periodic assessment of the mechanism adopted by the Chinese Government to relate its currency to a basket of foreign currencies and the degree to which the application of this mechanism moves the currency closer to a market-based representation of its value;

(17) in addition, Japan's policy of intervening to influence the value of its currency and its prolific barriers to trade create distortions that disadvantage United States exporters;

(18) this adverse impact is magnified by Japan's role in the global marketplace, combined with its chronic surplus, weak economy, deflationary econômy, low growth rate, and lack of consumer spending; and

(19) accordingly, the United States Trade Representative should have additional resources in the Office of the General Counsel, the Office of Monitoring and Enforcement, the Office of China Affairs, and the Office of Japan, Korea, and APEC Affairs to address a variety of needs that will best enable United States companies, farmers, and workers to benefits from the trade agreements to which the United States has around the world.

SEC. 3. APPLICATION OF COUNTERVAILING DUTIES TO NONMARKET ECONOMY COUNTRIES.

(a) AMENDMENTS.—

(1) COUNTERVAILING DUTIES IMPOSED.—Section 701(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(a)(1)) is amended by inserting "(including a nonmarket economy country)" after "country" each place it appears.

(2) DEFINITION OF COUNTERVAILABLE SUBSIDY.—Section 771(5)(E) of such Act (19 U.S.C. 1677(5)(E)) is amended by adding at the end the following new sentences: "With respect to the People's Republic of China, if the administering authority encounters special difficulties in calculating the amount of a benefit under clause (i), (ii), (iii), or (iv) of this subparagraph, the administering authority may use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. When applying such methodologies, where practicable, the administering authority should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.".

(b) PROHIBITION ON DOUBLE COUNTING.—In applying section 701(a)(1) of the Tariff Act of 1930, as amended by subsection (a), to a class or kind of merchandise of a nonmarket economy country, the administering authority shall ensure that—

(1) any countervailable subsidy is not double counted in an antidumping order under section 731 of such Act (19 U.S.C. 1673) on the same class or kind of merchandise of the country; and

(2) the application of section 701(a)(1) of such Act is consistent with the international obligations of the United States.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) apply to any petition filed under section 702 of the Tariff Act of 1930 (19 U.S.C. 1671a) on or after 30 days after the date of the enactment of this Act, and the provisions contained in subsection (b) apply to any subsequent determination made under section 733, 735, or 751 of such Act (19 U.S.C. 1673b, 1673d, or 1675).

SEC. 4. NEW SHIPPER REVIEW AMENDMENT.

(a) SUSPENSION OF THE AVAILABILITY OF BONDS TO NEW SHIPPERS.—Clause (iii) of section 751(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(2)(B)(iii)) shall not be effective during the 3-year period beginning on the date of the enactment of this Act.

(b) REPORT ON THE IMPACT OF THE SUSPENSION.—Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Commerce, the United States Trade Representative, and the Secretary of Homeland Security, shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing

(1) recommendations on whether the suspension of the effectiveness of section 751(a)(2)(B)(iii) of the Tariff Act of 1930 should be extended beyond the date provided in subsection (a) of this section; and

(2) assessments of the effectiveness of any administrative measures that have been implemented to address the difficulties giving rise to the suspension under subsection (a) of this section, including—

(A) problems in assuring the collection of antidumping duties on imports from new shippers; and

(B) burdens imposed on legitimate trade and commerce by the suspension of availability of bonds to new shippers by reason of the suspension under subsection (a).

(c) REPORT ON COLLECTION PROBLEMS AND ANALYSIS OF PROPOSED SOLUTIONS.—

(1) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Commissioner of the Bureau of Customs and Border Protection and the Secretary of Commerce, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report describing the major problems experienced in the collection of duties, including fraudulent activities intended to avoid payment of duties, with an estimate of the total amount of uncollected duties for the previous fiscal year and a breakdown across product lines describing the reasons duties were uncollected.

(2) RECOMMENDATIONS.—The report shall make recommendations on additional actions to address remaining problems related to duty collections and, for each recommendation, provide an analysis of how the recommendation would address the specific problem or problems cited and the impact that implementing the recommendation would have on international trade and commerce (including any additional costs imposed on United States businesses and whether the implementation of the revision is likely to violate any international trade obligations).

SEC. 5. COMPREHENSIVE MONITORING OF COMPLIANCE BY THE PEOPLE'S REPUBLIC OF CHINA WITH ITS INTERNATIONAL TRADE OBLIGATIONS.

(a) INTELLECTUAL PROPERTY RIGHTS COMPLIANCE.—

(1) IN GENERAL.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall undertake to ensure that the Government of the People's Republic China has taken the following steps:

(A) The Chinese Government has increased the number of civil and criminal prosecutions of intellectual property rights violators by the end of 2005 to a level that significantly decreases the current amount of infringing products for sale within China.

(B) China's Supreme People's Court, Supreme People's Procuratorate, and Ministry of Public Security have issued draft guidelines for public comment to ensure the timely referral of intellectual property rights violations from administrative bodies to criminal prosecution.

(C) The Chinese Ministry of Public Security and the General Administration of Customs have issued regulations to ensure the timely transfer of intellectual property rights cases for criminal investigation.

(D) The Chinese Ministry of Public Security has established a leading group responsible for overall research, planning, and coordination of all intellectual property rights criminal enforcement to ensure a focused and coordinated nationwide enforcement effort.

(E) The Chinese Government has established a bilateral intellectual property rights law enforcement working group in cooperation with the United States whose members will cooperate on enforcement activities to reduce cross-border infringing activities.

(F) The Chinese Government has aggressively countered movie piracy by dedicating enforcement teams to pursue enforcement actions against pirates and has regularly instructed enforcement authorities nationwide that copies of films and audio-visual products still in censorship or import review or otherwise not yet authorized for distribution are deemed pirated and subject to enhanced enforcement.

(G) By the end of 2005, the Chinese Government has completed its legalization program to ensure that all central, provincial, and local government offices are using only licensed software and by the end of 2006 has extended the program to enterprises (including state-owned enterprises).

(H) The Chinese Government, having declared that software end-user piracy is considered to constitute "harm to the public interest" and as such will be subject to administrative penalties nationwide, has initiated civil and criminal prosecutions of software end-user violators.

(I) The Chinese Government has appointed an Intellectual Property Rights Ombudsman at the Chinese Embassy in Washington, D.C., to serve as the point of contact for United States companies, particularly small- and medium-sized businesses, seeking to secure and enforce their intellectual property rights in China or experiencing intellectual property rights problems in China.

(J) The relevant Chinese agencies, including the Ministry of Commerce, the China Trademark Office, the State Intellectual Property Office, and the National Copyright Administration of China have significantly improved intellectual property rights enforcement at trade shows and issued new regulations to achieve this goal.

(K) Not later than June 30, 2006, the Chinese State Council has submitted to the National People's Congress the legislative package needed for China to accede to the World Intellectual Property Organization (WIPO) Internet treaties.

(L) The Chinese Government has taken steps to enforce intellectual property right laws against Internet piracy, including through enforcement at Internet cafes.

(M) The Chinese Government, having confirmed that the criminal penalty thresholds in the 2004 Judicial Interpretation are applicable to sound recordings, has instituted civil and criminal prosecutions against such violators.

(N) The Chinese Government has initiated civil and criminal prosecutions against exporters of infringing recordings.

(2) DISPUTE SETTLEMENT PROCEEDINGS IN WTO.—If the President determines that the People's Republic of China has not met each of the obligations described in subparagraphs (A) through (N) of paragraph (1) or taken steps that result in significant improvements in protection of intellectual property rights in accordance with its trade obligations, then the President shall assign such resources as are necessary to collect evidence of such trade agreement violations for use in dispute settlement proceedings against China in the World Trade Organization.

(b) ACCESS FOR EXPORTS OF UNITED STATES GOODS.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall undertake to ensure that the Government of the People's Republic of China has taken the following steps:

(1) China has taken steps to ensure that United States products can be freely distributed in China, including by approving a significant backlog of distribution license applications and by preparing a regulatory guide for businesses seeking to acquire distribution rights that expands on the guidelines announced in April 2005.

(2) Chinese officials have permitted all enterprises in China, including those located in bonded zones, to acquire licenses to distribute goods throughout China.

(3) The Chinese Government has submitted regulations on management of direct selling to the Chinese State Council for review and taken any additional steps necessary to provide a legal basis for United States direct sales firms to sell United States goods directly to households in China.

(4) The Chinese Government has issued final regulations on direct selling, including with respect to distribution of imported goods and fixed location requirements.

(c) ACCESS FOR EXPORTS OF UNITED STATES SERVICES.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall undertake to ensure that the Government of the People's Republic of China has taken the following steps:

(1) The Chinese Government has convened a meeting of the U.S.-China Insurance Dialogue before the end of 2005 to discuss regulatory concerns and barriers to further liberalization of the sector.

(2) The Chinese Government has made senior level officials available to meet under the JCCT Information Technology Working Group to discuss capitalization requirements, resale services, and other issues as agreed to by the two sides.

(d) ACCESS FOR UNITED STATES AGRICULTURE.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Agriculture shall undertake to ensure that the Government of the People's Republic of China has taken the following steps:

(1) China has completed the regulatory approval process for a United States-produced corn biotech variety.

(2) China's Administration of Quality Supervision, Inspection and Quarantine has implemented the 2005 Memorandum of Understanding between the United States and China designed to facilitate cooperation on animal and plant health safety issues and improve efforts to expand United States access to China's markets for agricultural commodities.

(e) ACCOUNTING OF CHINESE SUBSIDIES.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall undertake to ensure that the Government of the People's Republic of China has provided a detailed accounting of its subsidies to the World Trade Organization by the end of 2005.

(f) REPORTS.—

(1) BIANNUAL REPORT.—Not later than six months after the date of the enactment of this Act, and every six months thereafter, the President should transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains—

(A) a description of the specific steps taken by the Government of the People's Republic of China to meet its obligations described in subsections (a) through (e) of this section (other than obligations described in subsections (a)(1)(A) and (G), (b)(1), (c)(1), and (e));

(B) an analysis of the extent to which Chinese officials are attempting in good faith to meet such obligations; and

(C) a description of the actions, if any, the President will take to obtain compliance by China if the President determines that the Chinese Government is failing to meet such obligations, including pursuing United States rights under the dispute settlement provisions of the World Trade Organization, as appropriate.

(2) MONTHLY REPORT.—Not later than 30 days after the date of the enactment of this Act, and every 30 days thereafter, the President should transmit to the Committee on

Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains—

(A) a description of the specific steps taken by the Government of the People's Republic of China to meet its obligations described in subsections (a)(1)(A) and (G), (b)(1), (c)(1), and (e);

(B) an analysis of the extent to which Chinese officials are attempting in good faith to meet such obligations; and

(C) a description of the actions, if any, the President will take to obtain compliance by China if the President determines that the Chinese Government is failing to meet such obligations, including pursuing United States rights under the dispute settlement provisions of the World Trade Organization, as appropriate.

SEC. 6. REPORTS ON CURRENCY MANIPULATION BY FOREIGN COUNTRIES.

(a) Report on Currency Manipulation.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the appropriate congressional committees a report that—

(1) defines currency manipulation;

(2) describes actions of foreign countries that will be considered to be currency manipulation; and

(3) describes how statutory provisions addressing currency manipulation by trading partners of the United States contained in, and relating to, section 40 of the Bretton Woods Agreements Act (22 U.S.C. 286y) and sections 3004 and 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5304 and 5305) can be better clarified administratively to provide for improved and more predictable evaluation.

(b) Report on Actions by China.—

(1) In general.—In light of the recent positive announcement by the Government of the People's Republic of China with respect to increased exchange rate flexibility, the Secretary of the Treasury shall submit to the appropriate congressional committees a report that examines the mechanism adopted by the Chinese Government to relate its currency to a basket of foreign currencies and the degree to which the application of this mechanism moves the currency closer to a market-based representation of its value.

(2) Deadline.— The initial report required by this subsection shall be submitted to the appropriate congressional committees not later than 180 days after the date of the enactment of this Act and subsequent reports shall be included in the report required under section 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5305).

(c) Definition.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Ways and Means and the Committee on Financial Services of the House of Representatives; and

(2) the Committee on Finance and the Committee on Banking, Housing, and Urban Affairs of the Senate

SEC. 7. AUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) Authorization of Appropriations.—

(1) In general.—Section 141(g)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) $44,779,000 for fiscal year 2006.

"(ii) $47,018,000 for fiscal year 2007.".

(2) Rule of construction.—The amendment made by paragraph (1) shall not be construed to affect the availability of funds appropriated pursuant to section 141(g)(1)(A) of the Trade Act of 1974 before the date of the enactment of this Act.

(b) Authorization of Appropriations for the Office of the General Counsel and Certain Other Offices.—There are authorized to be appropriated to the Office of the United States Trade Representative for the appointment of additional staff in or enhanced activities by the Office of the General Counsel, the Office of Monitoring and Enforcement, the Office of China Affairs, and the Office of Japan, Korea, and APEC Affairs—

(1) $4,000,000 for fiscal year 2006; and

(2) $4,000,000 for fiscal year 2007.

(c) Sense of Congress.—It is the sense of the Congress that the enforcement of United States rights and of obligations of United States trading partners under trade agreements has gained such significance that the United States Trade Representative should determine which of its current positions is most responsible for carrying out these important enforcement duties and should assign that position, in addition to any other title, the title of Chief Enforcement Officer.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES INTERNATIONAL TRADE COMMISSION.

(a) Authorization of Appropriations.—Section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) $62,752,000 for fiscal year 2006.

"(ii) $65,890,000 for fiscal year 2007.".

(b) Rule of Construction.—The amendment made by subsection (a) shall not be construed to affect the availability of funds appropriated pursuant to section section 330(e)(2)(A) of the Tariff Act of 1930 before the date of the enactment of this Act.

(c) Study and Report on Trade and Economic Relations With China.—

(1) Study.—

(A) In general.—The United States International Trade Commission shall carry out a comprehensive study on trade and economic relations between the United States and the People's Republic of China which addresses China's economic policies, including its exchange rate policy, the competitiveness of its industries, the composition and nature of its trade patterns, and other elements impacting the United States trade account, industry, competitiveness, and employment.

(B) Requirements.—In carrying out the study under subparagraph (A), the United States International Trade Commission shall undertake the following:

(i) An analysis of the United States trade and investment relationship with China, with a focus on the United States-China trade balance and trends affecting particular industries, products, and sectors in agriculture, manufacturing, and services. The analysis shall provide context for understanding the U.S.-China trade and investment relationship, by including information regarding China's economic relationships with third countries and China's changing policy regime and business environment. The analysis shall include a focus on United States-China trade in goods and services, United States direct investment in China, China's foreign direct investment in the United States, and the relationship between trade and investment. The analysis shall make adjustments, where possible, for merchandise passed through Hong Kong.

(ii) An analysis of the competitive conditions in China affecting United States exports and United States direct investment. The analysis shall take into account, to the extent feasible, significant factors including tariffs and non-tariff measures, competition from Chinese domestic firms and foreign-based companies operating in China, the Chinese regulatory environment, including specific regulations and overall regulatory transparency, and other Chinese industrial and financial policies. In addition, the analysis shall examine the specific competitive conditions facing United States producers in key industries, products, services, and sectors, potentially including computer and telecommunications hardware, textiles, grains, cotton, and financial services based on trade and investment flows.

(iii) An examination of the role and importance of intellectual property rights issues, such as patents, copyrights, and licensing, in specific industries in China, including the pharmaceutical industry, the software industry, and the entertainment industry.

(iv) An analysis of the effects on global commodity markets of China's growing demand for energy and raw materials.

(v) An examination of whether or not increased United States imports from China reflect displacement of United States imports from third countries or United States domestic production, and the role of intermediate and value-added goods processing in China's pattern of trade.

(2) Report.—Not later than one year after the date of the enactment of this Act, the United States International Trade Commission shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains the results of the study carried out under paragraph (1).

SEC. 9. SENSE OF CONGRESS REGARDING EXPANSION OF MEMBERSHIP IN THE AGREEMENT ON GOVERNMENT PROCUREMENT OF THE WTO.

(a) Findings.—Congress finds the following:

(1) Nondiscriminatory, procompetitive, merit-based, and technology-neutral procurement of goods and services is essential so that governments can acquire the best goods to meet their needs for the best value.

(2) The Agreement on Government Procurement (GPA) of the World Trade Organization (WTO) provides a multilateral framework of rights and obligations founded on such principles.

(3) The United States is a member of the GPA, along with Canada, the European Union (including its 25 member States: Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom), Hong Kong, Iceland, Israel, Japan, Korea, Liechtenstein, the Netherlands with respect to Aruba, Norway, Singapore, and Switzerland.

(4) Albania, Bulgaria, Georgia, Jordan, the Kyrgyz Republic, Moldova, Oman, Panama, and Taiwan are currently negotiating to accede to the GPA.

(5) The People's Republic of China joined the WTO in December 2001, signaling to the international community its commitment to greater openness.

(6) When China joined the WTO, it committed, in its protocol of accession, to negotiate entry into the GPA "as soon as possible".

(7) More than 3 years after its entry into the WTO, China has not commenced negotiations to join the GPA.

(8) Recent legal developments in China illustrate the importance and urgency of expanding membership in the GPA.

(9) In 2002, China enacted a law on government procurement that incorporates preferences for domestic goods and services.

(10) The first sector for which the Chinese Government has sought to implement the new government procurement law is computer software.

(11) In March 2005 the Chinese Government released draft regulations governing the procurement of computer software.

(12) The draft regulations require that non-Chinese software companies meet conditions relating to outsourcing of software development work to China, technology transfer, and similar requirements, in order to be eligible to participate in the Chinese Government market.

(13) As a result of the proposed regulations, it appears likely that a very substantial amount of American software will be excluded from the government procurement process in China. The draft software regulations threatened to close off a market with a potential value of more than $8 billion to United States firms.

(14) United States software companies have made a substantial commitment to the Chinese market and have made a substantial contribution to the development of China's software industry.

(15) The outright exclusion of substantial amounts of software not of Chinese origin that is apparently contemplated in the regulations is out of step with domestic preferences that exist in the procurement laws and practices of other WTO member countries, including the United States.

(16) The draft regulations do not adhere to the principles of nondiscriminatory, procompetitive, merit-based, and technology-neutral procurement embodied in the GPA.

(17) The software piracy rate in China has never fallen below 90 percent over the past 10 years.

(18) Chinese Government entities represent a very significant portion of the software market in China that is not dominated by piracy.

(19) The combined effect of rampant software piracy and the proposed discriminatory government procurement regulations will be a nearly impenetrable barrier to market access for the United States software industry in China.

(20) The United States trade deficit with China in 2004 was $162,000,000,000, the highest with any economy in the world, and a 12.4 percent increase over 2003.

(21) China's Premier, Wen Jiabao, has committed to rectify this serious imbalance by increasing China's imports of goods and services from the United States.

(22) The proposed software procurement regulations that were described by the Chinese Government in November 2004 incorporate policies that are fully at odds with Premier Wen's commitment to increase China's imports from the United States, and will add significantly to the trade imbalance between the United States and China.

(23) Once it is fully implemented, the discriminatory aspects of China's government procurement law will apply to all goods and services that the government procures.

(24) Other developing countries may follow the lead of China.

(25) In July 2005, senior officials of the Chinese Government announced at the U.S.-China Joint Committee on Commerce and Trade that China would accelerate its efforts to join the GPA and toward this end will initiate technical consultations with other WTO member countries and accordingly delay issuing draft regulations on software procurement, as it further considers public comments and makes revisions in light of WTO rules.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of the United States should strive to expand membership in the Agreement on Government Procurement of the World Trade Organization (WTO);

(2) the Government of the United States should ensure that the Government of the People's Republic of China meets its WTO obligations as recently affirmed through its commitment in July 2005 through the U.S.-China Joint Committee on Commerce and Trade, to join the WTO Agreement on Government Procurement.

(3) the Government of the United States should seek a commitment from the Government of the People's Republic of China to maintain its suspension of the implementation of its law on government procurement, pending the conclusion of negotiations to accede to the Agreement on Government Procurement of the WTO;

(4) the Government of the United States should seek commitments from the Government of the People's Republic of China and other countries that are not yet members of the Agreement on Government Procurement of the WTO to implement the principles of openness, transparency, fair competition based on merit, nondiscrimination, and accountability in their government procurement as embodied in that agreement; and

(5) the President should direct all appropriate officials of the United States to raise these concerns with appropriate officials of the People's Republic of China and other trading partners.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

The United States Trade Rights Enforcement Act, as amended, is a compendium of a number of positions that have been expressed in a bipartisan way by Members of this House in regard to some of our trading partners.

This bill has been identified as an "anti-China" bill. That simply is not the case. The provisions to assist us in determining how you examine a nonmarket economy and determine whether or not it is carrying out practices that are in violation of the WTO is applied to any country with a nonmarket economy.

It is true that there are monitoring provisions dealing with agreements that China has voluntarily laid on the table; for example, moving away from the Government of China using counterfeit software and, therefore, protecting intellectual property rights, and China assigned itself the date of the end of calendar year 2005. This merely creates a monitoring process to determine how it can be achieved.

The bill is very timely because it includes another monitoring process just recently announced by the Government of China dealing with its currency, its desire to unpeg its currency to the U.S. dollar and have it move modestly against a basket of world currencies. That also, in this legislation, would be monitored.

I am pleased to say that the gentleman from New York (Mr. RANGEL) and the gentlewoman from Connecticut (Mrs. JOHNSON) have examined and offered a resolution on the government procurement agreement of the World Trade Organization urging China to fully participate. That is included as well.

This bill is designed to meet a number of Members' particular concerns focused on world trade, not just China. For example, additional money is being provided to the United States Trade Representative for enforcement purposes. Yes, it includes the Office of China Affairs, but I do want Members to know it also includes the Office of Japan, Korea, and Asian Pacific Affairs because there are several provisions in here monitoring, frankly, the Government of Japan based upon its unfair trade practices, most focused on the use of so-called sanitary and phytosanitary measures as, in fact, nontariff trade barriers.

So this is a compendium of concerns presented at a time that the trade issues will be in front of us this week, and leadership felt, and I agree as well, that this measure allows us to focus beyond this hemisphere, in fact, at major trading partners and behavior that we have seen not just in terms of providing tools to enforce U.S. trade rights, but to monitor personal individual and voluntary commitments made by governments as well.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we object to the suspension calendar being used for political purposes. As most of us know, this calendar is supposed to be used to expedite legislation that is not controversial and has no substantial opposition. One would hardly believe that this bill is on the calendar today for purposes of improving our trade relationship with the People's Republic of China.

Clearly, for those who are following the Central American Free Trade Agreement with the Dominican Republic, they know that this is another effort to elicit votes for a bill that has not got bipartisan support and should have bipartisan support. I think it is bad policy and bad politics for our foreign policy and certainly our trade policy to be used in an effort to solicit votes or to be done in a partisan way to see who won and who lost.

The chairman of the committee is right that the Democrat side as well as working with the gentlewoman from Connecticut (Mrs. JOHNSON) is very anxious to clear up the complexities that put the United States at a disadvantage as relates to dealing with the Chinese Government. But at the same time, we truly believe that these bills should not be the Rangel bill with Democrats or the English bill with Republicans, but rather a bill that we can say as members of the Committee on Ways and Means and as Member of Congress that we have taken it to the committees, we have had hearings, and we have come out with a position that you do not have to check the party to know whether it is right or whether it is wrong.

There is a substantial difference between the bills that the Democrats put in, which certainly deals with the provisions that are in the bill before us today, but also it prevents the loopholes that are in that bill and provides for other considerations that would make this a better bill and improve our relationship with China.

Again, Mr. Speaker, this bill has nothing to do with China and has everything to do with an attempt to get votes for DR–CAFTA. We hope that a vote against this bill will send a message to Democrats and Republicans not to use the procedures of the House for political purposes; to not put controversial bills on the suspension calendar, and to take them to the committee of jurisdiction where they belong so that they can be discussed, debated, and then brought to the floor in a bipartisan way so that we can look at it.

Mr. Speaker, I hope this bill is pulled so that we do not have to take a vote on it.

Mr. Speaker, I reserve the balance of my time.

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Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I find it ironic that the gentleman from New York (Mr. RANGEL) would call this bill controversial. Perhaps there may be some envy as opposed to who gets credit, and I apologize for mentioning his name if that is his concern. What we do not want to do is engage is unnecessary bashing, as it has been said.

This is a responsible bill. Some of the other measures, and we saw that in the hearings that the Committee on Ways and Means has had over China and other trade concerns, this bill is backed by hearings notwithstanding what the gentleman from New York (Mr. RANGEL) said. But most of the other pieces of legislation in fact violate the very WTO rules that we desire China and other nations to follow.

This bill does not do that. It is a responsible bill responding in ways that are appropriate. Inappropriate responses that actually violate the WTO rules when trying to make the point that other nations should follow them is, in fact, irresponsible.

Mr. Speaker, I ask unanimous consent to yield the remainder of my time to the gentleman from Pennsylvania (Mr. ENGLISH) who has been instrumental in producing this bill, and that the gentleman from Pennsylvania (Mr. ENGLISH) may control the remainder of the time.

The SPEAKER pro tempore (Mr. GINGREY). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I yield myself 3½ minutes.

Mr. Speaker, the argument from the other side of the aisle that this issue is somehow tied to CAFTA, I think, is particularly striking and particularly odd because the underlying bill that we are considering today should be on the consent calendar; it should not be controversial with the bulk of people in this Congress who care about the American economy.

Mr. Speaker, today the House has the opportunity to vote on a bill that will take the largest step toward strengthening our trade remedy laws in over 15 years. This bill is a comprehensive approach towards eliminating many of the inequities that exist in our trading relationships, particularly our bilateral U.S.-China trade relationship. It holds China and others accountable and creates tough mechanisms to ensure compliance with trade agreements and provides tools for us to gain compliance should our trading partners, particularly China, fail to do so.

Voting for this bill today will send a strong signal to Beijing that Congress will not sit idly by while China's mercantilist trade policy injures U.S. employers and costs us jobs. Voting for this bill today will send a strong signal to China and every country that this Congress will do what it takes to ensure that our trading partners fully abide by the rules and are not rewarded with unfettered access to our market when they are not prepared to make the tough choices to follow the international rules.

It is clear that voting against this bill will send a very dangerous signal that this Congress is willing to turn a blind eye to Chinese complacency and we continue with the status quo of unfairness to our producers.

Mr. Speaker, this bill is a strong, responsible, and comprehensive initiative that would close an existing loophole that bars the use of the countervailing duty law against nonmarket economies such as China. Right now a major tool in our arsenal is unavailable in dealing with a nonmarket economy or communist countries. It is ridiculous that when we find subsidies in France, Japan, Brazil, or Taiwan, we can use countervailing duties to strip the benefits of those subsidies, but we cannot do so if we find the same subsidies in China or Vietnam.

This bill would establish a strong and external system to audit China's compliance with trade obligations on intellectual property rights, market access, and transparency; and it would place Congress strongly on the record as opposing attempts to use the WTO to water down domestic trade law protections.

It would require the Treasury Department to define currency manipulation and clarify legal protections against China and other countries that manipulate their currency. It would increase funding for the United States trade representative to create more trade cops to improve enforcement of existing trade laws.

By replacing current bonds that are used by new shippers in antidumping cases with cash deposits, we are dealing with one of the biggest loopholes.

Finally, it would authorize funding for the International Trade Commission.

Mr. Speaker, passage of this legislation is essential for the economic future of the next generation, for the future of good-paying jobs in places like northwestern Pennsylvania where we make things for a living. We need this legislation passed by a Congress willing to come together, to put aside its political differences, and certainly not vote down this legislation merely for political positioning on another trade agreement.

Mr. Speaker, I urge passage of this key legislation. This is the top trade vote of this year, and everyone will be counted on it.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN), the distinguished ranking member of the Subcommittee on Trade.

Mr. CARDIN. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) for yielding me this time.

Mr. Speaker, normally the gentleman from Pennsylvania (Mr. ENGLISH) and I are on the same side when it comes to antidumping and countervailing duty bills. Both of us have a strong desire to make sure that our antidumping laws and countervailing duty laws are enforced, particularly as it relates to our manufacturing industries. We differ on this bill.

This bill purports to move forward and clarify the use of countervailing duty remedies against nonmarket economies, but it establishes two new loopholes that will make it difficult for industry to get relief. It is already difficult for industry to get relief. This bill will make it more difficult.

I find it difficult how people can understand our debate here today. These are very complicated issues talking about double counting. I would like to have a debate with the gentleman from Pennsylvania (Mr. ENGLISH) in regards to problems of double counting. These are complex issues. This bill is on the suspension calendar. We cannot even offer any amendments or substitutes. We are limited to 40 minutes of debate. That is not the way we should be talking about a major issue concerning our relationships with nonmarket economies and our trading rules.

This bill does address some specific issues, but does not address the problems. As it deals with countervailing duties, it creates two new problems for cases to be filed.

In regard to currency manipulation by China, an issue that many of us have talked about on this floor, what does this bill do, it sets up another study by the Treasury Department. We already know what they are going to do. They have already reported back to us. We need action.

In regard to the use of safeguards, no action in this bill.

International property violations, no action in this bill.

In regards to the loophole Chinese exporters have to avoid paying duties, it provides a temporary 3-year provision rather than permanently fixing the action.

Despite what the gentleman from Pennsylvania said, there is no new money in this bill in order to enforce our laws. We have already gone through the appropriation process what this bill purports to do through the suspension calendar.

Mr. Speaker, we should be able to consider H.R. 3306 introduced by the gentleman from New York (Mr. RANGEL). That bill would fix the countervailing duty problems we have with nonmarket economies such as China. It would allow us to take action against Chinese manipulation of currency. It would allow action to be taken in regards to the safeguards that we have negotiated with China on the WTO accession agreement. It would provide permanent relief in regards to the loophole that Chinese exporters are currently using to avoid duties.

That is the legislation we should be able to consider, at least through amendment, but we cannot because of the process that is being used here. The bottom line is this legislation actually creates more problems in industry being able to bring antidumping or countervailing duty actions, and we should not be making it more difficult. It is already too difficult for industries to get the type of relief that they desire. We should have a full and open debate on our relationship with nonmarket economies. This legislation does not allow us to do it. I urge my colleagues to reject the suspension.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. SHAW), the distinguished chairman of the Subcommittee on Trade.

Mr. SHAW. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. ENGLISH) for yielding me this time. I rise today in strong support of this legislation.

I first want to recognize the gentleman from Pennsylvania (Mr. ENGLISH), a member of the Committee on Ways and Means Subcommittee on Trade, for his persistence in bringing this bill to the House floor.

Today, China continues its emergence as a major global market. As a member of the World Trade Organization, China has developed competitive domestic industries. However, as a World Trade Organization member, China must comply with international standards which promote fairness and respect for the rule of law.

Many in this Chamber, including myself, feel that Beijing can do a much better job in demonstrating to the world that its markets are transparent and fair both to consumers and exporters to China. At the same time, we have to be focused and pragmatic in determining how we can be most effective in establishing checks. This is not and should not continue to be an opportunity for political rhetoric that I have heard here this morning.

The legislation before us allows for a number of these checks. In this bill we create an extensive monitoring of the Chinese market and its compliance on a range of issues, such as intellectual property enforcement, whether the currency mechanism is being implemented properly, market access to the United States goods, and its accountability of Chinese subsidies.

I am pleased to hear the news out of Beijing and the Chinese Government that the Chinese Government has decided to float its currency against a basket of currencies and has appreciated the currency to a certain degree after 10 years. This first step is a positive one, but it must not be met without oversight. We must continue engaging the Chinese Government on the importance of a complete movement toward a managed float of its currency.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN), a former ranking member of the Subcommittee on Trade of the Committee on Ways and Means.

Mr. LEVIN. Mr. Speaker, this bill before us, in a word, is a smoke screen; and it has so little smoke, let alone any fire, that Members can see straight through it.

At its very best, it is feeble; at its worse, it disguises what the real problem is.

The gentleman from New York (Mr. RANGEL) raised the issue why this is on suspension. The gentleman from New York (Mr. RANGEL), I, and others introduced legislation, H.R. 3306. And I want to ask the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. ENGLISH), and the gentleman from California (Chairman THOMAS), why not put this bill not on suspension but regular order? Why not sit down with Democrats, including the gentleman from New York (Mr. RANGEL) and others, the gentleman from Maryland (Mr. CARDIN) and myself, and try to come up with a truly bipartisan bill? The other side of the aisle has not done that.

They say they are adding provisions adding countervailing duties, but then they add other provisions which make it essentially impossible to work. They talk about currency. I say to the gentleman from Pennsylvania (Mr. ENGLISH), it is more reports. The Rangel bill talks about more than reports.

The Rangel bill has a definition of currency manipulation and the ability under 301 to do something about it. The Rangel bill also recreates super-301 so we will indeed be able to take action and ensures that this administration will take action when China does not meet its commitments.

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This bill should be voted down so that we can have an honest discussion and debate on this floor about the way to handle this problem. The gentleman from California (Mr. THOMAS) said something about WTO violation. The bill that the gentleman from New York (Mr. RANGEL) introduced is completely consistent with our WTO obligations. So bringing that up is a total dodge.

This is an effort, I guess, to give some people some cover to vote for another bill. We should not be handling our relationships with China in that manipulative a way. I urge everybody to vote "no" on this bill and give this Congress, this House that is supposed to be the people's House, a chance to discuss this bill with amendments. This is another example of the abuse of power by this majority, stifling debate, trying to stuff things through on suspension, 40 minutes, no amendment.

What is going to happen is, I think, that this bill will be voted down so that we can take an honest, serious look at this problem on a bipartisan basis.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield 1 minute to the gentleman from Arizona (Mr. HAYWORTH), a distinguished member of the Committee on Ways and Means.

Mr. HAYWORTH. Madam Speaker, perhaps it is the eternal lament of a minority within a legislative body to focus constantly on process and to share their frustrations with process. But perhaps it is better to focus on policy and what this legislation, which I support, will do.

The 40th President of the United States, the late Ronald Wilson Reagan, enshrined these three words as part of American policy: trust but verify. The legislation on the floor today deals with verification. I say as one who opposed a trading agreement with China that this legislation brings the monitoring capacity necessary to understand what happens in international trade. Simply stated, Madam Speaker, if you want to get in the game, play by the rules.

While we have seen all sorts of counterfeiting and theft of American intellectual property, this legislation takes steps to put that to a stop and to monitor the behavior. Trust but verify. Vote "yes" on this legislation.

Mr. RANGEL. Madam Speaker, I am pleased to yield 2 minutes to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Madam Speaker, I thank the gentleman from New York for yielding me this time. As always, the devil is in the details. Ladies and gentlemen, this law guts the countervailing duties provisions that we have been living by.

Check this out: traditionally, the data that we use to determine whether or not a subsidy takes place is used by basing that data on comparable market economies. So we want to trust, but we want to verify. This bill requires the administration to use data from China. We are going to be basing our decisions on data that is gathered by the People's Republic of China. If China's data says there is no subsidy, well, then, there is no subsidy, regardless of what the other comparable economies might say. We are going to trust an administration that has brought one WTO case since 2001, and we want to try to compete with the Chinese?

Last week in the Education Committee, we cut $11 billion from Pell grants. No Child Left Behind is underfunded. We have millions of kids living in poverty. Meanwhile, the Chinese graduated 700,000 engineers last year. We graduated 35,000. Healthy, educated children and enforce international law, that is how you compete with the Chinese.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield myself 30 seconds.

First of all, the last speaker appears to have read the other party's bill, not ours. The Democrats' bill is actually weaker than our bill because it ignores a recommendation by the GAO to authorize the Commerce Department to use third-country information in countervailing duty cases against China consistent with China's WTO accession commitment. Without this provision, the countervailing duty provision would be difficult to use and could be subject to endless court challenges. They have simply misread this legislation and done it in an egregious way.

Madam Speaker, I yield 1 minute to the gentlewoman from Connecticut (Mrs. JOHNSON), a distinguished member of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Madam Speaker, I rise in strong support of H.R. 3283. As one who advocated China's entry into the WTO, I am concerned and disappointed with China's passage of a law on government procurement that incorporates strong preferences for domestic goods and services, fostering discrimination against, for example, software companies that have made a substantial commitment to the development of the Chinese software industry. The combined effect of rampant software piracy and the proposed discriminatory government procurement regulations will create a nearly impenetrable barrier to U.S. software. This at a time when the trade deficit with China is at an all-time high.

Madam Speaker, I call on the Chinese Government to immediately enter into negotiations to accede to the agreement on government procurement of the WTO as they committed to 3 years ago and to suspend the implementation of its law on government procurement.

I urge my colleagues to vote overwhelmingly for this bill to send a very strong message to China on all the fronts the bill covers, not the least of which is government procurement. We have the chance to send a strong message and take strong action, and this bill will do it.

Mr. RANGEL. Madam Speaker, I yield myself such time as I may consume.

I think this discussion, especially the opposition to the Rangel bill by the gentleman from Pennsylvania (Mr. ENGLISH), just shows the complexity as well as sincerity of those people that would like to put some checks on the conduct of the Chinese trade people and I think emphasizes why this bill should not be on the suspension calendar.

Madam Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. I thank the gentleman from New York for yielding me this time.

Madam Speaker, we have been here before. Congress has often resorted to bills and memoranda of understanding concerning China. But the U.S. trade deficit with China has continued to increase. So I am not going to stand here and argue process. We can look at the history and the fact of the whole architecture of agreements that we have had with China, memoranda of understanding, concerns that Members of Congress from both sides of the aisle brought to this floor in order to try to manage United States trade with China.

Remember we were told that a memorandum of understanding on prison labor with China would remove their competitive advantage and restore balanced trade. But the U.S. trade deficit with China worsened.

Remember the agreement to reaffirm the 1992 market access memorandum of understanding. We passed that, but the U.S. trade deficit with China grew worse.

Remember China's agreement to lower tariffs on imports. They cut the tariffs from 42 percent to 23 percent, then to 17 percent, then to 12 percent. But the U.S. trade deficit with China got worse.

Remember China stopped arbitrary limits on maintaining agricultural imports. That was supposed to be a boon for the United States. But the U.S. trade deficit with China got worse. That is exactly the story that we see with NAFTA and the WTO and, this week, CAFTA.

Why does the U.S. trade deficit with China keep getting worse no matter what we do? No matter what our best intentions are? The U.S. trade deficit with China keeps getting worse because labor costs in China are so much cheaper.

Hello? Wake up, America. We are giving away our jobs here, and the central issue is the cheap labor in China. You can pass all of these agreements you want. They are not going to amount to a hill of beans, because the fact of the matter is that the U.S. trade deficit in China will continue to grow, it will approach $200 billion, as long as the labor costs are cheaper. That is why we are losing jobs. That is why the trade deficit is growing. That is why we are losing market share. With all due respect to my good friend from Pennsylvania, I do not see this bill amounting to anything. Vote against it.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield 1 minute to the gentleman from Indiana (Mr. CHOCOLA), a distinguished member of the Committee on Ways and Means and an authentic advocate of fair trade.

Mr. CHOCOLA. I thank the gentleman for yielding time.

Madam Speaker, before being elected to Congress, I ran a manufacturing business that did a significant percentage of our sales outside the United States. I have seen the opportunities of free trade and the global marketplace, and I have seen how those opportunities can lead to jobs right here at home. We did business in over 100 countries, including countries like China. I am convinced that China needs to be a strong trading partner with the United States long term. But for China to successfully and fairly participate in the global marketplace, they must live up to their trade obligations. They must respect and enforce intellectual property rights. They must open market access for U.S. goods, services, and agriculture. They must not manipulate their currency to distort trade.

The Trade Rights Enforcement Act offers a wide range of measures to ensure China abides by its international commitments. Madam Speaker, with a level playing field, U.S. businesses can compete with anybody anywhere at any time. With 96 percent of the world's consumers outside the United States, the global marketplace holds great promise. This bill is a strong tool to make sure China abides by the rules of free trade and puts U.S. businesses in a competitive position to take advantage of those opportunities. I encourage all of my colleagues to support the Trade Rights Enforcement Act.

Mr. RANGEL. Madam Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. NEAL), a member of the Committee on Ways and Means.

Mr. NEAL of Massachusetts. Madam Speaker, let me thank the gentleman from New York for yielding me this time.

Madam Speaker, this legislation in front of us today as it relates to China is about one thing and one thing only: providing political cover for those who are reluctant to embrace CAFTA. That is all this is about. It is about outing CAFTA. The majority realizes if they simply put CAFTA on the floor, they do not have even the muscle in this instance to put this legislation through. So what are we doing instead? We are offering a veneer to the American people, a ruse, as it relates to the problems we are having with our trade practices in China.

Is there anybody who believes that this is about to alter our trading practices with China? We all know it is badly out of balance. And this legislation makes the problem worse.

Currency manipulation in this legislation, no action. Dealing with Chinese trade barriers in this legislation, no action. We are going to monitor and study. I think that if they put a study in front of this House, we all ought to take a test on it in 2 years. Sit down and we will all pay attention to the test that they offer. Imagine in a serious issue like this, we are going to ask for studies.

Safeguards, no action. Subsidies, they create more loopholes than they address. On customs duties, they have a 3-year, but listen to this, temporary measure to deal with the issue.

This is a sloppy bill. It is going to do more harm than good. When it is over, the professors will have their jobs, the trade lawyers will have their jobs, the editorial writers across the country will have their jobs; but the men and women of organized labor who call this for what it is, they know that their jobs are at risk and they are opposed to this legislation. It guts trade laws, and it gives more power to WTO. It purports to help solve problems with customs enforcement. It makes them worse. It does not require China to make meaningful changes to its policy of currency manipulation. How much more emphasis can we put on that issue in this institution? We need to recalibrate our trading relationship with China. This will not do it, and everybody knows it. An emphasis on that term, recalibrate our trading relationship with China.

When we get done with this legislation today, and there is some question as to whether or not they can pass it, I am just going to close on this note. We have a highly regarded regular order in this institution of the responsibilities of the Committee on Ways and Means, the committee that many members of this institution desire to be on. You do not go around the committee the way this is being done. You go through the committee. You have hearings with a respected tradition in this House of Representatives for the Committee on Ways and Means. You do not do this through the back door.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield 1 minute to the gentleman from New York (Mr. REYNOLDS), a distinguished advocate of fair trade and a member of the Subcommittee on Trade.

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Mr. REYNOLDS. Madam Speaker, I recently hosted roundtables with manufacturers in my district. Whether it is currency manipulation or unfair subsidies, it is clear that our local employers have long had enough of the way China cheats on trade.

As John Hoskins of Curtis Screw in Buffalo told me, they have "never been afraid to compete globally." But this century-old manufacturer can only compete globally if they can compete fairly, and they note that some of their Chinese competitors have much of the cost subsidized by the government.

"To put this in perspective," he said, "the only way . . . U.S. manufacturers can compete . . . is if the United States Government begins to pay for our building, our labor, and employee benefits and . . . other costs of doing business." That is exactly what the Chinese are doing today.

The United States Trade Rights Enforcement Act will help combat illegal subsidies, provide additional funding for enforcement of trade laws, and make certain that our products and services have fair access to Chinese markets, all critical aspects of our fight to ensure fair trade.

I commend the gentleman from Pennsylvania (Mr. ENGLISH) and the gentleman from California (Chairman THOMAS) for their hard work on this issue, and I urge my colleagues on both sides of the aisle to support this legislation.

As a long-time champion of fair trade and a lead cosponsor of this legislation, I rise in strong support of the U.S. Trade Rights Enforcement Act.

When China was permitted to join the World Trade Organization in 2001, there was an implicit promise made to American businesses, workers, and consumers—that we would get a fair deal in our trade relations with the Chinese. Yet, in so many areas—intellectual property rights, currency valuation, subsidies, trade barriers, you name it—we see China failing to uphold its end of the bargain by ignoring international trade norms.

The bill includes a variety of measures that will help bring an end to unfair trade practices abroad, and level the playing field for American companies and workers. The countervailing duties provision is especially important for local manufacturers.

It's an important instrument for U.S. businesses trying to successfully combat illegal subsidies; and it is a big reason why the National Association of Manufacturers (NAM) has expressed its strong support for this measure.

I recently hosted roundtables with manufacturers in my district; and whether it's currency manipulation or unfair subsidies, it's clear that our local employers have long had enough of the way China cheats on trade. As John Hoskins of Curtis Screw in Buffalo told me, they've "never been afraid to compete globally." But this century-old manufacturer can only compete globally if they can compete fairly, and they note their Chinese competitors have much of their costs subsidized by the government. "To put this in perspective," he said, "the only way * * * U.S. manufacturers can compete * * * is if the US government begins to pay for our building * * * our labor, our employee benefits and * * * other costs of doing business." "That's exactly what the Chinese are doing today."

I have always maintained that our products and our workers can compete anywhere, with anyone in the world, as long as that competition is fair.

This bill will help combat illegal subsidies, provide additional funding for enforcement of trade laws, and make certain that our products and services have fair access to Chinese markets—all critical aspects of our fight to ensure fair trade.

I commend Congressman ENGLISH and Chairman THOMAS for their hard work on this issue; and I urge my colleagues on both sides of the aisle to support this bill.

Mr. RANGEL. Madam Speaker, I reserve the balance of my time.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield 1 minute to gentlewoman from Pennsylvania (Ms. HART), a distinguished member of the Committee on Ways and Means and a member of the executive committee of the Congressional Steel Caucus.

Ms. HART. Madam Speaker, I thank the gentleman for yielding me this time.

I rise in support of this bill, and I am mystified by the opposition on the other side of the aisle. It appears that partisan politics trumps good business. It appears that partisan politics trumps their interest in American manufacturers.

Foreign subsidies products exported to the United States continue to cause extreme financial hardship for these manufacturers. While rules exist to provide countervailing duties on such products, rules do not take into account the advantages enjoyed by nonmarket economies like China.

Because China is such a major global trader, China's undervalued fixed-exchange rate has exacerbated significant imbalances between trading partners. Under China's fixed-exchange rate, the U.S. annual bilateral trade deficit accelerated since 2001, reaching

$162 billion in 2004. While U.S. exports to China increase, its undervalued currency has burdened U.S. manufacturers, restricted market opportunities for exporting our products into China.

Meeting with businesses in my district, the three main complaints I have heard from my district regarding China have been piracy of product, the dumping of products on our market, and the currency pegging issue.

I believe that we need to support this legislation, reject the Democrat bill, which does not address these issues.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield 1 minute to the distinguished gentleman from Michigan (Mr. ROGERS), one of the key players in developing this legislation.

Mr. ROGERS of Michigan. Madam Speaker, I thank the gentleman from Pennsylvania (Mr. ENGLISH) for yielding me this time, and I thank the chairman for working on this bill.

Quickly, one of the things that my mother used to tell me is self-pity never solved one problem. We know how to fix this bill. I should not feel sorry for them; they should not feel sorry for me. We should vote on the bill that will make a difference.

These are counterfeit parts made in China. They are robbing and stealing from the American economy. We have the chance today for the first time to put a law enforcement trade officer in charge so that when they get up in the morning, the first thing they do is work on how to stop China from doing exactly this and stealing jobs from our economy.

There is a town in China, 80 percent of the parts, over 30 outlets, were counterfeit. If we do not step up to the plate with this bill, we are going to lose and continue to lose $12 billion a year just in automobile part counterfeiting.

This is our chance. I plead with those on the other side, if they truly care about labor, if they care about the individual that gets up in the morning, plays by the rules, and is trying to compete in a world market, they will vote for this bill. They will send a message to China that American jobs are worth fighting for. Give us a fair, level playing field, and we will compete; we will win.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield 1 minute to the distinguished gentleman from South Carolina (Mr. BARRETT), another strong advocate of fair trade for American workers and American farmers.

Mr. BARRETT of South Carolina. Madam Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of H.R. 3283, the United States Trade Rights Enforcement Act.

Madam Speaker, this bill goes to the heart of what we know is true in South Carolina: China cheats. I thank President Bush and the administration for stepping up their trade enforcements this year, and I especially commend them for expediting the implementation of the Chinese textile safeguards to combat recent surges in exports to our market, but when it comes to China, more must be done.

The United States Trade Rights Enforcement Act would provide the necessary tools to ensure China meets the trade obligations it has agreed to in order to become a member of the WTO. In addition, it holds in this legislation that China will be accountable. It is common sense to say here is what they have agreed to, and if they do not follow through, there will be consequences.

How we deal with China today affects our future, our jobs and our livelihood. That is why I urge all my colleagues to level the playing field for everybody and support H.R. 3283.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. MURPHY), a very distinguished advocate of fair trade.

Mr. MURPHY. Madam Speaker, this is one of many bills we need to pass that deal with China and its continued policy of government support, pegging of its currency, not complying with trade laws. They have significantly lower wages, sometimes slave wages, in their plants. Over 90 percent of their steel production comes from government-owned steel mills. Their steel enjoys millions of dollars in government subsidies. China limits foreign participation in the wireless market by imposing severe regulatory requirements on telecommunications imports. The lack of intellectual property rights enforcement has resulted in epidemic levels of counterfeiting and piracy, causing serious harm to U.S. businesses. The implementation of questionable health standards affects what they will import from our agriculture. Their policies mandate the purchase of Chinese-owned software. They have a value-added tax on all non-Chinese semiconductors, which also hampers American manufacturers' ability to export to them.

These unfair Chinese policies are hurting all American businesses, not just a few, and impact workers here.

Only a strong American commitment to hold China accountable will bring about the changes necessary. Consideration of this bill is an important part of what we need to be doing in an extensive selection of things to hit back on China.

Mr. ENGLISH of Pennsylvania. Madam Speaker, is my understanding correct that the gentleman has only himself as the remaining speaker with 4 minutes?

Mr. RANGEL. The gentleman from Pennsylvania is correct.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield 1 minute to the gentleman from Indiana (Mr. SOUDER), a very distinguished member of the Steel Caucus, an advocate of the cause of fair trade.

Mr. SOUDER. Madam Speaker, I thank the gentleman from Pennsylvania for his leadership.

It has been alleged here on the House floor that this is a trade for CAFTA, to get some of our votes. Let me be real blunt. It was for me. I took it to the President, the Vice President, our trade ambassador, the Secretary of State, because we have had no action on China. Whether it was a Democratic President or a Republican President, we have had no action on China. Whether it was a Democratic Congress or a Republican Congress, we had no action on China. Every single time we come up for a vote, we get rolled.

We have to hold China accountable. This is not perfect, but a vote against this bill is a vote for China, not for the United States. It is a small step, but a critical step. Without the data, if they do not let their currency float, how in the world do we measure how much they are manipulating the currency? And those critics of those of us who have been putting pressure on China in the last few weeks said we could never get them to reevaluate their currency. It was a little, piddly step, but 2 percent is 2 percent. It is a big admission that they have been manipulating their currency.

So rather than declare victory and rather than saying we finally, it looks like, are going to pass a bill on China, the other side wants to take it down, or at least a few Members.

We had better pass this bill, or this is yet another victory for China, and we will never get anything done except at critical moments when they need our votes.

I rise in support of H.R. 3283, the United States Trade Rights Enforcement Act.

The outcry from American manufacturers has never been louder. China is destroying many American businesses. For too long, warnings of these businesses have been ignored. The American government has negotiated with China, talked to China, cajoled China, but has declined to act decisively and with concrete measures to combat China's policies and help American manufacturers. I applaud those at the United State Trade Representative office who have the daunting task of dealing with the Chinese government, but unless talk is backed-up with action, it really doesn't matter.

Congress has also been reluctant to help where China is concerned. Although we have passed several resolutions condemning Chinese trade practices, they are meaningless, and do nothing to actually help businesses. Often it seems that the piracy of music and movies is worth administration and congressional action but the piracy of manufactured goods or China's deliberate undercutting of manufacturing through suspect trade policies does not warrant action.

The hollowing out of American manufacturing does warrant action. Although China's economy is moving toward the free market, China remains an avowed communist country. The Communist government and the army own countless businesses, including the Chinese National Overseas Oil Company, which recently made a bid for Unocal. They prop up many businesses with free or reduced-cost energy, low cost or no-cost loans and financing, and sometimes forced labor. Because of Chinese government intervention in the economy, Chinese businesses are not subject to the same market forces as American businesses.

American businesses have also been enticed to set-up shop in China. In addition to cheaper labor costs, businesses in China do not have to worry about clean air, clean water, OSHA, or compliance with a crushing regulatory burden.

Although these things put American businesses, particularly manufacturers, at a disadvantage, the biggest distortion of the market is China's currency manipulation. Until last week, China pegged its currency at 8.28 yuan to the dollar. Despite huge growth in the Chinese economy and explosive international trading, the Chinese government refused to revalue its currency. Estimates of China's currency manipulation were anywhere from 20–80 percent. This meant that Chinese goods entering the United States were 20–80 percent cheaper than they should have been. And American goods were 20–80 percent more expensive.

Last week, the Chinese government revalued the yuan by slightly over 2 percent. While I applaud this movement on the part of the Chinese, there is much more that needs to be done. I realize that the Chinese cannot adjust their currency overnight but I expect this latest devaluation to be the first of many. I also expect the Bush administration and future administrations to keep pressuring China to restructure their financial sectors and currency schemes so that they better match those of the market-oriented world. Their currency needs to flock and let markets determine the value, not the government.

As American manufacturers have been severely damaged by unfair Chinese policies, the necessary tools to fight this unfair competition have not been available to them. One important tool is tHe countervailing duty, CVD. Countervailing duties are taxes assessed to counter the effects of subsidies provided by foreign governments to goods exported to the United States. Subsidies cause the price of such merchandise to become artificially low, which may cause economic "injury" to U.S. manufacturers.

One thing is sure, the artificially low price of Chinese merchandise has caused injury to American manufacturers. Unfortunately, the most recent interpretation of American trade laws does not allow CVDs to be applied to non-market economies. H.R. 3283 will explicitly allow them to impose CVDs on non-market economies. It will allow investigators to compare China with comparable market economies, most likely India, in order to see just how much the Chinese government is unfairly aiding its businesses. This will not save American manufacturing overnight but it will help to level the playing field, and allow fair competition in the global marketplace.

This legislation comes to the Floor at the same time as legislation to implement the Central American Free Trade Agreement, CAFTA. I am one of many Members that withheld support for CAFTA in exchange for concrete action on China. Some have criticized the efforts to link China and CAFTA. They argue that they are two different issues. I disagree. CAFTA has been sold with the promise that it will open up new and bigger markets for American manufacturers. That may be, but if manufacturers in my district are put out of business because of unfair competition from China, whether or not they have access to markets in Central America will be irrelevant because they will be out business.

I urge all of my colleagues in the House and the Senate to vote for this necessary tool against unfair trade practices.

Mr. RANGEL. Madam Speaker, I yield myself the balance of my time.

One of the major reasons why we are opposing this bill is because of the process. Clearly a bill is supposed to be brought to this floor when it has overwhelming support, when it is a simple bill, naming a post office, having a stamp, declaring mothers as being essential for parenthood, things that Republicans and Democrats can look up at the scoreboard and see that we have 435 Members or close to it supporting it.

How can anyone perceive, as one of the Members on the other side said, the most important trade legislation that we ever had will be put on just for 40 minutes debate? The qualities that exist in the English bill, we have been able to see some loopholes. He and I would want to work together to close those loopholes. All the members of the Committee on Ways and Means feels the same way about trying to do something to contain the overreaching of China. What makes the other side believe that we Democrats are not entitled to participate in the substantive nature of sensitive, complex legislation?

Putting this on the suspension calendar, in my opinion, is an insult to Members on both sides of the aisle and is an insult to those people who oversight what we do, because the suspension calendar means that we never thought that they would ever have a problem with it, and that is why we did not share what is in this bill.

I also think that it is really unfair to have the Members of Congress to believe that this bill comes to the floor because of its importance and therefore has to be passed on the suspension calendar. We have plenty of time to work in the Committee on Ways and Means in dealing with this so that we can be proud that we do not have a Rangel bill or an English bill or a Republican bill or a Democratic bill. The pride should come when we have a congressional bill which we can say both sides have an opportunity to hear witnesses; to see what the impact is going to be, whether it is going to work or not work; to see whether those who have fought to put checks on China feel satisfied that we have done it; and to be able to say to foreigners that we may have differences among ourselves, political differences, but when it comes to trade policy, we speak with one voice. The flag is up, and we speak for the United States of America.

So I recognize how important it is to pass the DR-CAFTA bill. I recognize that there is a problem because Democrats were not involved and Republicans cannot get the votes. But I do not know how many suspension bills they are going to bring in as an excuse to get Members to say, I got them to talk about China, and therefore I am going to vote for CAFTA.

It is not enough to talk about China and the problems that we face. What we should be doing is bringing these issues up in the committee that has jurisdiction, and we are so proud of it, and to make certain that the best we can is to have this as a bipartisan effort on both sides.

So this is not the first time that the committees of jurisdiction have had to have Members bypassed in terms of their input, bypassed in terms of the ability to have amendments, and bypassed in terms of saying that we have to find some way to find some bill that we can get bipartisanship on it. The vehicle to do this normally, from the record of the Congress, are the suspension bills. But trade bills should not be on the suspension calendar.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I would like, in this closing minute, to cut through the fog of process arguments and weird Alice in Wonderland illusions to linkage to other trade agreements. This is important legislation, and it is important in itself, and it deals directly with key problems that we are having in our trade relations, particularly with China.

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This legislation closes loopholes, not creates loopholes. It allows us, for the first time, to apply countervailing duties to nonmarket economies. That is a good thing. I realize our friends on the other side of the aisle never engaged on the SOS bill, the underlying core of this bill, nor cosponsored it. I realize that they have been behind the curve on this.

We have to move today and put this on the calendar today so that we can move quickly to send a message to China that we are going to close the loopholes, that we are going to audit their compliance with their trade obligations, that we are going to oppose the WTO watering down our domestic trade relations; and we are determined to put more money into trade so that we can enforce these agreements.

If you care about China, if you care about trade, vote for this bill and avoid the petty partisan politics.

Mr. HERGER. Madam Speaker, I believe it is critical that we seek out abuses in existing agreements, and reform such laws that are detrimental to U.S. producers. Such is currently the case with unfair honey imports from China.

In my northern California Congressional District, honey and honeybees play a critical role in pollinating many of our important export crops, including almonds.

Because Chinese "new shippers" are allowed to circumvent antidumping orders by posting bonds, the honey industry in California and nationwide faces serious and continuing price declines, making it difficult for honey producers to provide bees for pollination.

This bill would suspend the bonding privilege for a three-year period. Madam Speaker, I would like to thank my colleagues, Representative ENGLISH, Chairman SHAW and Chairman THOMAS for their work on this matter.

Mr. SPRATT. Madam Speaker, when China joined the WTO, the U.S. and China entered into an "accession protocol." Among other things, that protocol anticipates that the United States may find that China is subsidizing exports, and in that case, the United States may seek to impose countervailing duties, to level the playing field. The Department of Commerce is required to use Chinese data to measure the size of the subsidy, "where practicable," but use of Chinese cost and pricing data is not always practicable, so similar data must be drawn from a comparable country. As originally drawn, this bill dropped the key phrase, "where practicable." It restricted the ability of the Commerce Department to measure subsidies in China and other non-market economies. Due to a barrage of complaints from U.S. industry, that phrase was added back at the last moment, before this bill was brought to the floor.

But two other problems, to which U.S. industry objects, were not corrected.

First of all, this bill requires the Department of Commerce to ensure that there is no "double-counting" of countervailing duties and antidumping duties. Current law only requires that there be no double-counting of export subsidies, but makes no provision with respect to antidumping duties. Commerce has called this change "wholly inappropriate." These are the words of the Commerce Department: "The proposed change would put China into a special category distinct from all other countries when subject to concurrent anti-dumping and countervailing duty investigations." According to the Department of Commerce, this restriction "would raise complex methodological questions, the costs of which may far outweigh any purported equity gains of any such adjustment."

Secondly, this bill gives the WTO Dispute Settlement Body special influence over U.S. law. WTO decisions are not self-executing. The Congress decides how, when, and whether to implement a WTO decision. This bill would require the Commerce Department to ensure that our application of countervailing duty law to non-market economies is consistent with our international obligations. There is no guarantee how the WTO would rule if this aspect of this law were brought before it. This provision could place WTO dispute settlement tribunals on a special footing when dealing with U.S. laws.

If this bill were brought up as a regular bill, it would be amendable, and these troubling provisions could be changed or deleted.

Mr. GENE GREEN of Texas. Madam Speaker, I rise in opposition to H.R. 3283 on both process and policy grounds. This legislation is on the floor this week simply to provide political cover for members who vote for the flawed Central American Free Trade Agreement. The consideration of this bill is not a real attempt to react to Chinese currency manipulation, trade barriers and state-sponsored subsidies. It is merely an empty, rhetorical response to our valid concerns about China's ability to utilize CAFTA to circumvent U.S. trade laws.

The bill's title—the U.S. Trade Rights Enforcement Act—is, at best, a misnomer, because it actually prevents our country from enforcing its trade rights. While the bill purports to apply U.S. countervailing duty law to China, it contains three glaring loopholes that strip us from any ability to enforce that law. First, the bill limits our use of third-party data when investigating Chinese subsidies in anti-dumping cases. The effect of this provision is to force us to use China's own data in these cases, even though we've learned time and again that China does not play fair in the global trade market.

The bill also exempts Chinese domestic subsidies when industries file both anti-dumping and countervailing duty cases. This provision essentially applies a more lenient standard to non-market economies than to market economies under U.S. anti-dumping and CVD law. Let me remind my colleagues that our goal here is to get tough on China, not give them a free pass while holding our friends with market economies to a tougher standard.

The bill also imposes extra burdens on the U.S. that raises serious issues with regard to both sovereignty and separation of powers. The bill would direct the Commerce Department to essentially pre-clear the application of U.S. law to ensure consistency with the WTO. While every other U.S. law is deemed WTO-compliant unless and until the WTO rules otherwise, this bill makes our actions toward China jump through extra international hoops before it can ever be applied.

Even worse—for the first time ever—the bill would give the Commerce Department the power to align U.S. law with the WTO, without action from Congress. Article I, Section 8 of the U.S. Constitution gives the Congress—not the executive branch—the sole responsibility for the regulation of foreign commerce. This provision is a serious infringement on the power of the legislative branch and strips the Congress of much, if not all, authority to deal with our country's trade concerns with China.

I urge my colleagues not to fall for the majority's empty rhetoric. This bill will do nothing to help our trade problems with China and is a thinly-veiled diversionary tactic to shore up votes for the flawed CAFTA agreement. Look beyond the majority's smoke and mirrors, and vote against this ill-timed and ill-conceived legislation.

Mr. HOLT. Madam Speaker, I rise today in opposition to H.R. 3283. The so-called United States Trade Rights Enforcement Act would provide little to no remedy for those in my district who are deeply concerned about the ever growing trade deficit with the Peoples Republic of China due to its longstanding illegal policy of currency manipulation.

This is a major issue. Congress should be considering this measure for more than forty minutes and with the opportunity to offer amendments. However, this will not be the case today because of the procedures under which this bill was brought to the floor. We should be debating this issue in great depth, not the rather cursory discussion we are having today. We should be talking seriously about complex issues like "Super 301," "double counting," and what exactly we should do with our countervailing duties. We should be talking about why our trade deficit with China is now at $162 billion and continues to grow with no end in sight. We should be talking about the fact that China doubled its holding of U.S. debt between 2001 and 2004. And we should be talking about how jobs in our home states have been affected and what we can do to help American businesses who are struggling to export their goods to China.

But that debate unfortunately will not happen today.

Rather, today the House is considering H.R. 3283 because of an agreement reached, I presume to secure votes in favor of the seriously flawed Dominican Republic-Central American Free Trade Agreement, (DR–CAFTA). The majority has chosen to play politics on the floor today rather than seriously address the issues resulting from China's currency manipulation and the resulting trade imbalance that has ballooned between the United States and China.

I have heard from a number of constituents in my district who are deeply concerned about these issues. And yet today, we are not addressing their concerns with action, we are requesting studies. Today we are not ordering countervailing duties to correct for unfair trade practices, we are creating additional loopholes for China to evade the even paltry countervailing duties that do exist.

Madam Speaker, today I stand with the people in my district who are affected by China's currency manipulation and our soaring trade deficit. That is why I have cosponsored a number of other bills, such as the bipartisan

The Chinese Currency Act, H.R. 1498, that will actually address China's currency manipulation. However, I will vote against H.R. 3283, and it is my hope that the Congress will reevaluate this serious issue in a detailed fashion to actually address these important issues that have bipartisan support.

Mr. STARK. Madam Speaker, I rise today in opposition to H.R. 3283, the so-called United States Trade Rights Enforcement Act. This bill purports to address China's lax enforcement of its international trade obligations. In fact, this bill does little to address serious trade issues with China, and it is on the House floor for only one reason: to garner votes for CAFTA later this week.

There is no question that Congress should do everything in its power to enforce trade rights worldwide. However, giving lip service to an issue that deserves our careful consideration and strong action is a grave disservice to the American people. What we should be talking about today is the Bush Administration's continued failure to decrease our trade deficits and promote labor rights, environmental standards and public health protections with our trading partners.

Let's look at the facts: In 2004, the U.S. trade deficit with China grew to a record $162 billion. This despite the fact that China joined the World Trade Organization, WTO, in 2001 and should be well on its way to reducing trade barriers and opening up their markets to U.S. goods and services. Even the United States Trade Representative has said that China's WTO compliance efforts are "far from complete and have not always been satisfactory."

Given these facts, I support strong trade enforcement against China. I am a cosponsor of H.R. 1498, the Chinese Currency Act, which would allow the administration to impose countervailing duties due to China's continued currency manipulation. The bill has 110 bipartisan cosponsors and provides real enforcement mechanisms, instead of the studies and redefinitions offered by H.R. 3283. If the leadership were serious about China we would be voting on this meaningful legislation today. But, that is not the case.

Madam Speaker, we have known about trade enforcement issues in China for years. But China legislation magically appears only now that CAFTA is in trouble. I urge my colleagues to vote against this sham bill.

Mr. UDALL of Colorado. Madam Speaker, I rise in opposition to H.R. 3283, the United States Trade Rights Enforcement Act.

I do have real concerns about the spiraling trade deficit with China and China's unfair trade practices, and I think Congress should consider possible legislative responses.

However, the bill offered today does little to provide assistance to U.S. workers, farmers, and businesses. In fact, it could create additional problems for them. In particular, I am concerned that the legislation could make it more difficult to apply countervailing duties to China and other nonmarket economies while making it easier for them to hide subsidies.

Further, by placing this legislation on the suspension calendar, which is reserved for non-controversial legislation, the Republican leadership has refused to offer a full debate to Members to consider alternative plans to strengthen enforcement of our trade policies and hold countries accountable for their trade practices.

This procedure makes it clear that real intent here is not so much to address our trade problems—it is more about politics and winning extra votes for passage of CAFTA later this week.

It is unfortunate that the Republican leadership has taken this opportunity to bring about stronger trade policies and instead used it to consider a bill that is largely symbolic at best, and could even be harmful.

It is for these reasons I will vote against this bill.

Mr. BACA. Madam Speaker, I rise in opposition to H.R. 3283, concerning trade with China.

I join with millions of American workers in saying no to this ill-conceived Republican gift to the Chinese government.

This bill does nothing to address the growing unfair trade gap between China and the United States—an imbalance purchased with China's exploitation of political prisoners, oppressive jail-like working conditions, child labor, and suppression of basic freedoms.

Products made in China are cheap through the exploitation of the workforce. Every time we shop, we are driving the nail further into the coffin of American manufacturing jobs.

This bill does nothing to address artificially low prices. It does nothing to stop manipulation of currency to drive the United States further into a trade imbalance. It does nothing to save honest American workers from losing their jobs.

This bill weakens the ability of the United States to apply sanctions against China for unfair trade practices. Democrats have offered several much stronger proposals to deal with this issue, and the Republicans have refused to let them come to the floor. Not a single one has been considered.

To help U.S. workers, farmers and businesses, and America's long-term economic security, Congress should take decisive action to bring about fair trade with China, instead of squandering this opportunity on a weak Republican bill.

If Congress wants to take real action, it should pass comprehensive legislation to end currency manipulation; allow U.S. companies to challenge subsidized imports from China; and fix China safeguard statute and other import remedies to protect U.S. manufacturers against surges and other unfair imports from China.

I support American workers in saying, let's combat China's unfair trade practices by providing us with the tools to save American jobs.

It is an insult to American workers that, in the same week that Congress is considering CAFTA, it is bringing forth a weak China trade compromise bill. This demonstrates the majority's anti-worker agenda, that gives priority to Chinese workers instead of American jobs.

Mr. PAUL. Madam Speaker, I rise in strong opposition to this legislation. Isn't it ironic that the proponents of "free trade agreements" like CAFTA are lining up squarely behind a bill like this that threatens a trade war with China, and at the least calls for the United States to initiate protectionist measures such as punitive tariffs against "subsidized" sectors of the Chinese economy? In reality, this bill, which appeared out of the blue on the House floor as a suspension bill, is part of a deal made with several Members in return for a few votes on CAFTA. That is why it is ironic: to get to "free trade" with Central America we first need to pass protectionist legislation regarding China.

Madam Speaker, in addition to the irony of the protectionist flavor of this bill, let me say that we should be careful what we demand of the Chinese Government. Take the demand that the Government "revalue" its currency, for example. First, there is sufficient precedent to suggest that doing this would have very little effect on China's trade surplus with the United States. As Barron's magazine pointed out recently, "the Japanese yen's value has more than tripled since the breakdown of the Bretton Woods system, yet Japan's trade surplus remains huge. Why should the unpegging of the Chinese yuan have any greater impact?"

As was pointed out in the Wall Street Journal recently, with the yuan tied to several foreign currencies and the value of the dollar dropping, China could be less inclined to purchase dollars as a way of keeping the yuan down. Fewer Treasury bond purchases by China, in turn, would drive bond prices down and boost yields—which, subsequently, would cause borrowing costs for residential and some corporate customers to increase. Does anyone want to guess what a sudden burst of the real estate bubble might mean for the shaky U.S. economy? This is not an argument for the status quo, however, but rather an observation that there are often unforeseen consequences when we demand that foreign governments manipulate their currency to U.S. "advantage."

At the very least, American consumers will feel the strengthening of the yuan in the form of higher U.S. retail prices. This will disproportionately affect Americans of lower incomes and, as a consequence, slow the economy and increase the hardship of those struggling to get by. Is this why our constituents have sent us here?

In conclusion, I strongly oppose this ill-considered and potentially destructive bill, and I hope my colleagues will join me in rejecting it.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. CAPITO). The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 3283, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. RANGEL. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ENGLISH of Pennsylvania. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of H.R. 3283, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

BRIAN P. PARRELLO POST OFFICE BUILDING

Ms. FOXX. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 904) to designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, as the "Brian P. Parrello Post Office Building".

The Clerk read as follows:

S. 904

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BRIAN P. PARRELLO POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, shall be known and designated as the "Brian P. Parrello Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Brian P. Parrello Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from North Carolina (Ms. FOXX) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from North Carolina (Ms. FOXX).

GENERAL LEAVE

Ms. FOXX. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the Senate bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

Ms. FOXX. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the global war on terror is being fought at home and abroad by the bravest of Americans. Lance Corporal Brian Parrello, a 19-year-old serving with the Second Marine Division from Passaic County, New Jersey, was one of the most heroic of our fellow citizens.

Lance Corporal Parrello was killed in the city of Hadithah in Iraq on New Year's Day of this year.

I know I speak for all American citizens when I say that we have boundless appreciation for Lance Corporal Parrello's service to our Nation. There are many ways we can remember his immeasurable efforts to rid the world of the scourge of international terrorism. One small, but meaningful, way we can memorialize Brian's selfless courage and his priceless life is through this legislation.

To get a sense of Brian's patriotism, I want to impart some words that his older brother Matthew Parrello shared with the local newspaper following Brian's passing in January. Matthew told The Bergen Record newspaper that Brian "wanted to serve his country, and he loved what he was doing. He was proud to be a Marine, and he loved the guys he was serving with."

Matthew said Brian had considered joining the military during high school. During his senior year, in February of 2003, Brian enlisted in the Marine Corps. He began active duty September 22, 2003, three months after his high school graduation.

Sean Poppe, Brian's high school football coach, said Lance Corporal Parrello "possessed a strong desire to excel in whatever he did." Indeed, Lance Corporal Parrello gave his excellent life to this Nation.

Madam Speaker,. America owes the greatest of debts to heroes like Brian Parrello. No reward, decoration, or compensation can approach what Brian Parrello devoted to his country. However, I appreciate the Senator from New Jersey's efforts to remember Brian's life through this legislation that would name a post office after him in his hometown of West Milford, New Jersey.

Madam Speaker, I strongly support Senate 904.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as a member of the House Committee on Government Reform, I am pleased to join my colleague in consideration of S. 904, a bill designating the postal facility in West Milford, New Jersey, after the late Brian P. Parrello. This measure, which was introduced by Senator FRANK LAUTENBERG, a Democrat from New Jersey, on April 26, 2005, was unanimously passed by the Senate on June 29, 2005.

Lance Corporal Brian P. Parrello, 19, was killed Saturday, January 1, 2005, as a result of hostile action in Hadithah, a city along the Euphrates River. Brian Parrello is remembered by friends and family as being a "good guy," a young person who had dreams of one day becoming a teacher.

Lance Corporal Brian P. Parrello had an avid interest in history. His high school principal, Michael McCormick, recalled that Brian "took every elective history course that we have in our school."

Madam Speaker, I commend my colleague for seeking to honor the memory of the late Brian Parrello in this manner. Brian is to be remembered for his sacrifice and that he lost his life in furtherance of our freedom. We should not forget that he died in combat, and we would hope that we could end this conflict so that it would not be necessary that we take to the floor to honor young people whose lives are snuffed out far too quickly.

This is indeed a tribute to Brian, and I would urge passage of this bill.

Madam Speaker, I yield back the balance of my time.

Ms. FOXX. Madam Speaker, I yield such time as he may consume to my distinguished colleague from the State of New Jersey (Mr. GARRETT), the author of the House version of this honor for Brian Parrello.

Mr. GARRETT of New Jersey. Madam Speaker, I also humbly rise this morning as we support a bill to rename the post office in West Milford, New Jersey, up in my district, after Lance Corporal Brian P. Parrello who was killed in action, as we say, in Iraq earlier this year, in January. He was an honorable defender of liberty, and he deserves our gratitude and respect.

Brian joins that long list of our country's heroes who have made the ultimate sacrifice so that each and every one of us can live free. After the attacks on September 11, 2001, Brian proudly joined the United States Marine Corps where he was assigned to the Second Marine Expeditionary Force in North Carolina. In Iraq, Brian served in the Marine's swift boat unit where he patrolled the Tigris and Euphrates rivers.

As indicated earlier, back in West Milford High School, he served on both the football and the hockey teams. His teachers and his coaches and his peers called him a real leader, a real role model, someone who always gave 150 percent to everything that he did, a guy with a big heart who led by example. That is why I am proud to have introduced the legislation in this House to rename the post office in West Milford after Brian.

I am sure that Brian would have been proud to see the Iraqi people vote in the fair and free elections this past January. Brian gave all he could to help secure those freedoms. The war on terror is global in nature, and Brian fought in Iraq so that we may end the scourge of radical Islam and keep terrorists from attacking our homeland and freedom-loving people around the entire world.

Now, we can never fully express our gratitude for his sacrifice, for the freedom and the security to our Nation; but I am proud that we can leave a lasting memorial so that his heroic actions can be remembered in this country for now and future generations as well.

Today, we also remember his family, and we send them our prayers and our comfort as well.

Ms. FOXX. Madam Speaker, I urge all Members to support S. 904.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from North Carolina (Ms. FOXX) that the House suspend the rules and pass the Senate bill, S. 904.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

SERVICEMEMBERS' GROUP LIFE INSURANCE ENHANCEMENT ACT OF 2005

Mr. BUYER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3200) to amend title 38, United States Code, to enhance the Servicemembers' Group Life Insurance program, and for other purposes.

The Clerk read as follows:

H.R. 3200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Servicemembers' Group Life Insurance Enhancement Act of 2005".

SEC. 2. REPEALER.

Effective as of August 31, 2005, section 1012 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13; 119 Stat. 244), including the amendments made by that section, are repealed, and sections 1967, 1969, 1970, and 1977 of title 38, United States Code, shall be applied as if that section had not been enacted.

SEC. 3. INCREASE FROM $250,000 TO $400,000 IN AUTOMATIC MAXIMUM COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE.

(a) MAXIMUM UNDER SGLI.—Section 1967 of title 38, United States Code, is amended—

(1) in subsection (a)(3)(A)(i), by striking "$250,000" and inserting "$400,000"; and

(2) in subsection (d), by striking "of $250,000" and inserting "in effect under paragraph (3)(A)(i) of that subsection".

(b) MAXIMUM UNDER VGLI.—Section 1977(a) of such title is amended by striking "$250,000" each place it appears and inserting "$400,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 1, 2005, and shall apply with respect to deaths occurring on or after that date.

SEC. 4. NOTIFICATION TO MEMBER'S SPOUSE OR NEXT OF KIN OF CERTAIN ELECTIONS UNDER SERVICEMEMBER'S GROUP LIFE INSURANCE PROGRAM.

Effective September 1, 2005, section 1967 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f)(1)(A) Whenever a member who is eligible for insurance under this section executes a life insurance option specified in subparagraph (B), the Secretary concerned shall notify the member's spouse or, if the member is unmarried, the member's next of kin, in writing, of the execution of that option.

"(B) A life insurance option referred to in subparagraph (A) is any of the following:

"(i) An election under subsection (a)(2)(A) not to be insured under this subchapter.

"(ii) An election under subsection (a)(3)(B) for insurance of the member in an amount that is less than the maximum amount provided under subsection (a)(3)(A)(i).

"(iii) An application under subsection (c) for insurance coverage under this subchapter or for a change in the amount of such insurance coverage.

"(iv) In the case of a married member, a designation under section 1970(a) of this title of any person other than the spouse or a child of the member as the beneficiary of the member for any amount of insurance under this subchapter.

"(2) Whenever an unmarried member who is eligible for insurance under this section marries, the Secretary concerned shall notify the member's spouse in writing as to whether the member is insured under this subchapter. In the case of a member who is so insured, the Secretary shall include with such notification—

"(A) if the member has made an election described in paragraph (1)(B)(ii), notice that the amount of such insurance is less than the maximum amount provided under subsection (a)(3)(A)(i); and

"(B) if the member has designated a beneficiary other than the spouse or a child of the member for any amount of such insurance, notice that such a designation has been made.

"(3)(A) Notification of a spouse under paragraph (1) or (2), or of any other person under paragraph (1), for purposes of this subsection shall consist of a good faith effort to provide information to the spouse or other person at the last address of the spouse or other person in the records of the Secretary concerned.

"(B) Failure to provide such notification, or to provide such notification in a timely manner, does not affect the validity of any life insurance option referred to in paragraph (1)(B).".

SEC. 5. INCREMENTS OF INSURANCE THAT MAY BE ELECTED.

(a) INCREASE IN INCREMENT AMOUNT.—Subsection (a)(3)(B) of section 1967 of title 38, United States Code, is amended by striking "member or spouse" in the last sentence and inserting "member, be evenly divisible by $50,000 and, in the case of a member's spouse,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on September 1, 2005.

SEC. 6. AUTHORITY TO ELECT NEW TRAUMATIC INJURY PROTECTION.

(a) OPT-OUT AUTHORITY.—Section 1980A of title 38, United States Code, is amended by adding at the end of subsection (b) the following new paragraph:

"(4)(A) A member may elect in writing not to be insured under this section.

"(B) If a member eligible for insurance under this section is not so insured by reason of an election made under subparagraph (A), the member may thereafter elect to be insured under this section upon written application by the member, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Secretary. Insurance under this section upon such an election is effective upon the date of the receipt by the Secretary of such application and shall apply only with respect to injuries incurred after that date.

"(C) The Secretary shall prescribe by regulation conditions as to how and when elections under subparagraph (B) shall be made. Such regulations may include limiting the time for such elections to an annual open season, for a duration each year prescribed by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect immediately after section 1980A of title 38, United States Code, takes effect pursuant to section 1032(d)(1) of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13; 119 Stat. 260).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. BUYER) and the gentlewoman from Nevada (Ms. BERKLEY) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, on July 14, 2005, the Committee on Veterans' Affairs reported H.R. 3200, the Servicemembers' Group Life Insurance Enhancement Act of 2005. Among other things, this bill would provide a permanent authorization for increases in maximum life insurance coverage under the Servicemembers' Group Life Insurance, referred to as the SGLI program, and the Veterans' Group Life Insurance, referred to as the VGLI program from $250,000 to $400,000.

Public Law 109-113, the Emergency Supplemental Appropriations Act For Defense, the Global War on Terror, and Tsunami Relief of 2005, increased the maximum coverage to $400,000 under these programs. However, the authorization expires on September 30, 2005.

It is my understanding that the Senate included the termination date, which was approved in the conference report, to afford the legislative committees the jurisdiction and opportunity to hold public hearings and further consider the specifics of the emergency authorization before it could be made permanent.

The increased level of coverage was requested by the President because of concerns over death benefits for the survivors of servicemembers being inadequate as our Nation fights the global war on terrorism. H.R. 3200 would also repeal the provision of Public Law 109–13 which prevents a married servicemember from declining SGLI coverage, or opting for an amount less than the maximum, without the written consent of the spouse. Public Law 109–13 mandates spousal consent, even in cases where the couple is estranged, as long as they are legally married.

The committee does not believe providing a spouse such veto authority over life insurance elections is good public policy. The spousal consent requirement could also result, for example, in a servicemember's spouse excluding stepchildren as beneficiaries.

The government should not interfere legally in a servicemember's highly personal choices about such family matters.

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H.R. 3200 would instead require the military service Secretary concerned to provide written notification to the spouse or the next of kin of an unmarried servicemember as to the servicemember's insurance election.

The committee believes that this is the preferable way of ensuring that the spouse or beneficiary is informed about this important financial decision, while preserving the individual right of the servicemember to make decisions about life insurance coverage.

Finally, Public Law 109-13 also provides for a new traumatic injury program. The traumatic injury program provides financial assistance in the amounts from $25,000 to $100,000 to servicemembers who suffer certain traumatic injuries.

The traumatic injury protection under current law is mandatory for servicemembers who elect SGLI coverage with premiums paid by the servicemember. No hearing had been held on this new program until June 16 of 2005, when the Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs held a hearing on H.R. 3200 in its draft form and on the traumatic injury protection program.

H.R. 3200 would allow a servicemember to decline traumatic injury coverage. This program authorization will be effective December 1, 2005, for servicemembers, but it is retroactive to October 7, 2001, when Operation Enduring Freedom began, for qualifying losses that are a direct result of injuries incurred in Operation Enduring Freedom and/or Operation Iraqi Freedom.

Madam Speaker, I reserve the balance of my time.

Ms. BERKLEY. Madam Speaker, I yield myself such time as I may consume.

I would like to thank the gentleman from Indiana (Mr. BUYER), the gentleman from Illinois (Mr. EVANS) and the gentleman from Florida (Mr. MILLER) for bringing this bill to the floor before the August recess.

H.R. 3200 would make the maximum amount of $400,000 in the Servicemembers Group Life Insurance program permanent. In May of this year, Congress acted to increase the maximum amount of SGLI available to the men and women who are currently serving in the Armed Forces from $250,000 to $400,000. However, without passage of H.R. 3200, the increase in SGLI benefits will expire on September 30, 2005, prior to the time we return from our recess. This legislation is necessary in order to prevent any gaps in servicemembers' coverage under the SGLI program.

I appreciate the gentleman from Florida (Chairman MILLER's) cooperation in addressing my concerns that spousal consent not be a part of this SGLI program. The VA is already hearing from servicemembers who are upset that they must seek to obtain the consent of an estranged spouse before selecting less than the maximum amount of life insurance. We on the subcommittee have worked together in a bipartisan way on this matter.

I support the provision to eliminate the spousal consent requirement contained in Public Law 109-13. I also support the provision to eliminate the requirement that notice be sent to a current spouse if a servicemember elects to name a child or children as beneficiaries of their SGLI.

I believe we need to allow servicemembers to make decisions on the beneficiaries of their life insurance without any pressure to ignore their financial responsibility to their children, particularly from a prior marriage.

This bill is urgently needed to provide continuous coverage to our servicemen and women. I know that the men and women from Nevada who are currently serving will benefit from this bill. I urge all Members to support H.R. 3200.

Madam Speaker, I reserve the balance of my time.

Mr. BUYER. Madam Speaker, I yield myself such time as I may consume.

I would like to acknowledge the contributions of the gentleman from Arizona (Mr. RENZI) for his hard work on this legislation. On April 16, 2005, Mr. RENZI introduced H.R. 1618, which would create a traumatic injury protection program similar to what was enacted in Public Law 109-13.

On June 16, the gentleman from Arizona (Mr. RENZI) testified before the Subcommittee on Disability Assistance and Memorial Affairs, and his comments helped shape the bill which we are currently considering today. The gentleman from Arizona (Mr. RENZI) is a strong supporter of our Nation's servicemen and women, and I appreciate his input.

I would also note that I have had continuous dialogue with the gentleman from Arizona (Mr. RENZI), and I deeply appreciate his passion. In having grown up in a military family, he has great understanding of the sacrifices of the men and women who wear the uniform.

Madam Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Madam Speaker, I want to thank the Chairman very much for the opportunity to speak on this legislation, for his leadership, and for the time that he has spent in mentoring me, particularly on this piece of legislation.

The bill that we are considering today, the Servicemembers' Group Life Enhancement Act of 2005, makes permanent and improves a significant change which passed a few months ago. In May, as part of the Emergency Wartime Supplemental Act, Congress passed the provision that allows the armed services and members of the armed services to purchase insurance coverage to protect against traumatic disabling injuries. This new traumatic injury protection program will be up and running in December, and will protect our servicemen and women against the economic consequences of severe disabilities while suffered on Active Duty. It will greatly assist our Armed Forces and their families during a servicemember's hospitalization time and their rehabilitation period, as well as their transition back to full employment.

At a time injured servicemembers and their family need to concentrate on physical recovery and emotional well-being, they are too often burdened with mounting financial debt, and this program goes a long way to help them.

Hospitalization following a traumatic injury often requires the servicemember's family members to leave work for an extended period of time to be with their loved ones, thus potentially losing a source of income. They incur tremendous costs, such as travel and living expenses, at a very stressful time. Travel, housing, food and child care costs can often amount to tens of thousands of dollars, and this insurance program will provide up to $100,000 to these servicemembers to help pay for these indirect costs.

We ask our young people to volunteer their service, and they serve with distinction. This program will be especially important to members of our National Guard and Reserve in which we have a moral obligation to provide the necessary means for our servicemember to transition back to civilian life.

Medical technology has made great gains in the past years. Many of our soldiers who would have been killed in battle now come home with severe disabilities. We need to continue to assist these wounded warriors as they adjust to life with their new disabilities. Therefore, it is vital that we recognize the difficult sacrifices made by our military and their families, and we do all that we can to assist them when they need it most. Our Nation must never forget our wounded warriors, and this legislation goes a long way to help them and to recognize that we care.

I thank the committee. I thank the gentleman from Indiana (Chairman BUYER) and the gentlewoman from Nevada (Ms. BERKLEY) for their approval, and I especially thank the gentleman from Florida (Mr. MILLER), the chairman of the subcommittee, for his help.

Madam Speaker, I urge my colleagues to pass this important legislation.

Mr. BUYER. Madam Speaker, I reserve the balance of my time.

Ms. BERKLEY. Madam Speaker, I would also like to thank the gentleman from Arizona (Mr. RENZI) for his leadership on this issue.

Madam Speaker, I yield 4 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Madam Speaker, I, too, rise to speak about improvements in insurance for veterans and their families.

This bill, H.R. 3200, will permanently, as we have heard, increase the amount of Servicemembers' Group Life Insurance from $250,000 to $400,000 if a servicemember is killed in the line of duty.

It would also provide the same permanent increase in the Veterans' Group Life Insurance program. These changes, of course, make the insurance more in line with today's economy, and we all should support the passage of H.R. 3200.

But I think there are other changes beyond what is in this bill that we also should take before this Congress ends. These changes would, first of all, affect the Service-Disabled Veterans Insurance, the SDVI program. When this insurance program began in 1951, the premiums were based on a 1940 mortality rate. Current standard life insurance policies have premiums based on a 2001 mortality rate, except for this program, which still charges premiums based on a table that is 60 years out of date, which results in higher premiums.

The Independent Budget, that document prepared and endorsed by many veterans service organizations, has recommended that the mortality table be updated. I have introduced a bill, H.R. 2747, the Disabled Veterans Life Insurance Enhancement Act, that would make this important change and decrease this premium payment for disabled veterans.

A second part of my bill affects the mortgage life insurance for severely disabled veterans. Currently this insurance covers only about 55 percent of outstanding mortgage balances. We know how the cost of housing has skyrocketed in most areas of our Nation. In May of 2001, an evaluation by the Department of Veterans Affairs recommended increased coverage. And my bill, H.R. 2747, implements these recommendations by increasing the maximum which would be expected to cover 94 percent of mortgage balances.

Finally, military families are currently provided with $10,000 of life insurance for each child when the servicemember is covered by the program. Some military families have been denied this benefit because their child was stillborn. My bill, H.R. 2747, would extend the $10,000 benefit to those families to help pay for funeral and burial expenses. I note that the Senate Veterans Affairs Committee has taken up this issue in their June 23 hearing.

Let us begin to update and fix the insurance for our servicemembers and our veterans by passing the bill before us, H.R. 3200. But I also encourage my colleagues to cosponsor and support my insurance bill, H.R. 2747, which expands what we are doing here today to additional insurance provisions and programs to support all of our Nation's veterans.

Ms. BERKLEY. Madam Speaker, I reserve the balance of my time.

Mr. BUYER. Madam Speaker, at this time I yield 2 minutes to the gentleman from New Hampshire (Mr. BRADLEY), a member of the committee.

Mr. BRADLEY of New Hampshire. Madam Speaker, I want to thank the gentleman from Indiana (Mr. BUYER) for the leadership that he has shown on this issue as well as the gentlewoman from Nevada (Ms. BERKLEY), the gentleman from California (Mr. FILNER), and the gentleman from Illinois (Mr. EVANS) and others.

It is not often that we have the opportunity to come together to do the right thing, to do it in a bipartisan fashion. It is a tribute to the gentleman from Indiana (Mr. BUYER's) leadership and to our friends on the other side of the aisle, and all of the leadership of the committee deserve great credit for doing this.

The details of this bill have been discussed by the chairman and others. I do not need to go through the details. What I want my colleagues to understand is the importance of this bill and why we are doing this bill, why we are increasing the SGLI benefit, the death benefit, and instituting an insurance benefit for injuries.

Most of us have had the opportunity to visit our troops in Iraq, in Afghanistan, and in many other countries around the world, as we are fighting and prevailing in this war on terrorism. And what we have seen when we have visited our troops is the dedication, the sacrifice, the American grit and courage to get the job done to win this battle against terrorism.

And when things happen, when people pay the ultimate sacrifice, when they return with disabling injuries, our country has to make sure that we match their commitment so that they are able to, if they paid the ultimate sacrifice, know that their families will have an increased death benefit; or if they have traumatic injuries, realize that there is help for their recovery and for their family.

This bill does it. It is a major step in the right direction. It is one that has been done in a bipartisan fashion. And I salute the leadership on both sides of the aisle of the committee for getting the job done.

Mr. BUYER. Madam Speaker, I reserve the balance of my time.

Ms. BERKLEY. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Madam Speaker, there is no way our Nation can fully repay military widows and their children who have lost their loved ones in service to our country. However, at the very least we should see that the burden that these families bear is not made heavier by financial difficulties in the wake of their deep personal losses.

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That is what this legislation is all about. And I want to congratulate the gentleman from Arizona (Mr. RENZI) and the gentlewoman from Nevada (Ms. BERKLEY) for their authorship and leadership on this bill. I want to salute my colleague and leader on the Committee on Veterans' Affairs, the gentleman from Indiana (Mr. BUYER), for his work in bringing this together on a bipartisan basis. I salute my Democratic colleague, the gentleman from Illinois (Mr. EVANS).

When we work on things, important legislation, together on a bipartisan basis, the press galleries are always empty. But that is not a reflection on the importance this legislation, because it will make a true difference in the lives of great American citizens and families who have sacrificed so much for all of us.

Congress with this bill has taken the first step in the right direction by increasing the death gratuity from $12,420, a paltry amount, to a more significant $100,000 in the 2006 defense authorization bill. I want to emphasize we must absolutely pass that increase this year and make it permanent.

In this bill, H.R. 3200, by increasing life insurance from $250,000 to $400,000 for servicemembers' families, we take an important step forward in helping our military families and loved ones who have paid such a dear price and sacrifice to our Nation. If fully enacted, the increase in death gratuity to $100,000 and the availability of relatively low-cost life insurance up to $400,000 should make it difficult if not impossible for anyone to try to take advantage of our military families by selling them outdated, over-priced life insurance policies.

As our Nation asks more and more from our military families and our war on terrorism, Congress has a moral obligation to provide all of our military families with quality education, housing, and health care. And when a service man or woman has paid the ultimate price, we have a moral responsibility to provide financial security to their widow and their children.

This bill is not the final fulfillment to our obligation to our service men and women and veterans, but it certainly takes us in the right direction. It is a good bill. I salute all of those who had a hand in making it possible for its passage today.

Ms. BERKLEY. Madam Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EVANS), a former Marine, a true warrior on behalf of our Nation's veterans, and the ranking Democratic member of the committee.

Mr. EVANS. Madam Speaker, I rise in support of H.R. 3200.

Earlier this year, Congress increased the amount of SGLI available to servicemembers up to $400,000. That provision is scheduled to expire as of September 30, 2005.

We need to make this increase permanent. The costs for this increase would be borne by the men and women who are covered under the SGLI program. SGLI is an insurance program paid by the men and women who are insured. Only in times of war when there is a marked increase in servicemember deaths does the government contribute payments for extra hazards.

H.R. 3200 will receive my full support, and it deserves the support of all Members of this House.

Madam Speaker, I rise in strong support of H.R. 3200, the Servicemembers' Group Life Insurance Enhancement Act of 2005.

Earlier this year, in Public Law 109–13, Congress increased the amount of Servicemembers' Group Life Insurance, SGLI, available to servicemembers. That provision is scheduled to expire as of September 30, 2005. This bill would make the $400,000 of coverage provided on a temporary basis in Public Law 109–13, permanent.

The costs for this increased amount of insurance would be borne by the men and women who are covered under the SGLI program. We must never forget that SGLI is an insurance program, paid for by the men and women who are insured.

Only in times of war when there is a marked increase in servicemember deaths, is the government charged for the "extra hazards" of this insurance. No government payments were made between the end of the Vietnam era and 2003. During the last 3 years, the military services have contributed to the cost of payments for "excess deaths", the number of deaths which exceed the expected death rate by more than 8 percent, resulting primarily from military operations in Afghanistan and Iraq.

H.R. 3200 also establishes criteria for notification to the spouse or next of kin when a servicemember elects less than the maximum amount of SGLI and notification to a spouse when a servicemember names a beneficiary who is neither the spouse nor child.

Generally, I would expect that a servicemember would discuss his or her financial decisions with persons who may be beneficiaries of a life insurance policy. The notice provisions may be helpful in those situations where a servicemember inadvertently fails to inform their next of kin or spouse of these decisions.

I am strongly opposed to the provision included in Public Law 109–13 which would require a married servicemember to obtain the consent of their spouse, even in situations where the spouses are estranged, if less than the maximum amount of coverage is selected. I am pleased that that provision would be repealed by this bill.

I also believe that no notice should be provided when a servicemember names a child or children rather than their current spouse as the beneficiary of a SGLI policy. Servicemembers are in the best position to determine whether a spouse or child, or some combination of spouse and child should receive the proceeds of their SGLI in the event of the servicemember's death.

Finally, the bill would allow a servicemember to decline coverage under the traumatic injury protection of Public Law 109–13. This insurance, like SGLI, is paid for by the servicemembers with extra hazards coverage for excess traumatic injuries in wartime paid by the military services.

I urge all members to support this bill, so that enhanced coverage currently provided under SGLI will not lapse on September 30, 2005.

H.R. 3200 will receive my full support and it deserves the support of all Members of this House.

Ms. BERKLEY. Madam Speaker, I yield myself the balance of my time. I urge all of my colleagues to support H.R. 3200. I am absolutely delighted we were able to do this prior to the August recess so that we can assure continuity for our veterans.

Madam Speaker, I yield back the balance of my time.

Mr. BUYER. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I would like to commend the gentleman from New York (Mr. WALSH) and the ranking member, the gentleman from Texas (Mr. EDWARDS), of the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies of the Committee on Appropriations when they took up this matter at the request of the President.

I also would like to commend the hard work of the gentleman from Florida (Mr. MILLER), the chairman of the Subcommittee on Disability Assistance and Memorial Affairs of the Committee on Veterans' Affairs, in the consideration of this bill in a timely fashion and ensuring that the Servicemember Group Life Insurance Enhancement Act of 2005 was quickly passed.

I also want to note that the gentleman has been actively involved in these insurance provisions since we were first made aware of them. Following the submission of the supplemental, he convened a roundtable with the administration officials, and he has taken a lead on the crafting of this bill; and I want to thank him for his efforts.

I also want to commend the gentlewoman from Nevada (Ms. BERKLEY), the ranking member, for working with the gentleman from Florida (Mr. MILLER) on this legislation. Her input was valuable, and we appreciate her efforts on behalf of men and women who wear the uniform and our veterans.

I also again want to commend the gentleman from Arizona (Mr. RENZI) for his contributions to this legislation. I also reserve the last of my thanks to the gentleman from Illinois (Mr. EVANS), the ranking member of full committee, for his good work.

Congress must act promptly to ensure permanent SGLI authorization is enacted before September 30 of 2005, or the coverage levels for servicemember life insurance will revert to $250,000 on October 1 of 2005. I do not believe any Member of this body would want to see that happen. I strongly urge my colleagues to give favorable consideration to H.R. 3200.

Mr. BISHOP of New York. Mr. Speaker, I proudly rise today in support of H.R. 3200, the Servicemembers' Group Life Insurance Enhancement Act of 2005.

As our brave men and women continue to put their lives on the line for our Nation, we owe each of them the peace of mind they were promised, and to make it easier for their families with the knowledge that they will be cared for in a catastrophe.

Active duty personnel fulfill a critical mission in our fighting forces, and they should feel comfortable knowing that their loved ones will be provided for in the event of debilitating injury or death. I am pleased that we are expanding current benefits to adequately care for military families.

The Servicemembers' Group Life Insurance Act was passed to provide peace of mind for active duty personnel. However, since the creation of life insurance for those in the armed forces, benefits have not kept up with need, and it is now appropriate that we increase the maximum payments to families from $250,000 to $400,000.

Mr. Speaker, I am pleased that we are working to correct this problem by offering this bill, and by expanding benefits to our active duty forces and providing a safety net for military families who suffer the unthinkable loss of a loved one.

Mr. MILLER of Florida. Mr. Speaker, Public Law 109–13, the Emergency Supplemental, included provisions which made changes to VA's insurance program for active duty servicemembers. However, these changes expire on September 30, 2005.

H.R 3200 would:

Repeal section 1012 of the Supplemental, the section dealing with the insurance changes, and replace it with the text of H.R. 3200. This will reduce the administrative burden on the Department of Veterans Affairs and the Department of Defense who are currently promulgating regulations that are to be in effect for one month before the law expires;

Make permanent the increase from $250,000 to $400,000 in maximum Servicemembers' Group and Veterans' Group Life Insurance coverage;

Make permanent the increments of SGLI coverage from $10,000 to $50,000; and

Require the military service Secretary concerned to notify a servicemember's spouse or unmarried servicemember's next-of-kin, in writing, if the servicemember declines SGLI or chooses an amount less than the maximum, and also require the military service Secretary concerned to notify a spouse if someone other than the spouse or child is designated as the policyholders' beneficiary.

This language was included in H.R. 2046, which passed the House on May 23: Clarify that spousal notification requirement does not apply to Veterans' Group Life Insurance; and

Permit a servicemember to decline Traumatic Injury Protection coverage established by section 1032 of Public Law 109–13.

There were no public hearings regarding the servicemembers' and veterans' insurance changes prior to House and Senate passage of the defense emergency supplemental. However, on March 6, 2005, the Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs held a roundtable briefing on these provisions with officials from the Department of Veterans Affairs, the Department of Defense, and private sector insurance representatives. Last month, the Subcommittee held a hearing on these proposals and this bill is a response to issues and concerns I and others had with the insurance provisions contained in the Supplemental.

In addition to the provisions noted above, the Supplemental also provided for a new Traumatic Injury Protection program.

As Chairman BUYER indicated in his opening statement, this program—which goes into effect on December 1 of this year but is retroactive to October 7, 2001—will provide financial assistance from $25,000 to $100,000 to servicemembers who suffer certain traumatic injuries.

Under current law, participation in the new program is mandatory and those covered must pay premiums. Although the Department of Veterans Affairs estimate the premium to be as lowa $1 a month, I do not believe Congress should be making financial decisions for the men and women who serve in our armed forces, Coast Guard, National Oceanic and Atmospheric Administration, and the Public Health Service—all of whom are covered under this new program.

Therefore, section 6 of H.R. 3200 would allow a servicemember to decline traumatic injury coverage. I view our role as ensuring that our servicemembers have a variety of options to assist them in planning for the future. If at a later date someone wants to participate, they would be able to elect coverage upon written application, and coverage would apply with respect to injuries occurring after the subsequent election.

Mr. Speaker, I applaud Ms. BERKLEY, the ranking member of the Subcommittee on Disability Assistance and Memorial Affairs, for her active participation in crafting this bill, as well as the subcommittee vice chairman, JEB BRADLEY, and a former member of the Committee, RICK RENZI. This has indeed been a team effort.

I also want to thank the subcommittee staffs on both sides of the aisle, and the Office of Legislative Counsel for their technical assistance.

Finally, I commend Chairman BUYER and Ranking Member EVANS for their continuing leadership.

Mr. Speaker, I urge my colleagues to support the Servicemembers' Group Life Insurance Enhancement Act.

Mr. REYES. Mr. Speaker, I rise today in strong support of H.R. 3200, the Servicemembers Group Life Insurance (SGLI) Enhancement Act of 2005.

Since 1965, the SGLI program has been providing insurance coverage for our men and women in uniform. While the SGLI initially covered only active duty servicemembers, today it extends coverage to our nation's guard and reserve forces as well.

This legislation would increase the minimum SGLI coverage from $10,000 to $50,000 and make permanent the increase in maximum coverage from $250,000 to $400,000. This increased insurance coverage would become available for any servicemember wanting to participate.

The war on terror has placed greater demands on all of our active duty and reserve forces at home and abroad. These brave men and women have made tremendous sacrifices for our freedom and it is our responsibility as Members of Congress to do everything possible to assist them both during and after their service to our country.

Mr. Speaker, my colleagues and I on the House Veterans Affairs Committee favorably passed H.R. 3200 and as a co-sponsor I would urge all my colleagues to do the same on the House floor. Thank you.

Ms. BORDALLO. Mr. Speaker, I rise today in support of H.R. 3200 because of the importance of making permanent the provisions included in P.L. 109–13, the War Supplemental, related to the Servicemembers' Group Life Insurance (SGLI) Program.

SGLI is an important benefit offered to America's servicemembers particularly during this time of war. Prior to passage of P.L. 109–13, SGLI provided inadequate life insurance coverage to American servicemen and women. This inadequacy became intolerable when juxtaposed with the sacrifices of servicemembers in the War on Terror. With the former maximum coverage level set at $250,000, a servicemember could not ensure that his or her family would have sufficient resources to endure a catastrophic loss. In the 2005 War Supplemental, Congress increased coverage to $400,000, and, importantly, applied the provision retroactively in order to provide relief to the many families that had already lost a loved one in combat. However, the provisions included in the supplemental will expire in September 2005. H.R. 3200 is important because it makes permanent the supplemental's provisions on SGLI including increasing life insurance coverage to $400,000.

America asks her sons and daughters in the Armed Services to make extreme sacrifices to protect our liberties, our freedom and our way of life. Tragically, in the prosecution of the War on Terror many of our Soldiers have made the ultimate sacrifice. We have an obligation to those fallen heroes to protect the families they left behind. By providing for SGLI coverage that reflects the degree of our Soldiers' sacrifices and the needs of families when faced with the loss of a breadwinner, we are moving a step closer to fully and properly caring for America's heroes. This is not an option, but an obligation.

I am pleased that the over one hundred thousand troops now deployed into combat zones in support of the War on Terror can rest easier knowing they will permanently have access to affordable and sufficient life insurance. While they protect all of us from duty stations overseas, today we are helping protect them here at home.

Mr. BUYER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISSA). The question is on the motion offered by the gentleman from Indiana (Mr. BUYER) that the House suspend the rules and pass the bill, H.R. 3200.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BUYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BUYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 3200.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 515

Mr. EVANS. Mr. Speaker, I ask unanimous consent to have the name of the gentleman from Florida (Mr. BOYD) removed as a cosponsor of H.R. 515, as it was inadvertently added.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2361, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

MOTION TO INSTRUCT CONFEREES ON H.R. 2361, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. OBEY. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Obey moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2361 be instructed to agree to section 439 of the Senate amendment, providing $1,500,000,000 for fiscal year 2005 for the Department of Veterans Affairs for medical services provided by the Veterans Health Administration and designating that amount as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Wisconsin (Mr. OBEY) and the gentleman from North Carolina (Mr. TAYLOR) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, for the past 3 years, a number of us on this side of the aisle, including the gentleman from Texas (Mr. EDWARDS), myself and several others, have tried to bring the administration to the realization that we needed many more dollars in the veterans health care funds than, in fact, they requested each year. And each year we have been able to drag them a little bit towards that goal, but we have not been able to drag them far enough.

As a result, we have heard many, many horror stories. We have heard that thousands of patients have had to wait more than 3 months for appointments in California. We have heard that in States like Arkansas and Oklahoma and Mississippi and Louisiana, the VA has stopped scheduling appointments for many veterans who are eligible for care. We have heard of 6-month delays in emergency surgery in Oregon. We have heard that facilities have had to erect scaffolding to protect patients and staff from falling bricks in Maine. We have heard that a medical center in Vermont has major shortfalls in their prosthetics budget. We have been told that doctors have had to pilfer supplies from neighboring hospitals to carry out routine procedures in Illinois. And we have been told that life safety improvements like replacing fire alarm systems have been postponed as the funds are used to cover operating expenses in States like California.

Yet, in the face of stories like that, in April VA Secretary Nicholson told the Congress that no additional funds would be needed for fiscal year 2005. But by the end of June he had to admit that there was a big problem, and he then testified that an additional $975 million was needed. Two weeks later, the problem in their eyes got even bigger. OMB asked for yet another $300 million for fiscal year 2005, so they are admitting a $1.3 billion shortfall right now; and the numbers look worse for the coming fiscal year.

The VA has already amended their $20 billion medical care budget request for an additional $1.7 billion, and that does not count the additional $500 million they are going to need, because I doubt that many Members want to go along with the administration's proposal to raise the veterans health care fees and co-op pays as has been suggested by the administration.

I would hope that by now every Member realizes that we have a VA health care crisis and we have to deal with it right now. The other body did the right thing in the interior bill. They provided $1.5 billion of emergency money for the VA. That would cover the immediate $975 million shortfall and provide an additional $525 million that could be distributed among the VA regions to take care of the source of problems that each of us has been hearing about.

I would point out also that in my view some Members of this House have paid a very high price for speaking out on behalf of our veterans. We saw earlier this year news stories which reported the fact that the majority caucus not only removed from his chairmanship but removed from the committee itself the Member on the other side of the aisle who chaired the committee in charge of veterans funding because he had been too insistent in agreeing with those of us on this side of the aisle who kept insisting that we needed more funding for veterans health care.

I would hope that it would be recognized that he was right, that we were right, not just about yesterday's problems but about today's and tomorrow's with respect to this account.

So I would simply urge each and every Member of this House to vote for this motion. This money is going to be provided. It is just a question of how many times we have to hit the House along side the head before, like a stubborn donkey, they finally recognize that something needs to be done.

☐ 1215

Reality is here. It would be nice if we faced up to it. I would hope this would receive the unanimous support of the Members of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we will soon, I think, hear from our chairman of the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies, who will be speaking on this. I know that the error that was made is being taken care of in this legislation, in 2005 with $1.5 billion, and in 2006 with another $1.5 billion to make the entire $3 billion.

Every year, Mr. Speaker, we have raised benefits for American veterans, and rightly so. Some 68 percent of our veterans are from World War II and Korea, and we know when we go out on the plaza and see the monument to the World War II veterans the sacrifices paid. We all have relatives who served in World War II, and we know they saved this world with their dedication. We know also how much our other veterans give to this country, those who fought in subsequent wars right up through the current time with our own children fighting in Iraq.

So all of us want to provide the materials and the health care benefits for our veterans, and this amendment will be one of the steps in providing that.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished ranking member of the subcommittee, the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I thank the gentleman for yielding me this time, and I want to compliment the gentleman from Wisconsin (Mr. OBEY), the gentleman from Texas (Mr. EDWARDS), and all the Members who deeply care about our veterans in this body.

I am always surprised that this issue takes on a partisan tone, because I really believe each Member cares about veterans. It is just that there seems to be an unwillingness on the part of this administration to face up to the reality of how much money is needed to take care of the veterans. And with the war raging in Iraq, and with the seriousness of the injuries, any of us who have been out to Walter Reed or to Bethesda to see these heroic young men and women who have come back with these very severe wounds, I think all of us want to see the best care given to our veterans.

We have been reading about posttraumatic stress syndrome and the consequences and the effect on the lives of these soldiers and sailors and marines when they come home after having been involved in the kind of violent combat that is being seen in Iraq. I had a chance to visit the VA Hospital in Seattle recently, and I was told by the people there that they still have a backlog, a waiting list of 2,500 people waiting to get their appointments at the Seattle VA. Now, that is just unacceptable. I hope that that has been reduced.

Mr. Speaker, I want to say that I believe the other body was correct in adding this money, but this is not something that normally would be part of the Interior appropriations bill. This is not within our jurisdiction. This is just something that happened—we were the first bill moving through, and it became a convenient vehicle in the other body to put this $1.5 billion onto.

There was an effort here to put some money, I think it was, what, $975 million—or thereabouts, which the House adopted, I believe, overwhelmingly, maybe unanimously, but it is simply not enough. I think Mr. Nicholson has not been as forthright as he should have been in telling the various committees on the Hill what was needed.

But in my mind there is absolutely no excuse for not approving this $1.5 billion.

I hope that it will be unanimous that every Member of the House will vote for this because I think we should do as much as we can to take care of the legitimate needs of these people. As I said, this should not be a partisan issue. I just regret that the administration continues to underfund this important priority.

Mr. TAYLOR of North Carolina. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Mr. EDWARDS), who has been a key leader on this issue as the ranking member of the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies.

Mr. EDWARDS. Mr. Speaker, for 2 years, our Nation's respected veterans' organizations, along with Democrats in Congress, have been predicting cuts in veterans' health care services due to inadequate VA health care budgets. In February, in fact, of 2004, nearly a year and a half ago, Republican chairman of the House Committee on Veterans' Affairs, the gentleman from New Jersey (Mr. SMITH), and his Democratic ranking member, the gentleman from Illinois (Mr. EVANS), in a bipartisan letter predicted the administration request for VA health care for this year would be $2.5 billion short.

Now, Mr. Speaker, what was the reaction of the House Republican leadership? Did they stand up for veterans' health care needs in funding? No. They fired the gentleman from New Jersey (Mr. SMITH) from his job as chairman of the House Committee on Veterans' Affairs and even took him completely off the committee. That may be hard to believe, but it is true. The House Republican leadership punished a Member of Congress, a member of its own party, for putting loyalty to veterans above loyalty to the House leadership during a time of war. It is not only true, it is sad.

To make matters worse, the gentleman from New Jersey (Mr. SMITH), House Democrats, and veterans' organizations were right in saying veterans' health care services were underfunded and the House leadership was wrong. At every step of the way over the past 2 years, in the Committee on the Budget, in amendments there; in the Committee on Appropriations, in amendments there; in the 302(b) allocation, the amount of money for veterans' care in the Committee on Appropriations, in all of these places and on this House floor repeatedly the House leadership has fought against the money needed to adequately support our veterans' health care needs during a time of our war on terrorism.

Even after it became public that the VA has a $1 billion shortfall, a $1 billion-plus shortfall this year, even after that, the House leadership dragged its feet. They are still dragging their feet in trying to adequately fund veterans' health care needs.

It is time for Republicans and Democrats alike, today, to do the right thing and to instruct the conferees on the Interior appropriations bill to support the same $1.5 billion emergency veterans' health care funding that was approved by a bipartisan vote of 96 to 0 weeks ago in the Senate.

It is morally wrong for our Nation to ask young troops to go into combat and then shortchange their health care when they return home as veterans. Supporting veterans' health care may be costly, but it is the right thing to do. Standing up for veterans may have cost the gentleman from New Jersey (Mr. SMITH) his job as chairman of the House Committee on Veterans' Affairs, but it was the right thing to do.

The right thing to do now is to send a message to this House leadership, that has opposed adequate funding for veterans' health care for 2 years now, that supporting veterans is more important than misplaced partisan loyalty.

Mr. TAYLOR of North Carolina. Mr. Speaker, I continue to reserve the balance of my time.

Mr. OBEY. Mr. Speaker, how much time do we have remaining on each side?

The SPEAKER pro tempore (Mr. ISSA). The gentleman from Wisconsin (Mr. OBEY) has 19 minutes remaining, and the gentleman from North Carolina (Mr. TAYLOR) has 28½ minutes remaining.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I thank the gentleman from Wisconsin for yielding me this time and for his leadership on behalf of our Nation's veterans, leadership which has sorely been lacking in this House.

This administration and this Congress has insulted our veterans community repeatedly in the last few months, insults which I hope we will remedy with today's motion. The head of the Office of Management and Budget actually had the nerve to testify before the Committee on the Budget that over the last 3 years the Veterans Administration had received $.5 billion more than it actually needed, more than it actually needed, when we have waiting lists which the gentleman outlined, when we have nursing and medical vacancies, when we have maintenance backlogs, when we have people waiting a year for an appointment for a dentist, and months and months for surgeries that are needed. OMB told the veterans that we have more than what was needed!

Then the Secretary of our Veterans Administration testified before committees of this Congress that we got it wrong because we had a bad mathematical model. We had a mathematical model that did not take into account the fact that there was a war going on and thousands of troops were coming back with significant injuries and with post-traumatic stress disorder. We did not know a war was going on, so we underfunded the VA. That is an insult to our Nation's veterans, that we did not know a war was going on, and we did not provide the money. Many are suffering today as a result of that decision.

And, Mr. Speaker, when we had a chance to help the veterans before our last recess, the chairman of the Committee on Veterans' Affairs said, we can only give $975 million, that that was the right number, while the Senate did $1.5 billion, which we are now instructing our House to accept today. We could have had this money flowing to our veterans' centers weeks ago. This could have been signed by the President several weeks ago, yet in my hometown of San Diego, we have 1,000 people on a waiting list just to have their first appointment. We have maintenance backlogs and nursing shortages, and we cannot get them the money because we did not have the right numbers, said the veterans chairman.

Well, we had the right number all along, my colleagues. The Independent Budget, a professional document prepared by our veterans' service organizations, had the numbers exactly right. The mathematical model could have been tested against this, and we could have had the proper support for our Nation's veterans. So everybody who talked about our Nation's veterans when we had Memorial Day, when we had our July 4th celebrations, and we will hear it on November 11th as we have heard today, that we all support our veterans. Well, let us show it by the proper votes!

The Democrats in this Congress have tried at every level, on the Committee on the Budget, on the Committee on Appropriations, in the Senate, in the House, and we tried on the floor of this House to give the Independent Budget numbers the force of law, but we were voted down on pure party-line votes. So I hear that everybody supports our veterans, but when the votes come, the majority party is not supporting our Nation's veterans.

Let us pass this instruction motion. Let us honor our veterans and give the veterans the support they need, especially when they come home from war.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. WALSH), chairman of the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies, a member of the party which, as we all know, has supported our veterans with increases every year.

Mr. WALSH. Mr. Speaker, I thank the chairman of the Subcommittee on Interior, Environment, and Related Agencies of the Committee on Appropriations for calling for this motion to instruct conferees, and I rise in support of that motion, and I thank him for his hard work and support on this issue.

Mr. Speaker, we have come to this point through a fairly long circuitous route this year. There has been a number of different estimates as to what the actual needs of the Veterans' Health Administration are. We conducted lengthy, extensive hearings, as did the authorizing committee, the Committee on Veterans' Affairs, and we have been receiving different information all the way along.

It is our best determination that the $1.5 billion figure will provide us the funds that we need to complete this fiscal year, the 2005 fiscal year, and the funds that are not utilized in 2005 will be available in 2006. We are also working with our Senate counterparts to make sure that the 2006 figure is correct.

☐ 1230

This has all been done with the very best intention of providing the Veterans Administration and our veterans with the resources they need to meet the demands of the patients of the hospitals of the Veterans Administration.

I think the Secretary of Veterans Affairs, Mr. Nicholson, has an opportunity here as the new Secretary. And he did not develop the budget; the budget was developed by his predecessor with the advice and counsel of the Office of Management and Budget.

Mr. Nicholson now has an opportunity to make his impression on the Veterans Administration, and the key here is accountability. Making sure that the people who provide Congress with the cost estimates to tell us how we can best serve our veterans and keep our promises, those individuals need to be accountable to the Secretary of the Veterans Administration. I know he is setting about doing that, and hopefully this difficult process that we have had this year will not be repeated.

I might add we have had estimates from the veterans service organizations in each of the 6 years that I have been chairman responsible for the appropriations for Veterans Affairs. We have been right, and I think they have been wrong; and this year their estimate was higher than ours. Who is closer, we will see at the end of the process. But to cite the estimates this year, we need to reflect those against all of the preceding years, and I think by and large we have been on the money.

By the way, we have increased this Veterans Administration budget each year in the neighborhood of double digits. No other budget within the Federal Government other than perhaps defense health has had those kinds of increases.

The House has the power of the purse. We establish our priorities with that purse, and clearly the Veterans Administration is the priority of the House of Representatives. I stand on that record.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise today to express my support for the Senate-passed amendment to include $1.5 billion to the veterans budget. After the budget shortfall was announced, both sides of the aisle in the Senate came together to take immediate action to address the issue. They passed a $1.5 billion emergency funding amendment to immediately get the funds to the people who need it, our veterans.

The Republican leadership of the House decided to sit on their hands and wait for President Bush to pull out of the air a number. That number was $975 million. This House passed that funding level and left for the July 4 recess. However, it turned out that the Bush level was $300 million short of funding veterans health. We know that budget is underfunded by more than $3 billion, that is B, billion. All Members need to do is read the independent budget. Every year they release their priorities, and every year the VA is short of funding to complete its mission.

While we were sitting on our hands, the three surgical operating rooms at the White River Junction in VAMC was closed on June 27 because the heating and air conditioning system was broken.

The community-based outpatient clinics needed to meet veterans' increased demand for care in the North Florida and South Georgia VA health care system was delayed due to fiscal restraint. As of April in Gainesville, Florida, there were nearly 700 service-connected veterans waiting for more than 30 days for an appointment.

Let us get past the $1.5 billion for veterans health care; let us just stop all of the talking and put our talk into action. Pass this motion to instruct and get veterans the health care that they need and deserve today.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Speaker, I just wanted to come to the floor and say the gentleman from Washington is correct, all Members of this body that I know, Republicans and Democrats, totally stand behind our veterans in giving them resources; and that is the spirit with which we should approach this debate.

But I have to tell Members, one thing we forget around here, money is one piece of it, and accountability is another. I have to tell Members that now that this is added to the interior bill, and that is where I serve, this is when I speak, that the VA is still not accountable enough.

Yes, we need this money; but do not think for a minute that more money is the answer. Some of these needs are not being met because they are not accountable. They are not efficient enough. The VA in my area is still not accountable enough, but we need this money.

To allege or assert in any way that the House Republican leadership removed the gentleman from New Jersey, let me tell Members, I was there. While I am not going to say what was said in the meeting of the steering committee, we hired the gentleman from Indiana. For all of the right reasons, we hired the gentleman from Indiana as the chairman of the Committee on Veterans' Affairs because of what he is doing and we need to do in terms of reforms and accountability at the VA. It needs to be done.

On issues like homeland security and veterans, Members can always say it is not enough money to try to appeal to people. But we have to give them the money that they need when they need it for the purpose they need it and hold them accountable for better management. This body does not exert enough oversight on how the money is being spent. That is the truth, and it is especially true with the Veterans Affairs operation nationwide.

So, yes, let us give them the money; but let us not just throw them the money and say, There, that is more money. Let us follow through with a much more scrutinized process of accountability at the VA.

The VA should have been moving money around 10 years ago to reform, to close the facilities they do not need, open new facilities, even contract so people can go to the best health care provider in their community to receive health care.

We have got to reform the VA and give them more money, and I come to the floor today to say that the appropriations process can do that. The chairman, the gentleman from New York (Mr. WALSH), has done an outstanding job here, but surely the general public knows that Members of Congress support our veterans. All Members of Congress that I know support our veterans with the necessary funds.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I rise today in support of the motion to instruct conferees on H.R. 2361, Department of Interior, Environment and Related Agencies Appropriations Act for Fiscal Year 2006.

This bill will provide the Department of Veterans Affairs with supplemental funding of approximately $1.5 billion for fiscal year 2005. Several weeks ago, the House of Representatives unanimously passed H.R. 3130 which provided $975 million in health care funding for the fiscal year. We did that in response to revelations at the time to a line of questioning that I had with Dr. Perlin of VHA at a full committee hearing on health care modeling and forecasting.

We learned that since the spring of this year VA hospitals and clinics were shifting significant amounts of funds into medical services from maintenance and capital equipment accounts. This shifting was driven by underestimates of long-term care requirements and increased use of VA facilities by returning Operations Enduring Freedom and Operation Iraqi Freedom veterans to also include a surge of veterans in categories 1 through 6 and category 7 for health care.

I directed Secretary Nicholson to tell us what additional funds he needed for 2005. I also then immediately informed the Speaker of the House and the majority leader of this issue.

The Secretary returned from meetings with his staff on June 30, bringing to us a number of $975 million. This House acted the very same day in which the Secretary made his request through the President of the United States approving to the penny the VA's request. Yet the number was not even dry on the paper when, in fact, days later we were then informed that number was really $1.275 billion, and they needed an additional $300 million.

The $300 million is for a carryover account which we in Congress permit the VA to utilize. So you will hear this number. What is really important is the $975 million number; and as a matter of fact, just last week the VA said they hold to the number. The additional $300 million is for the carryover account.

The Republican Senate leadership offered a number of $1.5 billion. Now the challenge we have is they passed a number on the Senate interior appropriations bill of emergency supplemental. The House passed a $975 million number that was paid for out of the 2005 budget. As Members go to the interior conference, we have a challenge. We have got moneys which were paid for, the Senate asks for emergency. Now I suppose we are asking for an instruction that is saying make it an emergency supplemental.

So what we are doing is rolling one on top of another. We have $975 million which was paid for out of the 2005 budget. Now we are going to vote for an instruction to the conferees on $1.5 billion on emergency supplemental. So these are issues that conferees are going to have to work out at conference.

But when we look at VHA's forecasting performance which has been the focus at some of our animated hearings in the House, 3 over the last several weeks, in April they provide notice to the Committee on Appropriations that they are going to reprogram $600 million. Then in the latter part of June when we hold our hearing, they testify they are short $975 million, but they have "work-around solutions."

Then a few days later while we are on our July break, we learn that the number was short $300 million. They are going to spend down the $975, and the $300 million is the carryover account. We either take care of that in 2005, or we have to include it in the 2006 budget amendment.

If Members watch this, we go from $600 million to $975 million to $1.275 billion. What is it going to be in August? I think that is what the gentleman from Wisconsin (Mr. OBEY) and the gentleman from New York (Mr. WALSH) are indicating. So that is why I am going to support the motion to instruct, because there is a loss of confidence here in the House with regard to the number that has been given to us. Patience with the VHA bureaucracy has run out.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. BUYER. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I appreciate the gentleman's efforts and he is sincere in everything he says.

Has the committee held any hearings on why they are having all of these financial difficulties? What is driving this increase?

Mr. BUYER. We have. We have held three hearings. Part of the reason dealt with their modeling and their forecasting. For the 2005 budget, they used 2002 data, and they also had false assumptions. So we have informed them that they have every opportunity to get right the 2007 budget because now they tell us about the use of old data and poor measuring criteria. So they have every reason now to get it right. So what are they changing with regard to their assumptions and how are they improving the data with regard to the 2007, because that is what they are doing right now.

So what has occurred is we get the 2005 right. They come with a 2006 budget amendment. We just held a hearing on the 2006 budget amendment, which is just under $2 billion; and then we told them that we are going to do some handholding as they prepare the 2007 budget.

Mr. DICKS. Mr. Speaker, if the gentleman will continue to yield, are you able to get OMB to cooperate, because sometimes the agencies try their best to do the right thing, but then they are told by OMB they cannot do that because we are trying to fight the deficit. Is OMB being helpful here or not?

Mr. BUYER. Mr. Speaker, I would say everyone wants the modeling to be correct and for us to reestablish trust and confidence on our predictability of a budget number. When we do that, we bring purity to the process and OMB also brings trust and confidence. I think there is lack of trust and confidence under the budget number, and OMB has proven they are not as good of a caretaker here as they think they are. We will work cooperatively with OMB because they also are part of this process of the pain.

Mr. DICKS. Mr. Speaker, I thank the gentleman for that explanation.

Mr. BUYER. Mr. Speaker, the issue is accountability. The gentleman from New York (Mr. WALSH) touched on it and so did the gentleman from Tennessee (Mr. WAMP). The credibility must be rebuilt, and OMB is integral to this process.

I have asked Secretary Nicholson to review the leadership of the VHA bureaucracy to ensure that the right people are running it, and also its finances and some within the health network.

In particular, I am greatly disappointed and have lost confidence in the leadership and management of the Deputy Under Secretary for Health, for Operations and for Management. In the meantime, Congress will ensure that veterans health care is funded. We will hold VA accountable for its use of these dollars in the performance of its mission.

Over the recess, other Committee on Veterans' Affairs members, staff, and I will personally visit VA health care facilities because there is no substitute for boots-on-the-ground examination.

☐ 1245

I will specifically visit a polytrauma center in Minneapolis.

One of the harshest realities of combat in Iraq and Afghanistan is the number of servicemembers returning from Iraq and Afghanistan with loss of limbs and other severe and lasting injuries. With the body armor which we are providing to our soldiers, they can turn that up, and what is happening is it protects the torso, and they are having now loss of limbs and traumatic brain injuries.

VA has four regional traumatic brain injury rehabilitation centers. One of them is in Minneapolis, one is in Palo Alto, another one is in Richmond, and one is in Tampa. These are very important regional referral centers for individuals who have sustained these serious disabling conditions due to combat. VSOs and others are saying that these individual veterans are not being seen because of cuts in the VA. I find that challenging. I want to make sure these allegations are correct, so I am going to go on the ground to see if it is true.

I have also asked the GAO to review the VA's budget process, and I think that will be very important for some other eyes on this issue.

Mr. Speaker, America's veterans will receive the health care they have earned. $1.5 billion is a significant number for an important constituency, and I anticipate that we will act quickly to provide it. We can all see that only 2 months remain in the fiscal year. Unspent funds from this appropriation will be available for their use as down payments on the 2006 budget supplemental so that all funds will be put to good use.

I would like to thank the gentleman from Illinois (Mr. EVANS) for his work. I would like to thank the gentleman from Wisconsin (Mr. OBEY) for this motion. I also commend my colleagues in the Senate for their willingness to act quickly to Secretary Nicholson's request and to resolve this matter. I also want to thank the President, because when this was alerted to everyone's attention, the President acted and sent over a number. He also did the 2006 budget amendment.

In the end, those of us who exercise great care to raise and support the military know that our obligation does not end upon one's discharge. We care for the wounds and the injuries. We care for those who are left behind. We care for them to make as whole as possible and to create a climate so that one may take advantage of economic opportunities to live beyond a disability paycheck so that the defenders of liberty may also enjoy the bounties of the liberty for which they fight. I urge my colleagues to support the motion to instruct conferees in order to ensure that the veterans' funding can be done as quickly as possible.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield back the balance of my time.

Mr. OBEY. Mr. Speaker, let me conclude on this side by making four simple points. First of all, one of the previous speakers tried to suggest that, in fact, the gentleman from New Jersey (Mr. SMITH) had not been fired by the majority party caucus because he had been too willing to speak his own mind about the needs that he saw for veterans' health care. I would simply say that I am perfectly happy to believe that if the House is ready to believe that my grandmother is an astronaut and that the Cubs are going to win the pennant this year. The fact is that we know what the facts are, or were, I should say, with respect to the removal of the gentleman from New Jersey from office. He simply did not follow the party line and paid a price. So did the veterans. And now this bill is trying to help meet those costs.

Secondly, the gentleman from New York indicated that there had been a variety of estimates about what would be needed for veterans health care funding this year. The fact is that the Democratic estimates that we offered were consistent, and the bipartisan estimates that were offered by the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS) were consistently that we needed $2.5 billion in this account over the budget request. The House earlier enacted a $1 billion increase. This $1.5 billion in this motion now brings us to the $2.5 billion that we have been saying all along was needed and that the gentleman from New Jersey and the gentleman from Illinois were saying all along was needed.

Thirdly, I would simply say that the administration's denial of the truth on this matter follows a pattern. We saw earlier over the past year and a half when the Veterans' Administration was discouraging outreach, because if veterans knew what they were entitled to, it would cost more money, and that would impact the budget. So we have already seen that effort to not fully explain to the American veterans what they were entitled to. In that sense, it is very similar to the action of the administration in threatening to fire the government official who tried to tell Congress what the true cost of the prescription drugs under Medicare proposal was that the administration proposed last year.

Lastly, I would simply say one of the previous speakers raised the question as to why we were providing this money as an emergency. It is very simple: because it is an emergency for each and every veteran who otherwise will not be adequately served. We have a war going on. It would be nice if during that war we had a sense of shared sacrifice that was conveyed to each and every citizen of this country. But we really do not. We have a narrow band of people, those in the uniformed services of the United States, who are being asked to sacrifice virtually everything while 90 percent of American society is making no sacrifice about the war. They are getting tax cuts. They are able to be comfortable in their homes. It is only a precious few military families who are bearing the entire burden of that war.

It is human nature, I guess, for Americans, when our soldiers go off to war, to cheer and to have the bands playing, but it would be nice if we had that same enthusiasm for veterans when Johnny comes marching home again. Unfortunately, we have not demonstrated that because of the shortfalls that we have seen in the veterans' health care budget.

I would hope that we would adopt an understanding that if we ask someone to put his very life at risk, to put his family's future at risk and go to war to defend an action of the President of the United States, I would hope that we would recognize that we have a concurrent and permanent obligation to each and every one of those soldiers to meet the full cost of meeting their health care needs, their education needs, and their economic readjustment needs when they return to this country. That is the very least that we ought to do. This amendment tries to measure up to that standard. I would urge a unanimous "yes" vote.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of the Motion to Instruct Conferees to accept the Senate position to provide an additional $1.5 billion for Veteran's Medical care under H.R. 2361 the Interior Appropriations Bill. This motion to instruct will remedy the shortfall in veterans' health care for this year. Clearly, we have an obligation to our veterans that is not being met and can not go another day allowing this deficiency in Veteran's Medical care to continue.

The sad fact is that it has been 33 days since the Bush Administration acknowledged a $1 billion shortfall in Veteran's Medical care for FY 2005. Every day we see more and more veterans turned away and health care rationed across the country because the VA lacks the resources it needs to care for veterans. Every day we don't act, is another day that a veteran who bravely served our Nation is shortchanged.

To remedy this situation more than three weeks ago, the Senate unanimously passed a $1.5 billion bill. But the amount offered by House Republicans did not match that passed in the Senate, meaning money has not gotten to VA medical facilities and veterans will continue to wait in lines for health care. It has been nearly one month since this shortfall was first acknowledged, and yet Republicans continue to fail our veterans. Veterans and this Nation as a whole can not wait another day for this shortfall to be addressed; waiting any longer would be a travesty.

The truly sad facts demonstrate that the shortfall in veterans health care funding has resulted in some VA medical facilities no longer scheduling appointments for veterans, others not filling vacancies of medical and nursing staff, and others having to close operating rooms or not replacing basic medical equipment, such as hospital beds. Right now, there are more than 50,000 waiting in line for medical appointments, with more than 100,000 veterans from Iraq and Afghanistan seeking health care. But instead of remedying this situation as quickly as possible, Republicans continue to reject proposals that would give veterans the resources they so desperately need. This spring, Democrats attempted to add $1.2 billion for veterans' health care on the $82 billion Iraqi supplemental. And last September, Democrats sought to provide a $2.5 billion increase over the Bush budget for veterans' health care. Over the last month, House Republicans have voted four times to block consideration of amendments offered by Democrats to add the needed funds for VA health care. It is time that we as a body unite to defend those brave Americans who risked their lives to defend our great nation. I urge all Members to support the Motion to Instruct.

Ms. BORDALLO. Mr. Speaker, I rise today in support of the gentleman from Wisconsin's (Mr. OBEY's) Motion to Instruct Conferees on Veterans Health Care on H.R. 2361, the Interior Appropriations Bill. Our servicemen and women are making daily sacrifices for our Nation in far off lands. Many will return home scarred by combat wounds, many others scarred by the face of war. Having completed their service to our Nation overseas, these servicemen and women have earned more then a debt of gratitude from their Nation but a debt of care. In order to do this, we must properly fund the organization dedicated to their care, the Veterans Administration.

I am pleased that the gentleman from Wisconsin, Mr. OBEY, has offered a motion to highlight the inadequacy of the House passed appropriations measures for our Veterans. This motion instructs conferees to accept the Senate position on Veterans' medical care by adding a desperately needed $1.5 billion to the Veterans Administration budget.

Guam recently welcomed home a company of the Guam Army National Guard following the unit's combat tour in Djibouti, Africa. Many other sons and daughters of Guam have served on active duty in units across the Armed Services. I have an obligation to do everything possible for these heroes in ensuring that Congress has made a commitment to their care equivalent to the commitment they made to the care of our Nation.

It is time for the rhetoric of supporting our Soldiers and our Veterans to be met by our actions. I urge my colleagues to support the motion to instruct.

Mr. MILLER of Florida. Mr. Speaker, I want to thank the distinguished Chairman of this Subcommittee as well as Chairman LEWIS of the full Committee for their hard work and dedication to our Nation's service members and veterans. Working with the House Committee on Veterans' Affairs, the conference report accompanying H.R. 2361, the fiscal year 2006 appropriations act for the Department of Interior, addresses the urgent need in VA with an additional $1.5 billion allocated to the Veterans Health Administration. These funds are especially critical for VA to treat new veterans, those returning from Operation Enduring Freedom and Operation Iraqi Freedom veterans.

Year after year, the annual budget for the Veterans Health Administration is the subject of great debate. On February 16, 2005, VA Secretary Nicholson and other VA officials stood before the VA Committee and justified the Administration's budget request. Subsequently, we learned that all the hard work and tough choices Congress has made to increase VA health care funding—by no less than 42 percent in just the last four years—has now been overshadowed by a "discovery" of inadequate funding. Since then, the VA Committee has held three separate hearings over the past month and a half to understand and examine VA's methodologies for forecasting health care costs and utilization projections, to identify the breakdown in the budget process, and to bring to light the serious flaws in VA's usage assumptions.

Equally important, the conference report demands new levels of accountability inside VA, in fact, the VA Committee is seeking to institutionalize accountability in the budget process at VA to ensure that similar circumstances can be averted in the future. There is but one constant we can all agree upon: the VA must ensure a continuity of care for our severely disabled veterans.

While $1.5 billion seems to be the right figure at this point in time, there are only two months left in the fiscal year. This means that the Department of Veterans Affairs has the ability to roll over into fiscal year 2006 whatever sums remain unspent in fiscal year 2005. I expect department officials to spend wisely. With this particular provision, we are not only seeking to meet the urgent needs for the remainder of this year, but are providing a significant down payment on the shortfall we anticipate in fiscal year 2006.

Mr. Speaker, again, I applaud the work of Chairman LEWIS and Chairman TAYLOR of the Appropriations Committee, as well as the leadership of the House and Senate Veterans' Affairs Committees.

Mr. OBEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

APPOINTMENT OF CONFEREES ON H.R. 2985, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2006

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2985) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. OBEY. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I express this reservation in order to take a couple of moments to again express my disquiet about this legislative appropriation bill. I had originally intended to offer a motion to instruct conferees, but in the interest of time and comity, I will not do that. But I, under my reservation, want to make a number of points about funding contained in this bill.

This bill contains another large amount of taxpayers' dollars to pay for what is euphemistically referred to as the Capitol Visitors Center now being constructed on this end of the Capitol. In my view, that project has become a story of spectacular mismanagement and colossal government waste, and I feel obligated, as often as I have the opportunity, to object to the way this project has been handled and to object to what it is going to produce.

The cost of the Capitol Visitors Center, which was first estimated at $95 million, has now ballooned to well over $500 million, and there is no end in sight to the escalation in cost.

My second objection is that, for this money, we are getting a pitiful allocation of space to the major needs of the Congress and an outrageous, wasteful allocation of space to areas that I think represent far lower-grade needs. The current design of that Capitol Visitors Center, the House space under that project, provides for approximately 87,000 square feet of space, of which only 3,200 square feet is for hearing rooms where public business can be conducted. The major need of this Congress, if we are going to expand the size of this building, is to have rooms that are sufficiently large so that we can have conferences with the Senate and do our legislative business. Instead, the primary usable space in the House portion of this project is for, in essence, a media center or a propaganda center. It is to make the Congress comfortable with television. So we are going to have this elaborate, two-floor, ornate, state-of-the-art media center, communication center, propaganda center, whatever you want to call it, but we will have tiny rooms for conference committees and very little additional usable space. In short, what I think we will have in the end is an opulent Taj Mahal, abundance of show space, but we will have a shortage of usable working space. I think that is regrettable given what the taxpayer is going to be asked to spend.

I would also say again that I find it incredible to hear the changing justifications for the new theater which is going to be in the visitors center. There is a huge 450-seat theater which is being built at a cost of many millions of dollars. When I asked why we need another room of that size, I was told, well, because it is a place where Members of Congress can bring large constituency groups. I do not know how many Members of Congress bring 450 people into a room in the Capitol, but if there is a Member who has ever tried to do that, I have never met him.

Secondly, we were then told, well, actually this will be good space for the House of Representatives to meet in when its existing House Chamber, the room that we are in now, is refurbished and reengineered and redecorated. The only problem with that, Mr. Speaker, is that we already have a room, the Ways and Means Committee room in the Longworth Building, which was built for that purpose, to serve as a backup House Chamber, and which was just redecorated at a cost of many, many dollars. It is beautiful. It ought to be sufficient. In addition to that, there is yet another Chamber being built for the House off-campus, which I cannot talk about because it is classified. So we are going to have two backup Chambers at a cost of an enormous amount.

☐ 1300

And when we really dig into what this room is really supposed to be for, we discover that in the original budget justifications, what it was designated as, is being an additional theater for the Library of Congress.

So those are some of my objections to this bill, and I believe that this is the last chance that we have to get the leadership of this House and the Architect of the Capitol to at least change the way the space is being designed so that it is more usable, more efficient, and more useful to produce legislative products rather than propaganda press releases out of a media center.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. LINDER). Is there objection the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Mr. LEWIS of California, Mr. KINGSTON, Ms. GRANGER, and Messrs. DOOLITTLE, LAHOOD, OBEY, HOYER, and MORAN of Virginia.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on three motions to suspend the rules and on a motion to instruct conferees previously postponed.

Votes will be taken in the following order:

H.R. 3200, a motion to suspend, by the yeas and nays;

H.R. 3283, a motion to suspend, by the yeas and nays;

H.R. 2361, a motion to instruct, by the yeas and nays; and

H.R. 2977, a motion to suspend, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

SERVICEMEMBERS' GROUP LIFE INSURANCE ENHANCEMENT ACT OF 2005

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3200.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BUYER) that the House suspend the rules and pass the bill, H.R. 3200, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 9, as follows:

[Roll No. 420]

YEAS—424

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—9

Castle
Cox
Cramer
DeLay
Feeney
Gibbons
Moran (VA)
Payne
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LINDER) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1324

Mr. COSTELLO changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

UNITED STATES TRADE RIGHTS ENFORCEMENT ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3283, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 3283, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 240, nays 186, not voting 7, as follows:

[Roll No. 421]

YEAS—240

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
Engel
English (PA)
Etheridge
Everett
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Towns
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—186

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bartlett (MD)
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Eshoo
Evans
Farr
Fattah
Filner
Flake
Ford
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kirk
Kolbe
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—7

Cox
Cramer
Feeney
Gibbons
Payne
Peterson (MN)
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LINDER) (during the vote). There are 2 minutes remaining in this vote.

□ 1334

So (two-thirds not having voted in favor thereof) the bill was not agreed to.

The result of the vote was announced as above recorded.

MOTION TO INSTRUCT CONFEREES ON H.R. 2361, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

THE SPEAKER pro tempore. The pending business is the question on the motion to instruct conferees on H.R. 2361.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY), on which the yeas and nays were ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 426, nays 0, not voting 7, as follows:

[Roll No. 422]

YEAS—426

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo

Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—7

Cox
Cramer
Feeney
Gibbons
Payne
Stearns
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1342

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WELDON of Florida. Mr. Speaker, due to the launch of the Space Shuttle Discovery earlier today, I was unable to be present for several votes. Had I been present, I would ask that the official RECORD reflect that I would have voted in favor of the following bills: H.R. 2977—Paul Kasten Post Office Building Designation Act; H.R. 3200—Servicemembers' Group Life Insurance Enhancement Act of 2005; and H.R. 3283—United States Trade Rights Enforcement Act.

Also, I would have voted in favor of the Obey Motion to Instruct Conferees on H.R. 2361—Department of the Interior, Environment, and Related Agencies Appropriations Act for FY 2006.

PAUL KASTEN POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H.R. 2977.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and agree to the resolution, H.R. 2977, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 11, as follows:

[Roll No. 423]

YEAS—422

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

Boehlert
Cox
Cramer
Dicks
Feeney
Gibbons
Gillmor
Oberstar
Payne
Sanders
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HEFLEY) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1350

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 2361, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees on H.R. 2361: Messrs. TAYLOR of North Carolina, LEWIS of California, WAMP, PETERSON of Pennsylvania, SHERWOOD, ISTOOK, ADERHOLT, DOOLITTLE, SIMPSON, DICKS, OBEY, MORAN of Virginia, HINCHEY, OLVER, and MOLLOHAN.

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 525, SMALL BUSINESS HEALTH FAIRNESS ACT OF 2005

Mr. BISHOP of Utah. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 379 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 379

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 525) to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees. The bill shall be considered as read. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce; (2) the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Kind of Wisconsin or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Utah (Mr. BISHOP) is recognized for 1 hour.

Mr. BISHOP of Utah. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from California (Ms. MATSUI), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

This resolution provides for a structured rule and provides for 1 hour of debate equally divided between the chairman and ranking minority member of Committee on Education and the Workforce, waives all points of order against consideration of the bill, and makes in order an amendment in the nature of a substitute offered by the minority. This is a good and a fair rule. It allows the House to focus the debate and the vote upon two different approaches aimed at helping America's small businesses to offer health coverage to its employees, and to debate and examine the proper role of the Federal Government in the health care arena.

Amendments not made in order were offered and discussed by the committee, so it is appropriate, I think, not to duplicate that committee action here on the floor.

H.R. 525 is the Small Business Health Fairness Act of 2005, sponsored by the distinguished gentleman from Texas (Mr. SAM JOHNSON), and is virtually identical to legislation passed in the 108th Congress, then H.R. 660, which passed this House by a 90-vote margin of 252 to 162. So I commend the subcommittee chairman, the gentleman from Texas (Mr. SAM JOHNSON); the chairman of the full committee, the gentleman from Ohio (Mr. BOEHNER), for once again moving this bill through the committee process.

Mr. Speaker, H.R. 525 is a modest bill. It does not seek to address every aspect of health care in America. It does not seek to mandate Federal control into every aspect of medical treatments. To the chagrin of some of my friends on both sides of the aisle, it does not move our country in the direction of government control and taxpayer-funded universal health care.

What it does do, and this is really the bottom line, is make health insurance more affordable to small business and thereby increase the total number of Americans and families that are insured.

H.R. 525, if enacted, will result in more Americans and more American families being covered by private health insurance, and that is a worthy goal that we should all be working to achieve.

Mr. Speaker, I would like to point out that large corporations and unions already enjoy, many through ERISA, the same insurance-risk pooling features and already enjoy the cost efficiencies built into this health coverage package for their workers and their members. This bill, therefore, is about achieving a measure of fairness towards small business, an effort for the mom and pop businesses and industries to be treated the same way as giant corporations and union organizations.

The small guy will have nothing the large guy does not already have, with specific regulations placed in the bill to ensure against unfair pooling practices. It has bipartisan support from a wide range of groups, from the U.S. Chamber of Commerce, the National Federation of American Business, the American Farming Bureau, Associated Builders and Contractors, the Latino Coalition, the National Black Chamber of Commerce, the National Association of Women Business Owners and the National Restaurant Association, as well as many others.

In the course of this debate, Mr. Speaker, there will be many who will be giving facts and figures. I do not wish to go into those right now. But I wish to make sure that this is part of a larger picture.

As politicians, we oftentimes talk about the Nation or issues being at a crossroads. We do that a lot because it is a very dramatic phrase, and it makes us seem more important because we are in the middle of it. But I do believe in the issue of health care and insurance we are as a Nation in the crossroads. We can take one direction which would be to have greater government control, especially on the Federal level which ultimately would lead to a single-payer Federal program where decisions, right or wrong, would be made here.

Indeed, I think the substitute that will be ordered is illustrative not in topic but in spirit of this, where there is greater government control, greater regulations being put in there so that one wonders if the issue is really health insurance or if the issue is control.

The other approach that we are in the crossroads of and could take would be an approach to try and add market forces into the system to try and move some type of reforms along the way. This bill is not a panacea for all of our health care issues; but it is a step for certain groups who are currently excluded, often by well-intended decisions of the government.

I clearly understand both sides of these particular issues. I was a State legislator who did both while I was down there. There were requirements in health care which I thought were good at the time, which I also knew were costly at the time; and I also realize in hindsight, in helping one group of very vulnerable people, we actually hurt a different group of very vulnerable people.

For example, in my State, family health care is covered for everyone until the age of 25. When I joined this august body, all of the sudden the limitation was now at age 22, not 25; and I immediately realized I had three sons who had no health insurance whatsoever. I still have two sons who are out there in that risky group with no health insurance whatsoever.

I clearly realized from personal experience that all the mandates of coverage of health care systems are useless to those who cannot get or cannot afford insurance in the first place.

My oldest son finally got a job with a large corporation. I was very relieved that now he has insurance until a couple of weeks ago when he came and talked to me about joining a friend in an entrepreneurial enterprise, in which case they would start their own business. I should have been excited about his attitude; but the first question out of my mouth was, Well, what about your insurance?

We make decisions here that have far-reaching effects in creating a society of limitations instead of visions as they should be. With all sorts of good intentions, government also has helped create people whose options are shut to them when all they want really is hope and the freedom to choose some kind of options. Sometimes it is a matter of control of those options, which is frightening for any government level to try and give up.

This bill does not try to create mandatory efforts. It tries to create options. It tries to create options from which people can choose. People who are not now covered have a chance to be covered in some way with insurance. Regardless of how one votes on this issue in the past or in the future, this is a fair rule. With that, I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I thank the gentleman from Utah (Mr. BISHOP) for yielding me this time, and I yield myself such time as I may consume.

☐ 1400

Mr. Speaker, today I rise in opposition to this rule and the underlying measure of H.R. 525. This country leads in medicine and technology. When combined with increased education and awareness, we have made diseases more preventable and treatable. We have made huge strides, for example, diagnosing and treating breast cancer. Women are now going in for annual mammograms. In and of itself, mammograms do not prevent breast cancer, but they can save lives by finding breast cancer as early as possible.

For example, mammograms have been shown to lower the chance of dying from breast cancer by 35 percent in women over the age of 50. And studies suggest for women between 40 and 50, they may lower the chance of dying of breast cancer by 25 to 35 percent.

Having worked on educational campaigns for over a decade, I know that it has not been easy to convince women that they should be asking their doctor for a mammogram, nor, I might add, has it been easy to ensure that health insurance companies cover the cost of these mammograms. But through the tireless efforts of doctors, survivors, and advocates, the insurance companies relented.

Today we are increasingly catching and treating breast cancer in the early stages, yet the legislation we are debating here on the floor today would effectively roll back these advances, and, even worse, doctors would now have to tell the 28-year-old woman who thinks she has found a lump in her breast that her health care insurance does not cover a mammogram to better see the abnormality; that her health care coverage is no longer subject to minimum standards established by her State because she is covered by an associated health plan, an AHP, which is located in a different State with far more relaxed laws on health care coverage.

Too many Americans are already without sufficient health care coverage. They are being forced to accept health care that does not provide what they need when they fall ill, whether it is breast cancer exams, diabetes medication, or childhood vaccinations. Why would we increase the number of these individuals without adequate health care coverage?

Some may claim that these standards for health care treatments, like those that require insurance companies to cover mammograms, are nothing but burdensome regulations, but these safeguards go to the heart of what responsible health care is all about: providing necessary care to those in need. And AHPs would not even reduce the cost of the premiums. Under the legislation we debate today, AHPs could skim off a small minority of small businesses, those with younger and healthier workforces. As a direct result, 80 percent of small businesses would see an increase in their health care premiums.

Mr. Speaker, I truly question what we are doing today. Why would we create a situation that increases the already skyrocketing health care costs for four out of five small businesses? Sadly, this is what we are doing. We are putting our small businesses in the awkward position of not being able to offer health care coverage to that young woman facing the possibility of breast cancer, or offering access to a health care plan that will not cover her diagnosis and certainly not a treatment.

We could do better by that young woman and our Nation's small business owners. Congress could pass the Democratic substitute offered by the gentleman from Wisconsin (Mr. KIND) and the gentleman from New Jersey (Mr. ANDREWS), which would allow small business employees to access the same quality health care coverage which Federal employees enjoy. The substitute's Federal partnership would allow this plan to be offered at an affordable price. This alternative would truly have a positive impact, ensuring that Americans have access to affordable and quality health care. I urge my colleagues to support it.

Unfortunately, the legislation we debate on the floor, H.R. 525, which would create AHPs will most likely worsen health care situations. Mr. Speaker, if we, Members of Congress, would not accept a health plan that does not include minimum coverage, why then should the American people?

We have an opportunity today. We can support the Democratic alternative and pass legislation that actually addresses the critical health care problems facing small business owners, or we can pass the legislation in front of us that does the opposite. It should not be a difficult decision. Mr. Speaker, I urge all Members to votes against the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I thank my friend and colleague on the Committee on Rules, the gentleman from Utah (Mr. BISHOP), for yielding me this time; and I rise today in support of the rule and the underlying legislation, the Small Business Health Fairness Act.

Mr. Speaker, a trip to the doctor should not bust the family budget. Too many of America's small business employees go without health insurance or pay a big chunk of their paycheck for health care. This House has acted on four separate occasions in a bipartisan way to pass reforms that will allow small business owners to provide their employees with affordable health insurance options, yet our efforts to help reduce the ranks of the uninsured has not gone forward.

This crucial legislation allows small business owners to have similar purchasing power for health insurance as large corporations. The creation of association health plans will permit small business owners to band together through a trade association or other method to purchase health insurance for them and their employees. The ability to provide health insurance is critical for our small businesses to remain competitive.

Mr. Speaker, workers are frustrated with paying the high cost of health care. Congress needs to finish this job and pass association health plans into law. I urge my colleagues to support the rule and the underlying legislation.

Ms. MATSUI. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I want to thank the gentlewoman for yielding me this time and for her leadership and consistent work on behalf of the American people regardless of what issue and what bills we are dealing with today. I want to say that I join her today in opposition to this rule and to the underlying bill. It is fundamentally flawed not only for what it does, but for what it fails to do.

Mr. Speaker, if this bill were made law, we would still have well over 44 million people in our country uninsured. Something is wrong. Something is fundamentally wrong where in the wealthiest Nation in the world we have 44 million uninsured. Where, quite frankly, is the morality in that? Under this bill, of the 45 million uninsured Americans in this country, only 600,000 people would move into coverage, while 10,000 workers with coverage would be pushed off of their current plans.

Not only does this bill fail to provide any significant coverage for the uninsured, it also puts women and girls at risk by preempting very strong State laws. Specifically, the bill overrides contraceptive protections in 21 States that currently ensure access to contraceptives and treatments for sexually transmitted diseases. Clearly, Mr. Speaker, this bill puts women and girls at risk and makes empty promises to millions of uninsured Americans in desperate need of health care.

Instead of considering this bill, we should be debating the real question: How do we begin to put people before profits in our own health care system? Millions of Americans are calling on Congress to address this question by debating and voting on meaningful proposals, like universal health care, reimportation of prescription drugs, and allowing HHS to negotiate drug prices for Medicare recipients. It is time for Congress to wake up and take a hard look at our broken health care system. It is time for us to make a real effort at reform.

Mr. Speaker, H.R. 525 does nothing to expand health care to those who need it the most, and it undermines vital protections for women and girls. As a former small business owner, I know from years of experience the difficulties small businesses face due to a lack of consistent cash flow to afford these payments. Profitability for small businesses to afford health care contributions should really be addressed, and that is what we should be talking about today.

What this bill should do is assist small employers or employees in affording premium payments. I am sure that is why 69 local Chambers of Commerce, the National Governors Association, 41 attorneys general, Blue Cross/Blue Shield, and over 1,300 business, labor and community organizations oppose H.R. 525. This bill is bad for the health of our country.

Mr. BISHOP of Utah. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, uninsured working families are looking to Congress for answers to help give them access to quality health care, and before us today is a bipartisan bill that should give them hope.

The economic picture remains bright, and more Americans are finding work every day. Earlier this month, the Department of Labor reported that 3.7 million new jobs have been created since May of 2003, marking 25 consecutive months of positive job growth for the U.S. economy. Unfortunately, there are still millions of working families without health insurance. They need access to quality health care, and they are asking for our help. The bill we will consider on the floor later today responds directly to their needs.

It is simply unacceptable that more than 45 million Americans lack health insurance today. Studies indicate that 60 percent of these uninsured Americans either work for a small business or are dependent upon someone who does. Many of these Americans work for small employers who cannot afford to purchase quality health insurance benefits for their workers. That is the crux of the problem. More Americans are finding new jobs, but many small businesses cannot afford to offer health insurance because of rising premium costs.

Our primary goal here in Congress, Mr. Speaker, should be creating affordable options to help the uninsured. With health care costs continuing to rise sharply across the country, more and more employers and their employees are sharing the burden of increased premiums. Employer-based health insurance premiums rose by 11 percent last year, following a 15 percent increase in 2003. As costs escalate, the ranks of the uninsured could continue to increase as well.

The Small Business Health Fairness Act before us represents a bipartisan solution to this problem. By creating association health plans, the bill gives small businesses the opportunity to band together through bona fide trade associations and purchase quality health insurance for their workers at a lower cost. In the last year, we have seen how large corporations are now starting to band together to provide health care to their part-time workers. Small businesses and their workers deserve the same opportunities.

This bipartisan bill would increase small businesses' bargaining power with health care providers, giving them freedom from costly State-mandated benefit packages and lowering their overhead costs by as much as 30 percent, which are benefits many large corporations and unions already enjoy. By pooling their resources and increasing their bargaining power, association health plans will reduce the cost of health insurance for employers and allow more small businesses to provide health care to their workers.

Last year, the House passed this measure on a bipartisan basis with the support of 37 of my colleagues on the other side of the aisle. Unfortunately, the other body has yet to act on this bill. But there remains hope. Senator ENZI, who chairs the Senate Committee on Health, Education, Labor, and Pensions, has expressed a strong interest in working on this proposal, and I am more optimistic than ever that the Senate will address this problem.

This measure is supported by President Bush, the Labor Department, Republicans and Democrats, and, moreover, a poll conducted last year reveals that 93 percent of Americans support AHPs as an option for providing affordable health care for American workers. Small businesses deserve the chance to obtain high-quality health insurance at an affordable price for their workers, and AHPs are a prescription for helping the uninsured.

Mr. Speaker, I think the rule before us today is a fair rule, and I urge my colleagues to support it.

Ms. MATSUI. Mr. Speaker, I yield myself such time as I may consume to comment that only 1 out of every 14 people enrolled in an AHP will be newly insured. Overwhelmingly, this is a bill that shifts the already insured into plans with lower coverage.

Mr. Speaker, I yield 4 minutes to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. McCARTHY. Mr. Speaker, I oppose this rule and the underlying bill because it will result in preempting State laws and in a reduction in health care. AHPs would be exempt from having to provide certain critical services, preempting State laws which require coverage.

Mr. Speaker, this Nation spends millions and millions of dollars on cancer treatments. We also spend millions of dollars just on research and development. This bill would take away a tool that is used to save lives.

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The gentlewoman from California (Ms. WOOLSEY) and I offered an amendment to this legislation both in committee and again last night in the Committee on Rules. The amendment would have prohibited employers from joining AHPs if it would mean a reduction in coverage for breast and cervical cancer services. Unfortunately, the amendment was not accepted.

Almost every State has recognized the need to cut health care costs and still provide quality services to their citizens. The States know that without guaranteeing these services, patients will not receive the health care they need. Members have to remember the attorneys general fought in their States to make sure that women would have this care. Why did they fight for it? Because the insurance companies would not offer it.

According to the American Cancer Society, over 211,000 new cases of breast cancer will be diagnosed in the United States in this year alone. In New York State, there will be 14,000 new cases of breast cancer diagnosed this year alone. Breast cancer is a potentially fatal, but very treatable, disease. However, early detection is the key to proper treatment. Mammogram screenings are essential for the early detection of breast cancer. Timely screening can prevent 15 to 30 percent of all deaths from breast cancer among women over 40 years old.

Currently, New York and 48 other States require insurance companies to cover mammogram screenings. The U.S. Department of Health and Human Services has stated that mammograms save women's lives. Former Secretary Tommy Thompson stated, "The Federal Government makes a clear recommendation for women over 40 to have mammograms, get screened for breast cancer with mammograms every 1 to 2 years. The early detection of breast cancer can save lives."

Preventive screening for cervical cancer is also vital for women's health. Over 10,000 new cases of cervical cancer will be diagnosed this year, and nearly 1,000 of those cases are residing in my home State of New York. Nearly 4,000 women will die in 2005 from cervical cancer.

Preserving the coverage of mammograms and cervical screenings will help save the lives of our wives, mothers and daughters, and also keep down the cost of health care in this country. I know many of my colleagues on both sides of the aisle have supported similar measures while in their home States as legislators. They have shown commitment to their home State, and now it is time to show commitment to the Nation.

As a nurse, I know first hand the importance of early detection. I have seen the hardships cancer patients endure. Since I have been here, I have done outreach within my district to get women in for their cervical exams and women over 40 in to get their mammograms. This is very important, and we should not miss this opportunity to save lives. For this reason, I oppose the rule and the underlying bill.

Mr. BISHOP of Utah. Mr. Speaker, I yield 1½ minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I appreciate this opportunity to speak on behalf of the rule and the underlying legislation.

Mr. Speaker, I would like to just mention a personal story. I have a son-in-law who manages 150 stores. They are part of a franchise and are spread across 40 different States. If they have to purchase health care store by store, it is prohibitively expensive. Their costs are going up 10 to 20 percent a year. One of the previous speakers said it may not add a whole lot of people, but what is happening is we are losing more and more people out of health care plans each year because small businesses simply cannot afford it.

If they can band together, those 150 stores, and pool their resources and have 500 employees in a pool, they have a chance to keep their health care. I think it is critical.

Mr. Speaker, 60 percent of all Americans work for small businesses, and this is key to this legislation. Small businesses are particularly important to rural areas like Nebraska. The measure would do three things: one, increase small business' bargaining power with health care providers; number two, give them freedom from costly state-mandated benefit packages. In many cases, the State regulations simply stifle the health care packages. And, number three, lower their overhead cost by as much as 30 percent.

Republicans and Democrats alike have joined together in each of the last two Congresses to pass this legislation. I urge support of the underlying rule and the bill.

Ms. MATSUI. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I rise in opposition to the rule even though it has made in order a substitute that the gentleman from New Jersey (Mr. ANDREWS) and I will be offering.

The reason I rise in opposition is because this is such an important issue that we really should have an open and fair and reasonable debate on the floor of the House of Representatives. Eight of the Democratic amendments offered last night were effectively blocked. Instead, we have a closed rule that will allow some time for general debate on the AHP underlying bill, an hour on the substitute, and that is it.

I think we can all stipulate that when we go home, this is clearly the overriding issue we hear from our constituents: the rising cost of health care and the inability, especially in small businesses, to be able to afford and access quality health care which is crucial to a growing and vibrant economy.

There is a reason why we are here year after year debating the same issue, and that is because the underlying bill is bad policy. It is recognized as bad policy by over 1,400 organizations nationwide that have come out and publicly opposed it, including the National Governors Association, both the Democratic and the Republican Governors associations; including 41 of the States attorneys general; the National Association of Insurance Commissioners; the National Conference of State Legislatures, all of whom recognize this does not make sense, it is bad policy and we should offer something more than just a broken promise or false hope to small businesses and their employees hoping to obtain coverage.

There should be an unwritten rule when we are debating any type of health care policy changes, and that is following the Hippocratic Oath that our doctors and health care providers follow: first, do no harm.

Unfortunately, the AHP bill before us today does plenty of harm. And, again, it has been recognized by independent studies both within the congressional body and outside. In fact, a recent Mercer Study indicates that adoption of this AHP legislation could raise the ranks of the uninsured by over 1 million people. You would think that alone would be enough for a "no" vote on this underlying bill. Any policy that is going to increase the number of uninsured, which is roughly between 45 and 48 million today, is something that we should resist.

It also shows that those who do not join AHPs and are not part of an association, who have health coverage for their employees, the premiums are going to increase for those people by 23 percent. This is consistent with what the Congressional Budget Office has shown in their study that shows that adoption of this bill would leave 20 million of the workers with higher premium payments overall.

Also, recently there was a study out of Georgetown University that shows that adoption of this bill, and again it is consistent with past GAO studies, would increase the likelihood of greater fraud and abuse within the associated health plan system. The GAO in a study showed that there are 144 illegal AHPs operating affecting every State in the Union with unpaid claims affecting over 200,000 workers today.

The underlying bill is going to take oversight and accountability away from the States where it has traditionally resided with oversight powers and audit responsibilities, put it in the Department of Labor with insufficient resources and no accountability and no oversight at all. Because of that, the State attorneys general in a letter stated: "The elimination of the State role and replacement with weak Federal oversight is a bad deal for small businesses and consumers."

Finally, as the gentlewoman from New York (Mrs. MCCARTHY) has indicated, it does preempt consumer protection which has been traditionally guaranteed by the States if they found that necessary.

So there are a lot of reasons why the underlying bill before us today is bad policy. That is one of the reasons it has had a difficult time moving through the Senate. We are going to have a substitute offered that the gentleman from New Jersey (Mr. ANDREWS) and I and others who support think is a viable and reasonable approach to deal with the growing health care crisis that so many of our small businesses and their employees are facing. It is a bill that does allow the purchasing pool concept to go forward, but it is modeled after what Federal employees currently have under their health care plan. And it also does not preempt State law.

Mr. Speaker, I ask my colleagues to defeat the rule so we have an honest debate and support the substitute and vote "no" on the underlying bill.

Mr. BISHOP of Utah. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. KELLER), a member of the committee who has gone through this discussion many times.

Mr. KELLER. Mr. Speaker, I support the rule, and I support H.R. 525. The number one problem facing small businesses today is the skyrocketing cost of health insurance. Association health plans are a big part of the solution.

I met with many small business people in my hometown of Orlando, Florida, and they told me they need association health plans. I agree with them, and here is why: of the 45 million Americans without health insurance, 60 percent are small business employees and their families. They do not have health insurance because their small business employers cannot afford it.

If we would allow these small businesses to join together, they could have the same bargaining power as large Fortune 500 corporations, which could lower their health insurance premiums by up to 30 percent. Association health plans will increase access to health care for millions of Americans now without insurance.

It certainly is an issue that is personal to me. I had the happy privilege of flying down to Orlando, Florida, with President Bush on Air Force One on March 18 of this year. He asked me what, if anything, he could do to help small businesses in my area. I told him what the small businesses told me: the number one thing they want is association health plans, and he pledged to support it and use his bully pulpit to help it get through the Senate.

I also authored a Small Business Bill of Rights that passed this House back in April. It called for the passage of association health plans, fixing the death tax, and cracking down on frivolous lawsuits. This House is on record as supporting that. It is time for us to take the lead today and help small business people provide health insurance to their employees. Vote "yes" on the rule and vote "yes" on H.R. 525. I urge my colleagues to do these things.

Ms. MATSUI. Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, increasingly, one of the things I hear from small business owners back in Tennessee is they want Congress to open the way, just to open the way and set the stage for more affordable health care choices.

Over 90 percent of the jobs in Tennessee are small business jobs. It is the largest employer in my district.

Mr. Speaker, one of the things that we hear is that these employers want to do the best they can for their employees. They feel like they are a part of their family. The gentleman from Texas (Mr. SAM JOHNSON) really should be applauded for introducing the Small Business Health Fairness Act of 2005. It is one of those things that will help small businesses, as we have heard from so many of the speakers, to pool together and to purchase association health plans through their national trade groups.

I have joined him as a co-sponsor of the legislation, and I believe we do have that opportunity to extend affordable, quality health care to millions of Americans. Every small business owner knows that providing quality health care is one of the most costly items in running a business. It is a very difficult part, handling the mountains of paperwork and finding the right policies. We have the power to help by passing this commonsense legislation. I ask my colleagues to support the rule and to support the underlying legislation.

Ms. MATSUI. Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Speaker, today I rise in strong support of the rule for H.R. 525, the Small Business Health Fairness Act of 2005, offered by the gentleman from Texas (Mr. SAM JOHNSON).

Mr. Speaker, if we do not act soon, America will face a health care crisis. Health care costs are skyrocketing. We all know it; and, unfortunately, so do the ranks of America's uninsured. As usual, government is part of the problem. More freedom and more competition is part of the solution.

With nearly half of the 45 million uninsured Americans employed by small businesses, or dependent upon someone who is, H.R. 525 will help more Americans get access to the affordable health insurance they need.

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H.R. 525 would allow the creation of association health plans to help alleviate the enormous health care burden on America's small businesses. They will empower small businesses to join together to bargain with insurance carriers to get health care coverage for their workers at an affordable cost. No affordable cost, no insurance. Under current law, large employers that self-insure are exempt from State mandates while small businesses are not. This increases the cost of health insurance up to 13 percent and bars up to one-quarter of the uninsured from acquiring health care.

Mr. Speaker, that is not right. Small businesses and their employees should have the same right to quality health care insurance that large corporations and unions already enjoy. The Congressional Budget Office estimates that association health plans could actually reduce premiums for small businesses up to 25 percent. That could mean an average savings of $1,000 to $2,000 for the average family health plan offered by a small business. That means more people covered, more lives saved.

I urge all my colleagues to support the rule for H.R. 525 and the underlying legislation. With association health plans, we can dramatically reduce the number of uninsured Americans while increasing health care access, affordability, and choice.

Ms. MATSUI. Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield myself such time as I may consume.

I must admit that much of the opposition gloom-and-doom predictions are based on assumptions of what people and companies will choose to do and, therefore, the government should make those mandates. I am pleased that this particular piece of legislation is based on the assumption that people have the ability to make good choices for themselves without the assistance of the heavy hand of government.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON), the sponsor of this bill.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I am pleased to be here today to support the rule to govern H.R. 525, the Small Business Health Fairness Act of 2005. As costs continue to escalate annually at unprecedented rates, our employers are being forced to drop health care coverage, or not be able to afford it at all. Our small businesses share a large part of that burden because they are forced to shop for health insurance in the costly small group market. Large employers bring bargaining clout to the table when they work with insurance companies. Small businesses have fewer employees and thus have little or no bargaining power. Not only that, but large employers and unions are exempt from burdensome State mandates. These mandates dictate what health plans must cover and which vary from State to State. Small employers do not have that luxury.

We know that more than 60 percent of the over-40 million uninsured Americans either work for a small business or are dependent upon someone who does. The clear course of action here is to help our small businesses afford health coverage by giving them the same opportunity.

Association health plans, or AHPs, do just that. Small businesses would be able to group together in bona fide trade associations. AHPs would then be able to use economies of scale to their advantage and provide more affordable health care for working families while avoiding the administrative cost of State mandates. AHPs are expected to save small business owners and their employees as much as 30 percent on their health insurance.

This bipartisan bill makes sense. The time to act is now. I urge a "yes" vote on this rule.

Ms. MATSUI. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank my friend from California for yielding me this time.

I hear the phrase "burdensome State mandates." A woman has a C section and gets to stay in the hospital for at least 48 hours. A woman has the right under a health insurance policy to get a mammogram paid for by the insurance company every year. A diabetic has the right to get insulin provided and other blood care paid for by their insurance company. These are the burdensome mandates that we hear talked about on the floor. One of my other friends talked about the heavy hand of government. That heavy hand of government in this case is evidently shared by Republican Governors around the country, because the National Governors Association opposes this bill. Republican and Democratic Governors have looked at this bill and said laws that they have passed that many of our friends on the majority side voted for in State legislatures around the country, laws that protect C sections, mammograms, diabetic care, substance abuse care, mental health care, these laws should not be repealed and thrown aside by the heavy hand of government at the Federal level. That is what this is really about.

Amendments that would have addressed these issues, that would have let us discuss these issues on this floor, were prohibited by the rule that we are debating right now. I would suspect that maybe one of the reasons they were prohibited is because Republican attorneys general and Republican Governors around the country would have supported such amendments because they oppose the good work that is undone by this bill. Members should oppose this rule and eventually, after debate, oppose the underlying bill.

Mr. BISHOP of Utah. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in strong support of H. Res. 379 and the underlying bill, H.R. 525, the Small Business Health Fairness Act of 2005. My good friend, the gentleman from New Jersey, just spoke about some mandates regarding OB care and, of course, there are mandates that have been passed in the several States, all 50, in fact, that are very compassionate sounding. The gentleman from New Jersey is right. Many of us have, as former members of State legislatures, voted for mandates.

I am one of them. In fact, in the State of Georgia, there was a mandate, because of managed care intrusion and the requirement that everybody go through a gatekeeper and not to a specialist, that women in the State of Georgia, if any health insurance policy was written, they would have direct access to their OB-GYN. Certainly, as an OB-GYN specialist, I liked that mandate. In fact, I think I voted for that one. But shortly after that along came the dermatologists and they wanted direct access to everybody who had an itch, to have to be able to go, demand to be seen by a specialist, a dermatologist, rather than their family practitioner.

I want to tell you about a couple of other mandates in the State of Georgia. There was one to require that every woman would have the right to have a blood test to be screened for ovarian cancer. It is called CEA-125. Any cancer specialist would tell you that that screening test for ovarian cancer is absolutely worthless. A better mandate would have been to say that anybody over age 30, any woman, could have an ultrasound done every 6 months to look at the ovaries, but that would be astronomically expensive. Another mandate in the State of Georgia says that every baby born in a hospital in the State of Georgia has to be screened for sickle cell anemia, even when they are a part of an ethnic group where the percentage of sickle cell anemia is zero. Nada. These mandates just go and on, and you have got them in all 50 States.

Clearly, we need to do something about that because they are driving up the cost of health care. We need to give people the opportunity to join their other employees in trade associations.

This is a good bill. It will reduce the rolls of the uninsured by 8 million people. I commend it to my colleagues on both sides of the aisle. I urge you to support this rule and pass the Sam Johnson legislation. It is a good bill. It will get people the protection they need and provide health care for so many who do not have it.

Ms. MATSUI. Mr. Speaker, I yield myself the balance of my time.

Earlier this month, the Los Angeles Times ran a story that I think cuts to the heart of this discussion. It is the story of a husband and wife living in Southern California. After successfully battling bone cancer 7 years earlier, Doug did what so many Americans would like to do. He started a small business making boat parts. Soon, he was approached by an AHP offering a $400-a-month health insurance policy which even included special cancer coverage.

Tragically, a few months after he purchased the policy, his cancer returned and it became quite clear that the quality of that association plan was not what Doug or his wife, Dana, expected. It turned out that this particular plan covered less than 18 percent of Doug's $550,000 treatment cost. Doug and Dana rapidly found themselves buried under hundreds of thousands of dollars in bills. And as his wife recounted to the Los Angeles Times, at several points before the cancer ultimately claimed his life, Doug begged her to divorce him so that she would not be responsible for his debt.

I cannot believe this is the solution we are offering to small business owners like Doug and Dana. The American people deserve better.

Mr. Speaker, this bill offers no health care solutions for small business owners. It raises premiums on 80 percent of small businesses; will increase the number of uninsured by 1 million people; and reduce coverage for another 7 million individuals who are most in need of care. My friends on the other side might find these facts inconvenient, but that does not make them less true. And it will accomplish all of this by loosening or removing consumer protections and by walking away from State mandates that guarantee treatment for diabetes and screenings for breast cancer.

We can do much, much better than this for America, Mr. Speaker. I urge Members to oppose the rule, oppose the underlying bill, and support the Kind-Andrews substitute.

Mr. Speaker, I yield back the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield myself the balance of my time.

I appreciate those who have spoken on the bill today. I appreciate the gentleman from Georgia (Mr. GINGREY), a member of the medical profession, who so eloquently talked about some of the realities of this particular bill and what we are looking at. And I appreciate the gentlewoman from California and her wonderful and kind way in which she handled the rule on the minority side.

Just as a means of criteria of what we are going through as far as the rule itself, every amendment that was proposed for this particular rule was discussed thoroughly and voted upon in the committee, with the exception of obviously the motion to recommit. With the debate we have had in previous years, every element of this bill has been thoroughly debated both on the floor and in committee, this year as well as in years past.

I have to admit, Mr. Speaker, my favorite Senator, even though I am not supposed to have one, is the junior Senator from Kentucky who is the only one to have won 100 games in both the American and the National League. Because of that, I have his baseball cards. I hope he does very well over there because if they continue to rise in value, that may be the only way I pay for my health care in the future.

I was reading on the airplane coming back yesterday of a story of Senator BUNNING when he was a pitcher for the Detroit Tigers and he was facing the Yankees. The Yankees sent out Bob Turley to be the first base coach because he was great at picking off signals. Sure enough, he knew what the signals were. His signal would be every time a fastball was coming, he would whistle at the batter. Hank Bauer is the first batter up there. Fastball, he whistled, Bauer hit a screamer into left field. The second batter is Tony Kubek. Fastball, whistle, he hit what would have been extra bases into right field except the second baseman caught the ball in self-defense.

The third hitter up is Mickey Mantle. By this time the pitcher is upset with what is going on and takes a couple of steps to Turley and says, "Next time you whistle, I'm going to drill the batter." He takes a couple of steps to the batter and tells him the same thing. Sure enough, a fastball, the whistle, Mantle does not swing. The next pitch is a slider which hits Mantle right in the legs. He is upset, takes a couple of steps towards the mound, but the catcher and the umpire direct him to first base.

The next batter up is Yogi Berra. Once again, fastball, the whistle comes, Yogi does not take it, but then remembering what happened, he steps out of the batter's box, cups his hands and yells back at Senator BUNNING who is the pitcher at this time and says, "He may be whistling, but I ain't listening."

Mr. Speaker, there are a lot of people who have been whistling at us on this particular issue. Every time I go to a town hall meeting, I face people who want some kind of relief in the ability of getting insurance. I get letters from them all the time. When small businesspeople come to my office, they are talking repeatedly about this particular issue. They are all whistling, asking for some kind of relief.

I realize I talked about my three sons who did not have insurance. My two that still do not will not have it under this bill because the provisions do not allow them to participate. But my next-door neighbor who is trying to make a living in a shop down on Main Street that does not have insurance could under the provisions of this bill. Those are real-life people who need this kind of assistance and help, and they cannot get it any other way. The status quo does not offer this kind of assistance. This is one of those few rays of hope that they will have. These people are truly whistling at us. Our job as Congress is to finally listen.

Mr. Speaker, I urge support of the rule on the underlying bill, H.R. 525.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

☐ 1445

PROVIDING FOR CONSIDERATION OF H.R. 22, POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 380 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 380

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 22) to reform the postal laws of the United States. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Government Reform now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. FORBES). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

This structured rule provides 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform, and waives all points of order against consideration of the bill. It provides that the amendment in the nature of a substitute recommended by the Committee on Government Reform now printed in the bill shall be considered as an original bill for the purpose of amendment and waives all points of order against the amendment in the nature of a substitute recommended by the Committee on Government Reform.

The rule makes in order only those amendments printed in the Committee on Rules report accompanying the resolution and provides that these amendments may be offered only in the order printed in the report, only by a Member designated in the report, and shall be considered as read. They shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

Finally, the rule waives all points of order against the amendments printed in the report and provides one motion to recommit with or without instructions.

Mr. Speaker, I rise in strong support of H.R. 22, the Postal Accountability and Enhancement Act, and this underlying rule. When I was first elected to Congress in 1996, I served on the Committee on Government Reform and Oversight's Postal Service Subcommittee, which was charged with the task of reforming our Nation's postal operations to make them more efficient, cost-effective, and responsive. And although I no longer serve on the committee or the subcommittee charged with the oversight of the U.S. Postal Service, my commitment to reforming the Postal Service has not decreased.

Today, for the first time in three decades, the gentleman from Virginia (Mr. TOM DAVIS), chairman of Committee on Government Reform; and the gentleman from New York (Mr. MCHUGH), my friend, have brought to the House floor a comprehensive bill that would vastly improve the United States Postal Service, and I would like to thank both of them for all the hard work that the Committee on Government Reform has invested in this legislation.

Since President Nixon signed the Postal Reorganization Act in 1970, the United States Postal Service has not significantly updated its fundamental operations. While this legislation helped to update the Postal Service and to move it from a bureaucracy subsidized by tax revenue to self-sufficiency, a market-based entity, the way that people communicate has changed dramatically over the last three decades, and the Postal Service must now evolve to meet the changing demands of consumers.

The Postal Service is a very large organization that sits at the center of a $900 billion industry, representing about 9 percent of America's GDP, that employs more than 9 million workers nationwide. It processes more than 200 billion pieces of mail to 130 million households and businesses every year, and it directly employs 700,000 people, making it the second largest employer in the country. If the Postal Service were a private company, it would rank 11th on the Fortune 500 in terms of revenue.

However, 21st century realities, including decreasing volume; insufficient revenue; mounting debts; and the rapid growth of electronic communications for advertising, bill payments, and information transfer present an enormous challenge to the Postal Service in fulfilling its mission to "provide postal services that bind the Nation together through the correspondence of the people, to provide access in all communities, and to offer prompt, reliable postal services at uniform prices."

H.R. 22 maps out a responsible and accountable future for the United States Postal Service that will provide increased oversight for its operations, renew its focus on its core mission of delivering the mail, and save as many as 1.5 million jobs in the private sector that rely on the Postal, and accomplishing all of this without imposing a significant new tax burden on every American who uses stamps.

This bill would transform today's Postal Rate Commission into the Postal Regulatory Commission and give it to the authority to ensure that the Postal Service as an efficient and responsible operation in the 21st Century environment exists. It would require the Postal Service to account for all of its costs in SCC-like financial disclosure statements and give the Regulatory Commission the authority to punish the Postal Service for any noncompliance. It would also subject the Postal Service to antitrust laws, require the Regulatory Commission to account for the advantages that its government status confers, and build these advantages into a competitive product that helps to raise the level playing field with private business.

H.R. 22 would renew the Postal Service's focus on its core mission also of collecting, sorting, transporting, and delivering the mail more efficiently, and to bar it from new nonpostal products and services already being provided efficiently by the private sector. It would also prevent a 2-cent postage rate increase this year with another even larger increase that might have been anticipated next year that would act as a significant drain and backdoor tax on our growing economy.

According to estimates, if mail decreased by 10 percent, over 780,000 mailing industry jobs would also be at risk; and if decreased by 20 percent, over 1.5 million jobs would also be at risk.

As our economy continues to expand with 25 consecutive months of job gains adding over 3.7 million new jobs to payrolls, and payroll employment having increased by 2.1 over the year, we should not be adding artificial impediments to future job growth and expansion like a stamp price increase. Adding this new stealth tax on American families and businesses would simply accelerate the movement of mailers to other communications media, decreasing volumes at the Postal Service even further and exposing taxpayers to the unfunded obligations of the United States Postal Service.

I am very proud of the hard work that so many Members have put into reforming the United States Postal Service to ensure that it is a dynamic, market-based entity that provides uniform and universal service to America while preventing its status as a government entity from subsidizing its competition for providing goods and services already being supplied by the private sector.

I would personally like to thank the gentleman from New York (Mr. McHUGH) and the gentleman from Virginia (Mr. TOM DAVIS), our wonderful chairman, for their tireless efforts to improve the United States Postal Office.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, I rise today with disappointment that the House is again considering a rule that blocks all but a select few from offering amendments. Let me make it clear I do not oppose the underlying bill, and I intend to vote for it, but the closed manner by which the majority is bringing the underlying bill to the floor is just plain wrong.

Yesterday in the Committee on Rules, the gentleman from Tennessee (Mr. FORD) offered an amendment that would permit military personnel on Active Duty in the Department of Defense-designated combat zones to receive packages on a postage-free basis. Under this rule, however, the gentleman from Tennessee (Mr. FORD) is not permitted to offer his amendment. I am disappointed and displeased that the majority has once again failed to provide the House with an opportunity to extend the most meager of benefits to those men and women who risk their lives so that all of us can be free. We really should be ashamed of ourselves.

As the gentleman from Texas has noted, Mr. Speaker, the Postal Accountability and Enhancement Act represents the first major restructuring of the United States Postal Service in over 30 years. This bill provides the Postal Service with greater flexibility to set its rates and manage its costs. It also creates a new regulatory system for overseeing the Postal Service's operations and levels the playing field for the Postal Service to finally compete against the megacommercial delivery services of the world.

Mr. Speaker, this legislation is long overdue. On July 26, 1775, Benjamin Franklin was named our country's first Postmaster General. It took the Continental Congress just 1 day to name Benjamin Franklin to that prestigious post. As many of my colleagues and students of American history are well aware, the Congress of 1775 had many great issues to deal with at that particular time, such as the Revolutionary War, disputes over taxes, and the issue of private landownership, just to name a few. Yet with all the great events that were taking place at the time, the Continental Congress still managed to name a Postmaster General in just 1 day. Ironically, it took President Bush 5 years to finally support the Postal Accountability and Enhancement Act.

□ 1500

Benjamin Franklin once said: "You may delay, but time will not."

Mr. Speaker, I applaud my colleagues on both sides of the aisle for refusing to delay this bill any further and for demonstrating the intuition to present such a sensible and necessary piece of legislation. The success of the legislative process by which the underlying bill comes to the floor today should serve as an example of what Congress can accomplish when bipartisanship and openness overwhelm political partisanship.

Mr. Speaker, I urge my colleagues to support the underlying legislation, and I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Florida (Mr. HASTINGS) has made some very good points, and that is that the work that has gone into this bill, while it has been some probably 10 years in the making, was done through strong leadership, it was done through strong bipartisan leadership, it was done not only with the negotiation of the United States Postal Service, its management and its unions, but also so many outside groups that had an influence in impacting a bill that was done properly.

A lot of that credit goes to the chairman of the Committee on Government Reform, who a long time ago decided that it was in the best interest of the economy of this country to make sure that a carefully crafted bill, a bipartisan bill that could be supported on this floor by members like the gentleman from Florida (Mr. HASTINGS) and the gentleman from Virginia (Mr. TOM DAVIS), who had served on the postal committee many years ago with me, would be able to bring forth to this floor a good answer. I am very proud to support this bill.

Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Speaker, I thank my friend, an alumnus of the Committee on Government Reform, a very active former committee member, for yielding me this time.

I rise today in support of House Resolution 380, the rule to provide for the consideration of the Postal Accountability and Enhancement Act.

"Neither snow nor rain nor heat nor gloom of night stays these couriers from the swift completion of their appointed rounds." This is the unofficial motto of the Postal Service, engraved outside the James A. Farley Post Office in New York City.

But today, the Postal Service faces a threat far greater than snow or rain or heat or gloom of night. The threat is the outdated and unsustainable structural framework within which the Postal Service operates. It threatens to bring it to the brink of catastrophe unless Congress acts immediately. I think that H.R. 22, the Postal Accountability and Enhancement Act, is the solution.

This legislation reforms and sustains a vital sector of our overall economy. Standing alone, the Postal Service currently has more than 800,000 employees. But more than 9 million American jobs, $900 billion in commerce, and nearly 9 percent of the Nation's gross domestic product depend on mail and package delivery.

Each year the Postal Service processes and delivers 208 billion pieces of mail to more than 130 million addresses in the United States. That is 208 billion magazines, catalogs, thank-you notes, birthday cards, wedding invitations, Social Security checks, IRS refunds, letters to our Congressmen, movie rentals, all delivered in fulfillment of the Postal Service's promise of universal service.

The last time that the Congress passed legislation to overhaul the Postal Service was 1970 when President Nixon signed the Postal Reorganization Act, before e-mails, before faxes. The world has changed.

It is now time to bring the Postal Service into the 21st century, to rescue it from the structural, legal, and financial constraints that have brought it to the brink of utter breakdown.

Now, our time to act is short. This past April, the Postal Service began the process of requesting a 5.4 percent rate hike for all categories of mail. These rate hikes, think of them as a tax on the average postal customer which, of course, is practically everybody in the United States, will take effect next year unless Congress acts. For direct marketers, financial service companies, businesses relying heavily on shipping and mailing, these rate hikes will be devastating.

Some observers have likened the Postal Service's current situation to a death spiral, where declining business leads to higher rates which, in turn, leads to further declines in business until it is too late to change course. Unfortunately, under current law, the Postal Service's only recourse to remain competitive in today's markets is to raise its rates.

Moreover, the Postal Service's more recent request for a rate increase was spurred in part by an existing requirement that the Postal Service contribute $3.1 billion to a Federal pension escrow account, even though this account now houses more than $73 billion in civil service retirement savings that rightfully belongs to the USPS. This is but one of the outdated requirements that H.R. 22 seeks to reform.

Is this bill perfect? No, but there is no magic legislative potion that will cure the Postal Service of its ills. But I think that all of the stakeholders, the postal employees, the financial service companies, major marketers and, most importantly, all Americans who use stamps, are better off with this legislation than they would be without this long overdue package of reform.

More than 35 years after the last reform of the Postal Service, with millions of jobs at stake, and particularly in the face of the pending rate increases, the time has come for Congress to act. I want to thank the gentleman from California (Chairman DREIER) and the Committee on Rules for crafting this rule. I urge Members to support it. I thank my good friend, the gentleman from Texas (Mr. SESSIONS), a former member of the committee, for his leadership and assistance in crafting this rule and getting this bill to the House floor. It was very, very important; and without his efforts, we probably would not be here today.

Ben Franklin once said: "A penny saved is a penny earned." Rates are set to go up 2 cents. If we act today, we can stave that off, we can delay that, we can put savings back into the post office.

I want to also thank my colleague, the gentleman from New York (Mr. MCHUGH), who has forgotten more about the Postal Service than I will ever know, who struggled with this for 10 years and has been very critical in crafting this legislation; and on the other side of the aisle, my ranking member, the gentleman from California (Mr. WAXMAN), and the gentleman from Illinois (Mr. DAVIS) who have put innumerable hours into crafting the bipartisan bill.

I think this is a good rule, it is a good bill, and I urge my colleagues to support it.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 4 minutes to my friend, the distinguished gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy in permitting me to speak on this rule. I rise in support of the approach that has been taken. I add my praise for the gentleman from Virginia (Mr. TOM DAVIS), for the gentleman from New York (Mr. MCHUGH), for the gentleman from Illinois (Mr. DAVIS), for the gentleman from California (Mr. WAXMAN), for people who have labored long and hard dealing with the first post office update in over a third of a century. What we have before us is a carefully balanced effort to update and modernize this critical service.

I became involved with this effort when I first came to Congress 10 years ago, dealing with one specific element of focus, and that is to make sure that the post office, the local post office, which is the cornerstone of a livable community in small neighborhoods, in small-town America, in downtowns, that those 38,000 postal facilities in every way were assets to the community.

Sadly, what we found was a litany of efforts in the past where the post office basically did not play by the rules. It was idiosyncratic. Local land-use decisions were turned into political footballs. We had a series of efforts where the post office unfortunately ignored environmental regulations, local needs and desires. We set about to fix that with legislation that basically would have required the post office to play by the same rules as the rest of America.

I will say over the course of the 10 years, working with some of the colleagues that I mentioned, working with the Board of Governors of the Postal Service, working with three Postmasters General and others who are active in this effort, that we have come a long way. In fact, in many areas of the United States, we have seen examples where the post office has taken seriously its responsibilities and has been a model player providing that essential cornerstone.

It is important that this not be idiosyncratic. It is important that this approach, this way of doing business, must be codified into law so everybody can be protected. One of the reasons I support H.R. 22 is because it does just that. It requires the post office to obey zoning, planning, environmental regulations. It will be better for the post office; it is better for our communities.

But I want to go a little beyond that, because as I have been involved, I have been struck with the importance, not just in bringing up the physical facilities of 38,000 postal offices around the country, but to be active in terms of the change that is taking place.

The United States Postal Service occasionally comes into criticism by people who are concerned about it, but the fact is the post office handles one-half of the mail in the entire world. They collect only one-quarter of the revenue; they have less than a fifth of the work force; they are more than three times as productive as postal services around the world, and their rates are lower than any other of the developed countries. It is also important that we are ready for the changes that are cascading down upon the Postal Service. The status quo is not tenable. This legislation recognizes that.

I strongly urge, however, that as we come forward with a range of amendments that they be rejected. I appreciate that they are well-intended. Some of them in other contexts I may be interested in, but this is part of this carefully crafted balance. It is important that we not upset the apple cart. It does not take much to derail it. It has been a hard pull to get to this point. I strongly urge that we support making the post office a full partner, that we resist amendments that would upset the balance, and that we can all be, after the approval of H.R. 22, the modernization, so that we can be about the business that is going to have to go on from here. Because there is more work that is going to be done. Controversy is not going to go away. Luckily, this legislation provides a platform that is going to help us all do this important work.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

A lot of the leadership that has been talked about, making sure that this bill is a carefully crafted bill, is true. But there are also a lot of people who played a big role in making sure that the elements and the people who are a part of the dialogue and a part of the things that were necessary to make sure this balanced bill was brought forward were important also.

Mr. Speaker, the gentlewoman from Michigan (Mrs. MILLER), the chairman of the Subcommittee on Regulatory Affairs for the Committee on Government Reform, has played an integral role in making sure that not only her footprint was on this and hand print was on this but, also, in particular, that other people who had a vested interest, most of all the taxpayers of this country, were also involved.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to support this rule, and I am very proud to be a cosponsor of this legislation. I did serve on the postal panel and the Committee on Government Reform as well. This is really the first real reform of the United States Postal Service since the 1970s.

Mr. Speaker, America succeeds and America prospers because America evolves. Our Nation evolves. We are always striving to leverage our economic, our technological, and our political advancements to improve our entire Nation. Much of what might have been good in the 1970s is clearly not good enough for the 21st century, especially when it comes to communications; and the United States Postal Service, with a uniquely critical means of communicating in our Nation, unfortunately, is laboring under a business model that was built in an era that predates the Internet, that predates e-mail, and even fax machines.

Any private sector business would have been put out of business. But the United States Postal Service today, and these are some staggering numbers, actually delivers 200 billion pieces of mail each and every year, it delivers to 130 million households, and it is the center of a nearly $1 trillion industry.

But the competition is growing, of course. Revenues are at risk; its workforce, unfortunately, is aging, and so is its equipment. Yet these are all the same kinds of challenges that so many businesses today face.

I was very proud to cosponsor and to update and to upgrade this legislation, which does all of that, for our Postal Service. The Postal Accountability and Enhancement Act modernizes the Postal Service's infrastructure and its financial framework; and at the same time, it also maintains its traditional benefit, the best benefit I think, and that, of course, is 6-day, universal service.

□ 1515

H.R. 22 provides the postal office with firmer financial ground, and it mitigates the needs to constantly raise postal rates. It ensures those that live in America's rural communities that they still have very close access to a full-service postal center. What is more, equally as important, I think, is it preserves the right for collective bargaining for our postal workers.

Our postal employees have a record of achievement of on-time delivery performance, and many of us, I think, were reminded of how much we take them for granted after the anthrax scare. In fact, I remember it was a commercial that was playing that was put out by the Postal Service that had that Carly Simon song in the background, Let the River Run, and it really, I think, was a very powerful ad that reminded us all of how important our postal employees are.

The men and women of the United States Postal Service stood then and they stand now in harm's way sometimes, because they have dedicated themselves to serving all of us. They certainly deserve the right to bargain collectively to protect the financial future of their families.

This bill also serves as the framework that will help the United States Postal Service to become a model, quite frankly, as a governmental agency to be both cost-effective and cost-efficient, to help them to create a business plan, to negotiate the best business practices with its customers, and it allows for them to focus on a term, customer service, that is not exclusively a concept that is exclusively in the private domain, it can also be in the public domain as well.

This bill embraces concepts like work sharing, in which the Postal Service embarks in a partnership with private companies offering postage discounts to businesses who help the Postal Service prepare and move our mail, flexibility that the private sector enjoys and that they employee as part of its competitive business mix.

This bill essentially allows the United States Postal Service to operate like a business, which will clearly benefit all Americans. So I do want to thank everybody who worked so very hard on this piece of legislation. It is a very important piece of legislation. I want to personally recognize the gentleman from Virginia (Chairman DAVIS), who just made some remarks earlier. I have watched him work tirelessly on this bill, as well as the gentleman from New York (Mr. MCHUGH), who has been a leader in postal reform for a very long time.

Mr. Speaker, I think this is a great piece of legislation which also demonstrates very clearly how bipartisanship can work very well on the floor of this House. It certainly has done that. I commend all of the Democratic Members who have worked very hard on this as well, and I would urge my colleagues to support this rule and urge them to support this critical piece of legislation as well.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS), my good friend. A lot has been made of those who crafted this legislation. The gentleman from Illinois (Mr. DAVIS) was extremely instrumental in providing that bipartisan flavor to bring us to this moment.

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from Florida (Mr. HASTINGS) for yielding me this time. I also want to thank him and the gentleman from Texas (Mr. SESSIONS) for the presentation of this rule.

I want to commend the chairman of the Committee on Government Reform, the gentleman from Virginia (Mr. DAVIS), and the ranking member, the gentleman from California (Mr. WAXMAN), for the tremendous leadership that they have displayed in shaping this bipartisan legislation.

I also want to commend the gentleman from New York (Mr. MCHUGH), who is known as "Postal Reform" in our committee, because he has worked on this issue for such a long period of time.

Many of us recognize that postal issues are not considered to be the most exotic business that will come before this House, but if you are waiting for an important document that does not come at the time you were hoping to receive it, or maybe it was a letter from a relative, from your mother or your father or from your child, and it is not there, or it was an admissions letter to college or university and you are anticipating its arrival, and it does not come, then you begin to realize how important the Postal Service is.

I want to commend the thousands of men and women who work every day to make sure that these channels of communication are still open. Imagine being able to get a letter from anyplace, first class, in the United States of America for 37 cents. That is no easy feat.

And so I commend all of those who have made sure that these channels of communication have been kept open. I commend all of those members of the committee who have labored, and all of the stakeholders. Shaping this legislation was not the easiest thing in the world to do, but I have been told that when men and women of goodwill come together with a basic recognition of the need to be in sync, that you can work out solutions to any problems that have existed.

That is what has taken place in the Committee on Government Reform. Again, I commend the tremendous leadership that we have gotten from the chairman and ranking member. I know that there are amendments that are desirable, but I am going to resist them, and urge that they be resisted, and urge passage of this landmark legislation that seeks to reform the postal system and postal operations.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, let me thank the gentleman from Texas (Mr. SESSIONS) for yielding me time.

Let me stand today and thank those who have put together this postal reform bill. It is not an issue that I work on. I deal with Education and Workforce issues. But I have watched this issue over the last 10 years be hit from one side of the ballpark to the other, kicked from one end of the field to the other, and yet we never could quite get it over the line.

Mr. Speaker, I really want to stand today and thank the gentleman (Chairman DAVIS), the ranking member, the gentleman from California (Mr. WAXMAN), the other members of the committee who were involved in this, for bringing together all of these different moving pieces in order to create a successful legislative package.

The real reason I rise is to thank our colleague and my friend, the gentleman from New York (Mr. MCHUGH), for over 10 years has put in time, effort, blood, tears, to try to hold these pieces together, bring the necessary agreements to bring other parties together, and I think that he has done a fabulous job and deserves a lot of recognition from all of the Members for bringing this package along, staying with it. He could have walked away countless times because it was too hard, it was too difficult, and too many people just never wanted to come to the table, but because of his efforts and the efforts of many others, we are here today with a bipartisan package that deserves the support of all of our colleagues.

I support the bill and certainly support the rule that will bring it to the floor.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 4 minutes to the distinguished gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me time and for his work in bringing this bill and this rule to the floor.

The reason that my colleagues are hearing such kudos for the chairman, the gentleman from Virginia (Mr. DAVIS), subcommittee chairman, the gentleman from New York (Mr. MCHUGH), the ranking member, the gentleman from California (Mr. WAXMAN), and the gentleman from Illinois (Mr. DAVIS) will be understood, I think, if you understand that it has taken us 11 years to get here. So only great tenacity and skill could have brought us this far.

I have been in Congress for 15 years. It seems to me that this has been before us forever, but never on the floor before, and there is a good reason for it. It is not because there were special interests or cantankerous Members; it is we are trying to do almost the impossible. We are trying to make an agency meant to be only partially competitive stand alongside one of the most competitive parts of our economy.

So what was necessary was to somehow bring the likes of UPS and FedEx on board at the same time that all of the unions could be brought with us, UPS and the entire industry. That is why it has taken so long and why in reverence we have to be thankful for those who have accomplished this mission. Understand we are dealing with an industry that is 9 percent of our GDP, nothing to be taken lightly.

Yet what you have before you is something of a miracle. It is a unanimous and bipartisan bill where Members have put aside their selfish concerns, and we do have them, for the greater good of the Postal Service, because one thing we have to come to grips with is not a single Member that can go home and say, well, it was not good enough for me, so I put your Postal Service in jeopardy. Just try that out on your constituents.

At the same time, the Postal Service had to wake up to the 21st century, had to modernize in ways that 9/11 had nothing to do with, had to modernize because the world has come forward with technology that challenges them, the way UPS and FedEx will never challenge them. How do you do that?

They are still trying to do that. But one of the things you do is give the Postal Service some of the flexibility that is associated with the private sector, as much of it as you can, consistent with the fact that this is a controlled section of the economy, because there are some things that the Postal Service must do and nobody else can do: that is, go to some of the far reaches of your rural districts where they better get their mail on time the way I do mine nine blocks from the Capitol.

Even those who had serious problems with this bill, the mail handlers, for example, have a real problem and one that has to be taken seriously with the way in which the bill deals with single pieces of parcels, single parcels, where we have allowed the Postal Service to transfer revenue in order to keep this part of the service lower, and we are getting rid of that to make them more competitive with the private sector.

They say, watch out because you are going to raise the costs, and that is not good. But you know what they have said and agreed to? Perhaps we can resolve it in conference. So they say, pass the bill. I say as well, because we need to modernize the Postal Service. And we have even gotten around for ourselves the part that says that we might contribute to the deficit by giving back to the Treasury what they put on to the Postal Service, which is the cost of military pensions.

We say you have held billions of dollars from the Postal Service. Tell you one thing, if we did not do that, what it means is that the Postal Service, which has already filed for a rate increase, would be forced to go ahead. I, for one, do not want to go home in 2006 and say, I voted for a mail increase. That is what you will vote for if you vote against this bill.

My thanks to the sponsors once again for this historic work.

Mr. SESSIONS. Mr. Speaker, as you know, this bill is about the taxpayer. It is also about high-tech areas that depend upon a Postal Service that works properly. And our next speaker is from one of those areas, a high-tech area that is important to this country in not only manufacturing, but also delivery of goods and products.

Mr. Speaker, I yield 3 minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I rise today in strong support of this rule and underlying postal reform legislation. I commend the gentleman from Virginia (Chairman DAVIS) and the ranking member, the gentleman from California (Mr. WAXMAN), along with the much heralded sponsor of this bill, the gentleman from New York (Mr. MCHUGH), for working in a bipartisan manner that has twice allowed this bill to be reported from committee by a unanimous vote.

Now, I have only been here 5 years, and like my colleague from Washington, DC, says, she feels like every year it is painstakingly making its way through the process. And even in the 5 years since I have been here, I know how important this bill is, and I am so pleased that we are at the point we are today.

I am pleased to be a cosponsor of H.R. 22 because of its importance to businesses, postal employees, and all of us who have mail delivered to our homes or our businesses. This legislation has provisions that will allow the Postal Service to operate more efficiently and would require that it focus primarily on its main focus, which is delivering the mail.

H.R. 22 helps enable mailers to partner with the Postal Service to reduce the cost of mailings, providing an efficiency to the Postal Service, and helping businesses to save money that can be invested in jobs and job growth.

The bill is a good idea for postal employees for a lot of different reasons, one of which is because it returns the responsibility for the military service portion of postal retiree benefits back to the government and corrects overpayments by the Postal Service to the Civil Service Retirement System.

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In short, the bill provides the changes necessary to keep the Postal Service operating. It is so important to all of us every day. I mean, I know at certain times in my life I felt like if I did not see my friendly mailman or mailwoman at my door, I felt like I did not have a friend in the world. So let us keep the Postal Service operating without the hefty rate increases that would inevitably come with the status quo.

This bill means a great deal to very many people. After so many years of work, I congratulate all of those intimately involved. I urge my colleagues to join me in support of the rule and the underlying bill.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we come to the close of offering praise to those who brought us this far. I add my congratulations to the distinguished leadership of this committee on both sides of the aisle for fashioning a piece of legislation that I believe will pass the House overwhelmingly and that I certainly intend to support, and I ask all of our colleagues to do likewise.

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Today, we have had an opportunity to bring forth this postal bill with not only bipartisanship, but really some pats on the back to a lot of people who have been engaged in this issue for a long time, and perhaps none more diligent about this than the gentleman from New York (Mr. MCHUGH), our wonderful colleague. I think the way he has gone about this, Mr. Speaker, has been good, not only for this House but a credit to the men and women who have also been engaged in this.

I remember some 9 years ago as I went with a rural letter carrier down in Jeuitt, Texas, Stan Waltrip. I had a chance to go and deliver the mail with Stan and to see firsthand the kinds of, not only the people he came in contact with but the importance of doing this. So this bill is important that we have done this.

There are other people who have contributed to the success, rural letter carriers, certainly the postal carriers, letter carriers, those people who represent the Post Masters, the Financial Services Roundtable and many others. I would also like to thank the White House for their involvement. Three people in particular from the Leg Affairs office, Brian Conklin, Elan Liang, and Chris Frech, have been very diligent in making sure that this House and its Members are updated about the position of the White House.

Mr. Speaker, I would say this is a good piece of legislation. It is one that comes at a great time for this country. It is one that will spur the economy and make sure we are prepared for the future.

I ask my colleagues to please make sure they support this rule and also the underlying legislation.

Ms. PRYCE of Ohio. Mr. Chairman, I rise in support of this rule. As the Chairman knows, I filed an amendment with the Rules Committee to address important mailings to consumers containing notification of a data breach affecting personal information. While I withdrew my amendment, I was pleased to work with the Chairman of the Government Reform Committee to include report language regarding this significant issue. I thank both Chairmen for their hard work on this bill.

Mr. Speaker I rise today to bring attention to the important issue of data security.

Identity theft is the fastest-growing white collar crime in the United States. The Federal Trade Commission estimates that 10 million Americans fall victim to identity theft each year, costing consumers and businesses more than 55 billion dollars.

Identity theft is the most frequent complaint to the FTC from all 50 states, with the number of complaints having grown for the fourth consecutive year.

What takes only seconds for a hacker to destroy can take years for companies and individuals to rebuild. A thief can jeopardize a person's financial security by opening new lines of credit or procuring unsecured loans under a person's name.

Victims of identity theft spend an average of 90 hours of their own time and 1,700 dollars in out-of-pocket expenses clearing their credit and name

The first line of defense in combating these reckless acts is to make the victims aware of what is taking place. If there is unauthorized access to sensitive financial information, the breached company needs to notify the potentially affected consumers, and make them aware that their data security may have been compromised.

After an investigation determines whether or not the breached information will lead to misuse, the customer must be made aware. But with all the mail that Americans are besieged with on a daily basis, we must take steps to insure that consumers can differentiate between what is critical and what is not. For that reason, I feel that all notices should contain a heading that this is an "IMPORTANT DATA BREACH NOTIFICATION."

By ensuring that consumers are aware of what is going on with their data security, we can help prevent millions of dollars a year in consumer costs and countless hours spent by innocent Americans who have been victimized by identity thieves.

Labeling the envelopes will go far towards this goal, and I urge my colleagues to think about this common sense solution to a serious problem that can touch any American at any time.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SMALL BUSINESS HEALTH FAIRNESS ACT OF 2005

Mr. BOEHNER. Mr. Speaker, pursuant to H. Res. 379, I call up the bill (H.R. 525) to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. GILLMOR). Pursuant to House Resolution 379, the bill is considered read for amendment.

The text of H.R. 525 is as follows:

H.R. 525

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Health Fairness Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Rules governing association health plans.
Sec. 3. Clarification of treatment of single employer arrangements.
Sec. 4. Enforcement provisions relating to association health plans.
Sec. 5. Cooperation between Federal and State authorities.
Sec. 6. Effective date and transitional and other rules.

SEC. 2. RULES GOVERNING ASSOCIATION HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"SEC. 801. ASSOCIATION HEALTH PLANS.

"(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

"(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

"(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care;

"(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership in the sponsor; and

"(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

"SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

"(a) IN GENERAL.—The applicable authority shall prescribe by regulation a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

"(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), in the case of an association health plan that provides at least one benefit option which does not consist of health insurance coverage, the applicable authority shall certify such plan as meeting the requirements of this part only if the applicable authority is satisfied that the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

"(c) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

"(d) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation for continued certification of association health plans under this part.

"(e) CLASS CERTIFICATION FOR FULLY INSURED PLANS.—The applicable authority shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

"(f) CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—An association health plan which offers one or more benefit options which do not consist of health insurance coverage may be certified under this part only if such plan consists of any of the following:

"(1) a plan which offered such coverage on the date of the enactment of the Small Business Health Fairness Act of 2005,

"(2) a plan under which the sponsor does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or

"(3) a plan whose eligible participating employers represent one or more trades or businesses, or one or more industries, consisting of any of the following: agriculture; equipment and automobile dealerships; barbering and cosmetology; certified public accounting practices; child care; construction; dance, theatrical and orchestra productions; disinfecting and pest control; financial services; fishing; foodservice establishments; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; professional consulting services; sanitary services; transportation (local and freight); warehousing; wholesaling/distributing; or any other trade or business or industry which has been indicated as having average or above-average risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, or other means demonstrated by such plan in accordance with regulations.

"SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

"(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

"(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

"(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

"(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

"(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

"(A) BOARD MEMBERSHIP.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

"(ii) LIMITATION.—

"(I) GENERAL RULE.—Except as provided in subclauses (II) and (III), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

"(II) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

"(III) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, subclause (I) shall not apply in the case of any service provider described in subclause (I) who is a provider of medical care under the plan.

"(iii) CERTAIN PLANS EXCLUDED.—Clause (i) shall not apply to an association health plan which is in existence on the date of the enactment of the Small Business Health Fairness Act of 2005.

"(B) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

"(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

"(1) the requirements of subsection (a) and section 801(a) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

"(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

"SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

"(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

"(1) each participating employer must be—

"(A) a member of the sponsor,

"(B) the sponsor, or

"(C) an affiliated member of the sponsor with respect to which the requirements of subsection (b) are met,

except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

"(2) all individuals commencing coverage under the plan after certification under this part must be—

"(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

"(B) the beneficiaries of individuals described in subparagraph (A).

"(b) Coverage of Previously Uninsured Employees.—In the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2005, an affiliated member of the sponsor of the plan may be offered coverage under the plan as a participating employer only if—

"(1) the affiliated member was an affiliated member on the date of certification under this part; or

"(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

"(c) Individual Market Unaffected.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

"(d) Prohibition of Discrimination Against Employers and Employees Eligible to Participate.—The requirements of this subsection are met with respect to an association health plan if—

"(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

"(2) upon request, any employer eligible to participate is furnished information regarding all coverage options available under the plan; and

"(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

"(a) In General.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

"(1) Contents of Governing Instruments.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

"(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A));

"(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)); and

"(C) incorporates the requirements of section 806.

"(2) Contribution Rates Must Be Nondiscriminatory.—

"(A) The contribution rates for any participating small employer do not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and do not vary on the basis of the type of business or industry in which such employer is engaged.

"(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from—

"(i) setting contribution rates based on the claims experience of the plan; or

"(ii) varying contribution rates for small employers in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates in the small group market with respect to health insurance coverage offered in connection with bona fide associations (within the meaning of section 2791(d)(3) of the Public Health Service Act),

subject to the requirements of section 702(b) relating to contribution rates.

"(3) Floor for Number of Covered Individuals With Respect to Certain Plans.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

"(4) Marketing Requirements.—

"(A) In General.—If a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute to small employers coverage which does not consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage.

"(B) State-Licensed Insurance Agents.—For purposes of subparagraph (A), the term 'State-licensed insurance agents' means one or more agents who are licensed in a State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

"(5) Regulatory Requirements.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation.

"(b) Ability of Association Health Plans To Design Benefit Options.—Subject to section 514(d), nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of (1) any law to the extent that it is not preempted under section 731(a)(1) with respect to matters governed by section 711, 712, or 713, or (2) any law of the State with which filing and approval of a policy type offered by the plan was initially obtained to the extent that such law prohibits an exclusion of a specific disease from such coverage.

"SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

"(a) In General.—The requirements of this section are met with respect to an association health plan if—

"(1) the benefits under the plan consist solely of health insurance coverage; or

"(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

"(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

"(i) a reserve sufficient for unearned contributions;

"(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities;

"(iii) a reserve sufficient for any other obligations of the plan; and

"(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan; and

"(B) establishes and maintains aggregate and specific excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

"(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

"(ii) The plan shall secure specific excess/stop loss insurance for the plan with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary. The applicable authority may by regulation provide for adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

"(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination.

Any person issuing to a plan insurance described in clause (i), (ii), or (iii) of subparagraph (B) shall notify the Secretary of any failure of premium payment meriting cancellation of the policy prior to undertaking such a cancellation. Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

"(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS RESERVES.—In the case of any association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to—

"(1) $500,000, or

"(2) such greater amount (but not greater than $2,000,000) as may be set forth in regulations prescribed by the applicable authority, considering the level of aggregate and specific excess/stop loss insurance provided with respect to such plan and other factors related to solvency risk, such as the plan's projected levels of participation or claims, the nature of the plan's liabilities, and the types of assets available to assure that such liabilities are met.

"(c) ADDITIONAL REQUIREMENTS.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves, excess/stop loss insurance, and indemnification insurance as the applicable authority considers appropriate. Such requirements may be provided by regulation with respect to any such plan or any class of such plans.

"(d) ADJUSTMENTS FOR EXCESS/STOP LOSS INSURANCE.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

"(e) ALTERNATIVE MEANS OF COMPLIANCE.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold-harmless arrangement, or other financial arrangement as the applicable authority determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

"(f) MEASURES TO ENSURE CONTINUED PAYMENT OF BENEFITS BY CERTAIN PLANS IN DISTRESS.—

"(1) PAYMENTS BY CERTAIN PLANS TO ASSOCIATION HEALTH PLAN FUND.—

"(A) IN GENERAL.—In the case of an association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall consist of annual payments in the amount of $5,000, and, in addition to such annual payments, such supplemental payments as the Secretary may determine to be necessary under paragraph (2). Payments under this paragraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of certification under this part. Payments shall continue to accrue until a plan's assets are distributed pursuant to a termination procedure.

"(B) PENALTIES FOR FAILURE TO MAKE PAYMENTS.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

"(C) CONTINUED DUTY OF THE SECRETARY.—The Secretary shall not cease to carry out the provisions of paragraph (2) on account of the failure of a plan to pay any payment when due.

"(2) PAYMENTS BY SECRETARY TO CONTINUE EXCESS/STOP LOSS INSURANCE COVERAGE AND INDEMNIFICATION INSURANCE COVERAGE FOR CERTAIN PLANS.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be: (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2); or (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the Secretary, certifies such determination to the Secretary), the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess/stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

"(3) ASSOCIATION HEALTH PLAN FUND.—

"(A) IN GENERAL.—There is established on the books of the Treasury a fund to be known as the 'Association Health Plan Fund'. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B); and earnings on investments of amounts of the Fund under subparagraph (B).

"(B) INVESTMENT.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

"(g) EXCESS/STOP LOSS INSURANCE.—For purposes of this section—

"(1) AGGREGATE EXCESS/STOP LOSS INSURANCE.—The term 'aggregate excess/stop loss insurance' means, in connection with an association health plan, a contract—

"(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to aggregate claims under the plan in excess of an amount or amounts specified in such contract;

"(B) which is guaranteed renewable; and

"(C) which allows for payment of premiums by any third party on behalf of the insured plan.

"(2) SPECIFIC EXCESS/STOP LOSS INSURANCE.—The term 'specific excess/stop loss insurance' means, in connection with an association health plan, a contract—

"(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to claims under the plan in connection with a covered individual in excess of an amount or amounts specified in such contract in connection with such covered individual;

"(B) which is guaranteed renewable; and

"(C) which allows for payment of premiums by any third party on behalf of the insured plan.

"(h) INDEMNIFICATION INSURANCE.—For purposes of this section, the term 'indemnification insurance' means, in connection with an association health plan, a contract—

"(1) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to claims under the plan which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination);

"(2) which is guaranteed renewable and noncancellable for any reason (except as the applicable authority may prescribe by regulation); and

"(3) which allows for payment of premiums by any third party on behalf of the insured plan.

"(i) RESERVES.—For purposes of this section, the term 'reserves' means, in connection with an association health plan, plan assets which meet the fiduciary standards under part 4 and such additional requirements regarding liquidity as the applicable authority may prescribe by regulation.

"(j) SOLVENCY STANDARDS WORKING GROUP.—

"(1) IN GENERAL.—Within 90 days after the date of the enactment of the Small Business Health Fairness Act of 2005, the applicable authority shall establish a Solvency Standards Working Group. In prescribing the initial regulations under this section, the applicable authority shall take into account the recommendations of such Working Group.

"(2) MEMBERSHIP.—The Working Group shall consist of not more than 15 members appointed by the applicable authority. The applicable authority shall include among persons invited to membership on the Working Group at least one of each of the following:

"(A) a representative of the National Association of Insurance Commissioners;

"(B) a representative of the American Academy of Actuaries;

"(C) a representative of the State governments, or their interests;

"(D) a representative of existing self-insured arrangements, or their interests;

"(E) a representative of associations of the type referred to in section 801(b)(1), or their interests; and

"(F) a representative of multiemployer plans that are group health plans, or their interests.

"SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

"(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to association health plans.

"(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority by regulation, at least the following information:

“(1) IDENTIFYING INFORMATION.—The names and addresses of—

“(A) the sponsor; and

“(B) the members of the board of trustees of the plan.

“(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

“(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

“(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

“(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan and contract administrators and other service providers.

“(6) FUNDING REPORT.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

“(A) RESERVES.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the applicable authority shall prescribe.

“(B) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

“(C) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

“(D) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

“(E) OTHER INFORMATION.—Any other information as may be determined by the applicable authority, by regulation, as necessary to carry out the purposes of this part.

“(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

“(d) NOTICE OF MATERIAL CHANGES.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

“(e) REPORTING REQUIREMENTS FOR CERTAIN ASSOCIATION HEALTH PLANS.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 103 by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority). The applicable authority may require by regulation such interim reports as it considers appropriate.

“(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

“(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations; and

“(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

“SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

“Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees, not less than 60 days before the proposed termination date—

“(1) provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

“(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

“(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation.

“SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

“(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the applicable authority, in such form and frequency as the applicable authority may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

“(b) MANDATORY TERMINATION.—In any case in which—

“(1) the applicable authority has been notified under subsection (a) (or by an issuer of excess/stop loss insurance or indemnity insurance pursuant to section 806(a)) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements; and

“(2) the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B)(iii) and recovering for the plan any liability under subsection (a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

“SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

“(a) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition, as shall be defined by the Secretary by regulation, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

"(b) Powers as Trustee.—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

"(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan;

"(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee;

"(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations prescribed by the Secretary, and applicable provisions of law;

"(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan;

"(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship;

"(6) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan;

"(7) to issue, publish, or file such notices, statements, and reports as may be required by the Secretary by regulation or required by any order of the court;

"(8) to terminate the plan (or provide for its termination in accordance with section 809(b)) and liquidate the plan assets, to restore the plan to the responsibility of the sponsor, or to continue the trusteeship;

"(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options; and

"(10) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries and providers of medical care.

"(c) Notice of Appointment.—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

"(1) the sponsor and plan administrator;

"(2) each participant;

"(3) each participating employer; and

"(4) if applicable, each employee organization which, for purposes of collective bargaining, represents plan participants.

"(d) Additional Duties.—Except to the extent inconsistent with the provisions of this title, or as may be otherwise ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of this title.

"(e) Other Proceedings.—An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

"(f) Jurisdiction of Court.—

"(1) In general.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

"(2) Venue.—An action under this section may be brought in the judicial district where the sponsor or the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

"(g) Personnel.—In accordance with regulations which shall be prescribed by the Secretary, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this section.

"SEC. 811. STATE ASSESSMENT AUTHORITY.

"(a) In General.—Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806(a)(2), if the plan commenced operations in such State after the date of the enactment of the Small Business Health Fairness Act of 2005.

"(b) Contribution Tax.—For purposes of this section, the term 'contribution tax' imposed by a State on an association health plan means any tax imposed by such State if—

"(1) such tax is computed by applying a rate to the amount of premiums or contributions, with respect to individuals covered under the plan who are residents of such State, which are received by the plan from participating employers located in such State or from such individuals;

"(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan;

"(3) such tax is otherwise nondiscriminatory; and

"(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage, aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

"SEC. 812. DEFINITIONS AND RULES OF CONSTRUCTION.

"(a) Definitions.—For purposes of this part—

"(1) Group health plan.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

"(2) Medical care.—The term 'medical care' has the meaning provided in section 733(a)(2).

"(3) Health insurance coverage.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

"(4) Health insurance issuer.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

"(5) Applicable authority.—The term 'applicable authority' means the Secretary, except that, in connection with any exercise of the Secretary's authority regarding which the Secretary is required under section 506(d) to consult with a State, such term means the Secretary, in consultation with such State.

"(6) Health status-related factor.—The term 'health status-related factor' has the meaning provided in section 733(d)(2).

"(7) Individual market.—

"(A) In general.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

"(B) Treatment of very small groups.—

"(i) In general.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

"(ii) State exception.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

"(8) Participating employer.—The term 'participating employer' means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

"(9) Applicable State authority.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

"(10) Qualified actuary.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries.

"(11) Affiliated member.—The term 'affiliated member' means, in connection with a sponsor—

"(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor,

"(B) in the case of a sponsor with members which consist of associations, a person who is a member of any such association and elects an affiliated status with the sponsor, or

"(C) in the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2005, a person eligible to be a member of the sponsor or one of its member associations.

"(12) LARGE EMPLOYER.—The term 'large employer' means, in connection with a group health plan with respect to a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

"(13) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, an employer who is not a large employer.

"(b) RULES OF CONSTRUCTION.—

"(1) EMPLOYERS AND EMPLOYEES.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

"(A) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

"(B) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

"(2) PLANS, FUNDS, AND PROGRAMS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.".

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

"(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.".

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking "Subsection (a)" and inserting "Subsections (a) and (d)";

(B) in subsection (b)(5), by striking "subsection (a)" in subparagraph (A) and inserting "subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805", and by striking "subsection (a)" in subparagraph (B) and inserting "subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805";

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

"(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude, or have the effect of precluding, a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

"(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

"(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

"(B) In any case in which health insurance coverage of any policy type is offered in a State under an association health plan certified under part 8 and the filing, with the applicable State authority (as defined in section 812(a)(9)), of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

"(3) Nothing in subsection (b)(6)(E) or the preceding provisions of this subsection shall be construed, with respect to health insurance issuers or health insurance coverage, to supersede or impair the law of any State—

"(A) providing solvency standards or similar standards regarding the adequacy of insurer capital, surplus, reserves, or contributions, or

"(B) relating to prompt payment of claims.

"(4) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

"(5) For purposes of this subsection, the term 'association health plan' has the meaning provided in section 801(a), and the terms 'health insurance coverage', 'participating employer', and 'health insurance issuer' have the meanings provided such terms in section 812, respectively.".

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking "and" at the end;

(B) in clause (ii), by inserting "and which does not provide medical care (within the meaning of section 733(a)(2))," after "arrangement,", and by striking "title." and inserting "title, and"; and

(C) by adding at the end the following new clause:

"(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.".

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking "Nothing" and inserting "(1) Except as provided in paragraph (2), nothing"; and

(B) by adding at the end the following new paragraph:

"(2) Nothing in any other provision of law enacted on or after the date of the enactment of the Small Business Health Fairness Act of 2005 shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-reference to the affected section.".

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes a person serving as the sponsor of an association health plan under part 8.".

(d) DISCLOSURE OF SOLVENCY PROTECTIONS RELATED TO SELF-INSURED AND FULLY INSURED OPTIONS UNDER ASSOCIATION HEALTH PLANS.—Section 102(b) of such Act (29 U.S.C. 102(b)) is amended by adding at the end the following: "An association health plan shall include in its summary plan description, in connection with each benefit option, a description of the form of solvency or guarantee fund protection secured pursuant to this Act or applicable State law, if any.".

(e) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting "or part 8" after "this part".

(f) REPORT TO THE CONGRESS REGARDING CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—Not later than January 1, 2010, the Secretary of Labor shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the effect association health plans have had, if any, on reducing the number of uninsured individuals.

(g) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"801. Association health plans.
"802. Certification of association health plans.
"803. Requirements relating to sponsors and boards of trustees.
"804. Participation and coverage requirements.
"805. Other requirements relating to plan documents, contribution rates, and benefit options.
"806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
"807. Requirements for application and related requirements.
"808. Notice requirements for voluntary termination.
"809. Corrective actions and mandatory termination.
"810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
"811. State assessment authority.
"812. Definitions and rules of construction.".

SEC. 3. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting after "control group," the following: "except that, in any

case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), two or more trades or businesses, whether or not incorporated, shall be deemed a single employer for any plan year of such plan, or any fiscal year of such other arrangement, if such trades or businesses are within the same control group during such year or at any time during the preceding 1-year period.";

(2) in clause (iii), by striking "(iii) the determination" and inserting the following:

"(iii)(I) in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), the determination of whether a trade or business is under 'common control' with another trade or business shall be determined under regulations of the Secretary applying principles consistent and coextensive with the principles applied in determining whether employees of two or more trades or businesses are treated as employed by a single employer under section 4001(b), except that, for purposes of this paragraph, an interest of greater than 25 percent may not be required as the minimum interest necessary for common control, or

"(II) in any other case, the determination";

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

"(iv) in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only one participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement.".

SEC. 4. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting "(a)" after "Sec. 501."; and

(2) by adding at the end the following new subsection:

"(b) Any person who willfully falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

"(1) being an association health plan which has been certified under part 8;

"(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

"(3) being a plan or arrangement described in section 3(40)(A)(i),

shall, upon conviction, be imprisoned not more than 5 years, be fined under title 18, United States Code, or both.".

(b) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n) ASSOCIATION HEALTH PLAN CEASE AND DESIST ORDERS.—

"(1) IN GENERAL.—Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

"(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

"(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

"(2) EXCEPTION.—Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

"(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

"(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

"(3) ADDITIONAL EQUITABLE RELIEF.—The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.".

(c) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting "(a) IN GENERAL.—" before "In accordance", and by adding at the end the following new subsection:

"(b) ASSOCIATION HEALTH PLANS.—The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.".

SEC. 5. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(d) CONSULTATION WITH STATES WITH RESPECT TO ASSOCIATION HEALTH PLANS.—

"(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to an association health plan regarding the exercise of—

"(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

"(B) the Secretary's authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

"(2) RECOGNITION OF PRIMARY DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular association health plan, as the State with which consultation is required. In carrying out this paragraph—

"(A) in the case of a plan which provides health insurance coverage (as defined in section 812(a)(3)), such State shall be the State with which filing and approval of a policy type offered by the plan was initially obtained, and

"(B) in any other case, the Secretary shall take into account the places of residence of the participants and beneficiaries under the plan and the State in which the trust is maintained.".

SEC. 6. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by this Act shall take effect one year after the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this Act within one year after the date of the enactment of this Act.

(b) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 812(a)(5) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a) and 803(a) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of directors which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement.

(2) DEFINITIONS.—For purposes of this subsection, the terms "group health plan", "medical care", and "participating employer" shall have the meanings provided in section 812 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an "association health plan" shall be deemed a reference to an arrangement referred to in this subsection.

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider the amendment in the nature of a substitute printed in House Report 109–183, if offered by the gentleman from Wisconsin (Mr. KIND) or his designee, which shall be considered read and shall be debatable for 1 hour equally divided and controlled by the proponent and an opponent.

The gentleman from Ohio (Mr. BOEHNER) and the gentleman from New Jersey (Mr. ANDREWS) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 525.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the most pressing crisis we face in health care today is the number of Americans who lack basic health insurance. The number of uninsured Americans today stands at 45 million Americans; 27 million are fully employed. And 63 percent of these working uninsured are either self-employed or work for a small business with fewer than 100 employees. It is tragic that so many employers cannot afford to purchase high-quality health insurance benefits for their workers.

The problem is not going away, and we have a responsibility to confront it. With health care costs continuing to rise sharply across the country, more and more employers and their employees are sharing the burden of increased insurance premiums. Employer-based health insurance premiums jumped by 11 percent last year following a 15 percent increase in 2003.

Clearly, we need to focus on providing affordable health care to the uninsured as well as ensure employers who provide health benefits to their employees are not forced to drop their coverage because of rising premiums and high administrative costs.

The Small Business Health Fairness Act responds to this problem and can help reduce the high cost of health insurance for small businesses and uninsured working families. By creating association health plans which would be strictly regulated by the Department of Labor, small businesses could pool their resources and increase their bargaining power with benefit providers which will allow them to negotiate better rates and purchase quality health care at a lower cost.

President Bush addressed this point directly last year during his speech at the United States Chamber of Commerce where he said, "AHPs would provide small businesses the same opportunity that big businesses get, and that is the economies of scale, the economies of purchase, the abilities to share risk in larger pools which drives down the costs of health care for small businesses."

The President is right, and we should help level the playing field so small businesses can offer quality coverage to their workers.

Americans overwhelmingly agree with President Bush that association health plans are the right plan to help the uninsured. A poll conducted last year showed that 93 percent of Americans support association health plans as a way of providing access to affordable care for American workers who lack coverage. Over the last year, we have seen how large corporations are now starting to band together to provide health care to their part-time workers. Do small businesses and their workers not deserve the same opportunity?

Importantly, the bill gives AHPs the freedom from costly State mandates because small businesses deserve to be treated in the same fashion as large corporations and unions who receive the same exemptions today. Clearly, these mandates are useless to families who have no health coverage in the first place. If you do not have health care coverage, State mandates requiring health plans to offer specific benefits do you and your family no good at all. This measure includes strong safeguards to protect American workers.

Despite the bipartisan nature of this bill, I would like to correct some of the misinformation that I have heard. The measure protects against cherry-picking because we make clear that AHPs must comply with the 1996 Health Insurance Portability and Accountability Act, which prohibits group health plans from excluding or charging a higher rate to high-risk individuals with a high claims experience.

Under our bill, sick or high-risk groups or individuals cannot be denied coverage. In addition, AHPs cannot charge higher rates for employers with sicker individuals within the plan except to the extent already allowed by State law where the employer is located. The bill also includes strict requirements under which only bona fide professional and trade associations can sponsor an association health plan, and, therefore, does not allow sham association plans set up by health insurance companies. These organizations must be established for purposes other than providing health insurance for at least 3 years.

We in Congress have a responsibility to deal with a problem of small businesses who cannot afford to provide health insurance because of skyrocketing health care costs. The U.S. economy is getting stronger by the day, and more and more employers are hiring workers each month. Earlier this month the unemployment rate dropped to its lowest level since September of 2001 and the Labor Department reported that 3.7 million new jobs have been created since March of 2003. That is 25 consecutive months of sustained job creation.

We want to make sure that these workers have the opportunity to receive quality health insurance through their employer, and this bill can help make that happen.

Mr. Speaker, I reserve the balance of my time.

Mr. ANDREWS. Mr. Speaker, I rise in opposition to the bill and I yield myself 4 minutes.

Mr. Speaker, today there is a point of agreements and a strong point of disagreement. There is a point of agreement that health care costs are rising too fast for too many people. There is a point of agreement that the consequences of that price increase is a tremendous burden on small business and a high likelihood that more people will be uninsured.

I do not think there is a Member of this body that does not favor finding an intelligent and effective way to reduce health care costs for small business so they can continue to insure the people they do insure and expand and insure more people in the future.

Where we disagree is over whether this underlying bill is the right way to do it, and we emphatically believe that it is not.

There are four reasons to oppose this bill. The first is that there is a better idea. There is a better way to solve this problem, and the gentleman from Wisconsin (Mr. KIND) will address that issue when our substitute is brought to the floor in a little while.

The second reason is that this bill will not result in a reduction of the number of uninsured. To the contrary, it will result in an increase in the number of uninsured people, and here is how. It is estimated by the experts in this field that 8 million people will be shifted from conventional health care policies and plans to association health plans. These 8 million people will, in fact, probably have a lower premium than they do right now for a little while. But when those 8 million people are shifted out of conventional health care plans and they will tend to be younger and healthier people, the people remaining in the conventional health care plans will have to bear more of the costs, and premiums will go up by an estimate of 23 percent. When the premiums go up on the rest of those in the pool, fewer of them will be insured.

The experts estimate that while 8 million people will be shifted from regular plans to AHPs, 9 million people approximately will lose their coverage altogether, and the results will be a net loss in the number of insured of 1 million people.

So supporting this bill will increase the number of uninsured, not decrease it: and it will increase premiums by 23 percent.

The second reason to oppose this bill is that it fails to provide the protection to patients, providers and consumers that good insurance regulation provides. There are simply no effective regulations that will keep an insurance company from going bankrupt and being unable to meet its obligations to its policy holders and pay its claims. We have seen this happen before in multiemployer welfare associations. We will be submitting at the appropriate time a list for the RECORD of MEWAs that have failed.

This is the reason that the National Governors Association, that attorneys general, that commissioners of insurance both Republican and Democrat oppose this bill because the regulation that would protect patients and providers and consumers is not there.

The third reason that we should oppose this bill, the final reason, is that the coverage that people have fought for over the years, so that women have a minimum stay in the hospital after they have a C section, so that women have the right to an annual mammogram, so that people with diabetes have the right to insulin or diabetic care, so that people struggling with mental health problems or with substance abuse have the right to have those services covered, those protections which have been supported by Republicans and Democrats in State legislatures around this country are effectively repealed by the underlying bill, a judgment being made in Washington that contravenes the good judgment of Republicans and Democrats around the country.

This bill should be opposed. There is a better way that the gentleman from Wisconsin (Mr. KIND) will be putting forward with my assistance. This is a bill that will increase the number of uninsured and increase health insurance premiums for small businesses.

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This is a bill that will leave patients and providers and consumers unprotected if and when insurance companies go bankrupt. Finally, this is a bill that effectively repeals protections for breast cancer screening, colon cancer screening, diabetes care, substance abuse care, and mental health care. It is a bill that should be defeated.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. SAM JOHNSON), chairman of the Subcommittee on Employer-Employee Relations.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I thank the gentleman from Ohio for yielding me this time.

As you know, Mr. Speaker, the cost of providing health care for employees has become the number one issue for small businesses around this country. It is especially important to me, because in my home State of Texas, one in four workers are uninsured. Small businesses have it especially tough because there is an inherent problem in a small number of people. You need to be able to pool risk to make insurance work. To make matters worse, there is a lack of competition in the small group health insurance market, allowing a few insurers to charge whatever they want. That is why we need association health plans.

These AHPs would allow small businesses to pool together to purchase health insurance. So instead of one individual company shopping for health care insurance, they would bring an entire trade association, for example, the U.S. Chamber of Commerce, to the table with much better bargaining power.

However, pooling risk and buying in bulk is not enough. If your association had members all across the United States, you would have to abide by 50 different sets of mandated benefits in order to offer your insurance. Not only is that a headache, but it is more costly. Some of the mandates that have been enacted by State legislatures include infertility treatment and alternative health solutions such as acupuncture. These mandates drive up the cost of premiums.

To resolve this, AHPs would allow small businesses to buy insurance under the same terms that large corporations and unions enjoy today. ERISA, a law that governs employer benefits, lets these sort of self-insured plans use one set of Federal rules, not 50 State rules. Talk about a quick way to lower administrative costs.

And lower administrative costs, Mr. Speaker, means lower premiums, up to 30 percent lower by some estimates, and that means affordable health care for employers and their employees alike. So who would not want AHPs to pass?

Some critics say AHPs will be an opportunity for fly-by-night groups that front as insurance companies and then leave employers with unpaid claims. The AHP bill in both the House and the Senate has tough safeguards to protect small businesses and their employees. A bona fide trade organization must have been in existence for 3 years before enactment of the law in order to offer an AHP. And there are Federal solvency standards set up for these health plans, including requirements for a reserve fund and stop-loss coverage. This is beyond and above what ERISA requires.

Moreover, the Department of Labor would be charged with the oversight of these plans, and the bill gives them the power to pursue criminal penalties against those who commit fraud. The Department of Labor has testified in hearings that they are up to the task and support the legislation.

Who else? Groups that have worked so hard to get coverage for their particular treatment mandated by State legislatures do not want AHPs to be exempt from the 50 different State laws. Let me say it plainly: That is the point of the legislation. One uniform set of benefits lowers administrative costs. If it is good enough for large corporations and unions, it ought to be good enough for small businesses.

Mr. Speaker, AHPs are a big step in the right direction for our hard-working families who need health insurance now.

Mr. ANDREWS. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Wisconsin (Mr. KIND), who has come up with a very constructive and progressive alternative.

Mr. KIND. Mr. Speaker, I want to commend my friend and colleague, the gentleman from New Jersey (Mr. ANDREWS), for the leadership he has shown on this issue.

Here we are again, Mr. Speaker. Year after year after year it seems we continue to rise in this Chamber to debate the same issue. One of the reasons we have to do this year after year is because bad policy is tough to sell, and especially tough to sell in the Senate right now, which has refused to take this up and move it forward because it has been bad policy.

The chairman of the full committee, the gentleman from Ohio (Mr. BOEHNER), had a chart showing us a 93 percent approval of AHPs. That is not surprising, Mr. Speaker. There is such a craving throughout America for any type of legislative proposal that would bring price relief to the rising cost of health care, that I am afraid people will chase any proposal and even jump off a cliff without looking where they are going to land.

That is why, Mr. Speaker, especially under these conditions, it is more incumbent upon us here in this Chamber to be extra careful in regard to the policy proposals that we are proposing so we do not violate the Hippocratic oath, and that is: first do no harm to the current health care system. There is plenty of places where this legislation that is being offered today would do substantial harm.

We have had studies outside and inside this body that have come back explaining the true deficiencies of this legislation, but none probably summarize it better than the National Small Business Association that recently sent us a letter expressing their concerns. Now, this is an organization of some of the largest Chambers of Commerce and some of the biggest local and national organizations throughout the country, all of which see this AHP proposal for what it really is: an empty promise.

Mr. Speaker, I quote from this letter from the National Small Business Association in which they state, "The biggest loser from the passage of AHPs would be small businesses. AHPs are not an answer to rising health care costs and would significantly worsen the state of health care for all businesses. More and more small businesses are realizing that despite the bumper sticker pitch in its favor, AHPs are, simply put, bad public policy."

They go on to cite the Mercer study, saying that "premiums for those outside the AHP market would increase an additional 23 percent, and an additional 1 million people would become uninsured as this policy plays out." They go on to state that "the minimal price savings realized by some businesses through AHPs would come from attracting healthier participants and depleting benefits that are currently required by States. AHPs could create plans that manipulate benefits and are extremely unattractive to sicker, less healthy participants.

"Furthermore, the CBO found most of the enrollment in AHPs would come from businesses switching coverage. Only 1 in 14 would be newly insured. AHPs do nothing to solve the problem in rising health care costs to small businesses and their employees." And they conclude by saying, "They simply shift the cost from the overall market to a more concentrated group of people. This is hardly a long-term solution."

There is a better proposal, one that we will talk about in more detail when our substitute is offered. There is a way for us, I believe, to come together in a bipartisan fashion to address one of the most pressing issues of the day, and that is affordability and access to quality health care.

Businesses large and small, family farmers, individual employees are all suffering alike, and that is why it is important for us to come together and do something meaningful to relieve the health care pressures in this economy.

Mr. BOEHNER. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. NORWOOD), the chairman of the Subcommittee on Workforce Protections.

Mr. NORWOOD. Mr. Speaker, I thank the chairman very much for yielding me this time.

Mr. Speaker, it is my understanding that H.R. 525 is supposed to decrease the cost of health insurance for small businesses that cannot afford it today. Well, I support that. That is a good goal. All of us support that. Yet, unfortunately, I believe that in this bill that has been undermined a little bit, and my logic is fairly simple.

As I read it, in section 805 of the bill, it allows an AHP to preempt State-level patient protection laws that prevent cherry-picking against small businesses with sick employees. Now, that troubles me a great deal. Look at the bill. Line 8 through 14 gives us the right, and line 21 through 22 takes it away. Sure, everybody can buy an AHP. It is just if you have anybody sick, you are in serious trouble, because the premium is going to be so high you cannot afford it.

After all, H.R. 525 is supposed to allow small businesses to come together to form large pools and purchase affordable health care through an association. That is a good idea. This makes sense, since large employers use this concept under ERISA to provide employees good rates, regardless of preexisting conditions. But in my opinion we, somewhere along the way, allowed this very good idea to be corrupted by a very bad provision, a sort of fly in the buttermilk of health care reform, in the form of section 805.

Mr. Speaker, 49 out of 50 States have instituted at least some patient protections that prevent insurers from using health status to discriminate against patients. Yet in plain English it appears to me that section 805 allows an AHP to preempt those rating laws. This simply makes no sense.

This is the bottom line: A small business owner in remission from cancer likely cannot get health insurance for himself, his family, or his employees if he lives in a State that allows for rating based on health status. Will that small business owner be able to afford high-quality health insurance from an AHP if H.R. 525 becomes law? Based on the language as I understand it, as I believe it to be true, he will not be able to get that insurance. Now, I believe that if H.R. 525 becomes law, it may even be much harder for that employer to get insurance. Why is that? Because all other employers with healthy employees will be in the AHPs.

I do not believe that is the intention of this bill. I hope I am wrong. I am going to vote for this bill. I am going to vote for it to move it forward, and I dearly hope I am wrong, and I hope that my chairman is right. But if time proves my position correct, I want these comments on the record so we will know exactly where to go to fix this when the milk turns sour.

Mr. BOEHNER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the gentleman from Georgia and I have had a disagreement over this particular provision for several years. It is very clear in the bill, as I read it, not the way the gentleman from Georgia (Mr. NORWOOD) reads it, and this is where the source of the disagreement comes in terms of how plans can choose groups of employees.

Under current ERISA law, you are allowed to have different rates for different groups of employees as long as there is a reason other than the health status of that group to have a separate group. Maybe you have a plant located in one part of the State, another plant in another part of the State. You could have two different rates at those two different plants, just like you can under most State laws and what you can under ERISA.

So I look forward to continuing to work with my friend from Georgia to resolve our misunderstanding of this issue.

Mr. ANDREWS. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY), a person who is a strong voice for the rights of patients and families.

Ms. WOOLSEY. Mr. Speaker, there currently are 45 million Americans who do not have health insurance and are looking for real solutions for their lack of health care coverage. Unfortunately, H.R. 525, the so-called Small Business Health Fairness Act, is not their answer. In fact, this bill allows insurance companies to preempt State law, making possible a race to the bottom by associated health plans as companies, because of this bill, can offer the cheapest insurance with the least coverage.

The idea that we would allow insurance companies to trump State law is really outrageous. Laws to protect those with diabetes, those with cancer, and a host of other ailments are at risk under this plan. That is why I offered an amendment in the Committee on Rules, along with the gentlewoman from New York (Mrs. MCCARTHY), that would protect mammograms and cervical cancer screenings from being preempted by association health plans. Unfortunately, the Republican majority does not see the value in protecting women from breast and or cervical cancer, because they would not allow our amendment to come to the floor to be debated before we voted on this bill.

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Mr. Speaker, in my district, the Sixth Congressional District of California, the women of Marin County are plagued by an unusually high rate of breast cancer, and particularly young woman have the high incidence of breast cancers. But, fortunately, in California we require insurance companies to cover mammograms. So while the women of Marin County still have to worry about their community's high rate of breast cancer, at least they know their insurance companies cannot deny them access to the best available screening tools.

I cannot accept the idea of even one woman in this Nation foregoing an annual mammogram or a pap smear only to be diagnosed later with advanced breast or cervical cancer because an association health plan does not provide coverage. This is a risk we cannot afford, and I urge my colleagues to vote "no" on H.R. 525.

Mr. BOEHNER. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. BOUSTANY), a physician.

Mr. BOUSTANY. Mr. Speaker, 45 million Americans lack health insurance today, and the number is rapidly growing. Twenty-six percent of all adults in Louisiana lack health insurance, and 22.6 percent of all working adults in Louisiana lack insurance.

It has been said over here that we need the insurance mandates to protect the patient. Insurance mandates are meaningless without insurance. We need a free market health care system that allows doctors to make decisions and not insurance companies. Fifty-two percent of Louisiana's small businesses offer health insurance, and the number is constantly declining. We must act to ensure that Americans can afford the health insurance that they need, and we can do so by passing H.R. 525, the Small Business Health Fairness Act.

This bill will create association health plans that will allow small businesses to band together through bona fide trade associations to become larger purchasers of health insurance, thus giving small businesses the same benefits that Fortune 500 companies now enjoy.

The Congressional Budget Office has estimated that small businesses obtaining insurance through AHPs would average premium reductions of 13 percent and some as high as 25 percent reductions. Overhead costs alone would decrease by as much as 30 percent under these plans. What is wrong with this? This is offering affordable coverage to workers.

There is additional research that also shows that up to 8.5 million Americans who are currently uninsured would become insured under AHPs. And this bill offers very many protections, consumers protections and protections with regard to solvency, as outlined.

If we are going to lower costs and increase accessibility to health care, we need to create choices and enhance competition. This bill is an important first step, and I urge its passage.

Mr. ANDREWS. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. HOLT), a Member who does not want to see a 23-percent increase in premiums for his constituents.

Mr. HOLT. Mr. Speaker, today Member after Member has been talking about the 45 million Americans who lack health insurance. At the origin of our problem, we are the only major country where your health care coverage depends on who you work for. But that is not to be debated today.

We are talking about the small businesses in New Jersey and elsewhere around the country that face the high cost of health insurance. We all hear about it from our small businesses and their employees. Unfortunately, what has been brought to the floor here is a bill that creates more problems than it solves.

The concept of companies working together to control costs has worked in some States, and it is certainly something I support. However, I cannot support allowing association health plans to achieve cost savings by offering inferior coverage. Allowing AHPs to circumvent existing State laws, for example, with regard to mental health coverage or contraceptive equity or mammograms or prostate screening or countless other necessary benefits is not an acceptable means to cut premiums.

Supporters of this legislation claim that millions of small businesses and their employees will be eligible for this new insurance option. However, the Congressional Budget Office estimates that only 600,000 of those eligible are currently uninsured, a small fraction of this huge population.

And H.R. 525 would allow AHPs to offer artificially lower costs by offering cheaper premiums to lower-risk populations, a policy that will lead to older and sicker people paying higher premiums. The CBO found that more than 20 million workers and their dependents would see their premiums increase due to AHPs cherry-picking.

States require that qualified health plans cover certain basic items. States say that anything that is worthy of the name health plan must cover certain things. Well, under this bill I could create a health plan that covers nothing but ingrown toenail surgery. It would be the cheapest plan out there, but it would not help employees very much.

I urge my colleagues to vote against H.R. 525 and to support the Andrews-Kind substitute. Their legislation would address the real needs of small employers. It would establish a small employer health benefits plan that would grant small business employees the same benefits as Federal employees receive. It provides prorated premium assistance for companies of varying sizes and employees of varying income. It would be much preferable to H.R. 525.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. PRICE), a member of the committee.

Mr. PRICE of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time and for his work on this issue and so many other important issues.

When I go home, and especially as a physician in Congress, when I go home and talk to small businesses, they say whatever you do, whatever you do, do something about my health care costs. Make it so I can help my employees get insurance.

Mr. Speaker, 45 million uninsured we have heard, 60 percent or more of those are employed currently, and why do they not have health insurance. Either they are self-employed or they work for small businesses so they have to purchase health insurance in the individual market.

So what is the solution? Pool together. Six people can buy insurance for cheaper than one person; 60 cheaper than 6; 600 cheaper than 60; and 6 million cheaper than 600, and it can be quality insurance, and H.R. 525 is a step in the right direction.

We have heard that the number of uninsured will go up, the cost for the premium will go up 23 percent. I will take that wager. This is the same crowd that said welfare reform would not work. I will take that bet.

Once again, the rhetoric we have heard is disgraceful. We have heard that Republicans do not care about women with breast cancer. Come on. What kind of nonsense is this. Who do you think will be making the decisions about the kinds of provisions that will be in that insurance policy? It is patients. It is patients in the associations, and they are much closer I would argue to the individuals making decisions about what is going to be included under those plans than human resources officers in large companies.

H.R. 525 is a step in the right direction. I encourage my colleagues on both sides of the aisle to support it.

Mr. ANDREWS. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Ms. VELÁZQUEZ), a person with whom I share an important goal, but have a disagreement on means.

Ms. VELÁZQUEZ. Mr. Speaker, in every State and every district when we meet with small business owners, their number one concern is rising health care costs. Even as we sit here, the cost of health care continues to rise.

Today's legislation will help address this problem. Association health plans will provide an employer-based solution to help the sector of the economy that is being hit the hardest: small businesses. Critics of the bill will come forward today and tell you how association health plans are going to lead to a devastating impact on small businesses and the insurance market. Well, from where I stand, it is hard to imagine that it could get any worse.

We have 45 million Americans without health insurance and over half are small businesses and their employees. This includes up to 7 million children that have family members working for small firms. And for the last 5 years, small businesses have seen insurance costs increase by over 60 percent. These are statistics that are so often stated in this town that we forget what the real impact is. When an employer has to spend an additional $3,000 a year for coverage per employee year after year, it is easy to understand why some are dropping coverage all together.

We have a modest solution before us today that no one can claim will address all of the problems, but it can provide some help in a market that needs it. I think it is important to talk about what association health plans are and what they are not. These plans will be under the same set of rules that apply to corporate and union plans. In fact, the requirements for association health plans are even more strict. It will require that an association health plan have sufficient reserves to pay all claims. It includes protections against cherry-picking to prevent adverse selection. It provides a structure to ensure that the DOL can monitor these plans.

Critics will cite an outdated CBO study that does not even examine the legislation before us today. Will association health plans cure all of the problems when it comes to health insurance in the small group market? Absolutely not. But will it bring some elements of affordability and competition in these markets? I think so.

By some estimates, this bill is estimated to provide as many as 8 million Americans with insurance, no small sum. One of the best indicators as to whether AHPs will increase competition is the strong opposition from insurance companies. They are worried that they will lose their stranglehold on the small-group market. These insurance companies with highly paid lobbyists from Blue Cross/Blue Shield, for example, that hold monopolies on State markets are worried that they will have to start negotiating premiums rather than dictating them.

I rise in strong support of this legislation. I ask my colleagues to do the same. Just as important, I call on the Senate to act on this legislation and the administration to put its full backing behind this bill. This Nation's entrepreneurs deserve it.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. ANDREWS. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. TIERNEY), a Member who understands that this bill will increase the number of uninsured by at least 1 million people.

Mr. TIERNEY. Mr. Speaker, this so-called Small Business Health Fairness Act is a bill that is attractive to a few, seems to be sufficient for none, and is going to be harmful for many.

The Congressional Budget Office did an estimate of the proposed bill. It estimated that only 600,000 of the 45 million uninsured will be provided new insurance coverage by these AHPs. In fact, the respected 2003 Mercer Consultant Study that was done for the National Small Business Association found that the number of uninsured will increase by 1 million, as increased nonassociated market costs force small employers to drop coverage.

The fact of the matter is there is not going to be the dramatic savings proposed here. That is not going to materialize. The Congressional Budget Office found that these premiums for AHPs would only be marginally less than traditional premiums for health care plans.

In fact, the 2003 Mercer Study found that premiums would increase by 23 percent for those outside the AHP market. It also found that there would be an increase in the number of uninsured workers in small firms, an increase of 1 million people as a result of this plan being implemented.

Again, the fact of the matter is that Americans would also lose their right to vital medical coverage, like OB-GYN and pediatrician services, cervical, colon, mammography and prostate cancer screening, maternity benefits, well-care child services, and diabetes treatment.

Mr. Speaker, this bill is going to disallow a lot of State protections. In fact, that is how you get cheaper insurance. If you want to lower the price, you just do not give people the coverage that they need and deserve. Almost all of the States that we talk about have protections for people with coverage. Almost every Member of this House voted for the Federal Patient Bill of Rights that would have recognized these State protections that are in place for insurance programs; yet this bill would take those out carte blanche.

□ 1615

As a person in small business for over 22 years, and having represented a lot of small businesses, I can tell you from personal experience that small business employers do not want inferior coverage for their employees. We cannot allow it to happen again here. In fact, Mr. Speaker, I can tell you that AHPs really already exist. They are called the multiple employer welfare arrangements, the MEWAs. The public record is filled with stories of failed MEWAs that left employers and employees alike with unpaid medical bills. From 1988 to 1991, dozens of MEWAs failed, leaving 400,000 individuals with over $123 million of unpaid medical claims.

Small business owners and their families and their employees deserve protections. They deserve to go to the emergency room. Women in small businesses deserve to go to gynecologists without referral from another doctor. Why should we treat small business owners and employees as second-class citizens and give them second-class health care? Instead of extending the patient protections to all Americans, this AHP bill would actually roll them back and roll back the limited protections that they get today.

Plainly speaking, Mr. Speaker, this bill eliminates all those protections. For this reason and for the other reasons I have mentioned, and the fact that over 1,000 different organizations oppose this bill, the National Governors Association, the Republican Governors Association, 41 State attorneys general, the National Small Business Administration, the National Association of Insurance Commissioners, as well as a dozen other labor, business and consumer groups think that this is not a good bill. I urge my colleagues to reject this bill and vote for the substitute.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILLMOR). The Chair would request that Members, as a courtesy to their colleagues, respect those time limits.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 525, the Small Business Health Fairness Act, designed to allow small businesses to create large insurance pools in order to give them market power which will allow them to purchase quality health insurance at affordable prices through association health plans.

In truth, our biggest bipartisan failure in this Congress has been our inability to help 45 million, now pushing 50 million, Americans who do not have health insurance. Sixty percent of these people work in small businesses or are self-employed. Unfortunately, small business employers either cannot afford to offer health insurance or offer it at premium costs that employees cannot afford. Small businesses and their employees need our help. AHPs are not a panacea, but they are a step in the right direction.

AHPs, association health plans, will be subject to Federal consumer protections, unlike what you may have heard, such as continuation of coverage; Federal claims procedures for benefit denials and appeals; guaranteed portability and renewability of health coverage for those with preexisting conditions; as well as the Mental Health Parity Act, the Women's Health and Cancer Rights Act, and the Newborns' and Mothers' Health Protection Act.

We have also heard that AHPs will allow for cherry-picking, that only the healthiest will be signed up. That is not true due to the antidiscrimination language in the bill. Really and centrally, opponents claim that AHPs are bad because they do not provide mandated State benefits. This misanalysis reflects some of the backward thinking in our health care system, that people would put mandated benefits ahead of prevention. That does not make sense.

Consider a State's mandated coverage for diabetes supplies. But what good is mandated benefits for diabetes supplies if you cannot afford to go to the doctor, and therefore do not know you have diabetes? Under AHPs you have an affordable, basic policy which covers doctors' visits. Therefore, you can get checkups and learn about your risk of diabetes or other health problems. The doctor can give you advice, prescribe life-style changes, and help you overcome, control, or avoid health problems. In fact, the American Diabetes Association cited a recently completed study on diabetes prevention that conclusively showed that people with prediabetes can prevent the development of Type 2, or full-blown, diabetes by making changes in their diet and increasing their level of physical activity.

Our approach provides affordable access to this kind of preventive care, allowing people to lead healthier lives and not go to the emergency room, which is driving up costs for all of us.

Some of our elitist opponents will call these policies worthless because they do not offer 30 or more State mandates. For a single mother who is a waitress who is able to take her son to the doctor, that is not a worthless policy. That is called progress. If the plans are so inadequate, don't worry, the people won't buy them.

Most professional men and women have health insurance. Members of Congress have a great health insurance plan. Members of labor unions have health insurance. Why do they not want the mechanics and the barbers and the waitresses and the realtors to have health insurance? The attitude of our opponents seems to be, "I drive a Cadillac. If you can't afford to drive a Cadillac, you don't get to drive at all." That does not make sense.

Today 45 million Americans cannot afford a Cadillac health insurance policy with all the mandated benefits. However, they might be able to afford a more modest vehicle that would get them to their doctor's office where they could at least get a diagnosis, advice and recommendations in order to improve their quality of life.

A broad and diverse coalition of more than 180 groups support this bill, including the U.S. Chamber of Commerce, the National Federation of Independent Business, the American Farm Bureau, the Associated Builders and Contractors, the Latino Coalition, and the National Black Chamber of Commerce. People want health insurance. Opponents of AHPs say, "If you can't do everything for everyone, do nothing." We say this bill will help some people get health insurance, and we think that is a good thing.

Please, support AHPs. Let us quit talking about health insurance and actually deliver it to the American people who work in small businesses and who are self-employed, because they really need it.

Mr. ANDREWS. Mr. Speaker, among those who know the difference between a Cadillac and a lemon are the insurance commissioners of our States who oppose this bill.

Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY), one of their former members.

Mr. POMEROY. I thank the gentleman for yielding time.

Mr. Speaker, let us understand something fundamental here. People do not just want the appearance of health insurance. They want a program that they can trust and that will pay when they incur the claim, and that is the critical problem with the bill being put before us. There are no meaningful consumer safeguards. This can manifest itself in three critical ways. First, as to content. We all know about insurance loopholes, the fine print that says, oh, we will pay your claim unless you file a claim, in which case we won't pay the claim. This kind of malarkey has been with us ever since insurance first came in the marketplace. Insurance commissioners make certain that the policy does what it purports to do, no fine print taking away the meaningful coverage. This bill takes away that insurance commissioner protection provided to the consumers.

The second protection, rating. Do you know that in our States, there was a company that tried to sell a policy that actually raised the premium whenever you went to see a doctor? You thought you had good health care coverage, you went to see a doctor, your premium went up until it quickly became unaffordable. That is no insurance coverage. There is not the kind of protection on this kind of terrible rating scheme in this plan. As an insurance commissioner, I have seen rating schemes. Do not think for a second there are not people that will try this under this legislation. Consumers need protection there.

Thirdly, solvency. If there is one part of this bill that I think just screams out, "This is stupid," it is the part on solvency. There is a $2 million cap on the solvency required for an AHP, no matter how many lives you have. Millions and millions of lives, $2 million maximum coverage. Do you know that the claims incurred by two premature babies could totally bust this plan? Again, people want coverage that is there when they need it, not coverage that gives them the appearance of having something only to have it go bust because it did not have enough capitalization. This business of capping solvency stands in stark contrast to any actuarial approach and shows that this is absolute danger for our consumers. Reject this bill.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Louisiana (Mr. BOUSTANY).

Mr. BOUSTANY. I thank the gentleman for yielding me this time.

Mr. Speaker, first of all, I have respect for our insurance commissioners, but I want to say that three out of the last four in Louisiana went to jail. So that is no automatic protection. I think other States have had similar problems.

The preemption language in the bill only grants two limited exceptions from State laws that regulate insurance. Fully insured AHPs are exempted from State laws that would, one, preclude them from establishing an AHP; or, two, prevent them from designing their own benefit package. These two exemptions are narrowly tailored to allow AHPs to set a uniform benefit package that can be offered across State lines and to ensure that State regulators will not pass laws that prohibit the establishment of AHPs. State laws that regulate insurance and do not impact benefit design will apply, including prompt pay, external review, and solvency requirements. Assistant Secretary Ann Combs testified to this at a March 2003 Subcommittee on Employer-Employee Relations hearing. At that hearing she noted that, quote, "fully insured AHPs would purchase insurance products with solvency standards and consumer protections regulated by the States."

Further specifying which State laws are not preempted is unnecessary. All State laws will apply except those that prevent a uniform benefit design or prevent an AHP from existing. Consumer protection laws that States see fit to pass will apply to fully insured AHPs. No further change in the legislation is necessary. Benefit mandates, as we have discussed, will be preempted as is the case for unions and large employers.

Mr. ANDREWS. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. VAN HOLLEN), a Member who understands that this bill will raise premiums by 23 percent and cost 1 million people their coverage.

Mr. VAN HOLLEN. Mr. Speaker, I thank the gentleman from New Jersey for his leadership on this.

This is a bad bill, Mr. Speaker, for many reasons. I want to focus on one of them, which is that this bill will strip away the consumer protections and the patient protections that exist under State law for our constituents today. I understand that we have 50 States, and in those 50 States many of them have different mandates for what has to be covered and what does not have to be covered, and there is some sense when you are talking about organizations operating across State lines that you would streamline that effort.

That is exactly what the gentleman from Massachusetts (Mr. TIERNEY) and I tried to do when we took an amendment the other day to the Rules Committee. We said, let us look at six patients' rights that have been agreed to on a bipartisan basis by this Congress in previous legislation and which are overwhelmingly agreed to in our States, and let us say with respect to those six rights, you can't take that right away from one of our constituents, one of our patients, one of our consumers if you are an associated health plan.

What happened to that amendment? We did not even get to hear it or vote on it in this House. What are we afraid of? What were those six provisions that we wanted to make sure all our constituents, all our consumers, were protected by? The right to an independent external review of coverage decisions. Forty-three States have this rule already. It says if you disagree with your insurance company as to whether or not you are covered, let us not ask the insurance company who is right and who is wrong, let us have an independent individual who can make that decision. Does that make sense? Most of our constituents think they will have that right. If you pass this legislation and if you are in an AHP, you are not going to get it.

Second, direct access to obstetric, gynecological, or pediatric services. You do not have to wait in line before you take your child to see the pediatrician.

Third, imposition of prudent layperson decision-making standards. If you show up at the hospital, and you have a good faith reason for thinking you are sick, and it turns out you did not have a heart attack, but you went thinking you had one and you had good reason to think so, your insurance company cannot deny you coverage for that visit. You do not have to be the doctor. That is why we have doctors.

Use of drug formularies, access to hospital emergency room treatment, 42 States have this requirement; and making sure that we do not restrict the ability of our doctors to give us their opinions, to make sure that those States where they say you cannot have a gag rule, where your physician can tell you, the patient, what he or she thinks is in your best medical interest, they cannot be punished by the insurance company for telling you the truth.

These are common-sense provisions, six common-sense provisions. That is what our amendment would have done. It would have made this piece of legislation stronger and protected our constituents. What happened? We did not even allow a vote on that.

I would just like to quote from 42 State attorneys general, Republicans and Democrats, who say, "Consumers rightfully expect their States to protect them from fraud and abuse. Elimination of the State role and replacement with weak Federal oversight is a bad deal for small businesses and for consumers." Those are State attorneys general, Republican and Democrat, who, like us, are trying to look out for the consumer interest.

Do not pass this bill. If you do, you are going to have a lot of explaining to do to your constituents when they are denied by their insurance companies coverage that they thought they rightfully had.

Mr. BOEHNER. Mr. Speaker, I reserve the balance of my time.

Mr. ANDREWS. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. GEORGE MILLER), the ranking member of the full committee and a fighter for working families throughout his career here.

□ 1630

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time.

I must say the Republicans are on a roll here. Last week they voted in the Committee on Education and the Workforce to raise the cost of education to those students seeking a higher education by raising the cost of the loans that they will seek to finance that education. In this legislation what we see them doing is taking away vital health benefits that millions of Americans currently have but will lose if this legislation is passed. And later this week they are going to bring an energy to the bill to the floor of the Congress that The Wall Street Journal says will raise the price of gasoline.

What is it that the middle class did to them to make them so angry at them? They raise the cost of their education, they take away their health care benefits, and now they are going to increase the price of gasoline. Do the Members know .what the price of gasoline is in California? It is $2.67, $2.77, $2.87 a gallon. Do the Members know how hard people have struggled in these States to have minimum health care benefits so that they can have a mammogram, so they can have diabetes testing, and now they are going to take that away. And now they raise the cost of college education. It just does not make any sense.

The theory is that Congress should be trying to extend meaningful health care coverage to families and to making sure that they have benefits that, in fact, are there when they need them. But that is not what this legislation does. This legislation overrides all of the hard work that was done in 40 or 45 States to make sure that people would have access to well baby care, to make sure that they would have access to maternity benefits, to make sure that they would have access to mammograms, crucial services that families need. This legislation says not necessarily so, they do not get that, on the theory that we have heard argued here that some plan is better than no plan.

But a plan without benefits is not worth much at all. And why would one keep paying premiums even if they are low premiums if they do not get the coverage that their family needs?

The point is for the people running that plan, that can turn out to be very profitable. That is why they do not want the insurance commissioners involved, because at some point the insurance commissioners would do what they have done in the past. They would blow the whistle on people running plans where they take premiums from middle-class workers, but they do not give the benefit that they want. The record is replete with that, replete with that in State after State after State. But that is stripped out of this legislation.

This legislation should be rejected because it just is not the benefits that people need. What we ought to be doing is extending that kind of universal access to plans that provide people the benefits.

The Congressional Budget Office in its most recent report, April of this year, analyzed the legislation two other times and concluded that 8½ million workers would end up in AHPs under this bill, and over 90 percent of them would come from existing health care plans where in all likelihood their benefits are better. The CBO looked at it once, it looked at it twice, it looked at it three times, and it said that is their conclusion.

This means that millions of Americans, working Americans today with health insurance, under this plan would get stripped of the health care coverage that they now have and that they need, that they need. They are talking about trying to cover a couple hundred thousand people. That is their argument, but they are going to strip the health care benefits away from almost 8 million people that have this kind of coverage. It is unacceptable.

We ought to reject this. Later this week we ought to reject the energy bill, and maybe we can do something to keep people in decent health care plans, lower their energy costs, and, when the higher ed bill comes, reject that, and we can save them some money on a college education.

Mr. BOEHNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SAM JOHNSON), the chairman of the Employer-Employee Relations Subcommittee.

Mr. SAM JOHNSON of Texas. Mr. Speaker, we have heard it over and over again today on the floor. Too many working Americans have a job, but are uninsured because their employers cannot afford to purchase quality health insurance benefits for their workers.

This bill addresses the two most important issues in the health care reform debate: cost and access. H.R. 525 would, one, increase small businesses' bargaining power with health care providers; two, give them much-needed freedom from costly State-mandated benefit packages; and, three, lower their overhead costs by as much as 30 percent.

Our small businesses are denied the ability to purchase health coverage with the benefits large multistate companies and unions have enjoyed for decades. This bill fixes that problem.

By pooling their resources, increasing their bargaining power, AHPs will help small businesses reduce their health insurance costs. As the Members have heard me say before, if it is good enough for Wall Street, it is good enough for Main Street. Small businesses in most States are stuck with disproportionately higher costs because they have to choose from fewer than five providers. So AHPs offer them a new option to choose from. Most importantly, AHPs will expand access to quality health care for the people for whom it is currently out of reach: uninsured working families.

This bill has had unwavering support in the House for nearly a decade now. The other body is taking a serious look at the legislation this year, and it is a priority in the President's health care agenda. I look forward to working with our colleagues from the other body to make this bill law this year.

The problem is getting worse every day. Small businesses need our help now. Let us vote "yes" on H.R. 525.

Mr. ANDREWS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the argument for this bill rests upon a false choice that I believe would have catastrophic consequences for many Americans. We are told by proponents of the bill that if we are willing to yield the guarantees that they presently enjoy under the law that guarantee them a mammogram, guarantee them care for diabetic illness, guarantee them other rights that they fought and won for, if we make that trade-off, we will get more people health insurance. If that were true, this would be a difficult choice, but it is not true.

The net impact of this bill will be to increase the number of uninsured people by nearly 1 million people because the increases in premiums for small business that will occur in businesses that stay in conventional plans will chase more people out of these plans. The experts estimate that these increases will be in excess of 20 percent.

So this is a false choice. This bill does not say that if we yield these benefits that people cherish, more people will be insured. The opposite is true. If we were to make the mistake of yielding these cherished benefits, more people would lose their coverage than would gain it.

This is a choice not worth making, and it is why the National Governors Association opposes the bill, Republicans and Democrats. And it is why the Attorneys General oppose the bill, Republicans and Democrats. And it is why commissioners of insurance, Republicans and Democrats, oppose the bill.

I urge our colleagues on both sides of the aisle to protect the benefits that our constituents earned and deserve and to prevent the increase in the number of uninsured and the increase in health insurance benefit premiums and vote "no" on this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, small employers today have a difficult problem. They are trying to keep their business alive. They are trying to make enough money to hire and grow their business and at the same time trying to provide affordable health insurance. About 60 percent of the 45 million people who have no health insurance work for small businesses of some sort. But what happens to those small employers in most of these State risk pools? They are in the small group coverage area, and guess what happens? There may be a provider or two that will offer them insurance. They are stuck in a small pool, and they pay the highest rates of any group that is out there, unless, unless, one happens to be self-employed.

Let us say that they were a realtor, and as a realtor they are self-employed, they are not an employee of a company, and they try to buy health insurance for themselves out in the open market again in these small State risk pools. Here it comes, $1,500 a month, $2,000 a month. And, my goodness, if they are sick, they will not get it at all.

So what we have been proposing now for some 10 years, and the House has passed this on a bipartisan basis at least five times, is to allow businesses and self-employed individuals who belong to bona fide organizations to group together for the purposes of health insurance. Why should a realtor who belongs to the National Association of Realtors not have an opportunity, whether their State association or the national association wants to put together a package of plans and allow them to choose one of those plans that might fit the kind of coverage that they want, why would we not want to do this?

We have heard all this shtick about all these plans are lousy, they are low-cost coverage. No. These plans would look exactly like the plans that big companies and unions offer today. Everybody in America wants to work for a big company or a union. Why? Because they have got great health benefits. And why do they have great health benefits? Because that is what their employees and that is that their members want. People do not want to go out and buy low-cost coverage that does not cover anything. That does not accomplish anything.

So when we look at the opportunity for small businesses to go out and to be able to purchase health insurance for their employees, just like a big company or just like a union under the same set of rules, the same set of rules for small companies that big companies have today, we should not let the perfect become the enemy of the good. This will not solve the problem of all 45 million of the uninsured, but it will help millions of Americans who work for small businesses have a better opportunity at getting good health coverage at competitive prices.

We have heard an awful lot of talk about it does not have this mandate, that mandate, that mandate. And why do big companies who do not have to have any mandated coverages under ERISA, why do they provide those? Why do they have breast cancer screening? Why? Because it makes sense to screen for this to detect it early and to deal with it. Why do they have these benefits that are not mandated? Why? Because they make sense to find out early in the illness.

These small companies are going to have the same types of high-quality plans that big companies have today without State mandates, because what happens is every State has a mandate. Some of them have as many as 30 mandated benefits that drive up the cost of health insurance and drive the number of uninsured up as well. But companies that offer a lot of these benefits, they do so with, as an example, a breast cancer benefit that covers the whole country, one size, not 50 different States done in 50 different ways that they have to find out exactly how it is going to be covered in each of those 50 States.

I have no doubt that the policies that will be offered by these association health plans will, in fact, be high-quality policies at very competitive prices.

As I said before, this bill has passed the House on a number of occasions with broad bipartisan support, and I expect that will occur again today. So I would ask my colleagues to stand up and vote. We hope that the other body will eventually take this bill up and move it and to help reduce the number of uninsured Americans that we have.

Mrs. CHRISTENSEN. Mr. Speaker, I rise in strong opposition to the Small Business Fairness Act, which is not fair any place, but in its name, and in strong support for the Kind-Andrews substitute.

As a 5-term member of the Small Business Committee, I know and am very concerned that 60 percent of the uninsured are employees of small businesses.

We all want to make sure they are covered, but H.R. 525 will not do that, it is an empty promise.

Worse, it would more likely increase the number of uninsured instead of reduce them. Even for those who might be covered. This bill is designed to provide great coverage if you don't need it, but please don't get sick—what it provides then is a false sense of security.

The stories of individuals with similar low cost plans in States with little regulations are tragic, and must not be replicated as H.R. 525 would do.

AHPs specifically remove State consumer protection laws and appeal rights. It is fool hardy to think that the market will provide any protection, and our experience with the Department of Labor and hearings with the Secretary have added no reassurance.

People of color, who make up a sizeable portion of small business employees and who tend to be sicker because this government will not build fairness and equality into our healthcare system, will get the shortest end of the stick again. Because of the higher costs of taking care of them, minorities will be left out, and left behind.

There is nothing fair about this bill, I urge my colleagues vote "no" on 525 and vote for a bill that provides insurance relief to small businesses, keeps the cost low, and protects the consumer. I urge my colleagues to vote "yes" on the Kind/Andrews substitute. The only fair bill before us at this time.

Mr. REYES. Mr. Speaker, I rise in opposition to H.R. 525, the Small Business Health Fairness Act, but in strong support of meaningful measures to help small businesses offer affordable, quality health care coverage to their employees.

For many businesses in my congressional district and across the country, the rising cost of health insurance is a growing crisis. Currently, many small businesses devote significant resources to offer health insurance to their employees—money they could have otherwise invested in their businesses. Others have had to reduce or drop coverage entirely.

While I agree that we must find a solution to this problem, H.R. 525 is not the answer, for several reasons. First, supporters of H.R. 525 claim the legislation would reduce the number of uninsured. However, a recent Urban Institute survey states that the number would actually increase, because some small employers in the State-regulated market would be forced to drop coverage when premiums increase as a result of the creation of Association Health Plans, AHPs.

Second, AHPs would be exempt from State rules that limit how much and how often premiums can be increased, making it likely that premiums would go up rather than down. In fact, the Congressional Budget Office estimates that AHP legislation would result in higher premiums for 80 percent of small employers, and as many as 100,000 sick people would lose coverage because they would not be able to afford the increases.

Finally, AHPs would mean that consumers would lose important health benefits, such as treatment and care for diabetes, child immunizations, cancer screenings, and preventive care. Consumers would lose State-based patient protections such as direct access to specialty care, emergency care, and the right to an independent, external review of denied medical claims.

Instead of this flawed bill, I support the substitute offered by Representatives KIND and ANDREWS. This legislation would expand the health care options available for small businesses by building on the efforts of many State governments that are providing health care plans specifically for small businesses. Under the substitute, Federal and State health insurance pools would be created for small businesses to band together to purchase coverage. Participating businesses would be able to defray the costs of their participation through a 4-year tax credit provided under the legislation. By grouping small companies in healthcare pools, this bill would give small firms some of the same advantages large corporations have in trying to keep costs down.

Mr. Speaker, I urge my colleagues to oppose the Small Business Health Fairness Act, and instead support real relief for small businesses trying to meet the health care needs of their employees by voting for the Kind-Andrews substitute.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in opposition to H.R. 525, the Small Business Health Fairness Act of 2005. Today we face a problem. An estimated 45 million people are without health insurance. The number of uninsured has risen in almost every year since 1989 and is expected to continue its rise in the near term. Most people in the U.S. who have health insurance obtain it through their employer or a family member's employer as a workplace benefit. Due to the rising cost of health coverage, small employers are far less likely than larger employers to provide health insurance to their workers and almost half of the uninsured work for, or are family members of employees who work for, small employers. The Small Business Health Fairness Act would not address this problem.

As a former small business owner, I understand the need for employers to offer benefits like health insurance to attract the best employees. I also understand the desire to offer benefits to employees to reward them for their efforts in making their business a success. Small businesses are a vital part of our economy, and it is critical that we provide them with affordable heath coverage that not only covers their employees, but helps reduce the ranks of the uninsured in our Nation.

Unfortunately, the association health plans created by H.R. 525 would actually reduce health care benefits and coverage. In fact, the Congressional Budget Office estimates that only 600,000 of the 45 million uninsured would receive coverage as a result of this bill. The CBO also found that almost 75 percent of workers would actually see their premiums rise. These numbers are evidence that this legislation will not address the problem.

The bill raises numerous other concerns as well. It would create an uneven playing field where Federal law would provide one set of favorable rules for employers who join association health plans and a different, less favorable set of rules for those who do not. Association health plans would be exempt from most State benefit requirements, including those that ensure access to emergency services, mental health services and cancer screening. They would be free to choose healthier individuals who are cheaper to insure and leave behind those most in need of health care coverage. Finally, association health plans under this bill would be allowed to license themselves in a State with looser consumer protection provisions than the State they offer coverage in, leaving consumers open to fraud and abuse. These loopholes will not address the problem.

However, today we will offer a real solution to this problem. The substitute amendment offered by the gentleman from Wisconsin, Mr. KIND, and the gentleman from New Jersey, Mr. ANDREWS, would address the needs of small businesses by providing them with the same access to health benefits as Federal employees through a Small Employer Health Benefits Plan. This plan would provide coverage to all small businesses and their employees, ensuring that every worker gets the coverage they need regardless of age, sex, race or any other factor. Additionally, it would commit Federal funds to aid small businesses in offering health insurance to employees. Finally, it would work within existing State laws and not preempt state regulations regarding health care coverage. This substitute will help small businesses more, cover more of the uninsured, and protect the rights of States.

Unfortunately, without the Kind/Andrews amendment, I cannot support the Small Business Health Fairness Act. This is the fourth time the House has voted on association health plans and the fourth time it has been the wrong answer for small businesses and the uninsured. This is just another example of the Majority bringing the same legislation to the floor year after year knowing that it will go nowhere because it is the wrong answer for Americans. I urge my colleagues to join me in supporting the Kind/Andrews amendment, which would provide real solutions to help our Nation's small businesses and cover the 45 million uninsured Americans.

Mr. MANZULLO. Mr. Speaker, as the chairman of the Small Business Committee, our Nation's small business men and women tell me over and over that finding accessible and affordable quality health care is their number one priority for themselves and their employees.

I have heard from thousands of small employers in America who have been pleading for options to help them manage their surging health care costs.

Small business owners tell me regularly how they struggle to provide their workers health insurance, but each year they face double digit increases.

"Mom and Pop" businesses tell me how they want to provide healthcare for their employees, but every single year it gets more difficult.

Many are giving up. Our Nation's entrepreneurs, whose ingenuity and hard work ethic have driven the American economy, have run out of options to battle this crisis. They need our help.

And today, we bring forward a great option—Association Health Plans—to help them control these outrageous costs and continue offering vital health insurance to their employees and their families.

In March of this year, I held a hearing on AHPs. The Coca Cola Bottlers Association testified they have long offered AHPs.

However, in 1990, they had to stop offering AHPs to members with under 100 employees because of the disparity of law from State to State. Those small employers have incurred increased premiums of between 20–25 percent per year.

For those bottlers employing over 100 workers and who still were able to maintain an AHP, they only had an average increase of 9 percent a year.

The proof is irrefutable. AHPs work. I urge all of my colleagues to support H.R. 525. Give hope to America's entrepreneurs. Vote for H.R. 525.

Mr. ENGEL. Mr. Speaker, the so-called Small Business Health Fairness Act is anything but fair. Congress should not be in the business of promoting the reduction of healthcare benefits and coverage and that is exactly what this bill does.

Proponents of H.R. 525 argue that health insurance will be cheaper under this bill, but the devil is in the details. Healthy people would enjoy low premiums under association health plans because the plans are exempt from State consumer protections and minimum quality requirements, and therefore meaningful coverage. Without consumer safeguards, association health plans would be largely unregulated and unlikely to cover such benefits as mammography screening, cervical cancer screening, well-child visits, mental health services and diabetic supplies. While this might appeal to healthy people, it will be devastating to those who actually need medical care. Those who are sicker would remain in non-association health plans and would have to pay higher premiums to compensate for those individuals who are siphoned off into the association health plans.

It is also troublesome that this legislation exempts association health plans from State solvency standards. Many States have strict solvency laws that protect workers from insurance fraud and abuse. Any meaningful insurance company should have to adhere to adequate standards of protection.

We should reject this anti-consumer proposal in favor of the Kind/Andrews substitute. This measure would create a Small Employer Health Benefits Plan, SEHB, similar to the Federal Employee Health Benefit Plan and would offer coverage to all small businesses with fewer than 100 workers. Significantly, this legislation works with existing State laws and does not preempt State mandates regarding health care coverage. This substitute very clearly commits Federal funds to aid small businesses in offering insurance to employees.

True health insurance coverage offers meaningful benefits with appropriate solvency safeguards. Our constituents deserve no less. I urge my colleagues to reject H.R. 525 and pass the Kind/Andrews substitute today.

Mr. MORAN of Virginia. Mr. Speaker, I rise in support of the Small Business Health Fairness Act, H.R. 525, which will allow small businesses and associations to band together to purchase health insurance coverage for their workers and their families.

The Small Business Health Fairness Act can directly benefit the over 2,300 small businesses and associations in my congressional district and their employees.

H.R. 525 would allow AHPs and small businesses to be certified under one Federal law, instead of 50 different State regulations.

Like large employers and labor unions that offer health insurance to their employees and members, AHPs would be regulated by the U.S. Department of Labor.

Many opponents of the Small Business Health Fairness Act claim that AHPs will "cherry pick" and therefore only benefit healthy people. This is not true.

All AHPs must comply with the Health Insurance Portability and Accountability Act, which prohibits group plans from excluding high-risk individuals that have required repeated health insurance claims.

H.R. 525 also guarantees that only bona fide professional and trade associations can sponsor an AHP. This measure ensures that AHPs will undergo a strict, new certification process before they will be allowed to offer health benefits to employers. This new certification process includes stronger solvency standards, including stop-loss and indemnification insurance.

Studies have shown that AHPs would save the typical small business owner between 15 percent and 30 percent on health insurance.

Currently, there are 45 million Americans who are uninsured. Even more troubling is the fact that 60 percent of uninsured Americans work for small businesses that lack the resources to provide health care benefits to their workers.

In fact, 65 percent of small-business owners indicate high cost as the main reason why they do not offer health insurance.

Small employers are facing 50 percent premium hikes, even as many insurers are leaving the small group market because it is not profitable enough.

The time to offer small businesses and associations the ability to band together to offer health insurance to their employees is now.

The Small Business Health Fairness Act represents a first step in helping to lower the number of uninsured Americans, many of whom work for small businesses.

H.R. 525 would introduce more competition into the market, reduce unnecessary regulation and administrative costs and make health coverage more affordable for small employers and their employees.

I urge support of H.R. 525.

Mr. BLUMENAUER. Mr. Speaker, it is unfortunate that while we are in the midst of a healthcare crisis for the uninsured, for small businesses, and for practitioners, Congress is recycling the same flawed legislation. The proposal would allow association health plans to bypass the State solvency framework requirements, leaving the consumers at a significant risk.

The reason that over 1,350 business, labor, and community organizations oppose H.R. 525—including organizations such as the National Governors Association, 41 Attorneys General, the National Association of Insurance Commissioners, Blue Cross/Blue Shield, National Small Business United and 69 local Chambers of Commerce—is because it not only misses the point, it will make things worse.

The bill would undermine our efforts to provide essential services to everyone by providing incentives to insure only the healthiest and wealthiest, leaving the vast majority of over ½ million uninsured Oregonians and 45 million uninsured Americans behind. Even worse, the adverse selection process will mean that the insurance pool will be narrower and sicker, resulting in more expensive insurance for most families. Furthermore, the Congressional Budget Office estimates that 8 million individuals who currently have health coverage will be switched to a lower benefit plan. Consumers may be denied the proper screening, procedures and treatment they deserve.

These are critical issues for taxpayers and businesses alike. I will continue to work with the healthcare and business community to produce the type of process, discussion and legislation Americans critically deserve.

Mr. STARK. Mr. Speaker, I rise today in strong opposition to H.R. 525, the regurgitated association health plan, AHP, bill. This is the fourth vote on this exact same legislation in as many years. So, if my statement sounds familiar, that's because it has all been said before.

While they've titled the bill the Small Business Health Fairness Act, its impact would be the opposite. This bill would have the perverse effect of increasing the cost of health insurance for many people and increase the number of people without health insurance altogether.

This bill would allow new entities, called association health plans, AHPs, to bypass State regulation and offer bare-bones health insurance policies. Small businesses that don't choose to offer these inadequate policies would see their premiums increase by 23 percent on average. This premium hike would occur because AHPs, which would offer only bare-bones coverage, would attract the healthiest individuals, leaving traditional health insurance plans with the sickest and most expensive patients. This shift would penalize businesses with sicker employees, and make health insurance for those who need it the most even more unaffordable.

Further, this legislation would swell the ranks of the uninsured by over 1 million more individuals. As traditional health insurance becomes increasingly expensive, more and more businesses would have no choice but to drop health insurance for their employees, leaving these individuals with little or no opportunity to purchase health coverage.

Contrary to what proponents of this bill claim, AHPs would not truly help small businesses purchase health insurance for their employees. Although proponents claim that AHPs would give small employers bargaining power to purchase affordable health insurance, most States already have laws in place that allow for group purchasing arrangements. This bill would only harm existing laws while usurping the traditional role of States to regulate insurance.

In fact, this bill would override key State laws and regulations that protect millions of Americans. For example, many States regulate insurance premiums to prevent insurers from discriminating against the ill. But under this bill those laws wouldn't apply. AHPs would be allowed to offer extremely low, "teaser" rates, and then rapidly increase the premium if the enrollee becomes sick. Furthermore, nearly all States have enacted external review laws that guaranteed patients an independent doctor review if a health plan denies them coverage for a particular service. Patients who join AHPs would lose this vitally important consumer protection.

This bill also exempts AHPs from State laws that require health insurance to cover particular benefits. These laws have helped to ensure that millions of Americans get access to the healthcare that they need—such as mammography screenings, maternity care, well-child care, and prompt payment rules. In my State of California, employees who join AHPs could well lose access to these services as well as certain emergency services, direct access to OB/GYNs, mental health parity, and other important benefits. Moreover, this law would allow health plans to "gag" doctors, the currently illegal practice of health insurers preventing doctors from discussing treatment options that the plan does not cover, even if some of those options are in the patient's best medical interest.

The problems go on. AHPs are likely to create new fraud and abuse problems in health care as well. These plans are very similar to multiple employer welfare plans, MEWAs, that Congress created in the 1970s. MEWAs were also exempt from State insurance regulation. The Department of Labor found that many of these plans were frauds and left their enrollees holding the bag for more than $123 million in unpaid health expenses. Congress had to come back and clean up the law to end this blatant abuse. We should learn from that mistake, not repeat it.

This bill is bad for patients, bad for small business, and bad for States. It is opposed by more than 1,300 organizations, including the National Governors Association, the National Association of Insurance Commissioners, the American Academy of Actuaries, local Chambers of Commerce, small business associations, physician organizations, labor unions, and healthcare coalitions.

The Senate has no intention of taking up this legislation. It's bad policy, and our colleagues on the other side of the Capitol know it. Taking yet another vote on AHPs is an enormous waste of time and taxpayer resources, and has nothing to do with providing affordable healthcare options to our citizens. Health care reform shouldn't raise premiums, increase the number of uninsured, lead to massive fraud, and remove key State patient protections. I urge my colleagues to reject this legislation once and for all.

Mr. SHUSTER. Mr. Speaker, I rise today in support of the Small Business Health Fairness Act, H.R. 525. This legislation is a prescription to provide quality, affordable health care to the Americans who need it most: 45 million people from working families across the country.

By lowering costs and strengthening bargaining power, Association Health Plans, AHPs, would allow small businesses to band together through associations and purchase quality health care for workers and their families at a lower cost. Small businesses currently have little buying power and few affordable options—five or fewer insurers control at least three-quarters of the small group market in most States, according to a GAO report in 2002. By banding together through bona-fide trade associations, AHPs would level the playing field and give participating small employers the exact same advantages Fortune 500 companies and unions currently enjoy.

It is important to note that this legislation does not make AHPs a mandatory program for employers. AHPs are about choice and healthy, competitive options for those seeking quality coverage. Each business would have the option of remaining with their current insurance provider, if they have one, or joining up with a legitimate, certified, and regulated association that is able to pool risk and offer small businesses a seat at the table when it comes to really being serious about providing health care for American workers.

Contrary to opponent's claims, H.R. 525 provides safeguards against fraud and abuse with a strict, new certification process that must be adhered to before any association can offer health benefits to employers. Included are strong solvency protections that go beyond what is required of single employer and labor union plans under current law. The bill requires self-insured AHPs to maintain reserves that are sufficient for unearned contribution, benefit liabilities, expected administrative costs, and any other obligations. With the reserve levels required to be recommended by a certified actuary who is a member of the American Academy of Actuaries, AHPs are designed to protect the employer from fraudulent abuse and those who would seek to take advantage of the system.

Under this bill, regulated by the Department of Labor and current ERISA and HIPPA laws, AHPs would be prohibited from excluding high-risk individuals from their plans and AHPs would also be barred from charging higher rates for sicker individuals or groups within the plan.

The lack of current competition in the health care market contributes to double-digit rate increases for many small businesses and a resulting rise in the number of small business employees who are uninsured. Too many small business owners and employers are forced to choose between offering health care benefits to their employees and hiring, expanding, or even maintaining their business. With the adoption of AHPs, the door of opportunity is opened to millions who do not currently have access to the kind of quality, affordable health care America's working families deserve.

Mr. Speaker, I would strongly encourage my colleagues in joining me and voting in favor of H.R. 525.

Mr. AKIN. Mr. Speaker, I rise today in support of H.R. 525, the Small Business Health Fairness Act of 2005.

In 2003, there were an estimated 45 million Americans without health insurance. Small businesses employ over 60 percent of those currently uninsured.

Without question, cost is often the biggest barrier to affordable health insurance for small businesses. Too often, I hear from small businesses owners back in my district in Missouri that the affordability of health insurance is their number one concern. This problem has been deepened in recent years as the overall cost of health care has risen. While large employer-sponsored health plans have seen an average 12-percent increase in health insurance premiums, small businesses have been faced with annual premium increases of up to 50 percent, forcing many firms to drop coverage altogether.

By allowing small firms to join an association health plan as H.R. 525 would do, small employers would enjoy greater bargaining power because they would become part of a larger bargaining force, enabling them to offer their employees the same advantages and benefits that are currently available to larger companies.

I doubt that many of my colleagues here would deny the fact that small businesses are leaders in innovation. They pay the majority of our Nation's taxes and employ the majority of our Nation's workforce. Yet we have burdened them with excessive regulations to the point that they cannot afford to provide health insurance to their employees. We must not deny quality, affordable health care to these hard-working Americans who want to safeguard their own health and provide their families access to such protections.

I urge my colleagues to support the Small Business Health Fairness Act.

Mr. WELDON of Florida. Mr. Speaker, an issue I often hear about from my constituents is concern about the high cost of health insurance and the need for affordable insurance coverage. We all know health insurance premiums continue to increase substantially each year. As such, many small businesses are unable to afford health insurance for their employees. Furthermore, for those who can afford insurance for their employees, rising costs make U.S. products more expensive, harming U.S. competitiveness and costing American jobs.

Small businesses are the backbone of our economy, but the financial viability of many small businesses is being hurt by the escalating costs of health insurance. This hurts job creation and economic growth. The U.S. Small Business Administration's Office of Advocacy found that administrative expenses for small health plans make up about 35 percent of total costs. This is not good for small business owners, their employees, or the American economy. Congress must address this problem, which is why I support H.R. 525, the Small Business Health Fairness Act.

By passing H.R. 525 Congress will be leveling the playing field between small businesses, the self-employed, and large corporations. This allows organizations of individuals and businesses to enter into Association Health Plans, AHPs. Under AHPs, small business can pool their resources and purchase group health care similar to the way large corporations do today. They can get better bargaining power in terms of costs and benefits for their employees. It gives workers, who do not have health insurance today, the opportunity to obtain health insurance coverage.

Whether it is a small business a trade association, a farm bureau, or a local community organization that is seeking to purchase more affordable health insurance, this legislation will help them. They can join together with other groups and purchase health insurance at much more affordable rates and have better negotiating power with insurance providers.

It is generally reported that there are over 40 million people in America without health insurance at any given time. According to the Congressional Budget Office, a more accurate estimate of the number of people who were uninsured for all of an entire year is 21 million to 31 million. Regardless, almost 60 percent of those individuals are employed by a small business. As health care costs increase, fewer employers and working families will be able to afford coverage, and more Americans will be without health insurance. Those who work for small businesses should have the same type of access to health insurance that their counterparts in large corporations already enjoy.

I urge Congress to pass H.R. 525. Congress must pass this bipartisan legislation to give much needed relief to American small businesses, farmers, and hard working families.

Mr. SHAYS. Mr. Speaker, I rise in support of H.R. 525, the Small Business Health Fairness Act. This legislation would allow small businesses to pool their resources into what are known as Association Health Plans, AHPs, to purchase health insurance.

Pooled alliances, including AHPs, help control health care costs by permitting individuals to use their collective bargaining power to win cost concessions from insurance companies.

These alliances also achieve economies of scale for administrative functions—substantially cutting overhead costs, which currently amount to between 30 and 40 cents of every premium dollar paid by small businesses to insurers.

Purchasing alliances have been a popular response in many States to the problems many self-employed and small business owners have had securing affordable health insurance for themselves or their employees.

While I sensitive to the concerns many disease advocacy groups have about this legislation, the fact is this legislation provides the same exemption from State benefit mandates for small businesses already enjoyed by large employers.

The cost savings from avoiding benefit mandates has been estimated to be between 4 and 13 percent. This could make a huge difference for small businesses looking to offer their employees health insurance. Because small businesses are extremely cost-sensitive, studies indicate that even a 5 percent reduction in costs will result in a 10 to 15-percent increase in small businesses offering health insurance.

The legislation also protects against these plans "cherry-picking" the healthiest employees by restricting the ability of self-insured health plans to be qualified as an AHP. Unless a self-insured plan is in existence before the date of enactment, it would be required to offer membership to a broad cross-section of trades or to employers representing at least one higher-risk occupation.

Additionally, AHPs must comply with the Health Insurance Portability and Accountability Act, which prohibits group health plans from excluding high-risk individuals with high claims experience.

The bottom line is this legislation will help small businesses, which are the engine in our economy, provide health insurance to their employees. I urge the passage of this bill.

Mr. HONDA. Mr. Speaker, I rise today in strong opposition to the Small Business Health Fairness Act, H.R. 525. This bill would not only fail to expand health coverage for the uninsured, but would actually reduce health care benefits and coverage for 8 million individuals who would be switched to lower benefit AHP health plans. Only 1 percent—600,000 people—of the 45 million uninsured Americans would be provided new coverage by AHPs.

Instead of providing broader access to comprehensive health insurance for the millions of uninsured Americans, H.R. 525 will undermine access to quality, affordable health insurance and may actually increase the ranks of the uninsured. Under current law, the majority of health insurance plans are regulated at the State level. States have enacted a number of protections to ensure the fairness of health insurance coverage for patients. Most States now require insurers to allow direct access to emergency services, independent external appeal of health care claims denials, and access to an adequate range of health professionals. AHPs would be exempt from these requirements, leaving those with AHP coverage with inadequate protection.

Insurers naturally have incentives to select the healthiest individuals or groups that are seeking coverage. State regulations counter this incentive by mandating that certain benefits be covered, and by limiting and defining how policies are to be priced. By exempting AHPs from these State regulations, AHPs would offer less-generous policies that would be attractive to healthier individuals and groups. By permitting AHPs to offer coverage to specific types of employers, the bill allows them to hand pick populations that are better risks and therefore less costly to insure. Under H.R. 525, AHPs would offer different premiums to each member employer, charging lower rates for lower risk persons and charging much higher rates for higher risk persons.

The only restriction on premiums is that differences could not be based on health status. This provision is essentially meaningless because it permits AHPs to accomplish the same goal by varying premiums based on age, sex, race, national origin, or any other factor in the employers' workforce, including claims experience. As a Nation, we have recognized and are committed to eliminating health disparities based on race, ethnicity, and national origin. Why then would we create laws that perpetuate and encourage further health disparities?

Small businesses comprise nearly one-third of the private sector workforce, and are much less likely than large firms to provide health coverage for their employees. Although this is a serious concern, AHPs are not the answer. The Kind/Andrews substitute offers provisions that would address the real health insurance needs of small employers. It would provide small employers the same access to health benefits as Federal employees by establishing a Small Employer Health Benefits Plan, SEHB, similar to the Federal Employees Health Benefits Plan. It offers coverage to all small employers and their employees to apply for coverage under SEHB. Those working less than full-time would be eligible for pro rata coverage. It would also minimize adverse selection, use State-licenses insurers without preempting State laws, provide a minimum benefit package similar to Federal employees, and provide premium assistance to make employee and employer premiums affordable.

I urge my colleagues to support the Kind/Andrews substitute and oppose the Republican leadership's flawed approach to AHPs.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in support of the Kind/Andrews substitute and in strong opposition to H.R. 525, the Small Business Health Fairness Act of 2005. We have the opportunity to give small business owners and employees meaningful access to affordable and comprehensive coverage by adopting the Kind/Andrews substitute. Or, by passing H.R. 525, we can give access to cheap, flimsy insurance policies that will not provide meaningful protection and leave those who need better coverage far worse off.

All of us are concerned about the high cost of health insurance, particularly for small businesses. We all agree that we need to allow small businesses to band together to achieve economies of scale in purchasing coverage. The Kind/Andrews substitute would give small businesses the ability to pool together through a Small Employer Health Benefits Plan. It would provide premium assistance to make coverage affordable for small business employers and employees. The Kind/Andrews substitute will guarantee that insurance policies are not worthless paper but provide meaningful access to benefits.

What the Kind/Andrews substitute will not do is preempt State consumer protection laws—laws that have been enacted by State legislatures on a bipartisan basis in response to real-life problems in the insurance market. The Kind/Andrews approach would benefit employers and consumers. The so-called Small Business Health Fairness Act of 2005 would not. In fact, this ill-conceived bill would make the current situation worse—adding to the ranks of the uninsured, reducing benefits, and leaving small business workers with insurance policies that do not provide the care that they and their families need.

There are three fundamental problems with this bill—all of which stem from the decision to preempt State laws and leave no other protections in their place. First, the bill will not significantly reduce the number of uninsured and may actually make this crisis worse. It would preempt State insurance regulation—allowing association health plans to cherry pick healthy small businesses. Small businesses with older workers, persons with disabilities or chronic conditions, and women of child-bearing age would face higher premiums. The nonpartisan Congressional Budget Office estimates that only 620,000 uninsured workers would buy these new, barebones policies but that 75 percent of currently insured small business employees—20 million—would see their premiums increase. National Small Business United—a group whose reason for being is to promote the interests of small businesses—opposes the bill because it would increase health "insurance premiums for small employers by up to 23 percent and cause some to drop coverage altogether. A Mercer Consultants study in 2003 found that it would actually increase the number of uninsured by 1 million. The CBO says that up to 100,000 of the most medically needy workers—those with chronic, ongoing conditions or disabilities—would be among those losing coverage.

Second, the bill would take away protections from consumers victimized by fraud and abuse. All 50 States and the District of Columbia have passed tough laws to stop abuses in the small group health insurance market. Again, these laws would be preempted. The U.S. Department of Labor is not going to have the will or the resources to respond when consumers are injured by benefit denials, AHPs go belly-up, or fraud is committed. AHP policy holders and health consumers would be left in a regulatory blackhole—with no place to turn if they are defrauded, cheated, or denied benefits. That's why the National Association of Insurance Commissioners and 41 attorneys general oppose this bill.

Third, the bill would preempt basic benefit requirements and patient protections, allowing AHPs to drop coverage for preventive services, screening, mental health and other critical services. CBO estimates that 8 million workers with health coverage today would lose benefits under H.R. 525.

In Illinois, we have enacted benefits that include mammograms, pap tests, minimum mastectomy stays, colorectal screening, diabetes education and supplies, pre- and postnatal care, mental health parity that goes beyond inadequate federal requirements, and access to cancer drugs. We have a prudent layperson rule to ensure access to emergency services, direct access to OB–GYNs, and a ban on HMOs "gagging" doctors in their communications with patients. We have prompt payment rules for providers and fair marketing requirements. We require that insurance companies cover newborns. Those protections would be preempted under H.R. 525.

Many of us who previously served in State legislatures fought for those benefits because private insurance policies refused to cover items like mammograms, maternity care, diabetes education, prosthetics, or chemotherapy. We had constituents whose insurance companies refused to cover their babies, arguing that conditions developed in the mother's womb were "preexisting." Dropping those critical benefits will not make health care more affordable; it will simply shift costs to employees and their families. And, despite having so-called insurance, if workers cannot afford to pay those costs on their own, they might as well be uninsured. That is why groups from Consumers Union to the American Diabetes Association, from the National Mental Health Association to the NAACP oppose this bill.

I also want to point out that women have a tremendous stake in this debate. Nearly all women-owned firms are small firms, most with fewer than five employees. Women are half of all workers at very small firms. And women are the beneficiaries of many of the State benefits enacted because private insurers refused to cover critical services—mammography, pap smears, reconstructive surgery following mastectomies, contraceptive services, breast and cervical cancer screening, direct access to OB–GYNs and nurse-midwives, and osteoporosis screening. A bill that raises premiums to women-owned small businesses and cuts women's health services is no solution.

Finally, I want to respond to the arguments of the proponents of H.R. 525 that something is better than nothing. As I have mentioned, for at least 8 million people, the something that would be provided under this bill would be a policy with lower benefits than they have today, for at least 20 million it would be a policy with higher premiums than they pay today. That is hardly a good deal. But there is a more important issue at stake here. H.R. 525 says that we owe small business owners and employees nothing better than barebones coverage, an insurance policy that may be affordable but that doesn't provide access to needed medical services and is stripped of consumer protections. I believe that we can do better and that is why I support the Kind/Andrews substitute.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of H.R. 525. This bill, introduced by the Employer-Employee Relations Subcommittee Chairman Sam Johnson, Committee Chairman John Boehner, Small Business Committee Ranking Member Nydia Velázquez and Albert Wynn, would allow small businesses to join together through association health plans, AHPs, to purchase health insurance for their workers at a lower cost. The measure would increase small businesses' bargaining power with health care providers, give them freedom from costly State-mandated benefit packages, and lower their overhead costs by as much as 30 percent. This is a benefit that many large corporations like GM and Ford already enjoy because of their larger economies of scale.

Furthermore, this bill expressly prohibits discrimination by requiring that all employers who are association members are eligible for participation, all geographically available coverage options are made available upon request to eligible employers, and eligible individuals cannot be excluded from enrolling because of health status. Premium contribution rates for any particular small employer cannot be based on the health status or claims experience of plan participants or beneficiaries or on the type of business or industry in which the employer is engaged.

The measure makes clear that AHPs must comply with the Health Insurance Portability and Accountability Act, HIPAA, which prohibits group health plans from excluding high-risk individuals with high claims experience. Thus, it will not be possible for AHPs to "cherry pick" because sick or high risk-groups or individuals cannot be denied coverage. The bill prohibits AHPs from charging higher rates for sicker individuals or groups within the plan, except to the extent already allowed under the relevant State rating law.

While I support all of these positive aspects of the bill, I do have concerns with other areas. Due to this fact, I also stand today to support the Kind/Andrews substitute. This substitute would strengthen the larger goal of the legislation which is to lower health care cost for workers. The substitute does this by providing small employers the same access to health benefits as Federal employees. Under the substitute, the Department of Labor will establish a Small Employer Health Benefits Plan, SEHB, similar to the Federal Employees Health Benefits Plan, FEHB. The States also may establish State small employer health pools.

In addition, the substitute offers coverage to all small employers and their employees. In essence, all employers with fewer than 100 employees during the previous calendar year shall be eligible to apply for coverage under SEHB. Employers must offer coverage to all employees who have completed 3 months of service. Employees working less than full-time are eligible for pro rata coverage.

Furthermore, the substitute also minimizes adverse selection. This is done by requiring the Secretary to establish an initial open enrollment period and thereafter an annual enrollment period.

One of the most important things achieved by the substitute is the fact that is uses State-licensed insurers without preempting State laws. It also provides a minimum benefit package similar to Federal employees, i.e., all participating insurers must offer benefits similar to the benefits offered under the four largest FEHB health plans.

As I close, I would hope that the differences I have mentioned are reconciled as this bill moves to conference.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in opposition to H.R. 525, the Small Business Health Fairness Act.

The sponsors of this legislation have a laudable intent: To make health insurance more affordable for small businesses by allowing them to band together to increase their purchasing power and negotiate lower health insurance rates.

With costs in the private health insurance growing 12.8 percent each year, no one would disagree that our small businesses are struggling to provide coverage for their employees.

But this legislation is not the answer to the rising cost of health insurance in this country.

Mr. Speaker, the regulation of health insurance has long rested with the States.

For decades, State legislatures in each of our States have enacted State coverage mandates and consumer protections to ensure that residents of those States purchase a quality health insurance policy.

While some policies cost more than others, thanks to State regulations, consumers can be assured that all policies offer a minimum level of coverage.

In my home State of Texas, health plans must provide access to emergency services, immunizations for children, direct access to OB/GYNs, and coverage of diabetes supplies and education—just to name a few guaranteed benefits.

The State has also enacted important consumer protection laws that afford consumers external review and limit how much insurers can charge sicker groups of people.

Under H.R. 525, however, the State would have no authority to ensure that Federal association health plans provide these benefits and consumer protections.

By taking away these vital patient protections, the policies purchased under AHPs would be worth little more than the paper they are printed on.

The amendment offered by our colleagues Mr. Kind and Mr. Andrews would correct many of the flaws in this legislation.

Specifically, the alternative would allow small businesses to purchase insurance through a Small Employees Health Benefit Plan—similar to the Federal employees health plan.

The Kind/Andrews amendment would ensure that the quality of health plans is protected; that low income employees have assistance in purchasing policies; and that the smallest of small businesses get the additional assistance they need.

As a former small business employee charged with choosing my company's health plan, I am all too aware of the need for the assistance outlined in the Kind/Andrews amendment.

The employees choosing these health plans for small businesses most often are not human resources or insurance professionals.

The coverage and benefit mandates enacted by State legislatures ensure that small businesses won't fall victim to sham policies and that their employees can depend on quality health insurance when an illness strikes.

Because H.R. 525 eviscerates these assurances by preempting the laws enacted by State legislatures, I urge my colleagues to oppose the underlying bill and support the Kind/Andrews alternative.

Mr. BACA. Mr. Speaker, I rise in opposition of H.R. 525 and the association health plans it creates.

There are 44 million Americans who are uninsured in this country and this bill will not even affect 1 percent of them. Not 1 percent.

CBO found that only 360,000 uninsured Americans would join AHPs.

This bill in fact hurts those who enroll in the plans and will even cause healthcare costs to go up for many other Americans.

There has to be a better way to help 44 million uninsured Americans.

AHPs will not be accountable to State health regulations. This will leave consumers who enroll in these plans without protection or a right to appeal if their cancer or diabetes treatment or medicines are denied.

We cannot let AHPs become bargain basement plans that enroll only the healthiest Americans. What will happen to our sick, elderly and those with severe health conditions?

Twenty million Americans will face higher healthcare costs. Twenty million.

Health insurers will give breaks to the AHPs and charge other consumers more. Studies show that these higher healthcare costs could cause up to 10,000 Americans to become insured.

There is a better way to help small businesses and the uninsured.

H.R. 525 will not help small businesses or their employees. This is a shortsighted plan that does nothing to cover the 44 million uninsured Americans who cannot afford to get sick.

Mr. KUCINICH. Mr. Speaker, I thank Mr. Miller for his leadership on this bill. Mr. Speaker I rise in strong opposition to H.R. 525. Association Health Plans cherry-pick. They lower standards of care. They fail to reduce the growing ranks of the uninsured. But I would like to focus on a critical shortfall we don't often hear much about: Efficiency.

AHPs fail to address the white elephant in the living room. One of the biggest reasons that America's health care costs are so high is that we pay far more for administrative costs in privately administered health plans than other industrialized nations. The average private health plan puts 12–15 percent—sometimes as high as 30 percent—of your health care dollar to administrative costs. AHPs would not only fail to address this problem, but could make it worse.

In fact, a study by human resources consultants, William Mercer, Inc. found that ". . . the potential administrative cost increases typically would exceed the potential administrative cost savings. We estimate that the additional costs for small firms who buy AHP coverage typically would range from 1.5 percent to 5 percent of premiums." That is above and beyond the average administrative costs of 12–15 percent.

Now contrast that with the overhead costs of Medicare, whose 40th birthday we celebrate this week. On average, Medicare's administrative costs are 2–3 percent. That means that Medicare is about 5 times more efficient than private health plans and could be 7 to 10 times more efficient than AHPs.

Health care costs are dragging small businesses down in their efforts to compete with their counterparts in other nations where health care is universal. It is time to stop dancing around the margins of reform by proposing more of the same inefficiencies. We already know what works. Lets expand Medicare to all.

Mr. LANGEVIN. Mr. Speaker, I rise in opposition to H.R. 525, the Small Business Health Fairness Act. I am deeply concerned that this legislation will jeopardize valuable patient protections for all Americans. While pooling insurance risks may allow employers to strengthen their bargaining power with insurance carriers and share administrative functions, the methods outlined in this bill would threaten the quality of health plans available to small business employees, and the stability of the market for small businesses without access to trade associations.

This legislation establishes association health plans by removing them from state oversight—including the application of state patient protections and solvency standards. For example, my home state of Rhode Island is one of 15 states to mandate health insurance coverage of a colorectal cancer screening test. My constituents value this protection. But under this legislation, my constituents could find themselves enrolled in association health plans that are not required to follow that and other state laws designed to increase access to preventative care and screenings.

In addition, this bill permits association health plans to offer coverage to specific types of employers, allowing plans to seek memberships with better risks and less costly populations. This "cherry picking"—skimming off the healthiest consumers and leaving the sickest patients uninsured—will force premiums even higher for the majority of the market. A recent Congressional Budget Office study estimated that costs would decline for the 20 percent of businesses that join AHPs, but would therefore go up for the remaining 80 percent.

Alternatively, the Democratic substitute would provide small business and their employees access to small employer health pools, without the negative features of H.R. 525, by including a number of protections for businesses and their employees. The substitute amendment provides that participating health insurance companies will remain subject to the requirements of state health insurance laws and stipulates that all participating insurers offer benefits equivalent to or greater than the options offered to Federal employees. There are ways to accomplish the goal of increased access to health insurance that do not threaten that patient protections and state laws that Americans have come to rely on.

Small business employers and their workers do need better access to affordable health care coverage, but this misguided bill is not the way to accomplish that important goal. As we look for innovative ways to provide health care to all, we must not sell small business owners and employees short. We must address the health care crisis, and we must do it in a way that does not exacerbate the existing problems. I urge my colleagues to vote against H.R. 525.

Mr. RYUN of Kansas. Mr. Speaker, I rise today in support of H.R. 525, which would authorize small businesses around the country to establish Association Health Plans. An estimated 45 million people are uninsured in the United States, and the number has grown since 1989. Eighty-five percent of these people are in working families where the price of premiums have increased so much that they cannot afford the coverage that will give them peace of mind.

The majority of Americans receive health insurance coverage through their employers, but with rising health care costs, many small businesses can no longer afford to provide coverage for their employees. H.R. 525 would remedy this by allowing small businesses to band together to garner greater buying power when bargaining with health care providers. Let's give Americans access to more affordable health care and support Association Health Plans.

Mr. BOEHNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. REHBERG). All time for debate on the bill has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KIND

Mr. KIND. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. KIND:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Affordable Health Insurance Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Establishment of Small Employer Health Benefits Program (SEHBP).

"PART 8—SMALL EMPLOYER HEALTH BENEFITS PROGRAM (SEHBP)

"Sec. 801. Establishment of program.
"Sec. 802. Premium assistance for small employers and their employees.
"Sec. 803. Qualified State health pooling arrangements.
"Sec. 804. Establishment of national health pooling arrangement.
"Sec. 805. Coordination and consultation.
"Sec. 806. Public education.
"Sec. 807. Funding for premium assistance and pooling arrangements.
Sec. 3. Institute of Medicine study and report.

SEC. 2. ESTABLISHMENT OF SMALL EMPLOYER HEALTH BENEFITS PROGRAM (SEHBP).

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

"PART 8—SMALL EMPLOYER HEALTH BENEFITS PROGRAM (SEHBP)

"SEC. 801. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish, in accordance with this part, a program (to be known as the 'Small Employer Health Benefits Program' or 'SEHBP') providing—

"(1) access to qualified health pooling arrangements (consisting of both qualified

State health pooling arrangements and a national health pooling arrangement) under which self-only and family coverage is offered to small employers and their employees, and

``(2) premium assistance to small employers and their employees to assist with the payment of premiums incurred for coverage offered under such arrangements.

``(b) LIMITATIONS.—

``(1) EMPLOYER MUST BEAR 50 PERCENT OF COST.—Premium assistance shall not be provided under this part with respect to premiums incurred for any period for coverage under a qualified health pooling arrangement unless at least 50 percent of the premiums are paid by the employer.

``(2) 10-YEAR PERIOD OF COVERAGE.—Premium assistance shall be provided under this part only with respect to coverage for the 10-year period beginning on the date the employer first begins participating in a qualified health pooling arrangement.

``(3) EMPLOYERS OFFERING OTHER HEALTH BENEFITS.—In the case of an employer who paid or incurred any expenses for health benefits for the employees of such employer during the first calendar year ending on or after the date of the enactment of this section, premium assistance shall be provided under this part only if the employer begins participating in a qualified health pooling arrangement during the 2-year period beginning on the later of—

``(A) the date of the enactment of this section, or

``(B) the first date that a qualified health pooling arrangement exists which allows such employer to participate.

``(4) PARTICIPATION REQUIREMENTS.—Premium assistance shall not be provided under this part with respect to premiums incurred for any period unless at all times during such period coverage for health benefits under a qualified health pooling arrangement is available to all employees of the employer under similar terms, except that, under regulations of the Secretary—

``(A) coverage under the arrangement may exclude employees with less than 90 days of service with the employer, and

``(B) in the case of an employee serving in a position in which service is customarily less than 1,000 hours per year, the reference in paragraph (1) to '50 percent' shall be deemed a percentage reduced to a percentage that bears the same ratio to 50 percent as the number of hours of service per year customarily in such position bears to 1,000.

``(5) AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred pursuant to a salary reduction arrangement shall be taken into account under subsection (a).

``(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this part—

``(1) SMALL EMPLOYER.—

``(A) IN GENERAL.—The term 'small employer' means an employer who normally employed not more than 100 employees on a typical business day during the preceding calendar year (determined under rules similar to the rules applicable under section 601(b)).

``(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the number of employees that it is reasonably expected such employer will normally employ on business days in the current calendar year.

``(C) PREDECESSORS.—The Secretary may prescribe regulations which provide for references in this paragraph to an employer to be treated as including references to predecessors of such employer.

``(D) PERMANENT STATUS AS SMALL EMPLOYER.—In the case of an employer who meets the requirements of this paragraph with respect to the calendar year in which such employer first begins participating in a qualified health pooling arrangement, such employer shall not fail to be treated as a small employer for any subsequent calendar year.

``(2) FAMILY COVERAGE.—The term 'family coverage' means coverage for health benefits of the employee and qualified family members of the employee (as defined in section 35(d) of the Internal Revenue Code of 1986, but without regard to the last sentence of paragraph (1) thereof).

``(3) QUALIFIED HEALTH POOLING ARRANGEMENT.—The term 'qualified health pooling arrangement' means a qualified State health pooling arrangement described in section 802 or the national health pooling arrangement described in section 803.

``(4) ENTITIES UNDER COMMON CONTROL.—

``(A) CONTROLLED GROUP OF CORPORATIONS.—All employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In any such case, the total premium assistance (if any) provided to each member of the controlled group and the total premium assistance (if any) provided to its employees shall be its proportionate share of the wages paid to all employees of members of the controlled group. For purposes of this subparagraph, the term 'controlled group of corporations' has the meaning given to such term by subsection (a) of section 1563 of the Internal Revenue Code of 1986, except that—

``(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in subsection (a)(1) of such section 1563, and

``(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of such section 1563.

``(B) EMPLOYEES OF PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary—

``(i) all employees of trades or business (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and

``(ii) the total premium assistance (if any) provided to each trade or business and the total premium assistance (if any) provided to its employees shall be its proportionate share of the wages paid to all employees of such trades or business under common control.

The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

``SEC. 802. PREMIUM ASSISTANCE FOR SMALL EMPLOYERS AND THEIR EMPLOYEES.

``(a) EMPLOYER PREMIUM ASSISTANCE.—

``(1) IN GENERAL.—Pursuant to section 801(a)(2), the Secretary shall provide to small employers who are eligible under paragraph (3) and who elect to provide for coverage of their employees under a qualified health pooling arrangement premium assistance for premiums paid by the employer for such coverage with respect to employees whose individual income (as determined by the Secretary) is at or below 200 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section) for an individual.

``(2) PREMIUM ASSISTANCE SCALED ACCORDING TO SIZE OF EMPLOYER.—The premium assistance provided under paragraph (1) shall be designed so that the premium assistance equals, for any calendar year—

``(A) 50 percent of the portion of the premium payable by the employer for the coverage, in the case of small employers who employ an average of fewer than 11 employees on business days during the preceding calendar year;

``(B) 35 percent of the portion of the premium payable by the employer for the coverage, in the case of small employers who employ an average of more than 10 employees but fewer than 26 employees on business days during the preceding calendar year; and

``(C) 25 percent of the portion of the premium payable by the employer for the coverage, in the case of small employers who employ an average of more than 25 employees but fewer than 51 employees on business days during the preceding calendar year.

``(3) ELIGIBLE EMPLOYERS.—A small employer is eligible under this paragraph if such employer—

``(A) normally employed fewer than 25 employees on a typical business day during the preceding calendar year (determined under rules similar to the rules applicable under section 601(b)), and

``(B) paid such employees during such year at an average annual rate of income (consisting of wages and salary) per employee which was at or below the median income (as determined by the Secretary for the most recent calendar year for which data are available as of the end of the preceding calendar year) for an individual residing in the State in which the employer maintains its principal place of business.

``(b) EMPLOYEE PREMIUM ASSISTANCE.—

``(1) IN GENERAL.—Pursuant to section 801(a)(2), the Secretary shall provide to employees of small employers premium assistance for premiums for coverage under qualified health pooling arrangements paid by such employees in the case of employees whose family income (as determined by the Secretary) is at or below 200 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section) for a family of the size involved.

``(2) AMOUNT OF PREMIUM ASSISTANCE.—Such premium assistance shall be in an amount equal to the excess of the portion of the total premium for coverage otherwise payable by the employee under this part for any period, over 5 percent of the family income (as determined under paragraph (1)(A)) of the employee for such period.

``(3) COORDINATION OF PREMIUM ASSISTANCE.—Notwithstanding paragraph (1), under regulations of the Secretary, the total premium assistance to which any employee may be provided under this subsection for any period shall be reduced (to not less than zero) by the total amount of subsidies for which such employee is eligible for such period under any Federal or State health insurance subsidy program (including a program under title V, XIX, or XXI of the Social Security Act). For purposes of this paragraph, an employee is 'eligible' for a subsidy under a program if such employee is entitled to such subsidy or would, upon filing application therefore, be entitled to such subsidy.

``(4) AUTHORITY TO EXPAND ELIGIBILITY.—The Secretary may, to the extent of available funding, provide for expansion of the premium assistance program under this subsection to employees whose family income (as defined by the Secretary) is at or below 300 percent of the poverty line (as determined under paragraph (1)).

"(c) Procedures.—The Secretary shall establish by regulation applications, methods, and procedures for carrying out this section, including measures to ascertain or confirm levels of income.

"SEC. 803. QUALIFIED STATE HEALTH POOLING ARRANGEMENTS.

"(a) Defined.—For purposes of this part, the term 'qualified State health pooling arrangement' means an arrangement established by a State which meets the following requirements:

"(1) Coverage provided by health insurance issuer.—The health benefits coverage is provided by a health insurance issuer (as defined in section 733(b)(2)).

"(2) Health benefits coverage.—The arrangement provides health benefits coverage that the Secretary determines is substantially similar to the health benefits coverage in any of the four largest health benefits plans (determined by enrollment) offered under chapter 89 of title 5, United States Code.

"(3) Group health plan requirements.—The health benefits coverage provided under the arrangement meets the requirements applicable to a group health plan under this title and State law.

"(4) Guaranteed issue and renewable.—The arrangement does not deny coverage (including renewal of coverage) with respect to employees of any eligible small employer or qualifying family members of such employees on the basis of health status of such employees or family members or any other condition or requirement that the Secretary determines constitutes health underwriting.

"(5) No preexisting condition exclusion.—The arrangement does not permit a preexisting condition exclusion as defined under section 701(b)(1).

"(6) No underwriting; community-rated premiums.—(A) Subject to subparagraph (B), the arrangement does not permit underwriting, through a preexisting condition limitation, differential benefits, or different premium levels, or otherwise, with respect to such coverage for employees or their qualifying family members.

"(B) The premiums charged for such coverage are community-rated for individuals without regard to health status.

"(7) No riders.—The arrangement does not permit riders to the health benefits coverage.

"(8) Accessibility to eligible small employers.—The arrangement makes such coverage available to an eligible small employer without regard to whether premium assistance is available under section 802 with respect to such employer or its employees.

"(9) Minimum of two plans offered under the arrangement.—The arrangement makes available at least two alternative forms of health benefits coverage.

"(b) Limitation on Enrollment Periods.—A qualified State health pooling arrangement may provide limits on the periods of times during which employees may elect coverage offered under the arrangement, but the arrangement shall not be treated as meeting the requirements of this section unless the arrangement provides for at least annual open enrollment periods and enrollment at the time of initial eligibility to enroll and upon appropriate changes in family circumstances.

"(c) Qualifying Family Member.—For purposes of this part, the term 'qualifying family member' has the meaning given such term in section 35(d) of the Internal Revenue Code of 1986, applied without regard to the last sentence of paragraph (1) thereof.

"(d) State Defined.—For purposes of this part, the term 'State' includes the District of Columbia, Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Northern Mariana Islands.

"(e) Construction.—Nothing in this section shall be construed as requiring a State to establish or maintain a qualified State health pooling arrangement.

"(f) Creditable Coverage for Purposes of HIPAA.—Health benefits coverage provided under a qualified State health pooling arrangement under this section (and coverage provided under a National Pooling Arrangement under section 803) shall be treated as creditable coverage for purposes of part 7.

"(g) Annual Reports.—

"(1) In general.—Each State that offers a qualified State health pooling arrangement under this section in a year shall submit, in a form and manner specified by the Secretary, a report on the operation of the arrangement in that year.

"(2) Contents of report.—Reports required under paragraph (1) shall include the following:

"(A) A description of the health benefits coverage offered under the arrangement.

"(B) The number of employers that participated in the arrangement.

"(C) The number of employees and qualifying family members of employees who received health benefits coverage under the arrangement.

"(D) The premiums charged for the health benefits coverage under the arrangement.

"(3) Certification.—Each State that offers a qualified State health pooling arrangement under this section in a year shall submit, in a form and manner specified by the Secretary, a certification that the arrangement meets the requirements of this part.

"(h) Negotiations to Lower Health Care Costs.—The Secretary and States offering qualified State health pooling arrangements may collectively negotiate for lower prices for medical services, supplies, equipment, and pharmaceuticals for the purpose of lowering the health care costs to employers and employees served by such arrangements.

"(i) Coordination With State Regulation.—Nothing in this section shall be construed as preempting provisions of State law that provide protections in excess of the protections required under this section. The Secretary shall coordinate with the insurance commissioners for the various States in establishing a process for handling and resolving any complaints relating to health benefits coverage offered under this part, to the extent necessary to augment processes otherwise available under State law.

"SEC. 804. ESTABLISHMENT OF NATIONAL HEALTH POOLING ARRANGEMENT.

"(a) In General.—The Secretary shall provide for the offering and oversight of a national health pooling arrangement to eligible small employers.

"(b) National Health Pooling Arrangement Defined.— For purposes of this section, the term 'national health pooling arrangement' means an arrangement under which health benefits coverage is offered under terms and conditions that meet the requirements of section 803(a).

"(c) Use of FEHBP Model.—The Secretary shall provide for the national health pooling arrangement using the model of the Federal employees health benefits program under chapter 89 of title 5, United States Code, to the extent practicable and consistent with the provisions of this part. In carrying out such model, the Secretary shall, to the maximum extent practicable, negotiate the most affordable and substantial coverage possible for small employers.

"(d) Limitation on Enrollment Periods.—The Secretary may provide limits on the periods of times during which employees may elect coverage offered under the national health pooling arrangement, but the Secretary shall provide for at least annual open enrollment periods and enrollment at the time of initial eligibility to enroll and upon appropriate changes in family circumstances.

"(e) Authorizing Use of States in Making Arrangements for Coverage.—In lieu of the coverage otherwise arranged by the Secretary under this section, the Secretary may enter an arrangement with a State under which a State arranges for the provision of qualifying health insurance coverage to eligible small employers in such manner as the Secretary would otherwise arrange for such coverage.

"SEC. 805. COORDINATION AND CONSULTATION.

"(a) Coordination of State and National Programs.—The Secretary shall provide by regulation for coordination of the offering under this part of health benefits coverage to employees of small employers under State health pooling arrangements and the offering under this part of such coverage to such employees under the national health pooling arrangement.

"(b) Consultation.—In carrying out the provisions of this part, the Secretary shall consult with the Secretary of Health and Human Services and the Director of the Office of Personnel Management.

"SEC. 806. PUBLIC EDUCATION.

"The Secretary shall maintain an ongoing program of public education under which the Secretary shall—

"(1) publicize the national health pooling arrangement established under section 804, and

"(2) assist, and participate with, the States in publicizing the qualified State health pooling arrangements established under section 803.

"SEC. 807. FUNDING FOR PREMIUM ASSISTANCE AND POOLING ARRANGEMENTS.

"(a) Premium Assistance.—There are authorized to be appropriated to the Secretary such sums as may be necessary to provide for premium assistance under section 802.

"(b) Grants to States Establishing and Operating Qualified State Health Pooling Arrangements.—The Secretary may provide for grants to States to establish and operate qualified State health pooling arrangements described in section 803. There are authorized to be appropriated to the Secretary such sums as may be necessary to provide such grants.

"(c) Funding for National Health Pooling Arrangement and Other Duties of the Secretary.—There are authorized to be appropriated to the Secretary such sums as may be necessary to provide for the offering and operation of the national health pooling arrangement under section 804 and to carry out the other duties of the Secretary under this part.".

(b) Clerical Amendment.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

"PART 8—SMALL EMPLOYER HEALTH BENEFITS PROGRAM (SEHBP)

"Sec. 801. Establishment of program.

"Sec. 802. Premium assistance for small employers and their employees.
"Sec. 803. Qualified State health pooling arrangements.
"Sec. 804. Establishment of national health pooling arrangement.
"Sec. 805. Coordination and consultation.
"Sec. 806. Public education.
"Sec. 807. Funding for premium assistance and pooling arrangements.".

SEC. 3. INSTITUTE OF MEDICINE STUDY AND REPORT.

(a) STUDY.—The Secretary shall enter into an arrangement under which the Institute of Medicine of the National Academy of Sciences shall conduct a study on the operation of qualified State health pooling arrangements under section 803 of the Employee Retirement Income Security Act of 1974 and the national health pooling arrangement under section 804 of such Act.

(b) MATTERS STUDIED.—The study conducted under subsection (a) shall include the following:

(1) An assessment of the success of the arrangements.

(2) A determination of the affordability of health benefits coverage under the arrangements for employers and employees.

(3) A determination of the access of small employers to health benefits coverage.

(4) A determination of the extent to which part 8 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 provides premium assistance for eligible small employers (and premium assistance for employees of such employers) that provided (or would have provided) health benefits coverage in the absence of such premium assistance.

(5) Recommendations with respect to—

(A) extension of the period for which the premium assistance under part 8 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is available to employers and employees or an appropriate phase-out of such premium assistance over time;

(B) expansion of categories of persons eligible for such premium assistance;

(C) expansion of persons eligible for health benefits coverage under the arrangements; and

(D) such other matters as the Institute determines appropriate.

(c) REPORT.—Not later than January 1, 2010, the Comptroller General shall submit to the Congress a report on the study conducted under subsection (a).

Amend the title so as to read: "A bill to amend title I of the Employee Retirement Income Security Act of 1974 to encourage small employers to offer affordable health coverage to their employees through qualified health pooling arrangements, to encourage the establishment and operation of these arrangements, and for other purposes.".

The SPEAKER pro tempore. Pursuant to House Resolution 379, the gentleman from Wisconsin (Mr. KIND) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this morning we fortunately witnessed the successful takeoff of the latest space shuttle mission into space, and I, and I know all my colleagues, our thoughts and prayers go with that crew and their families. We wish them a successful mission and a safe return here to Earth at the conclusion of that mission.

But, Mr. Speaker, "Houston, we have got a problem" right here on Earth today, and that problem we all can agree to is the rising cost of health care, the impact that it is having on businesses large and small, family farmers, individual employees. It is a crisis that has been building through a number of years, and there is nothing more heart-wrenching or gut-wrenching than to speak to young parents who have a young child in desperate need of emergency medical attention, having to take that child to the hospital knowing that they do not have adequate health care coverage to provide for their sick child.

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Today, one of the major factors for individual and personal bankruptcies is health care-related costs. There is also nothing more disheartening than speaking to the multitude of small business owners throughout this country who would love nothing better than to be able to extend affordable health care coverage to their employees; but they cannot because it is too expensive.

I think we can all agree to the fact that this is something that we have to have focused attention to alleviate the high costs of health care and the growing ranks of the uninsured, which is roughly 45 million to 48 million today. When we think about who comprises these 45 million to 48 million uninsured, the vast majority of them are working Americans, working in small businesses who cannot afford to provide coverage. Again, it is something we all recognize, because we hear about it daily when we are back home traveling in our congressional districts. So, yes, action is needed; but there is a right way and a wrong way in taking action.

A wrong way would be doing more harm than good in passing legislation and, for the previous hour, we have had a discussion in regard to the deficiencies and the shortfalls of the underlying associated health plans bill. That is why over 1,400 organizations around the country have come out in opposition to it.

But today, the gentleman from New Jersey (Mr. ANDREWS) and I are offering the right way, an alternative way, another approach to dealing with the health care crisis that our small businesses are facing, one that we believe would extend health care coverage to millions of Americans, while keeping a lid on the rising premium costs.

What it does, in essence, Mr. Speaker, is it builds upon the successful framework that the Federal Employees Health Benefits Program has offered to countless Federal employees throughout the country. It is a purchasing pool concept that they can enter into, with the competition of the marketplace and different insurance plans competing for that business that has proven to be extremely cost effective in not only extending coverage to millions of Federal employees, but also by guaranteeing the State protections and consumer protections that have been passed by State legislatures throughout the country.

Mr. Speaker, it is one of the more amazing aspects of this debate that the party that claims to be for States' rights and tries to take political advantage of saying, listen, States, we stand for you and what you decide to do on a policy level, is so quick to jettison States' rights when it becomes politically inconvenient for their political allies, and that is exactly what is going on here today with the proposed associated health plans, which will preempt and trump the public policy decisions that have been made throughout this country by State legislatures.

Now, our plan also would offer a minimum guarantee of coverage, one that the Federal Employee Health Plan currently does. It does not preempt the consumer protections and the State laws that have been passed. And the reason those State laws have been passed throughout the years is because the free marketplace and the insurance companies competing for the business were not offering this type of coverage, and that is why the State legislatures, in working with the Governors, had to pass legislation requiring certain minimal safeguards of health care coverage. So if a State legislature has felt in the past that it is necessary to require prenatal care, for instance, or to prohibit drive-through deliveries, or to require screening for diabetes, autism, cancer, they have chosen to do so; and it has made sense for those States that have.

But, instead, this one-size-fits-all approach comes in and tries to preempt what the States have been doing for many, many years.

But what is also different with our substitute is it actually offers premium support payments to make it more affordable to small businesses to offer health care coverage to their employees, something that the underlying AHP plan is silent on. Again, an analysis of our bill would show that it would actually increase the coverage of the uninsured, help premium prices come down by building on this purchasing-pool concept, but also maintaining important and safe consumer protections. There is a reason why the National Governors Association and the States attorneys general have opposed the underlying bill. It is for all of these reasons, and we would respectfully submit the right approach is the substitute that we are offering today.

Mr. Speaker, I reserve the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise in opposition to the amendment in the nature of a substitute.

The SPEAKER pro tempore (Mr. REHBERG). The gentleman from Texas (Mr. SAM JOHNSON) is recognized for 30 minutes.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the number of uninsured Americans continues to increase and health insurance costs continue to rise by double digits annually, it is clear that something must be done. I commend our friends across the aisle for coming up with a plan they think works. While I have great respect for the gentleman from New Jersey (Ranking Member ANDREWS) and the gentleman from Wisconsin (Mr. KIND). I have to disagree with them. Their substitute will have the unintended consequence of raising, not lowering, costs for small businesses trying to offer health insurance. It will impose new mandates on employers and saddle the American public with yet another government program to fund.

The proponents of the plan claim that the new "small employer health benefits plan" is modeled after ours here in the Federal Government. Unfortunately, unlike the Federal Employee Health Benefit Plan, health insurance provided under the Democrat substitute would be subject to more than 1,500 State mandates that make up 15 percent of the rising costs of health insurance. That increased cost would likely be funded by higher taxes, adding another burden to small businesses. And on top of that, the substitute would force small businesses to deal with a host of new mandates.

Their substitute mandates employers provide health coverage to every employee who has been employed for more than 3 months. It mandates that employers pay 50 percent of the health care premiums for employees. It mandates that they cover the dependents of their workers. More mandates are supposed to lower costs? The Democrat substitute just does not make sense.

In contrast, AHPs utilize the strengths of the employer-based system, the private market, competition, economy of scale enjoyed by large union and employer plans, and ERISA's preemption of State mandates, to lower costs. Mr. Speaker, AHPs are supported by our Nation's small businesses. The NFIB, the National Retail Federation; the National Association of Wholesalers and Distributors; the National Restaurant Association; Associated Builders and Contractors; National Association of Homebuilders; the United States Chamber of Commerce, and others are strongly supportive of this legislation.

I hope my colleagues will join me in offering assistance to our Nation's small businesses and their workers by supporting AHPs and opposing the Democrat substitute.

Mr. Speaker I reserve the balance of my time.

Mr. KIND. Mr. Speaker, at this time I yield 4 minutes to the gentlewoman from Colorado (Ms. DEGETTE), a person who certainly appreciates the role of States and consumer protection in this health care debate.

Ms. DEGETTE. Mr. Speaker, I rise today to urge a "no" vote on H.R. 525 and a "yes" vote on the Kind-Andrews substitute.

This debate is, frankly, misdirected. The question is not who recognizes that there is a health care crisis in this country and who does not. This is not a contest to see who among us truly understands that small businesses are finding themselves in an increasingly difficult predicament when it comes to providing health care insurance for their employees.

We all care about this issue, and we all have constituents who need help affording health care insurance. Small businesses, which do face unique challenges across the board compared to large corporations, are the backbone of our economy; and we should be doing more to help them. And providing better and more health care coverage is one of the biggest problems they face today.

So I ask our friends on the other side of the aisle, why do we have before us a bill that does nothing to really address the problem for small businesses and very well may end up hurting the people who we say we are trying to help? There is a reason why the National Governors Association and 41 attorneys general are against this bill. There is a reason why numerous advocacy associations, consumer groups, and others oppose this misguided legislation.

This bill has been hailed as the answer to covering many of the 45 million Americans who are currently uninsured; but in truth, a very small percentage of the population would be helped in any way. This is because association health plans would help a relatively small number of the youngest and healthiest among us who will gain access to cheap minimalist plans. But that would come at the expense of the vast majority of workers whose premiums would actually increase. It would also make it nearly impossible for those with previous health challenges or chronic diseases to obtain any coverage at all.

Let me give an example. I am the cochair of the bipartisan Diabetes Caucus in Congress. Forty-six States have mandated that insurance plans must cover diabetic supplies? Why? One little vial of strips, test strips costs $50, and insurance companies simply were not giving that benefit in the past. That is why 46 of the 50 States said, you have to pay for this. Now, if diabetics test their blood, long-term complications like heart disease, kidney failure, end-stage renal disease, all of those are eliminated; but they have to have insurance coverage for these supplies. This legislation wipes out that requirement. It says, you do not have to pay for that; you do not have to follow that State law. That is not only wrong for those beneficiaries who are diabetic; it is shortsighted in the long run for the cost of our health care system.

We need to address the real access and affordability issues that affect employees of small businesses, and the only way we can do that is by passing the Kind-Andrews substitute. This substitute will give small employers the ability to provide the same access to health benefits as Federal employees. It will also allow States to establish small employer health pools. It would also minimize adverse selection and use state-licensed insurers without preempting State laws. Sounds like a good substitute to me.

If we pass the substitute, we can make a true impact on the status of millions of uninsured workers across this country; and for that reason, I urge a "no" vote on H.R. 525 and a "yes" vote on the substitute.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. BOEHNER), the chairman of the committee.

Mr. BOEHNER. Mr. Speaker, I thank my colleague for yielding me this time to speak on the substitute that has been offered.

Now, if we think that having States regulate insurance in a small group market is a problem with state-mandated benefits, this is the mother of all complicated programs to offer health insurance, because what are we going to do? We are going to have the Federal Government do it. Now, none of us really believes that the Federal Government ought to be in the business of running big-risk pools and offering plans to small businesses.

Secondly, the bill is estimated, and it has changed from last year; last year there was a $50 billion authorization, but it is still going to cost an awful lot of money to do this bill.

One of the most damaging parts, though, is that each employer who would take part in this plan that is being offered would still be subjected to the State mandates on health insurance in their particular State. There are 1,500 State-mandated health benefits around the country. It also requires that the employer must pay at least 50 percent of the premium. In most cases, I would imagine the employer would pay far more than that of the premium; but maybe it is a small company, maybe it is five or six employees, and maybe together they decide, we want to qualify for this, but we will each pick up our own share of the cost. Why would we want to prohibit them from including themselves in this by this type of a requirement?

It also says that every employer must offer this to every employee who has worked at the company for 3 months. That seems like a very short period of time, especially in some industries where you have an awful lot of turnover where they would typically require that you wait 6 months before you would qualify. All this would do would be to drive up the cost.

But one of the most amazing parts of this substitute, we would subsidize this from the Federal Government and, for employers with 25 or fewer employees, we would give them a subsidy to help entice them into this program. And, if you qualified, you qualify for a 10-year period. Now, some small company with less than 25 employees may qualify, may get the subsidy and may, over a course of several years, become highly successful. But under this particular substitute, they would still qualify for the subsidy.

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I do not think any of us believe that the Federal Government ought to be operating a health insurance company. There are a lot of mechanisms in the private market for this association health plan program to work. And, again, why do we want to make the perfect the enemy of the good?

The underlying bill that we have will, in fact, work. It will allow millions of Americans to get better-quality coverage at much more competitive prices than what they get today.

So let us allow the underlying bill to go forward. Let us defeat the substitute.

Mr. KIND. Mr. Speaker, I yield myself 1 minute to respond quickly, just to clarify a couple of facts.

Mr. Speaker, I have all of the respect and admiration for the chair of our committee, but a closer reading of the substitute bill would not, in fact, require a Federal-run program; rather the Department of Labor would contract out the State-licensed health insurance plans in order to administer these programs.

But we do feel that there is a requirement or a necessity to offer greater incentives and inducements for small businesses to offer this coverage. That is why we are offering a premium support program with it.

Mr. Speaker, I yield 5 minutes to the coauthor and codrafter of this substitute amendment, the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank my friend, the gentleman from Wisconsin (Mr. KIND), for yielding me the time.

I think the best way to understand the difference between the plan that the gentleman from Wisconsin (Mr. KIND) and I are putting forward and the majority plan is to look at it from the point of view of one of the small business people that we keep hearing referred to over and over again here today.

My friend, the gentleman from Wisconsin (Mr. OBEY), often refers to speeches on the floor as posing for holy pictures, and I think that is what is going on here today, where everyone is embracing the small businessman or small businesswoman and saying how much we love them and care about them, and I am sure everyone does. But I think what matters is the impact of these various proposals, what the proposals would have on the small business person.

In my State the cost of insuring a family is about $14,000 a year. So let us take a small business person that has 10 employees and is looking at a situation where he or she would have to spend $140,000 to insure each of those employees and their families if the employer was going to bear the whole cost. That is a huge amount of money, but is probably well beyond the ability of that employer to pay for.

Under the majority's bill, if we give the majority every benefit of the doubt, if we assume that the majority's bill will work exactly as they say that it will, the most optimistic forecast is the majority's bill will save 13 percent in premiums for that employer. And let us round it up a little bit and give them the benefit of the doubt further and say it will save $2,000 per employee off that $14,000.

So what would happen? We would save $20,000, and the employer would be looking at spending $120,000 to insure the families instead of $140,000. That is not going to do it. That is still far more than the person running a machine shop or a small retail store or landscaping business or a delicatessen is ever going to be able to afford. This just is not going to happen. It is not going to happen.

Our proposal is very different. It says that in a case of a small business like the one I am hypothesizing here, where you have about 10 employees, and where those employees make less than 200 percent of the poverty level, which in my State for a family of four would be about $40,000, so just about anybody making less than $20 an hour or so would be eligible for this kind of subsidy, that is most people. That is most people. Under our plan that employer, if the employer chose to do this, my friend a minute ago said that the employers were mandated to do this, that is not so. No one is required to insure their employees under this plan, but if the employer chooses to insure his or her employees, what would happen is they would get a credit of $7,000 per employee toward the cost of this health insurance, a 50 percent credit. So the price of the coverage would drop from $140,000 down to $70,000. That is still an awful lot of money. It is an awful lot of money for a person running a small business, but it puts the person in reach of maybe covering that family, particularly if they ask the family to share with copays and deductibles and their own contribution.

Now, my friend, the gentleman from Ohio (Mr. BOEHNER), the chairman of the full committee, said, my goodness, the Government will be subsidizing small employers if we do this. It is big government. Well, government already subsidizes health care for large employers, because they permit the large employers to deduct every premium dollar. And that employer is paying at the 36 or 37 percent corporate tax rate, which most of them do. That constitutes a 36 or 37 percent subsidy. So General Motors is getting a nearly 40 percent subsidy, but the person running the delicatessen or the machine shop is not. This evens the playing field.

Now, how do we pay for this? Now, the chairman knows that under the rules of the House that it would not be appropriate or germane for us to identify the source of paying for this, because it would take it outside of the committee's jurisdiction.

There are different views as to how we could pay for this. I speak only for myself when I say this, but I would note for the record that the cost of tax breaks to companies that outsource their jobs outside of the United States is $100 billion over the next 10 years. So if that machine shop, if its competitor takes all of the jobs and moves them to Malaysia or Mexico, gets a tax break for doing that, which I think is a foolish policy, if we were to repeal that tax break for companies that are outsourcing their jobs out of this country, that would go a long way toward paying for the plan that we are talking about.

That to me is a pretty good trade-off. Companies that are sending their jobs overseas would lose a tax break; companies here in America would gain health insurance.

Vote yes on the Kind-Andrews substitute.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. BOUSTANY).

Mr. BOUSTANY. Mr. Speaker, you know what we are trying to do here is to make health care more affordable, available and accessible to all Americans. It seems to me that if we are going to achieve this goal, we have to adhere to some principles, and I can think of three right off the bat that are very important. One is to provide information to the consumer; second, choices to the consumer; and, thirdly, thirdly, control to the consumer.

Now, this amendment that is being proposed seems to me that it is going to limit choice rather than create choice. And I find it odd that there is no mention of what its cost is going to be to the Federal Government in putting forth these subsidies. I think we need to know that information. I think it is very important information.

And it also seems to me that this program is going to add to the cost of health care, and not lower the cost. What we need to do is foster competition in health care, and right now 45 percent of all of the health care dollars are within governmental systems, Medicare and Medicaid and so forth. The other 55 percent is in the insurance market, and there is no competition. There is no competition in this arena. And so if we stick to these three principles I mentioned earlier, we can create competition.

It seems to me that if we are going to give subsidies, why not give subsidies to individuals to buy health savings accounts which provide those choices which will allow for an information flow to the patient, to the consumer?

And so I urge colleagues on both sides of the aisle to not support this amendment and to vote for H.R. 525, which offers a good starting point to creating competition in the health care market.

Mr. KIND. Mr. Speaker, I just recommend to the previous speaker that he should talk to any Federal employee with regard to the choices that they are offered under the Federal Employee Health Plan.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES), a person who would rather take millions of people off the ranks of the uninsured rather than add a million people into the uninsured.

Mrs. JONES of Ohio. Mr. Speaker, first of all, I want to thank my colleagues, the gentleman from Wisconsin (Mr. KIND) and the gentleman from New Jersey (Mr. ANDREWS), for offering this substitute.

I live in the city of Cleveland. We have a great organization representing many of our smaller enterprises called COSE, and COSE has come together in an attempt to provide health care coverage to small businesses.

I wanted to vote for a piece of legislation that will allow small business to have insurance policies for their people, but I did not want to vote for a plan that did not provide the same kind of coverage that everybody else has, meaning that it did not have to be responsible for State insurance regulations as did other policies.

So by presenting this amendment, the gentleman from Wisconsin (Mr. KIND) and the gentleman from New Jersey (Mr. ANDREWS) have offered me an opportunity to say to the small businesses in my community, I support you, and I want to make sure you can provide health care coverage to your employees.

What is also of particular concern to me is that offering something that does not provide the same safeguards is like offering nothing. All we have to do is go back and look at the MEWAs, the Multiple Employer Welfare Arrangement, I guess that is what they call them, the Multiple Employer Welfare Arrangements, which have been used by employers as vehicles to provide benefits. The public record is filled with instances where they have failed, left employees and employers alike with unpaid medical bills.

Mr. Speaker, the other thing that we have to look at is, and the prior speaker said something about subsidies, and you give them to people, and they do not get anything in return. We gave subsidies to the drug companies in the Medicare prescription drug bill, and they got money that they did not even have to use towards a prescription benefit. So do not talk to me about subsidizing anything.

Let us make sure that the people of America and the small businesses have an opportunity to have health care. If we do preventive health care, we would not have so many people coming into hospitals with acute problems because they have not had any prevention.

It is so wonderful that we have a substitute that offers coverage to small employers. Vote for the substitute and vote against H.R. 525, the Small Business Fairness Act.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. KIND. Mr. Speaker, I yield 4 minutes to the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, I think the Rules Committee has made a terrible mistake here, and not the usual Rules Committee sort of mistake, because they have actually allowed to come to the floor a substitute that is so clearly superior to the AHP bill it is amazing.

Now, let my friends on the other side understand, I am not against AHPs. I am an original cosponsor of the gentleman from Texas (Mr. JOHNSON's) legislation. AHPs would be an improvement over current market conditions, which are appalling. But this plan put forward by the gentleman from Wisconsin (Mr. KIND) and the gentleman from New Jersey (Mr. ANDREWS) is better than AHPs, and let me describe some of the ways.

First, the gentleman from Louisiana (Mr. BOUSTANY) mentioned choice earlier. Under the AHP approach, the average small business might be able to offer their employees one or two insurance plans, and that employee of the small business would have no idea whether their doctor was going to be a apart of one of those plans. But under the Federal employee approach, such as the one that we enjoy in this House of Representatives, they could have 10 or 20 or more plans to choose from, and the likelihood that their physician, their caregiver, would be part of one or more of those plans increases substantially.

So when you are talking about unleashing the free market to work for the individual, the Federal Employee Health Benefits-type plan, and this would not infringe on Federal employees' benefits, but it would set up a parallel organization that small businesses could benefit from, the opportunities for the small businesses of America are magnificent under this approach.

Another key aspect of this is the substitute approach is more likely to work. AHPs are largely a thought experiment. They have never really worked anywhere. But the Federal Employee Health Benefit System has worked well for decades, 30 or 40 years of a magnificent track record of experience. It has got bipartisan support. Men and women of goodwill on both sides of the aisle know that this sort of approach works; it lowers the sales load, it increases the risk pool to the maximum size which you need for lower group rates.

It really is the fairest and best way to approach this nagging small business problem that we have had. It is also going to be more affordable, because while it lowers the sales load and increases the size of the risk pool, it is fairer to all industries.

There are probably going to be a lot of insurance companies that want to offer insurance to software companies, because those employees tend to be young and healthy. How many are going to be eager to insure older Rust Belt industries?

The tax credit approach that my friend has mentioned has had to be adjusted for purposes of this substitute, but we need to acknowledge, as my friend from New Jersey (Mr. ANDREWS) mentioned, health care is already seriously subsidized in this country. All we are trying to do is make that subsidy fairer.

I think also the substitute approach would make the system higher quality. First of all, under AHPs, there would be minimal solvency requirements. By completely overturning all State regulation, as AHPs would do, that is a truly radical approach, and while my friends on the other side may be radicals in this regard, I think they are going further than they realize. These insurance plans need to be thoroughly solvent. You need to have adequate capital requirements so that you know the insurance is going to be there when you need it.

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I think you would have better benefits under this plan, too, because you would have more proven traditional insurance policies that I think more folks who work for small businesses are accustomed to.

Let me admit, Mr. Speaker, in closing, our approach is less famous. Why? Because we do not have every PAC and trade association in Washington, D.C. favoring this because they stand to personally benefit from promoting AHPs to their members. They are desperate for non-dues revenue for those associations.

For any tourist who comes to Washington, if you do not think these PACs and trade associations are rich enough, come visit again. You will see skyscrapers full of these folks all over town, and they would love to make money as insurance salesmen to all the small businesses in America. That is not doing justice for our folks back home.

As I say, AHPs are an improvement, but they are not as good as the Kind-Andrews approach. Please vote for Kind-Andrews.

Mr. KIND. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. REHBERG). The gentleman from Wisconsin (Mr. KIND) has 9½ minutes remaining. The gentleman from Texas (Mr. SAM JOHNSON) has 22 minutes remaining.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. KIND. Mr. Speaker, I yield 4 minutes to the gentleman from Rhode Island (Mr. KENNEDY), someone who understands the importance of maintaining consumer protections as we have in our substitute bill.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I thank the gentleman for yielding me time.

As we all know, we are in a health care crisis and many propose many solutions. But let us just find out the simple facts. Facts are, insurance ratings are really dependent on the notion that some people are higher risk than others. Those are the people that insurance companies love to insure. They love to insure them because if they have low risk, every dollar that they pay in terms of premium is another dollar down on their bottom line of profit. However, if you are unfortunate enough to be born with a congenital defect in your organs, if you are unfortunate to be run over by a car, if you are struck by some ailment that is out of any control that you have whatsoever, under the insurance system you are known as a risk. Simply growing old titles you as a risk.

Do you think an insurance company wants to cover you? Of course they do not.

This is a zero sum game. If some get insurance, others get zero. But the fact of the matter is we all pay. The notion that some people are going to get away from paying, meaning some small businesses are going to get away from paying, is just hogwash.

The fact of the matter is, we all know that when we pay our premiums, we are paying for someone who is uninsured. We are paying for someone who is underinsured. The way out of this problem is not to escape giving people health insurance, which this legislation does. Of course it is going to be cheaper if you do not pay for care. That should not be a surprise to any of us. That is pretty obvious. If you want to get lower insurance costs, let us just cut out treatment for cancer. That will reduce insurance costs. Let us just cut out treatment for mental health.

That is just what this act does. It says "no State mandates" which means all the provisions, for example, for pregnant women to be able to have at least 72 hours after giving birth, all those provisions that States have put in for consumer protection, are no longer there under this legislation because this obviates all those State requirements that the people want in their insurance coverage. By joining the insurance pool of Federal employees, we bring everyone under a community rating, which means that we all pay our share, irrespective of whether someone is healthy and young versus old and sick.

All of us should be paying our fair share unless you want to escape paying for the notion that there but for the grace of God go you. The fact of the matter is there but for the grace of God go you, someone else, and I. All of us have an obligation to those who have needs that need that health insurance.

Why? Because it could be any one of us that is the person that is in great need. And I do not think any one of us would be denied health care coverage simply because as a human being we have greater health care needs. And that is why I believe people ought to support the Kind substitute. We ought to support people's access to the same coverage all of us as Federal Members of Congress receive.

Thank you to my good friends, Mr. KIND and Mr. ANDREWS, for yielding me this time to speak in support of this substitute, the Small Employer Health Benefits Program, which will provide a real solution for many of the forty-five million Americans without health insurance.

Mr. Speaker, our health care system is broken.

To live in a country as great and as wealthy as ours, and to have millions of hard working, employed Americans who cannot afford quality health insurance is inexcusable.

My friends from across the aisle would like the American people to believe that Association Health Plans are the only available option to relieve the burden of increased health care costs on small business owners.

However, the fact remains that Association Health Plans not only ignore the unique needs of small businesses, but will actually undermine our insurance system by allowing healthy individuals to opt out.

We shouldn't be making policy only for the fortunate. We should be making policy for everybody.

The proposed substitute, the Small Employers Health Benefits Program, would provide the same access to health benefits as the Federal Employees Health Benefits Program, FEHBP.

If we are not ready to provide an overall solution to the Nation's health care crisis, then why don't we at least extend small businesses the courtesy of providing a plan that meets the same requirements that Members of Congress and their families currently enjoy.

My colleagues on the other side of the aisle are right about one thing, small business owners are facing a crisis. Now let's provide them with a solution.

Mr. KIND. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN), a person who has built up considerable health care expertise from his position on the Committee on Ways and Means.

Mr. CARDIN. Mr. Speaker, I oppose the underlying bill for many reasons. Fundamentally, it violates the concept of federalism that is embodied in our Constitution, respect for our States, and the ability of our States to be able to regulate public safety issues and health issues for the people of our States.

This legislation would preempt the ability of my State and your State to protect the rights of our own citizens through regulation. That is wrong. That is the wrong usurpation of power by the Federal Government.

This underlying legislation would adversely affect the people of Maryland, and let me tell you why. Our legislature has passed small market reform. People who work for companies that are between two and 50 employees have the opportunity to purchase insurance, affordable health insurance in Maryland as a result of our small market reform. The passage of this legislation will mean the end of the small market reform and the opportunity to purchase insurance by small employers in my State. That is wrong.

We are going to be moving in the wrong direction with making affordable health insurance available for the people of this Nation.

Mr. Speaker, I want you to understand the Insurance Commissioner of Maryland is a Republican. The Governor of Maryland, who opposes this bill, is a Republican. This should not be a partisan issue. This should be a matter about the appropriate use of the Federal authority and it is being used wrong here.

I congratulate the gentleman from Wisconsin (Mr. KIND) for his substitute which is sensitive to the rights of our States. I hope Members will support the substitute and reject the underlying bill.

Mr. Speaker, as a member who is dedicated to protecting the rights of Americans who have health insurance and to ensuring that opportunities to secure affordable health insurance can be expanded, I rise in opposition to H.R. 525. Since coming to Congress, I have heard frequently from individuals who work in small business. They have spoken to me about the difficulties that result from a lack of health insurance coverage, skyrocketing premiums, and reductions in benefits. I remain committed to developing solutions that will alleviate the hardships faced by many Maryland families and small businesses.

However, the Association Health Plan (AHP) legislation we are considering on the House floor today is not a viable solution. H.R. 525 would exempt AHPs from State laws and State regulatory oversight. Through this special exemption, AHPs would be able to severely undermine the goal of greater health care access and affordability for Maryland residents. Although some supporters of this legislation claim it will benefit small employers, the reality is that H.R. 525 will only hurt the small business community.

H.R. 525 would leave the Maryland insurance commissioner powerless to protect our citizens. Under this misguided bill, unregulated out-of-state AHPs could operate in Maryland without being required to comply with health care safeguards enacted by our state legislature, such as:

Appropriate access to emergency care. The right to independent appeal of denied claims, Fair insurance premiums for small groups, Consumer marketing protections, Prevention of health plan failures due to insolvency.

Under this legislation, my constituents would not only lose their ability to demand an independent review of denied claims, but they would lose guaranteed access to important benefits such as emergency medical treatment and mammography screenings. Workers who purchase association health plan coverage—believing that they are getting comprehensive insurance—may very well find that they would still have to shoulder the costs of these essential services.

Not only would this bill be harmful to potential subscribers, it would destroy the small group market reforms already in place in Maryland. Twelve years ago, my home state of Maryland took a major step toward helping small businesses afford health insurance for their workers. Our reforms guarantee the availability of reasonably priced, comprehensive health insurance for all small employers. Specifically, Maryland requires all health insurers to sell a comprehensive standard benefit package designed by an independent commission to all employers with between 2 and 50 employees. The plan must have benefits that are actuarially equivalent to those required to be offered by federally qualified HMOs, and the average cost cannot exceed 12 percent of Maryland's average annual wage. Insurers have the option of offering additional benefits, but they must be priced separately. Insurers must use adjusted community rating to price their plans, and they cannot impose pre-existing condition limitations. The Maryland plan not only guarantees the availability of reasonably priced insurance, it also makes it easier for small employers to make "apples to apples" comparisons of health costs throughout the state.

Due to these reforms, more Maryland small businesses offer health care coverage to their employees than in any surrounding states or in the nation as a whole. Maryland's system is one in which healthy subscribers subsidize those who are less healthy. These reforms work because insurers are not allowed to "cherry pick" the businesses that have the healthiest workers. Association health plans have been outlawed in our state. The association health plan legislation before us would undermine our system by using the lure of lower premiums to attract firms whose workers have fewer health problems, firms whose employees might be willing to forgo some of the consumer protections offered under Maryland law. Businesses with older, sicker employees would remain in the state system, driving up premiums. H.R. 525 would, in effect, lead to the collapse of Maryland's system. I want to emphasize that this is not a partisan issue—AHS's are opposed by my own governor, our former colleague Robert Ehrlich, and by the National Governors' Association, and the National Association of Insurance Commissioners. I will submit for the RECORD an April 19 letter from Alfred Redmer, Maryland's Insurance Commissioner, expressing his opposition to H.R. 525.

This bill would be devastating on a national level, as well. The non-partisan Congressional Budget Office found that premiums would increase for 20 million employees and their dependents who are covered through small firms, and that 100,000 of the sickest workers would lose coverage altogether if this AHP legislation were enacted.

Passage of this legislation would be a disservice to every worker, every family, and every small business in Maryland. H.R. 525 fails to provide meaningful help for the uninsured, denies access to affordable health care for older, less healthy groups, and undermines the crucial consumer protections that our General Assembly has enacted. For these reasons, I urge my colleagues to vote against this bill.

Mr. Speaker, the following is a letter from our insurance commissioner who is opposed to H.R. 525:

MARYLAND INSURANCE ADMINISTRATION,
Baltimore, MD, April 19, 2005.
Hon. BENJAMIN L. CARDIN,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN CARDIN: As Commissioner of the Maryland Insurance Administration I am writing to express my strong opposition to federal legislation that would create Association Health Plans, AHPs. I understand such legislation, H.R. 525, has been passed, again, by the House Education and the Workforce Committee and may soon come to the floor of the House for a vote. H.R. 525 would allow AHPs to form and operate in Maryland outside the authority of my office and beyond the reach of proven State consumer safeguards and solvency laws. If enacted into law, this could do irreparable harm to our small group market and strip our citizens of critical protections.

Altough I share the sponsor's concern for the growing number of small business employees who cannot afford adequate coverage, the fact is this legislation would do little, if anything to address this problem. H.R. 525 ignores the root cause of the current crisis—skyrocketing healthcare spending. Unless spending is brought under control no attempts to increase competition or enhance options for small business will truly make insurance affordable and, thus, promote coverage.

Even more troubling is the harm the legislation would do to consumers. H.R. 525 would: (1) permit risk selection thereby creating opportunities for "cherry-picking" among healthier groups; (2) allow inadequate capital standards and solvency requirements, both of which are inferior to existing State standards; (3) eliminate proven State consumer protection laws, including those designed to allow consumer appeals of adverse plan decisions and those aimed at preventing and fighting fraud; and (4) allow AHPs to ignore State benefit requirements. To add insult to injury, while longstanding State oversight and consumer protections would be eliminated, H.R. 525 provides no additional resources to the Department of Labor to regulate AHPs or help consumers.

I remain committed to improving access to affordable insurance for small business owners and workers in Maryland. Together, we can find solutions that will be effective and not lead to greater problems in the future. H.R. 515 is clearly not the answer and I urge you to oppose it.

Sincerely,

AL REDMER, Jr.,
Insurance Commissioner.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield 30 seconds to the gentleman from Louisiana (Mr. BOUSTANY).

Mr. BOUSTANY. Mr. Speaker, I would like to engage the gentleman from Wisconsin (Mr. KIND) in a colloquy.

My question is, I think we need to know this information, what is the cost of your amendment to the Federal Government?

Mr. KIND. Mr. Speaker, will the gentleman yield?

Mr. BOUSTANY. I yield to the gentleman from Wisconsin.

Mr. KIND. We are waiting to get a cost estimate back, but based on two previous debates on this issue, it was comparable to the amount of money set aside for the health savings account that has been a part of this bill in the past, but is not this year.

Mr. BOUSTANY. I think we need to have that information. I am all for choices and the gentleman's plan is intriguing, it is interesting; but I think it may be premature.

Mr. SAM JOHNSON of Texas. Mr. Speaker, do I have the right to close?

The SPEAKER pro tempore. Yes.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. KIND. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think there is wide agreement, bipartisan agreement that we have got a serious issue on our hands, a huge challenge that is facing our Nation, that is, rising health care costs and the impact it is having on economic growth, the opportunities for businesses large and small to grow and hire additional workers. I think it is one of the main reasons why we have experienced such anemic job growth in this country in recent years, because of the hesitancy of so many businesses, especially small businesses to hire additional workers because of the associated rising health care costs. It is something that we must address in order to deal with an expanding economy at a rate that we would all like to see, but also to get a grip on the stagnant wages right now that are holding so many of our workers back.

I think there is a direct cause and effect whereas the typical worker's wages have been frozen in effect in recent years because of the additional costs coming out of their pockets to afford health care. That is why, again, we have had an important debate today, but it is one we should be working on in a bipartisan fashion to address the underlying causes.

Volumes have been written about the underlying associated health plan that is before us today. And, unfortunately, the verdict is in and that verdict is this is just bad public policy. That is why so many of the Governors and so many of the attorneys general, and the commissioners of insurance, the Association of State Legislatures in a bipartisan fashion have roundly criticized and condemned the underlying associated health plan, because they feel as we do on this side that it will do more harm than good.

I understand and appreciate the motivation on the other side to try to move forward on this issue. But we are stuck. The wheels are stuck in the mud, and it is just spinning because it is not getting any traction. And that is because the Senate in their analysis of the underlying bill has found that it, too, is bad public policy. And I am afraid we are going to have this debate today, it is going to expire and it is going to get stuck with no progress being made.

Perhaps there may be some deficiencies in what we are offering in our substitute, just as we believe there are deficiencies in theirs. But now is the time for us to come together to try to find some common ground so we can make progress and deal with this issue that is affecting more and more Americans every year.

One of the issues that really has not received that much attention, and I would just like to close on and highlight it, is again the fact of the Federal preemption and taking away from States the ability to conduct proper oversight and accountability with these insurance plans.

Both the GAO in a study and a recent Georgetown University study that came out this summer indicated that the underlying AHP bill, as it is written with the weak provisions that would go to the Department of Labor, would lead to an explosion of fraud and abuse with these types of plans throughout the country. And there is a history of fraud and abuse.

Currently, there are over 144 plans that are set up fraudulently that are not paying the claims that are affecting well over 200,000 workers. But for the effective oversight and the policing that is taking place at the State level, even these would probably go unnoticed. It would impact more and more Americans. It is another reason why the underlying bill does not make sense, why the Federal preemption over State jurisdiction, which has been the history of health care regulation in this country, is another bad idea.

Our substitute addresses that by not preempting State law by allowing the State jurisdiction and oversight to continue. It does build upon the concept of a purchasing pool modeled after the Federal employee health plan which, as was stated earlier, has worked marvelously over the years. No one is recommending dismantling that.

I would encourage a "yes" on the substitute and a "no" on the underlying bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we do not know the cost. It is going to be out of reason, I believe. And while AHP legislation will be implemented quickly, this Democrat substitute might take years to get up and running.

In addition, the funds are subject to appropriations. And if an appropriation did not go through or did not provide enough funds, small employers and their workers would be left hanging.

Let me make myself clear. I believe our Nation's employer-sponsored health care system is a success story. Employers provide coverage for the vast majority of our Nation's population; 131 million Americans obtain their coverage from private employers.

The Committee on Education and the Workforce and the Department of Labor through our oversight of ERISA have jurisdiction over employer-sponsored health care. So I support using the employer-based system to address the problems of the uninsured.

☐ 1730

However, the way to do that is to build on the success of the current system by utilizing the strengths that enable large employers and unions to offer Cadillac health plans. AHPs are the way to do that. Vote down this amendment. Vote for AHPs.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. REHBERG). Pursuant to House Resolution 379, the previous question is ordered on the bill and on the amendment in the nature of a substitute offered by the gentleman from Wisconsin (Mr. KIND).

The question is on the amendment in the nature of a substitute offered by the gentleman from Wisconsin (Mr. KIND).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. KIND. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 197, nays 230, not voting 6, as follows:

[Roll No. 424]

YEAS—197

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NAYS—230

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox

Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Velázquez
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—6

Cramer
Feeney
Gibbons
Owens
Oxley
Westmoreland

☐ 1753

Messrs. WYNN, WELLER, and SHERWOOD changed their vote from "yea" to "nay."

Mr. RUSH changed his vote from "nay" to "yea."

So the amendment in a nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HAYES). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

Mr. GEORGE MILLER of California. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GEORGE MILLER of California. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GEORGE MILLER of California moves to recommit the bill H.R. 525 to the Committee on Education and the Workforce with instructions to report the same back to the House forthwith with the following amendments:

Page 17, line 16, insert "subsection (c) and" before "section 514(d)".

Page 18, insert after line 6 the following:

"(c) MAINTENANCE OF STATE LAWS PROVIDING FOR CERTAIN FORMS OF COVERAGE.—Nothing in this part or section 514 shall be construed to preclude the application of State law (as defined in section 514(c)(1)) to an association health plan, or any health insurance issuer offering health insurance coverage in connection with the plan—

"(1) to the extent that such law requires coverage for the expenses of—

"(A) pregnancy and childbirth, or

"(B) children's health services (including the application of any such State law to the extent such law requires certain numbers of child health supervision visits or requires exemption of reasonable and customary charges for child health supervision services from a deductible, copayment, or other coinsurance or dollar limitation requirement),

"(2) to the extent that such law requires—

"(A) a minimum hospital stay for mastectomy,

"(B) coverage for reconstructive surgery following mastectomies (in excess of coverage required under section 713), and

"(C) coverage for the expenses of screening and tests recommended by a physician for breast cancer,

"(3) to the extent that such law requires—

"(A) coverage for medical treatments relating to cervical cancer, and

"(B) coverage for the expenses of screening and tests recommended by a physician for cervical cancer,

"(4) to the extent that such law requires—

"(A) the offering of, or coverage for, medical treatments related to mental illness or substance abuse and other services related to the treatment of mental illness or substance abuse,

"(B) coverage for prescription medications associated with the management of mental illness or substance abuse, or

"(C) education and self-management training services relating to mental illness or substance abuse,

"(5) to the extent that such law requires—

"(A) coverage for medical treatments related to diabetes,

"(B) coverage for diabetes-specific supplies, including blood glucose monitors, insulin pumps, insulin syringes, and single-use medical supplies associated with the management of diabetes,

"(C) coverage for prescription medications when prescribed by a physician associated with the management of diabetes, including insulin, or

"(D) diabetes education and self-management training services, or

"(6) to the extent that such law imposes annual, lifetime, or day and visit benefit minimums or limits copayments, deductibles, or out-of-pocket or other coinsurance requirements in connection with coverage, or items and services, described in the preceding paragraphs of this subsection.

Mr. GEORGE MILLER of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes in support of his motion to recommit.

Mr. GEORGE MILLER of California. Mr. Speaker, I submit a motion to recommit along with my colleagues on the Committee on Education and the Workforce, the gentlewoman from New York (Mrs. MCCARTHY), the gentlewoman from California (Ms. WOOLSEY), and the gentlewoman from Minnesota (Ms. MCCOLLUM).

This motion shows exactly what the issue is about. It is about the minimum standard of health care protection for all Americans, including those who work for small businesses.

Mr. Speaker, all employees, including the employees of small employers, may need access to pregnancy, to well-child care, to cancer treatment, mental health treatment, or even diabetes treatment. We should not encourage insurers to offer bare-bones treatment that does not protect anyone.

Everyone gets sick at some point in their lives, and everyone will need access to a meaningful package of benefits. That is why I am offering this motion to recommit.

Mr. Speaker, I yield to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY. Mr. Speaker, as we worked on this on the Committee on Education and the Workforce, we tried to put our thoughts into it. People have to understand, if the main bill is passed, health care for our small employers is not going to help the majority of those employees seeking coverage.

The recommittal goes back to what the States have already done, mainly because in the beginning the insurance companies would not give health care to women that needed to have a mammogram or to have a pap smear to make sure they do not have cervical cancer.

This House spends money constantly on cancer research, and here we are using a tool that we can prevent cancer and make sure that women are treated earlier. With this bill, the mainline bill is taking that away. I ask my colleagues, do not be fooled, stand up for your State. Stand up for the health care of your constituents. That is what our job is.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield to the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM of Minnesota. Mr. Speaker, I rise to support the motion to recommit because AHPs are awful health plans. AHPs roll back State benefit standards that protect women and children. They are awful for women; they are awful for children.

Our motion protects Americans who have access to mental health benefits. It protects families' access to maternity care and well-baby checks.

□ 1800

Maternity coverage is critical for women. It should not be optional. Fortunately, many States require health plans to cover maternity care and well-baby checks for their children. The bottom line is healthy moms equal healthy children. Healthy children, valuing children's lives, should be a goal we all share.

Children deserve a healthy start in life with regular visits to the doctor and necessary immunizations. Preventive care makes economic sense. It can prevent avoidable illness and reduce future health care costs.

I encourage all Members to reject awful health plans and to support the motion to recommit.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, the preemption of State law that is allowed under H.R. 525 makes no sense. For example, 49 States guarantee that health insurance plans include mammograms, and for good reason. We know that if a woman has health insurance, the likelihood she will receive a mammogram is promising. We know that early detection increases a woman's chance of surviving breast cancer. No one knows this better than my constituents in Marin County, California, who suffer from the highest rates of breast cancer in the country. They deserve more protections from this deadly disease, not a rollback in coverage of the most basic screening tool we have, mammograms. They are looking to Congress to help more women get the services they need to catch this disease before it becomes fatal. Instead, today we are telling them that insurance companies are allowed to trump State law and decide what is best for their health.

I am sure that all of the men and women here today want their wives, sisters, mothers, and daughters to have annual screenings as recommended by physicians. It is common sense. I urge each of my colleagues, support the women in your lives. Support the motion to recommit.

Mr. GEORGE MILLER of California. Mr. Speaker, I would hope that people would support this motion to recommit. This is fundamental and basic. It is about whether or not people will have coverage that works for them when they or a member of their family becomes sick.

CBO has looked at this legislation three times, and three times they have determined that almost 8 million people who today have health care coverage that is good coverage, they will be stripped of that coverage and put into these AHPs. In fact, they expect that 90 percent of the new enrollees will be people who come out of better plans who will lose that coverage that people have fought hard for in almost every State in this Union, to have those kinds of health care protections that our three colleagues just spoke about in support of this motion to recommit.

I would urge the House to support the motion to recommit and reject this legislation that is harmful to the health care coverage of millions of Americans and their families.

Mr. BOEHNER. Mr. Speaker, I rise in opposition to the gentleman's motion.

The SPEAKER pro tempore (Mr. HAYES). The gentleman is recognized for 5 minutes.

Mr. BOEHNER. Mr. Speaker, the most coveted health insurance available to Americans is offered by big companies and unions. All we are trying to do in the underlying bill is to give small employers the same opportunity to provide high-quality health insurance to their employees at competitive prices.

The motion to recommit would require every AHP to cover every mandate known to man, driving up the cost of those policies and making sure that no new employees would ever be covered by an AHP. There are 45 million Americans with no health insurance. While this will not cover all 45 million Americans, it will help some Americans who have no access to health insurance today have access to high-quality, competitively priced health insurance. You can have all the mandates in the world; but if you do not have health insurance, you get no coverage at all. No doctors' visits. No nothing. It is a bad motion. Support the underlying bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GEORGE MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on passage of H.R. 525, if ordered, and suspending the rules on H.R. 2894.

The vote was taken by electronic device, and there were—yeas 198, nays 230, not voting 5, as follows:

[Roll No. 425]

YEAS—198

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Weiner
Wexler
Woolsey
Wu

NAYS—230

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Evans
Everett
Ferguson
Fitzpatrick (PA)

Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Velázquez
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—5

Cramer
Feeney
Gibbons
Oxley
Waxman

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HAYES) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1821

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ANDREWS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 263, nays 165, not voting 5, as follows:

[Roll No. 426]

YEAS—263

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cooper
Costello
Cox
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Everett
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Issa
Istook
Jackson-Lee (TX)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryan (WI)
Ryun (KS)
Salazar
Sanchez, Loretta
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Velázquez
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—165

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Chandler
Clay
Cleaver
Clyburn
Conyers
Costa
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rangel
Reyes
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Smith (WA)
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Weiner
Wexler
Woolsey
Wu

NOT VOTING—5

Cramer
Feeney
Gibbons
Oxley
Waxman

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1834

Ms. MILLENDER-McDONALD changed her vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ABRAHAM LINCOLN BIRTHPLACE POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 2894.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and pass the bill, H.R. 2894, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 12, as follows:

[Roll No. 427]

YEAS—421

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—12

Berman
Brown-Waite, Ginny
Cramer
Feeney
Gibbons
LaTourette
McHenry
Otter
Oxley
Paul
Peterson (PA)
Waxman

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HAYES) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1842

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORTS ON H.R. 2361, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006, AND H.R. 2985, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2006

Mr. LAHOOD. Mr. Speaker, I ask unanimous consent that the managers on the part of the House have until midnight tonight to file conference reports to accompany H.R. 2361 and H.R. 2985.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 38. An act to designate a portion of the White Salmon River as a component of the National Wild and Scenic Rivers System.

H.R. 481. An act to further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000.

H.R. 541. An act to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries.

H.R. 794. An act to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes.

H.R. 1046. An act to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming.

The message also announced that pursuant to Public Law 105–292, as amended by Public Law 106–55, and as further amended by Public Law 107–228, the Chair, on behalf of the President pro tempore, upon the recommendation of the Majority Leader, appoints the following individual to the United States Commission on International Religious Freedom:

Dr. Richard D. Land of Tennessee, for a term of two years (July 25, 2005–July 24, 2007).

MEDICAL DEVICE USER FEE STABILIZATION ACT OF 2005

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the bill (H.R. 3423) to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Ms. ESHOO. Mr. Speaker, reserving the right to object, and I do not intend to object. I yield to the gentleman from Georgia to explain his unanimous consent request.

Mr. DEAL of Georgia. Mr. Speaker, I thank the gentlewoman from California for yielding.

In 2002, Congress passed the Medical Device User Fee and Modernization Act, and it allowed the Food and Drug Administration to collect user fees from manufacturers who would submit applications for medical devices. This legislation was in response to the fact that there were many applications for new devices, and we were falling behind in the approval process.

With the passage of this legislation, the FDA was authorized to add additional personnel, and have done so and have speeded up the approval time for these new devices.

However, the legislation provided that Congress had to set and reach certain marks of appropriations for fiscal year 2003 and through 2005 for this program to continue; and in the event we did not reach those targeted appropriation levels, then the program would expire at the end of this September. Unfortunately, Congress did not meet those targeted appropriation levels.

□ 1845

Since Congress did not reach the targeted appropriations required to keep the program in place, this user fee program will cease at the end of September, and the FDA will be required to start sending out notices of termination.

So this legislation is essential to keep this very successful program in place, and it will allow us to retain the medical personnel who are working and approving device applications in a much more speedy and rapid fashion than they would have been able to do without the user fee being in place.

Mr. Speaker, that is the purpose of this legislation is to extend the program.

Ms. ESHOO. Further reserving the right to object, Mr. Speaker, I would like to make a few comments about H.R. 3423, the Medical Device User Fee Stabilization Act, which is being considered today. I am the lead Democrat, along with my colleague, on the committee, the gentleman from Pennsylvania (Mr. PITTS), who is also my neighbor across the hall from me in the Cannon House Office Building.

In 2002, former Representative GREENWOOD and myself introduced the Medical Devices User Fee Modernization Act. It passed the House unanimously, and it was signed into law by the President. The goal of the bill was to eliminate FDA's backlog in approving new medical devices so that doctors and patients could more quickly benefit from them.

While the law required device manufacturers to contribute toward FDA's cost in evaluating and approving new devices, the program was contingent on the Federal Government paying its fair share. If Federal funding did not reach the trigger level, the program would be eliminated. This legislation fixes the trigger so that the user fee program can continue.

Specifically the bill will reduce the rate of user fee increases to the single-digit range for the remaining 2 years of the program. It will help small medical device companies, which is very important, because the small companies operate differently under different circumstances than the larger ones. The small device companies, it helps them to afford the cost to submit new medical devices for FDA review and approval. And finally, the bill will enhance labeling and tracking of reprocessed single-use devices. So this legislation before us only authorizes the program for 2 more years.

It really is a significant accomplishment, and it allows us to now concentrate on making the device approval process even better in 2007. And I know that both of my colleagues, both the gentleman from Georgia (Mr. DEAL), the subcommittee chairman, as well as my colleague, the gentleman from Pennsylvania (Mr. PITTS), are committed to that.

I want to thank Ryan Long with Chairman BARTON's staff; John Ford, who is seated here to my left, with Ranking Member DINGELL's staff; and for Vanessa Kramer of my staff who has worked so hard on this. And it is because of all of them and their hard work that this bill has successfully reached the floor today.

Mr. PITTS. Mr. Speaker, before 2002, the government funded the approval process for pacemakers, catheters, defibrillators, contact lenses, hip prosthetics, and other medical devices using only taxpayer funding.

This publicly funded process was a mess. It significantly delayed Food and Drug Administration approval of new, life-saving medical devices and prevent patients from benefiting from this new technology. To end this delay, Congress unanimously passed The Medical Device User Fee and Modernization Act in 2002. MDUFMA overcame obstacles at the FDA that prevent timely approval of new life-saving medical technologies without compromising the safety of consumers.

Modeled after a similar program used to approve medicines and pharmaceuticals, MDUFMA created a stable funding base for the FDA. It combines industry paid user fees and Congressional appropriations. As a result, the device approval time has been virtually cut in half. The program proved very popular among companies making these devices and the patients who have benefited from them.

However, Congress built a trigger into the law. The trigger sun-sets the program on September 30, 2005 when Congress fails to appropriate the amount authorized under the 2002 law. Congress provided the $216.7 million required in fiscal year 2005. But in 2003 and 2004, Congress shortchanged MDUFMA by $40 million. That shortfall will cause MDUFMA to expire on September 30th. We can't allow that to happen. Too much is at stake.

H.R. 3243 renews MDUFMA for two years and brings some much needed stability to the program. In 2007 we will revisit a full reauthorization of MDUFMA and finetune the program. I urge my colleagues to support this bill. I'd like to thank my colleague, the gentlewoman from California, Ms. ESHOO, for her hard work on this legislation.

Mr. BARTON of Texas. Mr. Speaker, on October 26, 2002, the Medical Device User Fee and Modernization Act, MDUFMA, was signed into law.

I. BACKGROUND AND NEED FOR LEGISLATION

MDUFMA amended the Federal Food Drug and Cosmetic Act, FFDCA, to authorize the Food and Drug Administration, FDA, to collect user fees from manufacturers who submit certain applications to market medical devices. The premise behind initiating a user fee program for medical devices was to provide for more timely and predictable review of medical device applications, as well as to make the necessary infrastructure investments required to conduct the review of increasingly complex medical device applications in the future in a timely and predictable fashion.

The FFDCA as amended by MDUFMA, authorizes FDA to collect user fees for certain medical device applications in FY 2006 and FY 2007 only if certain conditions are met. MDUFMA specifies that for FY 2006 fees may not be assessed if the total amounts appropriated for FY 2003 through FY 2005 for FDA's device and radiological health program did not meet certain targets. Appropriations for FY 2003 through FY 2005 for FDA's device and radiological health program were below the amount specified in MDUFMA. This legislation modifies those conditions, minimum appropriation levels for FY 2003 through FY 2005, to allow FDA to continue to collect user fees until October 1, 2007.

User fees make possible investments in information technology infrastructure and human capital, more comprehensive training for reviewers, greater use of experts in academia and the private sector, enhanced project management, increased guidance development, expanded participation in globalization and standards setting activities, and increased interaction with industry both before and during the application review process. As medical device applications become progressively more complex, this investment will become ever more necessary to keep up with performance standards that FDA has thus far been successful in meeting. Keeping the device review program on sound financial footing is essential to ensure timely and predictable review of medical device applications. Providing the device review program with sufficient resources to fulfill its mission is critical to ensure that patients have access to the latest and most effective technology.

The Committee also believes it is important to provide industry with predictable annual increases in application fees. Since the inception of MDUFMA, user fees for certain application types have increased dramatically from year to year. To address these concerns, H.R. 3423 will limit fee increases in FY 2006 and

FY 2007 until MDUFMA sunsets on October 1, 2007. This legislation is designed to provide a transition until Congress reauthorizes the program in 2007. During deliberations on the reauthorization of the program the Committee on Energy and Commerce recognizes the need to consider comprehensive changes to the structure of the program to provide for stability and predictability in both application fees and fee revenues for companies that pay user fees and for the FDA.

II. ANALYSIS OF THE LEGISLATION

H.R. 3423 removes the requirement that the total amounts appropriated for FY 2003 through FY 2005 for FDA's device and radiological health program must meet levels specified in MDUFMA before FDA can collect user fees in FY 2006 and FY 2007. As a result, FDA will be able to collect user fees in FY 2006. To avoid similar problems in FY 2007, FDA may continue to collect user fees as long as appropriations are not more than 1 percent below the target amount.

This legislation also provides industry with greater predictability as to the amount by which fees will increase over the next two fiscal years. The fee rate for a premarket approval application (PMA) will increase by 8.5 percent in FY 2006 to $259,600 and by 8.5 percent in FY 2007 to $281,600. Small businesses will receive additional financial relief by expanding the definition of a small business to include entities that reported $100,000,000 or less of gross receipts or sales in their most recent Federal income tax return for a taxable year, except that the small business threshold for an entity to be eligible for a first time, full-fee waiver for a PMA application will remain at $30,000,000. For FY 2006 and FY 2007, FDA will report to Congress on the number of different applications and notifications, and the total amount of fees paid for each type, from businesses with gross receipts or sales at or below $100,000,000.

To provide FDA with a measure of financial security should fee revenues fall short of current projections, the agency may use unobligated carryover balances from fees collected in previous fiscal years if the following conditions are met: (1) Insufficient fee revenues are available in that fiscal year, (2) the agency maintains unobligated carryover balances of not less than one month of operating reserves for the first month of FY 2008, and (3) the agency sends a notice to the Committee on Health, Education, Labor, and Pensions, the Committee on Energy and Commerce, and the Committee on Appropriations of the United States Senate and the United States House of Representatives at least 14 days prior to using these funds. To ensure that funds are not directed away from device safety activities, FDA must certify that the amounts spent by the agency for salaries and expenses to perform device-related activities not pertaining to the review of applications are no less than the amounts spent on those functions in FY 2002 multiplied by the rate of inflation.

Section 301 of MDUFMA added a new subsection (u) to section 502 of the FFDCA that required devices or attachments to a device prominently and conspicuously to bear the name of the manufacturer of the original device or of the reprocessed device, if it was reprocessed, a generally recognized abbreviation of that entity, or a unique and generally recognized symbol identifying the manufacturer. This provision was intended to ensure that the manufacturer of the device, whether the original manufacturer or reprocessor, could be properly identified. In developing the original provisions of Section 301, the Committee believed it was important for device user facilities and the agency to have the ability to correctly identify the responsible party for a device when there is an adverse event associated with a device.

However, under the current language of Section 301, the FDA could waive the branding requirement if compliance is not feasible or compromises the reasonable assurance of safety or effectiveness of the device. For some devices it may be difficult to comply with the marking requirement due to their physical characteristics, such as size and composition. Even if the physical characteristics make it difficult to mark a device, the Committee believes it is important that every device have a mechanism to identify the manufacturer of the product when there is an adverse event.

Reporting of adverse events of medical devices by manufacturers and device user facilities is fundamental to the FDA's post-market regulation of medical devices. Concerns have been raised that once a medical device is removed from its packaging and placed on a tray ready for use on a patient, physicians and nurses are likely to identify the device with the OEM. While medical device user facilities are required to report manufacturer information beyond the product labeling, the lack of specific labeling to identify devices has led to claims of underreporting of patient injuries and product malfunctions involving reprocessed devices. It is important to the Committee that device facilities are properly reporting the manufacturer responsible for the device. The Committee believes the effectiveness of the FDA's medical device reporting system is undermined when the agency does not receive proper information regarding the party responsible for the safety of the device, and that FDA should take steps to ensure it is in fact receiving such information.

The Committee has carefully considered the concerns about section 502(u) as originally adopted and has amended it to provide for a more comprehensive provision that does not allow waivers to branding requirements. Section 502(u) now focuses on reprocessed single-use devices. Any single-use device reprocessed from an original device that the original manufacturer has prominently and conspicuously marked (which may be accomplished through marking an attachment to the device) with its name, a generally recognized abbreviation of its name, or a unique and a generally recognized symbol for it, must be prominently and conspicuously marked (which may be accomplished through marking an attachment to the device) with the reprocessor's name, a generally recognized abbreviation of its name, or a unique and a generally recognized symbol for it.

H.R. 3423, while limiting compliance to reprocessed devices, allows such a device to satisfy this labeling requirement by using a detachable label that identifies the reprocessor if the original device did not prominently and conspicuously bear the name of, abbreviation of, or symbol for the manufacturer. Under this new provision, there will be no possibility of a waiver of the branding requirements, and every device should be traceable back to the responsible party. The Committee recognizes the benefits of the detachable label can only be recognized if the labels are used as intended by being affixed to a patient's medical records. The Committee believes the amended provision will strengthen the medical device reporting system. However, the Committee will continue to closely monitor the use of detachable labels by device user facilities to ensure that the intent of the provision is realized.

Although the Committee encourages the use of these detachable labels on all reprocessed devices, the use of such a detachable label on a reprocessed single-use device that is prominently and conspicuously marked by the original manufacturer is not a legitimate substitute for the requirement of section 502(u)(l) that the reprocessor directly mark the reprocessed device or an attachment to it. In order to avoid erroneous identification of the original manufacturer as the source of a reprocessed device and to ensure that the MDR system provides FDA with the information it needs with respect to reprocessed devices to adequately protect patients, the identification of the reprocessor by means of a detachable package label is strictly limited to those circumstances where the device itself, or an attachment thereto, does not prominently and conspicuously reflect the identity of the original manufacturer.

The effective date of this provision is 12 months from the date of enactment. In the interim, the FDA is charged with developing guidance to identify circumstances where the original equipment manufacturer's marking is not prominent and conspicuous. Section 519 of the FFDCA, and FDA's Medical Device Reporting (MDR) regulations, require manufacturers to report patient injuries and product malfunctions to FDA, and device user facilities to report these adverse events to FDA and manufacturers. The Committee believes that the requirements of section 502(u), as amended, will operate to improve this post-market surveillance system, and thus patient safety. It is the intention of the Committee that upon the effective date of this provision device user facilities should in every instance be able to determine the proper party responsible for this device.

For those devices that already contain a marking by the original equipment manufacturer the Committee believes that companies currently reprocessing devices should begin to place identifiable markings as soon as possible. The Committee also believes the 12-month effective date should give ample opportunity for the regulated companies to comply with this provision, and the Committee expects the FDA will enforce this provision on the date it becomes effective.

Section 1. Short title.

This section provides the short title of the bill, the "Medical Device User Fee Stabilization Act of 2005."

Section 2. Amendments to the Federal Food, Drug and Cosmetic Act.

This section amends Section 738 of the FFDCA (Authority to Assess and Use Device

Fees), Section 103 of MDUFMA, Section 502(u) of the FFDCA (Misbranded Devices), and Section 301(b) of MDUFMA.

Subsection (a) addresses amendments to the device user fee program authorized in Section 738 of the FFDCA. Subsection (a)(1) eliminates the statutory fee revenue targets for device user fees in fiscal years 2006 and 2007 in section 738(b).

Subsection (a)(2) eliminates the inflationary, workload, compensating, and final year adjustments previously used in annual fee-setting calculations, as provided for in Section 738(c). Subsection (a)(2) also sets the pre-market application user fee at $259,600 for fiscal year 2006 and $281,600 for fiscal year 2007, which is an 8.5 percent increase each year (fees for other device submissions are then determined as a percentage of the pre-market application fee, as provided generally in section 738(a)(2)(A)). Finally, subsection (a)(2) also amends Section 738(c) to permit FDA to use up to two-thirds of fees carried over from previous years to supplement fee revenues in fiscal years 2006 and 2007. FDA must notify Congress if it intends to use these carryover balances.

Subsection (a)(3) amends section 738(d) to clarify that the small business threshold for the purposes of a first-time waiver of the fee on a pre-market approval application or a pre-market report remains at $30 million, as under current law. It raises the small business threshold from $30 million to $100 million for the purposes of fee reductions on all other applications, reports, and supplements. Subsection (a)(3) also eliminates the ability of the FDA to reset this new small business threshold if user fee revenues are reduced by 16 percent because of the small business fee reduction. Subsection (a)(4) amends section 738(e) to raise the small business threshold from $30 million to $100 million for the purposes of fee reductions on pre-market notifications.

Subsection (a)(5) amends section 738(g) to eliminate the "trigger" requirement of additional appropriations in the FY 2003 and FY 2004 for FDA to be able to collect user fees in FY 2006 and FY 2007. It also builds in a 1 percent tolerance on the appropriations trigger for FY 2006 and FY 2007, to cushion against possible across-the-board rescission in the appropriations process for those years, which would lead to accidental termination of the program.

Subsection (a)(6) eliminates the statutory authorization targets for FY 2006 and FY 2007, and subsection (a)(7) makes a conforming amendment throughout Section 738.

Subsection (b) amends section 103 of MDUFMA to require additional information in FDA's medical device user fee program annual reports for FY 2006 and FY 2007 on the number and types of applications received by the size of small business up to the new small business threshold of $100 million, and to require a certification by the Secretary of Health and Human Services in the annual report that appropriated funds obligated for other purposes relating to medical devices are not diverted for device review.

Subsection (c)(1) amends section 502(u) of the FFDCA to address the marking and tracking of reprocessed medical devices intended for single-use by the original manufacturer. Section 502(u) as amended requires reprocessors to mark a reprocessed device if the original manufacturer has marked the device. If the original manufacturer does not mark the device, the reprocessor must still mark the device, but has more flexibility in how to mark the device, such as by using a detachable label on the package of the device that is intended to be placed in the medical record of the patient on whom the device is used.

Subsection (c)(2) requires FDA to issue a guidance document no later than 180 days after the act becomes effective to address compliance with section 502(u) in circumstances where an original manufacturer has not marked the original device prominently and conspicuously.

Subsection (d) amends section 301(b) of MDUFMA to make the amendment made by subsection (c)(1) to section 502(u) of the FFDCA effective 12 months after the date of enactment of the act, or 12 months after the original manufacturer has first marked its device, if that is later.

Ms. ESHOO Mr. Speaker. I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HAYES) Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3423

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medical Device User Fee Stabilization Act of 2005".

SEC. 2. AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) DEVICE USER FEES.—Section 738 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379j) is amended—

(1) in subsection (b)—

(A) after "2004;", by inserting "and"; and

(B) by striking "2005;" and all that follows through "2007" and inserting "2005";

(2) in subsection (c)—

(A) by striking the heading and inserting "Annual Fee Setting.—";

(B) by striking paragraphs (1), (2), (3), and (4);

(C) by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively;

(D) in paragraph (1), as so redesignated, by—

(i) striking the heading and inserting "**IN GENERAL**.—";

(ii) striking "establish, for the next fiscal year, and" and all that follows through "the fees" and inserting "publish in the Federal Register fees under subsection (a). The fees";

(iii) striking "2003" and inserting "2006"; and

(iv) striking "$154,000." and inserting "$259,600, and the fees established for fiscal year 2007 shall be based on a premarket application fee of $281,600."; and

(E) by adding at the end the following:

"(3) SUPPLEMENT.—

"(A) IN GENERAL.—For fiscal years 2006 and 2007, the Secretary may use unobligated carryover balances from fees collected in previous fiscal years to ensure that sufficient fee revenues are available in that fiscal year, so long as the Secretary maintains unobligated carryover balances of not less than 1 month of operating reserves for the first month of fiscal year 2008.

"(B) NOTICE TO CONGRESS.—Not later than 14 days before the Secretary anticipates the use of funds described in subparagraph (A), the Secretary shall provide notice to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives.";

(3) in subsection (d)—

(A) in paragraph (1), by inserting after the first sentence the following: "For the purposes of this paragraph, the term 'small business' means an entity that reported $30,000,000 or less of gross receipts or sales in its most recent Federal income tax return for a taxable year, including such returns of all of its affiliates, partners, and parent firms."; and

(B) in paragraph (2)(A), by—

(i) striking "(i) **IN GENERAL**.—";

(ii) striking "subsection." and inserting "paragraph.";

(iii) striking "$30,000,000" and inserting "$100,000,000"; and

(iv) striking clause (ii);

(4) in subsection (e)(2)(A), by striking "$30,000,000" and inserting "$100,000,000";

(5) in subsection (g)(1)—

(A) in subparagraph (B)—

(i) by striking clause (i) and inserting the following:

"(i) For fiscal year 2005, the Secretary is expected to meet all of the performance goals identified for the fiscal year if the amount so appropriated for such fiscal year, excluding the amount of fees appropriated for such fiscal year, is equal to or greater than $205,720,000 multiplied by the adjustment factor applicable to the fiscal year."; and

(ii) in clause (ii), by striking the matter preceding subclause (I) and inserting the following:

"(ii) For fiscal year 2005, if the amount so appropriated for such fiscal year, excluding the amount of fees appropriated for such fiscal year, is more than 1 percent less than the amount that applies under clause (i), the following applies:";

(B) in subparagraph (C)—

(i) in the matter preceding clause (i), by—

(I) striking "2003 through" and inserting "2005 and"; and

(II) inserting "more than 1 percent" after "years, is"; and

(ii) in clause (ii), by striking "sum" and inserting "amount"; and

(C) in subparagraph (D)(i), by inserting "more than 1 percent" after "year, is";

(6) in subsection (h)(3)—

(A) in subparagraph (C), by striking the semicolon and inserting "; and"; and

(B) by striking subparagraphs (D) and (E) and inserting the following:

"(D) such sums as may be necessary for each of fiscal years 2006 and 2007."; and

(7) by striking "subsection (c)(5)" each place it appears and inserting "subsection (c)(1)".

(b) ANNUAL REPORTS.—Section 103 of the Medical Device User Fee and Modernization Act of 2002 (Public Law 107-250 (116 Stat. 1600)) is amended—

(1) by striking "Beginning with" and inserting "(a) In General.—Beginning with"; and

(2) by adding at the end the following:

"(b) ADDITIONAL INFORMATION.—For fiscal years 2006 and 2007, the report described under subsection (a)(2) shall include—

"(1) information on the number of different types of applications and notifications, and the total amount of fees paid for each such type of application or notification, from businesses with gross receipts or sales from $0 to $100,000,000, with such businesses categorized in $10,000,000 intervals; and

"(2) a certification by the Secretary that the amounts appropriated for salaries and expenses of the Food and Drug Administration for such fiscal year and obligated by the Secretary for the performance of any function relating to devices that is not for the process for the review of device applications, as defined in paragraph (5) of section 737 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379i), are not less than such amounts for fiscal year 2002 multiplied by the adjustment factor, as defined in paragraph (7) of such section 737.".

(c) MISBRANDED DEVICES.—

(1) IN GENERAL.—Section 502(u) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(u)) is amended to read as follows:

"(u)(1) Subject to paragraph (2), if it is a reprocessed single-use device, unless it, or an attachment thereto, prominently and conspicuously bears the name of the manufacturer of the reprocessed device, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying such manufacturer.

"(2) If the original device or an attachment thereto does not prominently and conspicuously bear the name of the manufacturer of the original device, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying such manufacturer, a reprocessed device may satisfy the requirements of paragraph (1) through the use of a detachable label on the packaging that identifies the manufacturer and is intended to be affixed to the medical record of a patient.".

(2) GUIDANCE.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance to identify circumstances in which the name of the manufacturer of the original device, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying such manufacturer, is not "prominent and conspicuous", as used in section 502(u) of Federal Food, Drug, and Cosmetic Act (as amended by paragraph (1)).

(d) EFFECTIVE DATE.—Section 301(b) of the Medical Device User Fee and Modernization Act of 2002 (Public Law 107-250 (116 Stat. 1616)), as amended by section 2(c) of Public Law 108-214 (118 Stat. 575), is amended to read as follows:

"(b) EFFECTIVE DATE.—Section 502(u) of the Federal Food, Drug, and Cosmetic Act (as amended by section 2(c) of the Medical Device User Fee Stabilization Act of 2005)—

"(1) shall be effective—

"(A) with respect to devices described under paragraph (1) of such section, 12 months after the date of enactment of the Medical Device User Fee Stabilization Act of 2005, or the date on which the original device first bears the name of the manufacturer of the original device, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying such manufacturer, whichever is later; and

"(B) with respect to devices described under paragraph (2) of such section 502(u), 12 months after such date of enactment; and

"(2) shall apply only to devices reprocessed and introduced or delivered for introduction in interstate commerce after such applicable effective date.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3423, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material on H.R. 22.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

The SPEAKER pro tempore. Pursuant to House Resolution 380 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 22.

□ 1850

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 22) to reform the postal laws of the United States, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from California (Mr. WAXMAN) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. BURTON), the former chairman of the Government Reform and Oversight Committee, who has played a lead role in moving this bill to where it is today, and spent 6 long years in the vineyards laboring on this when he was chairman of the committee.

Mr. BURTON of Indiana. Mr. Chairman, first of all, I want to congratulate the gentleman from New York (Mr. MCHUGH), who has done yeoman's service to the committee and to this government in fighting for a postal reform measure. He has just done a great job. I want to congratulate him on all of the hard work in bringing this thing to the floor.

I want to congratulate our chairman, the gentleman from Virginia (Mr. TOM DAVIS). We fought for, I think, 6 years when I was chairman to bring this bill to the floor and pass it, and, Mr. Chairman, I want to congratulate you on being able to get this thing to the floor.

I hope that we are successful in getting it not only through here, but through the Senate as well.

I want to congratulate the gentleman from Illinois (Mr. DAVIS), my good buddy, who has one of the best voices in the Congress. If I could talk like him, I would be President. He has got that deep, resonant voice.

I want to thank you and the gentleman from California (Mr. WAXMAN) for all of the hard work that you have put in on this bill. I want to congratulate you as well.

Let me just say that we have been working on this now for, gosh, I guess at least 10 years, but 6 years when I was chairman and now 4 years that you have been chairman. We have finally brought a bill to the floor. I do not think it is perfect, but it sure is a giant step in the right direction.

If we do not do something about postal reform, what is going to happen is the costs are going to go through the roof, and instead of this being an agency that deals with the expenses themselves, we are going to be seeing taxpayers footing the bill for additional costs for postal service.

With the advent of faxes and e-mails, you have seen the Postal Service have a lot more problems with revenues than they have had in the past. And it is absolutely essential, if we are going to have a viable Postal Service in this country, that we pass this legislation.

So I think this is a very good bill. I believe it will pass tonight, and I hope that all of my colleagues will vote for it. Once again, I want to thank all of those responsible, especially the gentleman from New York (Mr. MCHUGH), the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) for working so hard on this.

Mr. DAVIS of Illinois. Mr. Chairman, I ask unanimous consent that I control the time of the gentleman from California (Mr. WAXMAN).

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, Members of the House have worked over a decade to reform this important part of our national culture and economy. I am truly pleased to serve in this Congress which is moving this historic reform forward.

I also want to commend the gentleman from New York (Mr. MCHUGH), the gentleman from Virginia (Chairman DAVIS), and the gentleman from California (Mr. WAXMAN) and their dedicated staffs for their commitment to postal reform and for the bipartisan cooperation to work for its passage.

The gentleman from New York (Mr. MCHUGH) deserves particular recognition for his leadership and perseverance with regard to postal reform.

Postal reform is a significant issue for my congressional district as it is for much of America. I represent one of the primary postal hubs in the Midwest, the great city of Chicago. In addition to the 12,000 postal employees who deliver mail daily to 1.2 million homes and businesses in the Chicago area, we have many respected companies like R.R. Donnelley, the largest printing company in North America, that are clients of the Postal Service.

The Postal Accountability and Enhancement Act of 2005 modernizes the postal system, helping it remain healthy and affordable well into the 21st century. This bill is a delicate compromise that has gone through a series of processes of hearings, meetings and negotiations. We have worked extensively and effectively with administration representatives to address their concerns.

There is something in this bill for everyone. It may not be everything that interest groups desire; however, as the gentleman from Virginia (Chairman TOM DAVIS) has said, it is our best chance at solving the structural, legal and financial constraints that put the Postal Service at risk of catastrophe.

As the Comptroller General recognized this past January, comprehensive postal reform is urgently needed. The Postal Service historically has accumulated billions of dollars in debt and currently has massive unfunded liabilities.

Declining first class mail volumes, high infrastructure-related costs and rigid statutes necessitate reform. It has been 35 years since comprehensive postal reform occurred. It is our responsibility to protect our treasured national asset before it is in crisis. The time for reform is now.

H.R. 22 has many highlights for the Postal Service. It provides the ratemaking flexibility and incentives needed to operate as an efficient business. For businesses it provides rate stability, fair competition rules, financial transparency, and procurement protections needed to predict costs and operate on a level playing field. For consumers it preserves universal service, maintains high-quality standards, and eliminates unfair mailing costs so that they have an affordable and reliable means of communication. For workers it protects collective bargaining and offers whistleblower protections that are needed to ensure safe employment. For taxpayers it ensures the viability of a national asset and removes the threat of a taxpayer bail-out of the Postal Service due to financial insolvency.

These are just some of the provisions that will go a long way to helping the Postal Service better serve its customers, compete fairly with the mailing industry and contribute to our Nation.

In addition, I am pleased that the bill requires a study of the number of contracts with women, minorities and small businesses, and that it protects our domestic airlines from outsourcing of jobs to foreign carriers. I represent many members from each of these groups, and it is important that our reforms treat them all fairly. I reiterate that this bill is the best option to protect our treasured national asset before it is in crisis.

I know that the issue of classifying single-piece parcels as competitive or market-dominant has caused a good deal of anxiety for many parties affected by postal reform. I look forward to addressing this issue in conference.

And at this time, Mr. Chairman, I would like to enter into a colloquy with the distinguished chairman of the Government Reform Committee, the gentleman from Virginia (Mr. TOM DAVIS).

Mr. Chairman, section 404 of the Postal Accountability and Enhancement Act alters paragraph 2 of section 401 of title 39 of the U.S. Code. This section pertains to the rulemaking authority of the United States Postal Service. Obviously the issue of fairness in rulemaking by the Postal Service affects a number of businesses in my district.

I would like to ask the distinguished chairman to clarify how rulemaking by the Postal Service should consider the circumstances within the postal sector.

Mr. TOM DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Illinois. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. I thank the gentleman for yielding.

Mr. Chairman, the committee intends that the Postal Service will exercise the more clearly delineated rulemaking powers provided under this section in a way that is rationally related to the policy objectives set out in the revised statute, and it is predicated upon an understanding of the effect the regulations will have on the conditions in the postal sector.

□ 1900

Mr. DAVIS of Illinois. Reclaiming my time, I would like to ask the distinguished chairman of the Committee on Government Reform to further clarify the meaning of the language related to the role of the Postal Regulatory Commission in entering complaints related to rule-making.

I yield to the chairman to find out his understanding.

Mr. TOM DAVIS of Virginia. I thank the gentleman for yielding. Mr. Chairman, the committee further expects that the Postal Regulatory Commission will distinguish carefully between abuses of the Regulatory Authority set out in section 404 and the legitimate exercise of managerial discretion by the Postal Service in its implementation of the complaint provisions contained in section 205 of the bill.

Mr. DAVIS of Illinois. Reclaiming my time. I would like to thank the distinguished chairman for his answers and for his cooperation.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, most of us are familiar with the engraved saying outside the James A. Farley Post Office in New York City: "Neither rain, nor snow, nor heat, nor gloom of night might stay these couriers from the swift completion of their appointed rounds."

This is the unofficial motto depicting some of the circumstances our Nation's letter carriers face in fulfillment of the universal service obligation of the United States Postal Service.

Mr. Chairman, I rise today in support of H.R. 22, the Postal Accountability and Enhancement Act, which addresses a problem plaguing our Postal Service today that is far greater than the snow or rain or heat or gloom of night. That problem is the outdated and unsustainable structural framework of the Postal Service which threatens to bring it to the brink of catastrophe unless Congress acts immediately.

This legislation is about more than reforming the Postal Service itself. It is about reforming and sustaining a vital sector of our overall economy. After all, the Postal Service currently has about 707,000 career and 98,000 noncareer employees. In addition, more than 9 million American jobs, $900 billion in commerce, 9 percent of the Nation's gross domestic product, let me repeat, 9 percent of GDP depend on mail and package delivery. Thus, the Postal Service is not only vital to our national communication network but also to our national economy.

Each year the Postal Service processes and delivers 208 billion pieces of mail to more than 130 million addressees in the United States. That is 208 billion magazines, catalogs, thank-you notes, birthday cards, wedding invitations, Social Security checks, IRS refunds, letters to Congressmen, movie rentals, all delivered in fulfillment of the Postal Service's promise of universal service.

The last time Congress successfully passed legislation to overhaul the post office was 1970 when President Nixon signed the Postal Reorganization Act, before e-mails, before fax machines. It is time to bring the service into the 21st century.

The legislation we are considering today, the Postal Accountability and Enhancement Act, is the culmination of a decade of hard work and study, not to mention a great deal of bipartisan negotiation and cooperation amongst various groups. Consequently, H.R. 22 now represents our best chance at solving the structural, legal, and financial constraints that have brought the Postal Service to the brink of utter breakdown.

This past April, the Postal Service filed paperwork with the Postal Rate Commission to request a 5.4 percent rate increase for most categories of mail. These rate hikes, which are scheduled to take effect early next year unless Congress acts to prevent them, will impose a significant cost burden, let us call it what it is, a tax on the postal consumer.

For direct marketers, financial service companies and businesses relying heavily on shipping and mailing, these rate hikes are devastating. To make matters worse, increasing postal rates could send the postal office into what many observers call a death spiral, where declining business leads to higher rates which in turn leads to decline in business until it is too late to change course.

Unfortunately, under current law, the Postal Service's only recourse to remain competitive in today's market is to raise rates. That is no way to run an operation. In addition, the Postal Service's most recent request for a rate increase was spurred in part by an existing requirement that the Postal Service contribute $3.1 billion to a Federal pension escrow account which now houses more than $73 billion in civil service retirement savings that rightfully belongs to the United States Postal Service.

This is just one of many instances in which the USPS is hampered by the current legal framework. And it is one of many outdated requirements that H.R. 22 seeks to reform.

Quite simply, the laws that the Postal Service has today are outdated and unsuited for today's competitive environment. Let me take just a minute to highlight a few of the reform components included in this comprehensive bill that will enable the service to move into the 21st century.

Universal service. First and foremost, the bill preserves the Postal Service's commitment to universal service, the guaranteed delivery 6 days a week to each and every address in the United States.

Pension responsibility. It returns responsibility for funding the military cost of postal retirees' pension to the Treasury Department where it belongs. It is recommended by the President's commission. This liability was shifted to the Postal Service in the last Congress. That shift was little more than an accounting gimmick, but it is one that must be reversed if we are to be serious about fixing the Postal Service's long-term balance sheet.

The escrow account. As I have already mentioned, the bill frees up the $73 billion in civil service retirement savings that has been held in escrow, allowing the Postal Service to use this money to defray rate increases, among other options.

Modern rate regulation. This legislation shifts the basis of the Postal Rate Commission from a costly, complex scheme of rates to a modern system designed to ensure that rate increases generally do not exceed the annual change in the consumer price index. This applies only to market-dominated products, such as letters, periodicals, and advertising mail, because the Postal Service has provided different pricing freedom for its competitive products, like express mail and priority mail.

Strengthening the commission. This act will rename the Postal Rate Commission the Postal Regulatory Commission and give it teeth by granting it subpoena power and a broader scope for regulation and oversight.

Finally, the act sets the stage for future reforms by mandating several studies including a comprehensive assessment of the scope of standards for universal service.

Today, the White House released its statement of administration policy, its SAP, regarding this legislation. While we share the ultimate goal of effectively reforming the Postal Service, some issues still lack consensus between the Congress and the White House. The administration has established some general, overarching principles to guide the framing of the comprehensive reform of the U.S. Postal Service. These include best practices of corporate governance, transparency, flexibility, accountability, and self-financing.

Our bill shares these goals, but recognizes these principles are often times at odds with one another and may require some give and take. For example, the administration has proposed segment reporting for each and every class of mail, a practice which would unfortunately place the Postal Service at a competitive disadvantage with some of its toughest competitors. Thus, this requirement would be contrary to the administration's first stated proposal of best practices of corporate governance. It is just one example of an instance in which compromise is needed if we are to enact meaningful, comprehensive reform.

This bill, the refined product of nearly 10 years of careful negotiation and compromise, strikes an ideal balance among the guiding principles on which both the House and administration are in agreement. I just want to assure the administration we will continue to work closely will them as H.R. 22 heads toward a conference.

Before I conclude, I want to take this opportunity to thank the gentleman from New York (Mr. McHUGH), who chaired our special panel on postal reform and was the original bill's chief sponsor. He was, without doubt, the right leader to undertake this daunting task.

I also want to thank the former chairman of the Committee on Government Reform, the gentleman from Indiana (Mr. BURTON), who played an integral role in moving the ball forward on postal reform that allowed us to be where we are today.

Finally, I want to thank the Committee on Government Reform's ranking member, the gentleman from California (Mr. WAXMAN), and the gentleman from Illinois (Mr. DAVIS), the ranking member on the special panel, for their dedication to this subject and their willingness to operate in a bipartisan manner and work through this, through the difficult issues that have been presented.

Bipartisan cooperation is the primary reason why this bill has finally reached the House floor and why we have been able to keep such diverse stakeholders around the table in productive discussions.

Mr. Chairman, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. CLAY), a member of the Committee on Government Reform whose father preceded him, and his father preceded him not only in office but in having a great interest in postal matters.

Mr. CLAY. Mr. Chairman, I thank the gentleman from Illinois (Mr. DAVIS) for yielding me time.

I too want to join my colleagues in congratulating and thanking the gentleman from New York (Mr. McHUGH), the gentleman from Virginia (Chairman TOM DAVIS), and the ranking members, the gentleman from California (Mr. WAXMAN) and the gentleman from Illinois (Mr. DAVIS), for the hard work they put into advancing this bill to this point.

I rise in support of the Postal Accountability and Enhancement Act. I am committed to protecting the interests of the U.S. Postal Service. I have the honor of representing over 3,000 Postal Service employees. Together they earn over $167 million in annual payroll and pay almost $20 million dollars in income taxes.

Postal employees represent an important part of my community economic base. Several months ago, I hosted a postal roundtable with groups representing postal-reliant businesses that depend on the postal system to deliver their products and collect their revenues. In addition, postmasters, letter carriers, direct mailers, and representatives of trucking companies participated in this roundtable.

While overwhelming support was expressed for this legislation, many concerns were raised about single-piece parcels, single-piece parcel post, or single letters, whether they should continue to be classifieds as market dominant so that the Postal Service can continue to offer fair rates for items mailed anywhere, including rural and more remote areas. The U.S. Postal Service would have to dramatically raise prices on such packages and possibly be forced to stop offering the universally affordable rate for single-piece parcels to individuals and small businesses.

This would result in the loss of many jobs within the Postal Service and create an inconvenience to customers. The U.S. Postal Service provides a vital public service to all of our constituents and is an essential part of our Nation's economic infrastructure.

I urge my colleagues to put single-piece parcels back in the market dominance category and support the Postal Accountability and Enhancement Act.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. MCHUGH), the chief author of this, someone who has championed this cause since I came to Congress.

Mr. McHUGH. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, today, obviously, represents a critical step in what has to this point been a journey of more than 10 years, a decade and a half of hearings and meeting, of negotiations followed by more hearings, more meetings, more negotiations, to rewrite and rewrite again and again a piece of legislation that will serve as the first true serious reform of the sector known as the United States Postal Service, that since 1970.

In that length of effort, Mr. Chairman, that incredible commitment to the issue speaks directly to the critical importance of the Postal Service of this Nation and the complexity of this system that each and every day and each and every year delivers some 206 billion pieces of mail going through 38,000 postal facilities to 143 million addresses in virtually every community in every State in this Nation, 6 days a week, day in, day out, week in and week out.

So since 1775 this is the service that American people and American businesses alike have come and grown to expect. Universal service at a uniform price, no questions asked. No one in this country, Mr. Chairman, goes to his or her mailbox or his or her local post office wondering if the mail will be there. It is always there. It has always been there. But the true question, the question that this bill seeks to answer with a resounding yes, I might add, is will the mail always be there?

I am concerned that truly without this legislation the answer might well be far different than that resounding yes. Postal service of today is far removed from that of 30 years ago when reform was last enacted. Unlike then, the mail stream of today has diminished by such things as e-mails and faxes and cell phones and text messages, largely electronic means of communication that replace mail. They replace stamps. And thus they replace the revenues necessary to operate our key mail delivery system.

Some ask, if people are choosing to communicate in different ways, why do we need to change things at all? Some even go so far as to suggest that the time of the Postal Service has passed, that we ought to let the private sector take over.

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But the fact is, Mr. Chairman, for all the challenges the Postal Service of the 21st century faces, it still retains its traditional place as a key cog in how American businesses conduct their affairs and how Americans all across this land communicate.

The postal business sector of this Nation, as we have heard the distinguished chairman of the full committee clearly state, represents a $900-billion-a-year industry, with 9 million jobs, and more than 8 percent, nearly 9 percent, of our entire Nation's economy.

The fact is, Mr. Chairman, if the Postal Service did not exist here in 2005, we would have to invent it. That is why more than 200 major companies in this country have strongly endorsed this measure, 200 companies representing the lifeblood of the economy of this Nation. That is why virtually every major labor organization within the Postal Service has endorsed it, why even those companies that compete against the Postal Service have endorsed H.R. 22, including United Parcel Service, including FedEx, and others.

Now, I have no doubt there are going to be those who believe they have a better idea, those who will say they can improve this bill by adding or diminishing its provisions. And, Mr. Chairman, speaking honestly, as someone who has been involved from day one for more than 10 years, probably some, if not all, of these critics may be right. But what I would urge my colleagues to resist this day is the understandable temptation to make the perfect the enemy of the good.

This bill's formation has taken more than a decade for some very good reasons. It is, frankly, based upon the complexity of the system itself. We have considered those interests of the people who manage it, those who man it, the businesses that rely upon it, those who compete against it, those who depend upon it, so many interests whose input and whose needs are all carefully balanced in this bill. Perfection? No, perhaps not, but a solution nevertheless, a solution to the challenges that provide the United States Postal Service with the necessary tools to operate in a manner that most of us expect, like a modern, flexible, nimble business competing on a fair playing field, operating in an efficient and professional manner.

Mr. Chairman, at the risk of sounding immodest, I am very, very proud of this legislation. I am proud of its vision, I am proud of its construct and its provisions, but I am truly prouder still of those organizations and those special people, those individuals involved in those organizations and in this reform effort that have been there from the start.

They say a year in government and politics is a lifetime, and if that is true, 10 years has to approach infinity. But through it all, we have had special people devoted to extraordinary efforts in a singularly vital cause. And our thanks, and clearly my thanks, are owed to so many to even begin to list at this moment. Many of them are cited on the page that I just held up, all those more than 200 interests who strongly support this.

Many, if it were appropriate under the House rules, I would note are in the gallery today. But seeing as how it is not appropriate to say that under the House rules, I will resist the temptation But without naming them specifically I owe them thanks.

At perhaps the risk of offending many, I have to acknowledge a particularly special few: The gentleman from Illinois (Mr. DAVIS) and the gentleman from Pennsylvania (Mr. FATTAH), the two ranking members who first began to help us move this issue forward. Mr. Chairman, the gentleman from Illinois (Mr. DAVIS) has been a stalwart, a ranking member who lost focus at no time and never lost faith.

The gentleman from California (Mr. WAXMAN), the full committee ranking member, who put aside partisanship, not an easy thing to do in Washington these days, for the simple reason he understood and deeply cared about the conclusion of this challenge.

Bill Clinger, followed by the gentleman from Indiana (Mr. BURTON), the first and second chairman of the Committee on Government Reform, who continued to bring our attention to it and keep us focused.

And our current chairman, the gentleman from Virginia (Mr. TOM DAVIS), who might have, who might have, but thankfully did not, let this effort die; who urged us forward; whose political skills, intellectual depth, and administrative acumen have really advanced us to this threshold of success.

These are all important folks, but I want to say, as much as I deeply indebted for those efforts, in my opinion the success of today's consideration is predicated largely upon the efforts of one very special, very dedicated man:

Robert Taub. Through it all, Robert has been the intellectual and spiritual glue that has held this effort together. He was always willing, even anxious, to my amazement, to do one more meeting, one more effort to advance reform. And when others saw failure, Robert saw a challenge. When others lost hope, Robert remained focused. When others remained angry, including myself, Robert remained calm. He has been the eye of the storm in a torrent of conflict, of divergent and seemingly irreconcilable differences. I am very, very proud that the payroll lists this very extraordinary man as my chief of staff. I am prouder still that in my heart I consider him a friend, and I am deeply in his debt particularly.

So I will, with again a thanks to Chairman DAVIS for all that he has done, look forward to the passage of this bill.

Mr. DAVIS of Illinois. Mr. Chairman, I yield myself such time as I may consume to say that there is a big difference between vanity and pride, and the gentleman from New York (Mr. McHUGH) has every reason to be proud of this product, and we do not think it is vanity at all.

Mr. Chairman, it is my pleasure to yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentleman for yielding me this time and for his extraordinary leadership on the Task Force for Postal Reform, on which I have served, and I rise in strong support of it.

It has been a long and difficult journey which has brought us here today, well over 10 years, and I thank everyone who has been involved in this bipartisan effort to reform the way the Postal Service currently operates: the gentleman from Virginia (Mr. TOM DAVIS), our chairman; the ranking member, the gentleman from California (Mr. WAXMAN); the gentleman from New York (Mr. McHUGH); the gentleman from Illinois (Mr. DAVIS); and their hard and dedicated working staffs.

This is very strongly supported legislation. It is a balance that we have achieved. We urge everyone to vote for it and to vote against the amendments that will be coming forward. It is supported by many of the unions, APWU, the Letter Carriers, the Postmasters, and the postal-reliant businesses, some of whom are located in my district, the Magazine Publishers of America, the direct marketers, the financial services. In fact, there is a coalition of many, literally hundreds, of businesses, and the 21st Century Postal Service Committee has issued a statement of support along with the over seven union statements in support of this bipartisan legislation.

As we know, this is incredibly important to our economy, with more than 9 million workers worldwide. They generate over $900 billion annually of our GDP, and represent nearly 9 percent of our overall budget. If we fail to act on this very pressing issue, the public and the postal-reliant businesses surely will face higher postal rates in the near future.

With the Postal Service facing billions of dollars in debt over the next few years, this Congress, 2 years ago, passed bipartisan legislation that reduced the Postal Service's contribution to the Civil Service Retirement and Disability Fund after it was determined that it had been making overpayments. This reform was expected to help the Service reduce its debt to the Treasury by approximately $3 billion each year and to keep rates stable until 2006. It also created an escrow account designed to ensure that the Postal Service uses these savings wisely. The bill before us today releases that escrow account and will help us to keep our rates stable.

Earlier this year, the Postal Service filed a request with the Rate Commission for yet another increase of 5.4 percent. It would be the fourth increase since 2001, and it is critical that we release these monies in the escrow to delay this rate increase.

Mr. Chairman, this legislation relieves the Postal Service and postal customers of the $27 billion burden in military service payments by returning that responsibility to the Treasury. After all, every other agency has this responsibility in the Treasury, and Postal should also.

This legislation also creates a Postal Regulatory Commission with authority to create a modern system for postal rate regulation. Mr. Chairman, a number of magazines have gone out of business because of rate increases, and so this legislation is vital to our economy.

Mr. Chairman, I submit for the RECORD the material I referred to above regarding the unions in favor of this legislation, and also a listing of numerous companies and organizations in favor of the legislation:

[From the Coalition for a 21st Century Postal Service]

9 MILLION WORKERS . . . $900 BILLION ECONOMY . . . 9 PERCENT OF U.S. GDP HELP KEEP THE MAILING INDUSTRY STRONG AND THE USPS VIABLE—VOTE YES ON H.R. 22

DEAR REPRESENTATIVE: The companies and organizations below urge you to support H.R. 22, the "Postal Accountability and Enhancement Act of 2005." This legislation will bring urgently needed modernization and meaningful reform to the United States Postal Service (USPS), the lynchpin of the mailing industry—a key economic sector that employs 9 million workers adding $900 billion annually to the U.S. Gross Domestic Product. In fact, 9 percent of the nation's GDP can be directly attributed to the mailing industry.

H.R. 22 will bring increased efficiencies to the USPS, and would allow for more predictability and affordability in future postal rate increases. Without postal reform, American jobs will be placed at risk as companies are forced to compensate for capricious and expensive rate hikes in the future.

The companies and organizations listed below consider passing postal reform legislation this year an urgent priority, and urge you to cast a "YES" vote on H.R. 22 when it is considered on the House floor. Thank you for your consideration.

ADVERTISING/MARKETING/RETAIL INDUSTRIES

Arandell, CC3, Direct Marketing Association, Domtar, Hayzlett Companies, Inc., J.C. Penney, National Retail Federation, Vertis Direct Marketing Services.

FINANCIAL SERVICES/INSURANCE INDUSTRIES

Aegon, American Express, Bank of America, CapitalOne, Chase, JP Morgan Chase, Citigroup, CUNA Mutual, The Financial Services Roundtable, LaSalle Bank, MBNA, Property Casualty Insurers Association of America, USAA, Wachovia.

FORESTRY/PAPER/PRINTING INDUSTRIES

American Forest & Paper Association, Banta, International Paper, MeadWestvaco, National Association for Printing Leadership, Paramount Cards, Quad Graphics, Quebecor World, R.R. Donnelly, Richardson Printing, Inc., Solar Communications, Stora Enso, Weyerhaeuser Company, Wisconsin Paper Council.

NEWSPAPER/PUBLISHING INDUSTRIES

Harcourt, Inc., Holt Reinhart & Winston, Inc., IDEAlliance, LexisNexis, Magazine Publishers of America, McGraw-Hill, National Newspaper Association, Printing Industries of America/GATF, Publishers Press, Reed Business Information, Reed Elsevier, Inc., Time, Inc.

MAILING/FULFILLMENT/SHIPPING INDUSTRIES

Alliance of Non-Profit Mailers, Association for Postal Commerce, Association of Priority Mail Users, Mailers Council, Mailing and Fulfillment Service Association, National Postal Policy Council, Parcel Shippers Association, Pitney Bowes, PSI Group, Total Systems Services, Inc.

MANUFACTURING/TECHNOLOGY INDUSTRIES

Document Management Industries Association, Envelope Manufacturers Association, Keyspan, Kodak, Multi-Plastics, Inc., National Association of Manufacturers, NPES The Association for Suppliers of Printing, Publishing and Converting Technologies.

SMALL BUSINESS/GENERAL COMMERCE

National Federation of Independent Business, Small Business Legislative Council.

USPS MANAGEMENT/LABOR ORGANIZATIONS

National Association of Postal Supervisors, National Rural Letter Carriers Association.

STATE AND LOCAL ORGANIZATIONS

Printing Industry Association of the South, Inc., Pacific Printing and Imaging Association, PIA, Inc. of Arizona, PIA of Southern California, PIA of San Diego, Printing Industries of Northern California, Printing & Imaging Association Mountain States, The Association of Graphic Communications, Graphic Arts Association, Printing and Graphics Association MidAtlantic, Printing Association of Florida, Inc., PIA of Georgia, Inc., Printing Industries of Illinois/Indiana Association, Printing Industries of the Midlands, Inc., Printing and Imaging Association of Mid America, Printing Industries of New England, Printing Industries of Michigan, Printing Industry of Minnesota, Inc., Printing Industries of St. Louis, Printing & Imaging Association of New York State, Inc., PI of the Carolinas, Inc., Printing Industries of Utah, Printing Industries of

Virginia, Inc., Printing Industries of Wisconsin.

JULY 25, 2005.

DEAR REPRESENTATIVE: On Tuesday, July 26, the House is scheduled to consider H.R. 22, the Postal Enhancement and Accountability Act. We understand that a series of amendments may be offered that will have a catastrophic impact upon more than 740,000 postal employees and the American public. Therefore, we urge you to vote NO on amendments that jeopardize affordable and universal mail service to your constituents, and undermine a carefully drafted bill that balances the needs of the mailing public and postal employees.

H.R. 22 is the product of years of give and take and delicate negotiations with all sides making major concessions along the way. Many of these amendments ignore the results of those negotiations. Specifically, we oppose amendments being offered by Congressmen Flake, Hensarling, McHenry, and Pence because they individually or collectively undermine the ten-year effort by the authors of H.R. 22.

Sincerely,

American Postal Workers Union.
National Association of Postmasters of the U.S.
National Association of Letter Carriers.
National League of Postmasters of the U.S.
National Rural Letter Carriers Association.
National Association of Postal Supervisors.
National Postal Mail Handlers Union.

Mr. TOM DAVIS of Virginia. Mr. Chairman, may I inquire as to how much time remains on each side?

The CHAIRMAN. The gentleman from Virginia (Mr. TOM DAVIS) has 11 minutes remaining, and the gentleman from Illinois (Mr. DAVIS) has 17½ minutes remaining.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from Utah (Mr. CANNON), who has been very helpful in putting this bill together.

Mr. CANNON. Mr. Chairman, first of all, I would like to thank the chairman of the full committee, the gentleman from Virginia (Mr. TOM DAVIS), my friend, for entering into this colloquy, and also my friend, the gentleman from New York (Mr. MCHUGH), for the work they have done on this bill. This has been extraordinary. Since I have gotten here, I have had hundreds of inquiries about this issue, as has every other Member of Congress, and the gentleman from New York (Mr. MCHUGH) has handled them remarkably well. I strongly support H.R. 22. It is long overdue.

Mr. Chairman, I want to bring to the attention of the gentleman from Virginia (Mr. TOM DAVIS) an important problem in my district. The city of Taylorsville, Utah, has been assigned four different ZIP codes, and its citizens must access services at five different post offices, all outside the city.

Mr. Chairman, if we were talking about New York City or Los Angeles, more ZIP codes would be common, but in a city of only 60,000, we should not have four different ZIP codes and be serviced by five different post offices. So it is my sincere hope that the chairman and I can work together to reduce the number of ZIP codes for Taylorsville from four to one, and work towards a fully functioning post office located within the city proper.

Mr. TOM DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. CANNON. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Mr. Chairman, we have tried on this legislation to not get into some of the specific shortcomings of Postal Service delivery on ZIP codes and the like, but I want to tell the gentleman that I have looked at this Taylorsville issue. I want to pledge to work with the gentleman from Utah and with the Postmaster General to make sure these needs are resolved and to support a thoughtful solution for the city of Taylorsville, and just assure the gentleman that that is a priority.

Mr. CANNON. Reclaiming my time, Mr. Chairman, I thank the gentleman from Virginia for his commitment to helping me solve this problem, and I want to thank Taylorsville Mayor Janice Auger for her tireless effort on this issue.

Mr. DAVIS of Illinois. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise today in support of H.R. 22, the Postal Accountability and Enhancement Act. I am extremely happy that after years of work, we are finally bringing this important bill to the floor for a vote.

In my congressional district alone, there are 66 postal facilities accounting for over 1,600 postal workers and $79 million in wages. The men and women of the United States Postal Service bind our Nation together, offering prompt and reliable services at uniform prices.

Many people do not realize the economic power this industry has. The postal industry accounts for over 8 percent of the gross national product, and it is the backbone of a $900 billion mailing industry that drives the U.S. economy. To maintain the current level of high-quality service, we must reform our postal system for the new information age.

The United States Postal Service is the world's most efficient postal system. While America is adding almost 2 million addresses per year, the number of postal employees have held steady, meaning that the same number of letter carriers are walking further, while delivering more mail.

This bill must be passed because it addresses many pressing issues, such as rate changes, the Postal Service Retirement System, escrow accounts, and military pension issues. This is the only Federal agency where funds in the civil retirement system have to be used to fulfill military obligations within the Department.

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The bill also addresses the issue of the United States Postal Service overpayment of over $78 billion in civil service retirement benefits. The Congressional Budget Office estimates that the escrow requirements will cost the United States Postal Service nearly $3 billion in 2006 and over $36 billion over the next 8 years. If the postal system is not fixed, our constituents will bear the cost.

This Nation is very fortunate to have a Postal Service system that handles such a large volume of mail while operating at affordable costs to our citizens.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY. Mr. Chairman, although we may be living in the age of technology and more than a few of us cannot live without our e-mail, the United States Postal Service continues to serve a key role for both personal and business communications. With 9 million jobs and $900 billion in annual commerce dependent on services provided by USPS, consideration of this reform package could not come soon enough.

In recent years, the U.S. Postal Service has struggled to perform its core mission of providing affordable mail service 6 days a week to every American. Today, the Postal Service operates under the same set of rules established in 1970; yet the service now delivers nearly 2½ times more mail to almost twice as many homes.

Rising costs and financial losses, coupled with rate increases meant to remedy a declining fiscal situation, have left the Postal Service in a position that threatens the long-term viability of mail as an affordable, effective business communications channel.

I am pleased H.R. 22 protects universal service while taking steps to alleviate the seemingly constant threat of rate increases by modernizing rate regulation and by freeing up $73 billion in civil service retirement savings that have been held in escrow.

Accountability and transparency are of particular interest to me as there continues to be unresolved questions surrounding the unfair and inconsistent application of a postal regulation more than 5 years ago.

This particular issue is one I have championed for some time, and while I am disappointed that we were unable to reach a resolution before the bill reached the House floor, I look forward to working with the committee and the Pennsylvania Senators on the issue of postal reform legislation moves into conference.

Comprehensive legislation is 10 years in the making; and without the passage of this bill, we are putting in jeopardy millions of American jobs and the future availability of affordable mail service, the repercussions of which will be felt well beyond the mailing industry.

In the last session of Congress when I was a member of the Subcommittee on Postal Reform and the Committee on Government Reform, we worked on this bill. I am pleased it has come before us, and I urge my colleagues to support H.R. 22.

Mr. DAVIS of Illinois. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I came to Congress to help the Federal Government be a better partner and make communities more livable. One of the simplest ways to achieve that objective does not require new rules or regulations. It simply requires that the Federal Government follow the same rules as others.

Well, H.R. 22 contains language from the Community Postal Partnership Act which I first introduced in the 105th Congress. It requires the Postal Service to abide by the same zoning and land use laws as everybody else and requires that the Postal Service garner input from communities on proposed changes for facilities.

We have had tremendous support for this concept, from homebuilders, the National Association of Postmasters, the Trust for Historic Preservation, Realtors, landscape architects, planners, and from within the postal community itself.

Good government organizations across the country have joined with mayors and local officials who understand that the over-37,000 postal facilities are not just remote outposts of Federal activity. They can, often are, and always should be centers of community activity.

This legislation has had bipartisan support from the majority of the House of Representatives and has passed the Senate, only to become victim of the politics of postal reform which I am pleased the committee has been able to sort out.

It is time, however, to make this relationship something that every community can count on. It should not be the exception, nor should it require extraordinary political action. There should be no variation in the commitment to provide the finest facilities that are part of each and every community. I am happy that the committee has chosen to include this language in the comprehensive postal reform bill.

In turn, I think it is essential that we recognize the valuable service provided by the Postal Service. It delivers more items in one day than Fed Ex does in a year; it manages half the world's mail with one-fourth of the revenue and a fifth of the workforce. It is important that we not just applaud these accomplishments, but give the Postal Service the tools it needs to continue to deliver its valuable service.

This bill accomplishes that goal. It is a delicately balanced compromise which I hope the House will support, rejecting amendments that would upset that balance, and build on this for a better Postal Service in the future.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Chairman, I yield 4 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding me this time and rise in support of H.R. 22. It is a good bill that should be enacted this year.

I applaud the gentleman from Illinois (Mr. DAVIS) and the ranking member, the gentleman from California (Mr. WAXMAN), and the gentleman from New York (Mr. McHUGH). The gentleman from New York (Mr. McHUGH) has made a career of this bill, and we are thankful for that. He is not on the floor, but I want to congratulate him on his efforts.

Just a few months ago, the Committee on Government Reform marked up and passed this bill 39–0. Given the current political environment, that is amazing. An extraordinary achievement. Such bipartisanship on Capitol Hill is all too rare these days. When it happens, we should take note. The fact that every Democrat and Republican on the committee embraced H.R. 22 testifies to the need for postal reform that puts politics aside and focuses on pressing issues.

It is also a tribute to the hard work and energy that postal employees, business groups, and postal customers brought to bear educating lawmakers about the merits of reform.

Let me say something as an aside. The United States Postal Service is the most efficient and productive postal service in the world. It may surprise some to learn that some years ago when I took testimony in the Treasury Postal Subcommittee as chairman, the United States Postal Service was 40 percent more efficient than the number two postal service in the world which was Japan. I observed if we had that kind of productivity efficiency with respect to VCRs, we would not be buying JVCs, we would be buying RCAs made in America or Emerson or some other manufacturer.

Why has H.R. 22 earned my support and the support of a bipartisan group? Simply put, because it satisfies four areas. First, it protects universal service. That is absolutely essential. Secondly, it protects collective bargaining. Since the Postal Reorganization Act of 1970 established collective bargaining as a fundamental right, there has not been a single work stoppage or significant disruption in service as a result of labor-management discord. It is appropriate to protect it and continue it.

I noticed the gentleman from New York (Mr. McHUGH) is back on the floor. I congratulate the gentleman. I said how steadfast you have been in the face of coming right up to the brink of passage and then having to withdraw. We all owe you a debt of gratitude and appreciation for the work you have done on this particular piece of legislation.

H.R. 22 ensures the Postal Service is treated exactly the same way every other Federal agency is in the area of military pensions. Our postal workers who served in the military served America, not the Postal Service. America. It is the U.S. Government that ought to compensate those military veterans. H.R. 22 mandates that the proportion of their retirement that comes from military service will be paid for by the Treasury, as it should be.

Lastly, H.R. 22 provides the Postal Service the flexibility it needs to set postal rates in a competitive manner. This is a difficult area. I know the committee has grappled with it, but I think the committee has come out with a solution that ought to be supported. There is no legislative reason why postal reform should not be enacted before the end of the year.

Unfortunately, however, I understand the administration has signaled its opposition to key provisions of H.R. 22 and its Senate counterpart S. 662. It is my hope and, yes, my expectation, that the gentleman from Virginia (Mr. TOM DAVIS), the gentleman from New York (Mr. McHUGH), and the gentleman from Illinois (Mr. DAVIS) will be successful in resisting efforts by the administration to weaken or repeal provisions that are the product of years of hard bipartisan work.

I urge support of this product. I again congratulate the gentleman from New York (Mr. McHUGH) on the work he has so ably led for so long.

Mr. DAVIS of Illinois. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. LYNCH).

Mr. LYNCH. Mr. Chairman, I rise in support of H.R. 22. This will be the first major postal reform bill to receive our consideration in 35 years. I would like to, obviously, credit the gentleman from Virginia (Chairman TOM DAVIS) and the gentleman from New York (Mr. McHUGH), the subcommittee chairman, for their great work as well as the ranking member, the gentleman from California (Mr. WAXMAN), and the gentleman from Illinois (Mr. DAVIS) for all of the great work they have done.

But I would be remiss if I did not mention the number of other people who have worked so hard on this, namely, the postal employees themselves who have been very active in this whole process, including the leadership of the American Postal Workers Union, the National Letter Carriers Union, and the National Mail Handlers Union who have been active and committed to this whole process.

All of us will remember in the days and weeks following September 11, we had a series of anthrax attacks conducted through the U.S. mail system. Tragically, among the victims of these attacks were included the lives of two of our postal workers, Joseph Curseen, Jr., and Thomas Morris, Jr., at the Brentwood facility in the D.C. area.

At that time, all of our postal workers, every clerk, every mail handler, was faced with a difficult choice, and that choice was to continue to come to work every day in a very difficult environment caused by anthrax exposure, and perhaps even endangering their families; or staying away from work and thereby risking the stability of our own economy and upsetting the flow of commerce and shaking the confidence of the American people.

The American postal workers, every clerk, every carrier, every mail handler chose to come to work under those conditions. They came here because they felt it was their particular patriotic duty to do so. H.R. 22 takes note of their service and regards postal employees as partners and a great asset toward affecting postal reform.

Notably, this bill does not seek to curtail essential worker rights, it does not reduce worker protections with respect to collective bargaining, and it deserves our support. I ask only that we resist any amendments that would weaken this bill.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. SCHIFF) for a colloquy.

Mr. SCHIFF. Mr. Chairman, I rise today to express my support for H.R. 22 and for the purpose of engaging the chairman and the gentleman in a brief colloquy.

H.R. 22 is long overdue and goes a long way towards ensuring the future competitiveness and viability of the U.S. Post Office. I am proud to cosponsor this important piece of legislation, and I encourage my colleagues to support its passage.

One issue of concern to me, however, has to do with the consolidation and realignment of postal facilities. I believe it is critical that Congress and the U.S. Postal Service understand that the closing of a postal facility has a great impact on its local community. I remain concerned that the U.S. Postal Service's realignment and consolidation plan may not fully take into account all of the costs associated with each individual facility impacted by such a plan.

Clearly, there are benefits to the consolidation and realignment of postal operations, but I rise today to ask the chairman and the ranking member and the gentleman from Illinois (Mr. DAVIS) for their support in working with the Postal Service to make sure that all impacts are taken into account, not just those that are fiscal in nature. It is critical that Congress understands the closing of a postal facility has a very great impact on its local community.

Mr. DAVIS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Illinois.

Mr. DAVIS of Illinois. Mr. Chairman, I appreciate the gentleman's desire to see that the Postal Service takes into account the impact on local communities. I share his desire for a comprehensive evaluation of all issues regarding the realignment and consolidation of postal facilities, including individual impact on our local communities.

Mr. TOM DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Virginia.

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Mr. TOM DAVIS of Virginia. Mr. Chairman, I thank the gentleman from California for his support of this legislation and his efforts. I think it is important, as he points out, that all of these different impacts are taken into account when the Postal Service undertakes the realignment and consolidation of postal facilities. I look forward to working with him and the Postal Service as these unfold.

Mr. DAVIS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

We have heard a great deal of discussion, all good, and again I think it is important that we realize that it took the coming together not only of dedicated Members of the House, but also tremendous staff work. I know that the gentleman from California (Mr. WAXMAN) is not here at the moment, but I want to take the time to commend not only him, but his staff, Phil Schiliro, Phil Barnett, Naomi Seiler, Althea Gregory, as well as the members of my staff, Richard Boykin, Jill Hunter-Williams, and, of course, Denise Wilson, who have worked tirelessly and tirelessly for months and some of them even into years of trying to make sure that we shaped a comprehensive bill, one that all of the stakeholders and shareholders could, in fact, agree with and be proud of, one that did, in fact, continue to protect universal service, everyday delivery, knowing that people can get their mail no matter where they live, whether it is on a remote countryside, up the mountain, across the way, across the river, knowing that the mail is going to come.

Again, I want to commend, as we have done so often, and not without reason, the hard work and continuous dedication of the gentleman from New York (Mr. MCHUGH), who almost single-mindedly and sometimes people would say single-handedly has kept this train rolling, has kept this ship going, and has prevented it from veering off course. I am very pleased to have been a part of the process. I again commend all of those for making it happen.

Mr. Chairman, I urge strong support for the passage of this important piece of legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Mr. DAVIS of Illinois. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I want to acknowledge the gentleman from New York (Mr. MCHUGH) and the authors of this very, very strong legislation that has taken us more than a decade. To the gentleman from Virginia (Mr. TOM DAVIS), to the gentleman from California (Mr. WAXMAN), to the gentleman from Illinois (Mr. DAVIS), who have worked extremely hard on this issue, might I add my applause and congratulations.

Might I, Mr. Chairman, to the distinguished chairman of the full committee just say one thing. Might I thank the many, many postal workers around America who have been there when you needed them and who have managed to do a major industry with less than a third of the personnel. They are to be congratulated. I thank you very much, and I thank you for your interest in discussing the issue of whistleblower protection for Federal employees in the context of considering H.R. 22 today. I do want to recognize that you have in the bill itself provisions dealing with the inspector general.

Let me, first of all, say that I would have offered an amendment today, but I want the supporters of that amendment, those who have advocated for the No Fear Act that was passed by this body, legislation authored by myself and the gentleman from Wisconsin (Mr. SENSENBRENNER) and signed by the President, that my amendment would have tracked the No Fear Act, which would have established a Civil Rights and Civil Liberties Board pilot program within the Postal Service to monitor and enforce claims of abuse that would call for congressional review after 3 years. There is a grave need for such a body not only within the Postal Service, but in every Federal agency given the poor implementation of the No Fear Act. This public law is known as Public Law 107-174. I understand that the legislation as currently drafted contains, as I said, several new provisions that would protect Federal employees and minorities such as the antikickback provisions, increase oversight functions for the inspector general, and a study of the Board of Governors of the number of contracts awarded to women and minority contractors. I applaud the gentleman for this.

My real point is that the No Fear Act has been slowly implemented. There are people in the government, workers in the government that we respect for their service wanting us to give oversight on the No Fear Legislation. I would like to work with the gentlemen as they go through conference, and as we go forward to ensure that this particular legislation is implemented, and enhanced civil rights are given to federal employees and our fine postal workers have the whistleblower protection and as well their civil liberties and civil rights are also protected.

Mr. Chairman, I rise in support of the H.R. 22. It is important that it was brought through Committee and to the Floor for expeditious consideration. I have an amendment that was made in order that would seek to address the very critical issue of slow implementation of Public Law No. 107–174, the No FEAR Act (5 U.S.C. 2301) and provide avenues of relief for the many federal employees who continue to complain of workplace civil rights abuse.

My amendment would establish a Civil Rights and Civil Liberties Board Pilot Program within the Postal Service to monitor and enforce claims of abuse that will call for congressional review after three years. There is a grave need for such a body—not only within the Postal Service but in every federal agency, given the poor implementation of the No FEAR Act.

I joined Chairman SENSENBRENNER and Ranking Member JOHN CONYERS in authorizing the Notification and Federal Employee Anti-Discrimination and Retaliation Act of 2002, or No Fear Act, that was signed into law by President Bush on May 15, 2002. This legislation was passed in order to bring immediate relief to federal government employees who have suffered from civil rights or other abuse in the workplace.

The product that we have before us today has many highlights. For the Postal Service, it provides the ratemaking flexibility and incentives needed to operate as an efficient business. For businesses, it provides the rate stability, fair competition rules, financial transparency, and procurement protections needed to predict costs and operate on a level playing field. For consumers, it preserves universal service, maintains high quality standards, and eliminates unfair mailing costs so that they have an affordable and reliable means of communication. For workers, it protects collective bargaining and offers whistle-blower protections that are needed to ensure safe employment. For taxpayers, it ensures the viability of a national asset and removes the threat of a tax-payer bailout of the Postal Service due to financial insolvency. These provisions, I am sure, will go a long way toward helping the Postal Service to better serve its customers, compete fairly with the mailing industry, and contribute to our nation.

In addition, I am pleased that the bill requires a study of the number of contracts with women, minorities, and small businesses and that it protects our domestic airlines from outsourcing of jobs to foreign air carriers.

Nevertheless, the issue of slow implementation of No FEAR remains a tremendous problem that I hope the Chairman, Ranking Member, and the members of the Committee on Government Reform will pursue both as this bill goes to Conference and in hearing forum.

Mr. Chairman, I support H.R. 22 and hope that the Chairman, Ranking Member, and the Conferees on this bill will address the issues that I presented with my amendment, and I hope that both the Committee on Government Reform as well as that of the Judiciary will hold oversight hearings on the implementation of the No Fear Act, and I yield back. It is critical that we use opportunities such as is afforded today to address the slow implementation of the No Fear Act. I yield back.

Mr. DAVIS of Illinois. Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. WAXMAN), the ranking member.

The CHAIRMAN. The gentleman from California (Mr. WAXMAN) is recognized for 2 minutes.

Mr. WAXMAN. Mr. Chairman, I want to thank my friend and colleague for yielding to me and also, more importantly, for the enormous contribution he has made to this legislation along with the gentleman from New York (Mr. MCHUGH) and the gentleman from Virginia (Mr. TOM DAVIS). The four of us have been working very, very closely and produced legislation that was unanimously voted out of our committee.

The legislation is to modernize the structure of the Postal Service. It is a $69 billion entity with 700,000 employees. It supports industries that produce goods and services worth $900 billion annually. For generations Americans have relied on the system for universal service for letters and packages.

Reaching unanimity was not easy. A primary goal of postal reform was to give the Postal Service the flexibility it needs to survive in a changing and increasingly competitive environment. At the same time, we took into account the varied and complex needs of the mailing community and the American people. The result is a strong bill with the primary goal of allowing the Postal Service to continue to fulfill its universal service mission at a reasonable cost.

The legislation makes a number of key changes, but all of the changes in this bill are calibrated to balance out conflicting forces so that we could bring everybody on board. That is why this bill, I would urge my colleagues to understand, is one that we need to support in its entirety and to resist changes, however attractive they may be.

The bill, in closing, will make sure that the Postal Service can go into this 21st century as a viable institution; where it competes, to make sure that it will not compete unfairly; and where it is doing its job as a unique establishment, it will be handled in a way so that it will be run efficiently and effectively for the public good.

I ask support for the legislation before us.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 30 seconds to the gentleman from Connecticut (Mr. SHAYS), the vice chairman of the Committee on Government Reform.

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding time. I just want to congratulate him, the ranking member of the committee and particularly the gentleman from New York (Mr. MCHUGH) for what he has done for over 10 years in this battle. His effort is awesome. This legislation is needed. We believe in universal coverage for mail, but know cost savings need to be made. Congratulations to all of you for doing such a great job in bringing this legislation before us.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself the balance of my time.

It has been said that victory has 1,000 fathers, and defeat is an orphan. As we approach a victory on this bill tonight, at least on the House side, let me thank some of the fathers. We have talked about some of the Members being involved, but thanks also go out to the National Association of Manufacturers, the National Federation of Independent Business, the Small Business Legislative Council; a group of financial service companies like American Express, Bank of America, Capital One, Chase, Citigroup, Financial Services Roundtable, J.P. Morgan; groups in the newspaper and publisher business like Magazine Publishers of America, National Newspaper Association, Printing Industries of America, Time, Inc.; labor unions like the American Postal Workers Union, National Association of Letter Carriers, National Rural Letter Carriers and the National Postal Mail Handlers Association; postal management organizations like the National Association of Postmasters, National League of Postmasters, National Association of Postal Supervisors; postal competitors like United Parcel Express, UPS and FedEx; and other organizations like the Alliance of Nonprofit Mailers, the Mailers Council, the Parcel Shippers Association, Pitney-Bowes and others.

And on the staff side, Melissa Wojciak, my staff director; Jack Callender, who has made his career on the committee the Postal Service; Robert Taub, who the gentleman from New York (Mr. MCHUGH) rightly, I think, gives the credit for being the father of this behind the scenes; Ellen Brown, Mason Alinger of our staff, Rob Borden, Kristina Sherry, Michael Layman, Phil Barnett, Michelle Ash, Denise Wilson, Naomi Seiler, Jill Hunter-Williams and Richard Boykin from the committee as well. All of these made major contributions.

What does this tell us if we pass this legislation? The cost of stamps is going up, but if we pass this legislation, it will be nowhere near the increases that we will get without this important legislation.

The need for postal reform is obvious in this case. Failure to act is a job-killer. Inaction will jeopardize at least 1.5 million jobs. This is a top priority for industry, the mailing industry, a $900-billion-a-year industry, nearly 9 percent of GDP, its economic value, 9 million jobs. Failure to act would be the same as a tax increase on American consumers. If we do not seize this moment, we effectively impose a significant new tax and a new tax burden on every American who uses stamps. If we do not take action, the Postal Service will be forced to begin increasing postal rates, starting with 2 cents at the beginning of next year. A small business that spends $5,000 annually on postage will lose almost $300 a year. An industry like financial services would get slammed with over $600 million in increases annually with no increase in productivity. And the American public will waste over $20 billion in unnecessary postage over the next decade. That is why this legislation needs to be passed.

What is wrong with the current Postal Service? We have got some of the best and most dedicated workers in the world, as the gentleman from Maryland (Mr. HOYER) and the gentleman from California (Mr. WAXMAN) and others have pointed out, but they are operating under a 30-year-old system that completely missed the information technology revolution. It is a service that is saddled with $7 billion in workers' comp claims, $5 billion in retirement payments and $57 billion in health care costs. The statutes governing USPS are some of the most rigid and restrictive in the U.S. Code.

Finally, this means jobs. We can talk about trade and everything else, but failure to enact this will cost jobs in every State.

Let me conclude by saying and echoing what the gentleman from California (Mr. WAXMAN) noted, and that is, this bill is not a perfect bill. It is not a perfect bill today. It will not be perfect probably when it comes out of conference. But as we look at this, this is a finely balanced piece of legislation that today has almost unanimous agreement in the industries that are affected, among the workers that are affected and among the consumers that are affected.

We want to keep this balance as this comes to the floor. There are some very attractive amendments, well-meaning amendments that are going to be offered, but they upset this balance and jeopardize this bill. We have in front of us jobs, we have productivity, and we have almost 9 percent of the gross domestic product of this country at stake if we fail to pass this bill. I urge my colleagues to support it.

Mr. GENE GREEN of Texas. Mr. Chairman, I rise today in support of H.R. 22, the Postal Accountability and Enhancement Act. This bill will allow for the Postal Service to better serve the American People by significantly modernizing its outdated policies.

The last postal reform bill was signed by President Nixon in 1971 and at that time no one could have anticipated all of the technological advances our society would create. At that time we all sent letters to keep in contact with each other and email was something that we never could have imagined. Unfortunately, while we have advanced with the times, the Postal Service has been slow to keep up with our advancing technology. H.R. 22 will allow the Postal Service to continue providing comprehensive universal service, but at a much lower cost.

This bill is the product of hard work between the labor unions, the Postal Service, and the Government Reform Committee. It is a good piece of legislation that will give the Postal Service the rate modernization it needs and it will create a level playing field for the Postal Service to compete with other companies.

I strongly support this bill not only because my late father in-law was a letter carrier, but because the Postal Service has provided a vital service to the public for many years. It's time that we allow them to modernize so that we may continue to enjoy all of the benefits that they have afforded us.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise today to speak in support of The Postal Accountability and Enhancement Act of 2005.

As we move into a new phase of technological advancements, now is the time for significant reform of our postal system. With over 600-thousand postal workers, the U.S Postal Service is an essential part of today's national economic infrastructure.

In my home town of Dallas, TX, the roles of postal workers are vividly seen in homes, businesses, and even churches. We must have a firm commitment to ensuring that these vital public servants have guaranteed healthcare and retirement benefits, collective bargaining rights, and a decent pay.

H.R. 22 will bring increased efficiencies to the United States Postal Service, and strengthen the long-term viability of universal postal services. We must act now to ensure that 6-day a week delivery is maintained for all Americans.

I hope my colleagues will join me in supporting this key piece of legislation.

Mr. BACA. Mr. Chairman, since the days of the pony express, the USPS has become a part of the American family.

Consider the special place of the Postal Service in our society and its importance to Americans: to the teenagers waiting by the mailbox for the college acceptance letters, to families waiting for letters from loved ones serving abroad, to businesses reaching out to new customers and to so many others.

The Postal Service delivers mail six days a week to nearly 140 million addresses. Every year this number increases by 2 million.

The Postal Service's unmatched ability to reach every household and business in America six days a week is a vital part of the nation's infrastructure.

The Postal Service needs tools to modernize and compete. That is why today I am a cosponsor of H.R. 22, the Postal Accountability and Enhancement Act.

This legislation will not only ensure survival of the Postal Service but also help preserve universal service at affordable rates for American mailing consumers.

We need to ensure the long-term viability of this $900 billion industry and its nine million employees.

I only wish that we could also pass H.R. 147, the Social Security Fairness Act.

We need to correct the Windfall Elimination Provision, which lowers Social Security benefits for retirees who receive a Civil Service Retirement System annuity and Social Security benefits from other jobs.

Too many Postal Service employees have seen their Social Security benefits reduced by as much as 55 percent because of the Windfall Elimination Provision.

We also need to fix the Government Pension Offset, so that spouses and survivors do not have their benefits reduced.

Mr. Chairman, H.R. 22 is a good first step and I encourage my colleagues to support the bill.

Mr. TOM DAVIS of Virginia. Mr. Chairman, please include the attached exchange of letters between Chairman DON YOUNG of the Committee on Transportation and Infrastructure, Chairman F. JAMES SENSENBRENNER, Jr. of the Committee on the Judiciary, Chairman BILL THOMAS of the Committee on Ways and Means and myself.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, April 25, 2005.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform,
Rayburn Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in matters being considered in H.R. 22, the Postal Accountability and Enhancement Act.

Our Committee recognizes the importance of H.R. 22 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over certain provisions of the bill, I will agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Transportation and Infrastructure Committee, and that a copy of this letter and of your response acknowledging our valid jurisdictional interest will be included in the Committee report and in the Congressional Record'' when the bill considered on the House Floor.

The Committee on Transportation and Infrastructure also asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House Senate conference.

Thank you for your cooperation in this matter.

Sincerely,

DON YOUNG,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, April 26, 2005.

Hon. DON YOUNG,
Chairman Committee on Transportation Infrastructure, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Committee on Transportation and Infrastructure's jurisdictional interest in H.R. 22, the Postal Accountability and Enhancement Act, and your willingness to forego consideration of H.R. 22 by the Committee on Transportation and Infrastructure.

I agree that the Committee on Transportation and Infrastructure has a valid jurisdictional interest in H.R. 22 and that the committee's jurisdiction will not be adversely affected by your decision to not request a sequential referral of H.R. 22. In addition, I will support your request for the appointment of outside conferees from the Committee on Transportation and Infrastructure to a House-Senate conference committee on this or similar legislation should such a conference be convened.

As you have requested, I will include a copy of your letter and this response in the Government Reform Committee's report on H.R. 22 and in the Congressional Record during consideration of the legislation on the House floor. Thank you for your assistance as I work towards the enactment of H.R. 22.

Sincerely,

TOM DAVIS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 12, 2005.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform, House of Representatives, Washington, DC.

DEAR CHAIRMAN DAVIS: In recognition of the desire to expedite floor consideration of H.R. 22, the "Postal Accountability and Enhancement Act," the Committee on the Judiciary hereby waives consideration of the bill. In so doing, I wish to express my appreciation for your willingness to address an incorporate concerns raised by the Committee on the Judiciary during its markup of similar legislation last Congress.

There are several provisions contained in H.R. 22 within the Committee on the Judiciary's subject matter jurisdiction. Specifically, section 205 of the legislation revises the complaint and appellate review of the Postal Regulatory Commission. Section 301 establishes an off-budget fund within the Treasury Department for revenues and expenditures associated with services offered by the Postal Service on a competitive basis. Section 303 prohibits the Postal Service from issuing regulations that preclude competition or compel the disclosure of protected intellectual property Section 304 ensures that laws regulating the conduct of private commercial activities also apply to competitive activities undertaken by the Postal Service, including the antitrust laws. Section 502 provides authority for the Postal Regulatory Commission to issue subpoenas to compel disclosure of evidence in its proceedings, and to refer failures to adhere to Commission directives to Federal district court. Section 703 requires the Federal Trade Commission to prepare a report detailing how Federal and State laws apply differently to competitive activities of the Postal Service and private companies. Section 801 provides permanent authority for the Postal Service to employ postal police to protect property and persons on Postal Service property, and gives the Attorney General authority to collect penalties and clean up costs associated with the unlawful mailing of hazardous materials.

The Committee agrees to waive additional consideration of H.R. 22 with the understanding that the Committee's jurisdiction over these provisions is in no way altered or diminished. I also ask that you support my request to be appointed conferee on any provisions over which the Committee on the Judiciary has jurisdiction during any House-Senate conference on this legislation. Finally, I would appreciate your including this letter in Congressional Record during consideration of H.R. 22 on the House floor.

Thank you for your attention to this request.

Sincerely,

F. JAMES SENSENBRENNER Jr.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, May 12, 2005.

Hon. F. JAMES SENSENBRENNER,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your May 12th letter regarding the Judiciary Committee's jurisdictional interest in H.R. 22, the Postal Accountability and Enhancement Act, and your willingness to forego consideration of H.R. 22 by your committee. As you noted, the Committee on the Judiciary considered a similar bill last Congress, H.R. 4341; and the amendments agreed to by your committee last Congress were significant improvements that were gladly incorporated in H.R. 22 this Congress by Congressman McHugh and myself.

I agree that the Committee on the Judiciary has a valid jurisdictional interest in H.R. 22 and that the committee's jurisdiction will not be adversely affected by your decision to not call a business meeting to consider H.R. 22. In addition, I will support your request for the appointment of outside conferees from the Committee on the Judiciary to a House-Senate conference committee on this or similar legislation should such a conference be convened.

As you have requested, I will include a copy of your letter and this response in the Congressional Record during consideration of H.R. 22 on the House floor. Thank you for your assistance as I work towards the enactment of H.R. 22.

Sincerely,

TOM DAVIS.
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, July 25, 2005.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN DAVIS: I am writing concerning H.R. 22, the "Postal Accountability and Enhancement Act," which was reported by the Committee on Government Reform on May 27, 2005.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning customs revenue functions. A provision in Section 305 of H.R. 22 directs the Bureau of Customs and Border Protection to apply United States customs laws to certain mail, and thus falls within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 22, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, July 25, 2005.

Hon. WILLIAM M. THOMAS,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Committee on Ways and Means' jurisdictional interest in H.R. 22, the Postal Accountability and Enhancement Act, and your willingness to forego action on H.R. 22.

I agree that the Committee on Ways and Means has a valid jurisdictional interest in H.R. 22 and that the committee's jurisdiction will not be adversely affected by your decision to take no action at this time. In addition, I will support your request for the appointment of outside conferees from the Committee on Ways and Means to a House-Senate conference committee on this or similar legislation should such a conference be convened.

As you have requested, I will include a copy of your letter and this response in the Congressional Record during consideration of the legislation on the House floor. Thank you for your assistance as I work towards the enactment of H.R. 22.

Sincerely,

TOM DAVIS,
Chairman.

Mr. REYES. Mr. Chairman, I rise today in strong support of H.R. 22, the Postal Accountability and Enhancement Act.

Employing nine million workers nationwide, many of whom reside in my Congressional District of El Paso, Texas, the United States Postal Service (USPS) has been delivering hundreds of millions of pieces of mail each day keeping an important link of communication open to millions of people.

Many of my constituents from El Paso, Texas who have expressed their strong support for postal reform. I share their support and have co-sponsored the bill before us today.

Mr. Chairman, this legislation would ensure that the USPS is provided with the tools to remain competitive and viable in the 21st century. As a co-sponsor of H.R. 22, I would urge all my colleagues to support the passage of this important legislation.

Ms. DELAURO. Mr. Chairman, I rise in strong support of H.R. 22, the Postal Accountability and Enhancement Act. This legislation, which is long overdue, will improve commerce in this country, better the lives of the nation's postal workers, and guarantee that the mail will be delivered each day to the 140 million American households that look forward to a daily visit from their letter carrier.

In a time of declining revenues and increased costs, it is no secret that the Postal Service faces financial challenges. Competition in the package-delivery business and from Internet-based communication has intensified. And, as a result, each year, the dedicated letter carriers of the Postal Service are asked to carry less mail to more households and businesses nationwide. In part, that is because the Postal Service is operating under laws written 35 years ago—long before anyone had ever heard of the Internet.

This legislation will modernize the Postal Service, giving it the resources and flexibility it needs to manage its operations and set fair prices. The bill will help the Postal Service cut through the bureaucratic red tape and allow it to act more like the businesses it must compete against.

In addition to providing a more streamlined rate-setting process that will allow the Postal Service to make business decisions quickly, the bill also will allow the Postal Service to enter into partnerships with second- and third-class mailers, while preserving the jobs of those at postal sorting and processing centers. I welcome these improvements, although I anticipate more will need to be done to balance the mailing industry's need for price certainty with unanticipated or extraordinary fiscal needs of the Postal Service.

The bill will alleviate a $27 billion burden by limiting the Postal Service's responsibility to pay the benefits of veterans who also worked in the Postal Service. To be clear, this provision does not limit the benefits of our brave veterans who, after military service, went to work for the Postal Service. This bill simply says that the U.S. Treasury must pay veterans benefits, and the Postal Service must pay postal benefits.

Mr. Chairman, this legislation is also good for one of the Postal Service's best assets—its human capital. I am particularly pleased that this bill preserves the right of more than 500,000 postal workers and letter carriers to bargain collectively. These dedicated men and women work in processing centers, they work in local post offices, and they work in our neighborhoods delivering the mail to our doorsteps each day. They are the reason that the postal service has a 96 percent on-time delivery record for first-class mail.

Mr. Chairman, this is a good bill. It will make the Postal Service leaner and more efficient, while preserving the collective bargaining rights of its workers. And it will continue the legacy of universal service. Since the birth of this nation, the United States Postal Service has been committed to delivering the mail to every single household in the country—142 million in all today. The daily mail delivery is something that many Americans look forward to, and this bill will ensure that the Postal Service has the resources it needs to maintain that commitment well into the future. I urge my colleagues to support this important legislation.

Mr. BACA. Mr. Chairman, since the days of the pony express, the USPS has become a part of the American family.

Consider the special place of the Postal Service in our society and its importance to Americans: to the teenagers waiting by the mailbox for the college acceptance letters, to families waiting for letters from loved ones serving abroad, to businesses reaching out to new customers and to so many others.

The Postal Service delivers mail six days a week to nearly 140 million addresses. Every year this number increases by 2 million. The Postal Service's unmatched ability to reach every household and business in America six days a week is a vital part of the nation's infrastructure.

The Postal Service needs tools to modernize and compete. That is why today I am a cosponsor of H.R. 22, the Postal Accountability and Enhancement Act. This legislation will not only ensure survival of the Postal Service but also help preserve universal service at affordable rates for American mailing consumers. We need to ensure the long-term viability of this $900 billion industry and its nine million employees. I only wish that we could also pass H.R. 147, the Social Security Fairness Act.

We need to correct the Windfall Elimination Provision, which lowers Social Security benefits for retirees who receive a Civil Service Retirement System annuity and Social Security benefits from other jobs. Too many Postal Service employees have seen their Social Security benefits reduced by as much as 55% because of the Windfall Elimination Provision. We also need to fix the Government Pension Offset, so that spouses and survivors do not have their benefits reduced.

Mr. Chairman, H.R. 22 is a good first step and I encourage my colleagues to support the bill.

Mr. LEACH. Mr. Chairman, I rise in support of the legislation before us: the most important postal reform of our generation.

The specific reforms contained in the bill have been well described in the preceding comments of various members, but I would simply like to underscore the importance of the United States Postal Service to the country, particularly rural America, and emphasize the immense respect that citizens have for their mail carriers.

The United States Postal Service began with the founding of the Republic; it grew as the nation grew; it has continuously transformed itself with entrepreneurial enterprise and technological innovation.

Before Henry Ford developed mass assembly techniques in the automobile industry, mail carriers on horseback—the pony express—used analogous methods of passing along packages to next-step destinations. And just as rail cars added speed, labor- and horse-saving capabilities to mail delivery in the latter half of the 19th century, the airplane has provided the means to bring greater speed and service efficiency in the last century. Likewise, at the various decentralized post offices and more centralized postal hubs, innovative machinery to help sort and distribute the mail has been developed.

But the unique aspect of mail delivery is that it remains a people-centric service. Good people make a difference and the Postal Service has a heritage of decency and quality of employee—from the clerk at the counter to the rural mail carrier to postmasters in small towns and urban centers. This country takes great pride in their dedication and professionalism.

Now is not the time to either ideologically tamper with the private express statutes or saddle the Postal Service with liabilities developed by other parts of the government.

The bottom line is that the United States Postal Service has served the country well for more than two centuries. We in the Congress respect this record and are obligated to ensure that the viability of this universal system is maintained.

Mr. HOLT. Mr. Chairman, I rise today in support of H.R. 22, The Postal Accountability and Enhancement Act.

In 1775, Members of the Second Continental Congress established the Post Office Department, the predecessor of the Postal Service and the second oldest federal department or agency in the United States. For the past two centuries, the United States Postal Service has evolved and changed as the United States has grown. Today the Postal Service delivers hundreds of minions of messages each day to more than 141 million homes and businesses. Still, the Postal Service is experiencing economic loss because of the decrease in first class mail volume due to the high usage of e-mail and faxes and the increase in operating costs as the number of addresses to which the Postal Service must deliver are growing everyday.

For the past couple of decades, Members of the House Government Reform Committee have worked together to create legislation to reform the Postal Service. The bill that we have before us today is a compilation of hard work and bipartisan effort that includes a variety of interests such as large financial mailers, mail-dependent small businesses, magazine publishers, postal competitors, unions and consumer organizations. H.R. 22 provides for a comprehensive overhaul of the financial operations, rate structure, and civil service policies that currently govern the United States Postal Service. It is important to note that this bill today is not only a work of bipartisan congressional action, but it is the product of labor unions and management, postal employees and businesses, working together to make compromises to make postal reform a reality.

Protecting collective bargaining rights, ensuring six-day a week postal delivery and demanding that postal workers receive the best federal employee healthcare are all important provisions that were included in this bill to benefit postal workers. H.R. 22 is a tribute to the countless letter carriers and postal employees who have been committed for many years to reforming the USPS. I have spent hours walking mail routes with the letter carriers in my home state of New Jersey. I have seen first hand how dedicated postal employees are to ensuring the timely and safe delivery of mail to their local communities. These letter carriers should be applauded for their service to all Americans.

I am proud to have been a cosponsor of the Postal Accountability and Enhancement Act and am pleased that my colleagues have finally brought this to the House floor. The United States Postal Service is the knit between communities across America and I ask my colleagues to pass this meaningful postal reform legislation for all Americans.

Mr. SHAYS. Mr. Chairman, I rise in support of H.R. 22, the Postal Accountability and Enhancement Act.

The Government Reform Committee, of which I am vice-chairman, has held hearings and briefings on postal reform for several years now, and I am glad to see our efforts come to fruition today.

The United States Postal Service has been forced to cut back on its service due to serious financial challenges. H.R. 22 is an effort to modernize our Nation's postal laws for the first time in 35 years. It is intended to help ensure the United States Postal Service can survive in an increasingly competitive marketplace.

Due to the increasing use of electronic forms of communication, such as email, first-class mail volume is declining, but postal addresses are increasing. In lieu of simply increasing rates, an entire reform of the postal service is necessary.

H.R. 22 would require the Postal Service to operate in a more business-like manner by creating a modem system of rate regulation, establishing fair competition rules and a more powerful regulatory commission.

H.R. 22 will also promote both price stability and pricing flexibility. Giving the Postal Service pricing flexibility will allow USPS to price its core mail products in a way that keeps them competitive and, quite literally, in the mail. By limiting the amount of future postage rate increases, however, the bill also takes an important step towards encouraging the Postal Service to increase mail volume and keep the mailbags full while giving mailers predictability and stability.

Universal postal service should be the first and foremost goal of reform. This can only be accomplished if the financial and operational crisis facing the United States Postal Service is met with innovative and bold action.

Ms. WOOLSEY. Mr. Chairman, it is about time Congress took up this important postal reform bill. this legislation is long overdue and I am happy a bipartisan compromise was reached that meets the needs of postal professionals and the Postal Service.

For years I have been hearing from letter carriers, postmasters, mail handlers and other postal employees about the obstacles that prevent them and the postal service from serving our taxpayers in their fullest capacity. I have also heard about their struggles to retain their benefits and receive a livable wage.

That's why I am happy to support H.R. 22 today. This postal reform legislation takes a positive step for the future of the United States Postal Service. Now it will be able to remain competitive while protecting hundreds of thousands of jobs held by dedicated workers. Universal service will continue to expand and meet the demands of our modem mail system. Delivery will improve, rates will become more affordable and communities will have better access to mail services.

Mr. Chairman, again I am pleased that this compromise has advanced, and I look forward to an even greater postal system for our Nation.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 22

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Postal Accountability and Enhancement Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions.
Sec. 102. Postal services.
Sec. 103. Financial transparency.

TITLE II—MODERN RATE REGULATION

Sec. 201. Provisions relating to market-dominant products.
Sec. 202. Provisions relating to competitive products.
Sec. 203. Provisions relating to experimental and new products.
Sec. 204. Reporting requirements and related provisions.
Sec. 205. Complaints; appellate review and enforcement.
Sec. 206. Workshare discounts.
Sec. 207. Clerical amendment.

TITLE III—PROVISIONS RELATING TO FAIR COMPETITION

Sec. 301. Postal Service Competitive Products Fund.
Sec. 302. Assumed Federal income tax on competitive products income.
Sec. 303. Unfair competition prohibited.
Sec. 304. Suits by and against the Postal Service.
Sec. 305. International postal arrangements.
Sec. 306. Redesignation.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Qualification requirements for Governors.
Sec. 402. Obligations.
Sec. 403. Private carriage of letters.
Sec. 404. Rulemaking authority.
Sec. 405. Noninterference with collective bargaining agreements, etc.
Sec. 406. Bonus and compensation authority.
Sec. 407. Mediation in collective-bargaining disputes.

TITLE V—ENHANCED REGULATORY COMMISSION

Sec. 501. Reorganization and modification of certain provisions relating to the Postal Regulatory Commission.
Sec. 502. Authority for Postal Regulatory Commission to issue subpoenas.
Sec. 503. Appropriations for the Postal Regulatory Commission.
Sec. 504. Redesignation of the Postal Rate Commission.
Sec. 505. Officer of the Postal Regulatory Commission representing the general public.

TITLE VI—INSPECTORS GENERAL

Sec. 601. Inspector General of the Postal Regulatory Commission.
Sec. 602. Inspector General of the United States Postal Service to be appointed by the President.

TITLE VII—EVALUATIONS

Sec. 701. Universal postal service study.
Sec. 702. Assessments of ratemaking, classification, and other provisions.
Sec. 703. Study on equal application of laws to competitive products.
Sec. 704. Greater diversity in Postal Service Executive and administrative schedule management positions.
Sec. 705. Plan for assisting displaced workers.
Sec. 706. Contracts with women, minorities, and small businesses.
Sec. 707. Rates for periodicals.
Sec. 708. Assessment of certain rate deficiencies.
Sec. 709. Network optimization.
Sec. 710. Assessment of future business model of the postal service.
Sec. 711. Study on certain proposed amendments.
Sec. 712. Definition.

TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS

Sec. 801. Employment of postal police officers.
Sec. 802. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices.
Sec. 803. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department.
Sec. 804. Obsolete provisions.
Sec. 805. Investments.
Sec. 806. Reduced rates.
Sec. 807. Hazardous matter.
Sec. 808. Provisions relating to cooperative mailings.
Sec. 809. Technical and conforming amendments.

7TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS

Sec. 901. Civil Service Retirement System.
Sec. 902. Health insurance.
Sec. 903. Repealer.
Sec. 904. Ensuring appropriate use of escrow and military savings.
Sec. 905. Effective dates.

TITLE I—DEFINITIONS; POSTAL SERVICES

SEC. 101. DEFINITIONS.

Section 102 of title 39, United States Code, is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following:

"(5) 'postal service' means the carriage of letters, printed matter, or mailable packages, including acceptance, collection, processing, delivery, or other functions supportive or ancillary thereto;

"(6) 'product' means a postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied;

"(7) 'rates', as used with respect to products, includes fees for postal services;

"(8) 'market-dominant product' or 'product in the market-dominant category of mail' means a product subject to subchapter I of chapter 36;

"(9) 'competitive product' or 'product in the competitive category of mail' means a product subject to subchapter II of chapter 36;

"(10) 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics of the Department of Labor; and

"(11) 'year', as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.".

SEC. 102. POSTAL SERVICES.

(a) IN GENERAL.—Section 404 of title 39, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively; and

(2) by adding at the end the following:

"(c) Nothing in this title shall be considered to permit or require that the Postal Service provide

any special nonpostal or similar services, except that nothing in this subsection shall prevent the Postal Service from providing any special nonpostal or similar services provided by the Postal Service as of January 4, 2005.".

(b) CONFORMING AMENDMENT.—Section 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by striking "404(a)(8)" and inserting "404(a)(7)".

SEC. 103. FINANCIAL TRANSPARENCY.

(a) IN GENERAL.—Section 101 of title 39, United States Code, is amended by redesignating subsections (d) through (g) as subsections (e) through (h), respectively, and by inserting after subsection (c) the following:

"(d) As an establishment that provides both market-dominant and competitive products, the Postal Service shall be subject to a high degree of transparency, including in its finances and operations, to ensure fair treatment of customers of the Postal Service's market-dominant products and companies competing with the Postal Service's competitive products.".

(b) CONFORMING AMENDMENT.—Section 5001 of title 39, United States Code, is amended by striking "101(e) and (f)" and inserting "101(f) and (g)".

TITLE II—MODERN RATE REGULATION

SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.

(a) IN GENERAL.—Chapter 36 of title 39, United States Code, is amended by striking sections 3621 and 3622 and inserting the following:

"§ 3621. Applicability; definitions

"(a) APPLICABILITY.—This subchapter shall apply with respect to—

"(1)(A) single piece first-class letters (both domestic and international);

"(B) single piece first-class cards (both domestic and international); and

"(C) special services;

"(2) all first-class mail not included under paragraph (1);

"(3) periodicals;

"(4) standard mail;

"(5) media mail;

"(6) library mail; and

"(7) bound printed matter,

subject to any changes the Postal Regulatory Commission may make under section 3642.

"(b) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

"§ 3622. Modern rate regulation

"(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 24 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

"(b) OBJECTIVES.—Such system shall be designed to achieve the following objectives:

"(1) To establish and maintain a fair and equitable schedule for rates and classification.

"(2) To maximize incentives to reduce costs and increase efficiency.

"(3) To create predictability and stability in rates.

"(4) To maintain high quality service standards.

"(5) To allow the Postal Service pricing flexibility.

"(6) To assure adequate revenues, including retained earnings, to maintain financial stability.

"(7) To reduce the administrative burden of the ratemaking process.

"(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

"(1) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

"(2) the direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

"(3) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

"(4) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

"(5) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

"(6) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

"(7) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

"(8) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

"(9) the desirability of special classifications from the point of view of both the user and of the Postal Service;

"(10) the educational, cultural, scientific, and informational value to the recipient of mail matter; and

"(11) the policies of this title as well as such other factors as the Commission deems appropriate.

"(d) ALLOWABLE PROVISIONS.—The system for regulating rates and classes for market-dominant products may include one or more of the following:

"(1) Price caps, revenue targets, or other form of incentive regulation.

"(2) Cost-of-service regulation.

"(3) Such other form of regulation as the Commission considers appropriate to achieve, consistent with subsection (c), the objectives of subsection (b).

"(e) LIMITATION.—In the administration of this section, the Commission shall not permit the average rate in any subclass of mail to increase at an annual rate greater than the comparable increase in the Consumer Price Index, unless it has, after notice and opportunity for a public hearing and comment, determined that such increase is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

"(f) TRANSITION RULE.—Until regulations under this section first take effect, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of the enactment of this section.".

(b) REPEALED SECTIONS.—Sections 3623, 3624, 3625, and 3628 of title 39, United States Code, are repealed.

(c) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect after the amendment made by section 501(a)(2), but before the amendment made by section 202) is amended by striking the heading for subchapter II and inserting the following:

"SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS".

SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.

Chapter 36 of title 39, United States Code, is amended by inserting after section 3629 the following:

"SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

"§ 3631. Applicability; definitions and updates

"(a) APPLICABILITY.—This subchapter shall apply with respect to—

"(1) priority mail;

"(2) expedited mail;

"(3) mailgrams;

"(4) international mail; and

"(5) parcel post,

subject to any changes the Postal Regulatory Commission may make under section 3642.

"(b) DEFINITION.—For purposes of this subchapter, the term 'costs attributable', as used with respect to a product, means the direct and indirect postal costs attributable to such product.

"(c) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

"§ 3632. Action of the Governors

"(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.—The Governors shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

"(b) PROCEDURES.—

"(1) IN GENERAL.—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

"(2) RATES OR CLASSES OF GENERAL APPLICABILITY.—In the case of rates or classes of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the Governors' proceedings in connection with such decision to be published in the Federal Register at least 30 days before the effective date of any new rates or classes.

"(3) RATES OR CLASSES NOT OF GENERAL APPLICABILITY.—In the case of rates or classes not of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the proceedings in connection with such decision to be filed with the Postal Regulatory Commission by such date before the effective date of any new rates or classes as the Governors consider appropriate, but in no case less than 15 days.

"(4) CRITERIA.—As part of the regulations required under section 3633, the Postal Regulatory Commission shall establish criteria for determining when a rate or class established under this subchapter is or is not of general applicability in the Nation as a whole or in any substantial region of the Nation.

"(c) TRANSITION RULE.—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of the enactment of this section.

"§ 3633. Provisions applicable to rates for competitive products

"The Postal Regulatory Commission shall, within 18 months after the date of the enactment of this section, promulgate (and may from time to time thereafter revise) regulations—

"(1) to prohibit the subsidization of competitive products by market-dominant products;

"(2) to ensure that each competitive product covers its costs attributable; and

"(3) to ensure that all competitive products collectively make a reasonable contribution to the institutional costs of the Postal Service.".

SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS.

Subchapter III of chapter 36 of title 39, United States Code, is amended to read as follows:

"SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

"§ 3641. Market tests of experimental products

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Postal Service may conduct market tests of experimental products in accordance with this section.

"(2) PROVISIONS WAIVED.—A product shall not, while it is being tested under this section, be subject to the requirements of sections 3622, 3633, or 3642, or regulations promulgated under those sections.

"(b) CONDITIONS.—A product may not be tested under this section unless it satisfies each of the following:

"(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

"(2) MARKET DISRUPTION.—The introduction or continued offering of the product will not create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer, particularly in regard to small business concerns (as defined under subsection (h)).

"(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively).

"(c) NOTICE.—

"(1) IN GENERAL.—At least 30 days before initiating a market test under this section, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register a notice—

"(A) setting out the basis for the Postal Service's determination that the market test is covered by this section; and

"(B) describing the nature and scope of the market test.

"(2) SAFEGUARDS.—For a competitive experimental product, the provisions of section 504(g) shall be available with respect to any information required to be filed under paragraph (1) to the same extent and in the same manner as in the case of any matter described in section 504(g)(1). Nothing in paragraph (1) shall be considered to permit or require the publication of any information as to which confidential treatment is accorded under the preceding sentence (subject to the same exception as set forth in section 504(g)(3)).

"(d) DURATION.—

"(1) IN GENERAL.—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

"(2) EXTENSION AUTHORITY.—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

"(e) DOLLAR-AMOUNT LIMITATION.—

"(1) IN GENERAL.—A product may be tested under this section only if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $10,000,000 nationwide in any year, subject to paragraph (2) and subsection (g). In carrying out the preceding sentence, the Postal Regulatory Commission may limit the amount of revenues the Postal Service may obtain from any particular geographic market as necessary to prevent market disruption (as defined in subsection (b)(2)).

"(2) EXEMPTION AUTHORITY.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

"(A) the product is likely to benefit the public and meet an expected demand;

"(B) the product is likely to contribute to the financial stability of the Postal Service; and

"(C) the product is not likely to result in unfair or otherwise inappropriate competition.

"(f) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails, with respect to any particular product, to meet one or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

"(g) ADJUSTMENT FOR INFLATION.—For purposes of each year following the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

"(h) DEFINITION OF A SMALL BUSINESS CONCERN.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

"(i) EFFECTIVE DATE.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a).

"§ 3642. New products and transfers of products between the market-dominant and competitive categories of mail

"(a) IN GENERAL.—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.

"(b) CRITERIA.—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:

"(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing business to other firms offering similar products. The competitive category of products shall consist of all other products.

"(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term 'product covered by the postal monopoly' means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

"(3) ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—

"(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

"(B) the views of those who use the product involved on the appropriateness of the proposed action; and

"(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

"(c) TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

"(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

"(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission pursuant to section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

"(2) PUBLICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.

"(e) NOTIFICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it reaches a conclusion that a product or products should be transferred between the list of market-dominant products under section 3621 and the list of competitive products under section 3631, immediately notify the appropriate committees of the Congress. No such transfer may take effect less than 12 months after such conclusion.

"(f) PROHIBITION.—Except as provided in section 3641, no product that involves the carriage of letters, printed matter, or mailable packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

"(1) under this subchapter; or

"(2) by or under any other provision of law.".

SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.

(a) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect before the amendment made by subsection (b)) is amended by striking the heading for subchapter IV and inserting the following:

"SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW".

(b) REPORTS AND COMPLIANCE.—Chapter 36 of title 39, United States Code, is amended by inserting after subchapter III the following:

"SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

"§ 3651. Annual reports by the Commission

"(a) IN GENERAL.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622 and 3633, respectively.

"(b) ADDITIONAL INFORMATION.—In addition to the information required under subsection (a), each report under this section shall also include, with respect to the period covered by such report, an estimate of the costs incurred by the Postal Service in providing—

"(1) postal services to areas of the Nation where, in the judgment of the Postal Regulatory Commission, the Postal Service either would not provide services at all or would not provide such services in accordance with the requirements of this title if the Postal Service were not required to provide prompt, reliable, and efficient services to patrons in all areas and all communities, including as required under the first sentence of section 101(b);

"(2) free or reduced rates for postal services as required by this title; and

"(3) other public services or activities which, in the judgment of the Postal Regulatory Commission, would not otherwise have been provided by the Postal Service but for the requirements of law.

The Commission shall detail the bases for its estimates and the statutory requirements giving rise to the costs identified in each report under this section.

"(c) INFORMATION FROM POSTAL SERVICE.—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

"§ 3652. Annual reports to the Commission

"(a) COSTS, REVENUES, AND RATES.—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex thereto as the Commission may require under subsection (e))—

"(1) which shall analyze costs, revenues, and rates, using such methodologies as the Commission shall by regulation prescribe, and in sufficient detail to demonstrate that the rates in effect for all products during such year complied with all applicable requirements of this title; and

"(2) which shall, for each market-dominant product provided in such year, provide—

"(A) market information, including mail volumes; and

"(B) measures of the quality of service afforded by the Postal Service in connection with such product, including—

"(i) the service standard applicable to such product;

"(ii) the level of service (described in terms of speed of delivery and reliability) provided; and

"(iii) the degree of customer satisfaction with the service provided.

The Inspector General shall regularly audit the data collection systems and procedures utilized in collecting information and preparing such report (including any annex thereto and the information required under subsection (b)). The results of any such audit shall be submitted to the Postal Service and the Postal Regulatory Commission.

"(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—

"(1) IN GENERAL.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

"(A) The per-item cost avoided by the Postal Service by virtue of such discount.

"(B) The percentage of such per-item cost avoided that the per-item workshare discount represents.

"(C) The per-item contribution made to institutional costs.

"(2) WORKSHARE DISCOUNT DEFINED.—For purposes of this subsection, the term 'workshare discount' has the meaning given such term under section 3687.

"(c) MARKET TESTS.—In carrying out subsections (a) and (b) with respect to experimental products offered through market tests under section 3641 in a year, the Postal Service—

"(1) may report summary data on the costs, revenues, and quality of service by market test; and

"(2) shall report such data as the Postal Regulatory Commission requires.

"(d) SUPPORTING MATTER.—The Postal Regulatory Commission shall have access, in accordance with such regulations as the Commission shall prescribe, to the working papers and any other supporting matter of the Postal Service and the Inspector General in connection with any information submitted under this section.

"(e) CONTENT AND FORM OF REPORTS.—

"(1) IN GENERAL.—The Postal Regulatory Commission shall, by regulation, prescribe the content and form of the public reports (and any nonpublic annex and supporting matter relating thereto) to be provided by the Postal Service under this section. In carrying out this subsection, the Commission shall give due consideration to—

"(A) providing the public with adequate information to assess the lawfulness of rates charged;

"(B) avoiding unnecessary or unwarranted administrative effort and expense on the part of the Postal Service; and

"(C) protecting the confidentiality of commercially sensitive information.

"(2) REVISED REQUIREMENTS.—The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required by the Commission under this subsection whenever it shall appear that—

"(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

"(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

"(C) those revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

"(f) CONFIDENTIAL INFORMATION.—

"(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a nonpublic annex under this section or pursuant to subsection (d) contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

"(2) TREATMENT.—Any information or other matter described in paragraph (1) to which the Commission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the same way as if the Commission had received notification with respect to such matter under section 504(g)(1).

"(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that it is required to make under this section in a year, copies of its then most recent—

"(1) comprehensive statement under section 2401(e);

"(2) performance plan under section 2803; and

"(3) program performance reports under section 2804.

"§ 3653. Annual determination of compliance

"(a) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

"(b) DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

"(1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder);

"(2) whether any performance goals established under section 2803 or 2804 for such year were not met; and

"(3) whether any market-dominant product failed to meet any service standard during such year.

If, with respect to a year, no instance of noncompliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

"(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take appropriate action in accordance with subsections (c)–(e) of section 3662 (as if a complaint averring such noncompliance had been duly filed and found under such section to be justified).

"(d) REBUTTABLE PRESUMPTION.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described in paragraphs (1) through (3) of subsection (b)) during the year to which such determination relates.

"§ 3654. Additional financial reporting

"(a) ADDITIONAL FINANCIAL REPORTING.—

"(1) IN GENERAL.—The Postal Service shall file with the Postal Regulatory Commission beginning with the first full fiscal year following the effective date of this section—

"(A) within 35 days after the end of each fiscal quarter, a quarterly report containing the information required by the Securities and Exchange Commission to be included in quarterly reports under sections 13 and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)) on Form 10-Q, as such Form (or any successor form) may be revised from time to time;

"(B) within 60 days after the end of each fiscal year, an annual report containing the information required by the Securities and Exchange Commission to be included in annual reports under such sections on Form 10-K, as such Form (or any successor form) may be revised from time to time; and

"(C) periodic reports within the time frame and containing the information prescribed in Form 8-K of the Securities and Exchange Commission, as such Form (or any successor form) may be revised from time to time.

"(2) REGISTRANT DEFINED.—For purposes of defining the reports required by paragraph (1), the Postal Service shall be deemed to be the 'registrant' described in the Securities and Exchange Commission Forms, and references contained in such Forms to Securities and Exchange Commission regulations are incorporated herein by reference, as amended.

"(3) INTERNAL CONTROL REPORT.—For purposes of defining the reports required by paragraph (1)(B), the Postal Service shall comply with the rules prescribed by the Securities and Exchange Commission implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262), beginning with the annual report for fiscal year 2007.

"(b) FINANCIAL REPORTING.—

"(1) The reports required by subsection (a)(1)(B) shall include, with respect to the Postal Service's pension and post-retirement health obligations—

"(A) the funded status of the Postal Service's pension and —postretirement health obligations;

"(B) components of the net change in the fund balances and obligations and the nature and cause of any significant changes;

"(C) components of net periodic costs;

"(D) cost methods and assumptions underlying the relevant actuarial valuations;

"(E) the effect of a one-percentage point increase in the assumed health care cost trend rate for each future year on the service and interest costs components of net periodic postretirement health cost and the accumulated obligation;

"(F) actual contributions to and payments from the funds for the years presented and the estimated future contributions and payments for each of the following 5 years;

"(G) the composition of plan assets reflected in the fund balances; and

"(H) the assumed rate of return on fund balances and the actual rates of return for the years presented.

"(2)(A) Beginning with reports for the fiscal year 2007, for purposes of the reports required under subparagraphs (A) and (B) of subsection (a)(1), the Postal Service shall include segment reporting.

"(B) The Postal Service shall determine the appropriate segment reporting under subparagraph (A) after consultation with the Postal Regulatory Commission.

"(c) TREATMENT.—For purposes of the reports required by subsection (a)(1)(B), the Postal Service shall obtain an opinion from an independent auditor on whether the information listed in subsection (b) is fairly stated in all material respects, either in relation to the basic financial statements as a whole or on a standalone basis.

"(d) SUPPORTING MATTER.—The Postal Regulatory Commission shall have access to the audit documentation and any other supporting matter of the Postal Service and its independent auditor in connection with any information submitted under this section.

"(e) REVISED REQUIREMENTS.—The Postal Regulatory Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required under this section whenever it shall appear that—

"(1) the data have become significantly inaccurate or can be significantly improved; or

"(2) those revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

"(f) CONFIDENTIAL INFORMATION.—

"(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a nonpublic annex under this section or pursuant to subsection (d) contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

"(2) TREATMENT.—Any information or other matter described in paragraph (1) to which the Commission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the same way as if the Commission had received notification with respect to such matter under section 504(g)(1).".

SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.

Chapter 36 of title 39, United States Code, is amended by striking sections 3662 and 3663 and inserting the following:

"§3662. Rate and service complaints

"(a) IN GENERAL.—Interested persons (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believe the Postal Service is not operating in conformance with the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

"(b) PROMPT RESPONSE REQUIRED.—

"(1) IN GENERAL.—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a), either—

"(A) begin proceedings on such complaint; or

"(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

"(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed pursuant to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

"(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance (such as ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, or requiring the Postal Service to make up for revenue shortfalls in competitive products).

"(d) SUSPENSION AUTHORITY.—The Postal Regulatory Commission may suspend implementation of rates or classifications under section 3632(b)(3) for a limited period of time pending expedited proceedings under this section. In evaluating whether circumstances warrant suspension, the Commission shall consider factors such as (1) whether there is a substantial likelihood that such rate or classification will violate the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters), (2) whether any persons would suffer substantial injury, loss, or damage absent a suspension, (3) whether the Postal Service or any other persons would suffer substantial injury, loss, or damage under a suspension, and (4) the public interest.

"(e) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

"§3663. Appellate review

"A person adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission. For purposes of this section, the term 'person' includes the Postal Service.

"§3664. Enforcement of orders

"The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.".

SEC. 206. WORKSHARE DISCOUNTS.

(a) IN GENERAL.—Title 39, United States Code, is amended by adding after section 3686 (as added by section 406) the following:

"§3687. Workshare discounts

"(a) IN GENERAL.—As part of the regulations established under section 3622(a), the Postal Regulatory Commission shall establish rules for workshare discounts that ensure that such discounts do not exceed the cost that the Postal Service avoids as the result of workshare activity, unless—

"(1) the discount is—

"(A) associated with a new postal service, a change to an existing postal service, or a new workshare initiative related to an existing postal service; and

"(B) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time;

"(2) a reduction in the discount would—

"(A) lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced to costs avoided;

"(B) result in a further increase in the rates paid by mailers not able to take advantage of the discount; or

"(C) impede the efficient operation of the Postal Service;

"(3) the amount of the discount above costs avoided—

“(A) is necessary to mitigate rate shock; and

“(B) will be phased out over time; or

“(4) the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value.

“(b) REPORT.—Whenever the Postal Service establishes or maintains a workshare discount, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report that—

“(1) explains the Postal Service's reasons for establishing or maintaining the rate;

“(2) sets forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate; and

“(3) certifies that the discount will not adversely affect rates or services provided to users of postal services who do not take advantage of the discount rate.

“(c) DEFINITION.—For purposes of this section, the term 'workshare discount' refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under section 3622(a).”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 36 of title 39, United States Code (as amended by section 207) is amended by adding after the item relating to section 3686 the following:

“3687. Workshare discounts.”.

SEC. 207. CLERICAL AMENDMENT.

Chapter 36 of title 39, United States Code, is amended by striking the heading and analysis for such chapter and inserting the following:

“CHAPTER 36—POSTAL RATES, CLASSES AND SERVICES

“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

“Sec.
“3621. Applicability; definitions.
“3622. Modern rate regulation.
“3626. Reduced rates.
“3627. Adjusting free rates.
“3629. Reduced rates for voter registration purposes.

“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

“3631. Applicability; definitions and updates.
“3632. Action of the Governors.
“3633. Provisions applicable to rates for competitive products.
“3634. Assumed Federal income tax on competitive products.

“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

“3641. Market tests of experimental products.
“3642. New products and transfers of products between the market-dominant and competitive categories of mail.

“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

“3651. Annual reports by the Commission.
“3652. Annual reports to the Commission.
“3653. Annual determination of compliance.
“3654. Additional financial reporting.

“SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

“3661. Postal services.
“3662. Rate and service complaints.
“3663. Appellate review.
“3664. Enforcement of orders.

“SUBCHAPTER VI—GENERAL

“3681. Reimbursement.
“3682. Size and weight limits.
“3683. Uniform rates for books; films, other materials.
“3684. Limitations.
“3685. Filing of information relating to periodical publications.
“3686. Bonus authority.”.

TITLE III—PROVISIONS RELATING TO FAIR COMPETITION

SEC. 301. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.

(a) PROVISIONS RELATING TO POSTAL SERVICE COMPETITIVE PRODUCTS FUND AND RELATED MATTERS.—

(1) IN GENERAL.—Chapter 20 of title 39, United States Code, is amended by adding at the end the following:

“§2011. Provisions relating to competitive products

“(a) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

“(1) costs attributable to competitive products; and

“(2) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

For purposes of this subsection, the term 'costs attributable' has the meaning given such term by section 3631.

“(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

“(1) revenues from competitive products;

“(2) amounts received from obligations issued by the Postal Service under subsection (e);

“(3) interest and dividends earned on investments of the Competitive Products Fund; and

“(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

“(c) If the Postal Service determines that the moneys of the Competitive Products Fund are in excess of current needs, it may request the investment of such amounts as it deems advisable by the Secretary of the Treasury in obligations of, or obligations guaranteed by, the Government of the United States, and, with the approval of the Secretary, in such other obligations or securities as it deems appropriate.

“(d) With the approval of the Secretary of the Treasury, the Postal Service may deposit moneys of the Competitive Products Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Postal Service and the Secretary may mutually agree.

“(e)(1) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund. Any such borrowings by the Postal Service shall be supported and serviced by the revenues and receipts from competitive products and the assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e), but in either case subject to paragraph (5)).

“(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to—

“(A) the establishment of reserve, sinking, and other funds;

“(B) application and use of revenues and receipts of the Competitive Products Fund;

“(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

“(D) such other matters as the Postal Service considers necessary or desirable to enhance the marketability of such obligations.

“(3) The obligations issued by the Postal Service under this section—

“(A) shall be in such forms and denominations;

“(B) shall be sold at such times and in such amounts;

“(C) shall mature at such time or times;

“(D) shall be sold at such prices;

“(E) shall bear such rates of interest;

“(F) may be redeemable before maturity in such manner, at such times, and at such redemption premiums;

“(G) may be entitled to such relative priorities of claim on the assets of the Postal Service with respect to principal and interest payments; and

“(H) shall be subject to such other terms and conditions;

as the Postal Service determines.

“(4) Obligations issued by the Postal Service under this subsection—

“(A) shall be negotiable or nonnegotiable and bearer or registered instruments, as specified therein and in any indenture or covenant relating thereto;

“(B) shall contain a recital that they are issued under this section, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such obligations and of their validity;

“(C) shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the Government of the United States, and the Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the obligations of the Postal Service acquired under this section;

“(D) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority; and

“(E) except as provided in section 2006(c) of this title, shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state.

“(5) The Postal Service shall make payments of principal, or interest, or both on obligations issued under this section out of revenues and receipts from competitive products and assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available, including the audited statements required by section 2008(e)). For purposes of this subsection, the total assets of the Competitive Products Fund shall be the greater of—

“(A) the assets related to the provision of competitive products; or

“(B) the percentage of total Postal Service revenues and receipts from competitive products times the total assets of the Postal Service.

“(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service Fund under section 2009a.

“(g) A judgment against the Postal Service or the Government of the United States (or settlement of a claim) shall, to the extent that it arises out of activities of the Postal Service in the provision of competitive products, be paid out of the Competitive Products Fund.

“(h)(1) The Secretary of the Treasury, in consultation with the Postal Service and an independent, certified public accounting firm and

such other advisors as the Secretary considers appropriate, shall develop recommendations regarding—

"(A) the accounting practices and principles that should be followed by the Postal Service with the objectives of (i) identifying and valuing the assets and liabilities of the Postal Service associated with providing, and the capital and operating costs incurred by the Postal Service in providing, competitive products, and (ii) subject to subsection (e)(5), preventing the subsidization of such products by market-dominant products; and

"(B) the substantive and procedural rules that should be followed in determining the Postal Service's assumed Federal income tax on competitive products income for any year (within the meaning of section 3634).

Such recommendations shall be submitted to the Postal Regulatory Commission no earlier than 6 months, and no later than 12 months, after the effective date of this section.

"(2)(A) Upon receiving the recommendations of the Secretary of the Treasury under paragraph (1), the Commission shall give interested parties, including the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments, with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

"(B) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

"(i) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;

"(ii) provide for the establishment and application of the substantive and procedural rules described in paragraph (1)(B); and

"(iii) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

Final rules under this subparagraph shall be issued not later than 12 months after the date on which the Secretary of the Treasury makes his submission to the Commission under paragraph (1) (or by such later date as the Commission and the Postal Service may agree to). The Commission is authorized to promulgate regulations revising such rules.

"(C) Reports described in subparagraph (B)(iii) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires. The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data under such subparagraph whenever it shall appear that—

"(i) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

"(ii) those revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

"(D) A copy of each report described in subparagraph (B)(iii) shall also be transmitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

"(i) The Postal Service shall render an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund, in which it shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses. A copy of its then most recent report under this subsection shall be included with any other submission that it is required to make to the Postal Regulatory Commission under section 3652(g).".

(2) CLERICAL AMENDMENT.—The analysis for chapter 20 of title 39, United States Code, is amended by adding after the item relating to section 2010 the following:

"2011. Provisions relating to competitive products.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 2001 of title 39, United States Code, is amended by striking "and" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

"(2) 'Competitive Products Fund' means the Postal Service Competitive Products Fund established by section 2011; and".

(2) CAPITAL OF THE POSTAL SERVICE.—Section 2002(b) of title 39, United States Code, is amended by striking "Fund," and inserting "Fund and the balance in the Competitive Products Fund,".

(3) POSTAL SERVICE FUND.—

(A) PURPOSES FOR WHICH AVAILABLE.—Section 2003(a) of title 39, United States Code, is amended by striking "title." and inserting "title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).".

(B) DEPOSITS.—Section 2003(b) of title 39, United States Code, is amended by striking "There" and inserting "Except as otherwise provided in section 2011, there".

(4) RELATIONSHIP BETWEEN THE TREASURY AND THE POSTAL SERVICE.—Section 2006 of title 39, United States Code, is amended—

(A) in subsection (a), by inserting "or section 2011" before "of this title,";

(B) in subsection (b), by inserting "under section 2005" before "in such amounts" in the first sentence and before "in excess of such amount." in the second sentence; and

(C) in subsection (c), by inserting "or section 2011(e)(4)(E)" before "of this title,".

SEC. 302. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.

Subchapter II of chapter 36 of title 39, United States Code, as amended by section 202, is amended by adding at the end the following:

"§3634. Assumed Federal income tax on competitive products income

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'assumed Federal income tax on competitive products income' means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service's assumed taxable income from competitive products for the year; and

"(2) the term 'assumed taxable income from competitive products', with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

"(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

"(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

"(b) COMPUTATION AND TRANSFER REQUIREMENTS.—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a)—

"(1) compute its assumed Federal income tax on competitive products income for such year; and

"(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

"(c) DEADLINE FOR TRANSFERS.—Any transfer required to be made under this section for a year shall be due on or before the January 15th next occurring after the close of such year.".

SEC. 303. UNFAIR COMPETITION PROHIBITED.

(a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39, United States Code, is amended by adding after section 404 the following:

"§404a. Specific Limitations

"(a) Except as specifically authorized by law, the Postal Service may not—

"(1) establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;

"(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

"(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any product or service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).

"(b) The Postal Regulatory Commission shall prescribe regulations to carry out this section.

"(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662.".

(b) CONFORMING AMENDMENTS.—

(1) GENERAL POWERS.—Section 401 of title 39, United States Code, is amended by striking "The" and inserting "Subject to the provisions of section 404a, the".

(2) SPECIFIC POWERS.—Section 404(a) of title 39, United States Code, is amended by striking "Without" and inserting "Subject to the provisions of section 404a, but otherwise without".

(c) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 404 the following:

"404a. Specific limitations.".

SEC. 304. SUITS BY AND AGAINST THE POSTAL SERVICE.

(a) IN GENERAL.—Section 409 of title 39, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

"(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—

"(A) shall be considered to be a 'person', as used in the provisions of law involved; and

"(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

"(2) This subsection applies with respect to—

"(A) the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946' (15 U.S.C. 1051 and following)); and

"(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

"(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any competitive product, the Postal Service or other Federal agency (as the case may be)—

"(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and

"(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

"(i) the antitrust laws (as defined in such subsection); and

"(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

"(2) No damages, interest on damages, costs or attorney's fees may be recovered, and no criminal liability may be imposed, under the antitrust laws (as so defined) from any officer or employee of the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, acting in an official capacity.

"(3) This subsection shall not apply with respect to conduct occurring before the date of the enactment of this subsection.

"(f)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes.

"(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

"(3) For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—

"(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

"(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

"(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—

"(i) a copy of such schedule before construction of the building is begun; and

"(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding sentence, nor shall anything in this subsection require the Postal Service or any of its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

"(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

"(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

"(6) For purposes of this subsection, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

"(g)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

"(A) Subsection (d) or (e) of this section.

"(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

"(C) Section 3663 (relating to appellate review).

The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

"(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

"(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

"(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

"(h) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g).".

(b) TECHNICAL AMENDMENT.—Section 409(a) of title 39, United States Code, is amended by striking "Except as provided in section 3628 of this title," and inserting "Except as otherwise provided in this title,".

SEC. 305. INTERNATIONAL POSTAL ARRANGEMENTS.

(a) IN GENERAL.—Section 407 of title 39, United States Code, is amended to read as follows:

"§407. International postal arrangements

"(a) It is the policy of the United States—

"(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;

"(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by law of the United States;

"(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services and other international delivery services by the Government of the United States and by intergovernmental organizations of which the United States' is a member; and

"(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.

"(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and other international delivery services, and shall have the power to conclude treaties, conventions and amendments related to international postal services and other international delivery services, except that the Secretary may not conclude any treaty, convention, or other international agreement (including those regulating international postal services) if such treaty, convention, or agreement would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal or delivery services, or any other person.

"(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services and international delivery services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—

"(A) shall coordinate with other agencies as appropriate, and in particular, shall give full consideration to the authority vested by law or Executive order in the Postal Regulatory Commission, the Department of Commerce, the Department of Transportation, and the Office of the United States Trade Representative in this area;

"(B) shall maintain continuing liaison with other executive branch agencies concerned with postal and delivery services;

"(C) shall maintain continuing liaison with the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate;

"(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

"(E) shall assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection with international postal services and international delivery services.

"(3) The Secretary of State shall establish an advisory committee (within the meaning of the Federal Advisory Committee Act) to perform such functions as the Secretary considers appropriate in connection with carrying out subparagraphs (A) through (D) of paragraph (2).

"(c)(1) Before concluding any treaty, convention, or amendment that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit a decision on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

"(2) The Secretary shall ensure that each treaty, convention, or amendment concluded

under subsection (b) is consistent with a decision of the Commission adopted under paragraph (1), except if, or to the extent, the Secretary determines, by written order, that considerations of foreign policy or national security require modification of the Commission's decision.

"(d) Nothing in this section shall be considered to prevent the Postal Service from entering into such commercial or operational contracts related to providing international postal services and other international delivery services as it deems appropriate, except that—

"(1) any such contract made with an agency of a foreign government (whether under authority of this subsection or otherwise) shall be solely contractual in nature and may not purport to be international law; and

"(2) a copy of each such contract between the Postal Service and an agency of a foreign government shall be transmitted to the Secretary of State and the Postal Regulatory Commission not later than the effective date of such contract.

"(e)(1) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Bureau of Customs and Border Protection of the Department of Homeland Security and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

"(2) For purposes of this subsection, the term 'private company' means a private company substantially owned or controlled by persons who are citizens of the United States.

"(3) In exercising the authority pursuant to subsection (b) to conclude new treaties, conventions and amendments related to international postal services and to renegotiate such treaties, conventions and amendments, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs, Department of Homeland Security in carrying out this paragraph.

"(4) The provisions of this subsection shall take effect 6 months after the date of the enactment of this subsection or such earlier date as the Bureau of Customs and Border Protection of the Department of Homeland Security may determine in writing.".

(b) EFFECTIVE DATE.—Notwithstanding any provision of the amendment made by subsection (a), the authority of the United States Postal Service to establish the rates of postage or other charges on mail matter conveyed between the United States and other countries shall remain available to the Postal Service until—

(1) with respect to market-dominant products, the date as of which the regulations promulgated under section 3622 of title 39, United States Code (as amended by section 201(a)) take effect; and

(2) with respect to competitive products, the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

SEC. 306. REDESIGNATION.

Chapter 36 of title 39, United States Code (as in effect before the amendment made by section 204(a)) is amended by striking the heading for subchapter V and inserting the following:

"SUBCHAPTER VI—GENERAL".

TITLE IV—GENERAL PROVISIONS

SEC. 401. QUALIFICATION REQUIREMENTS FOR GOVERNORS.

(a) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking "(a)" and inserting "(a)(1)" and by striking the fourth sentence and inserting the following: "The Governors shall represent the public interest generally, and at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size; for purposes of this sentence, an organization or corporation shall be considered to be of substantial size if it employs at least 50,000 employees. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.".

(b) CONSULTATION REQUIREMENT.—Section 202(a) of title 39, United States Code, is amended by adding at the end the following:

"(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.".

(c) RESTRICTION.—Section 202(b) of title 39, United States Code, is amended by striking "(b)" and inserting "(b)(1)", and by adding at the end the following:

"(2)(A) Notwithstanding any other provision of this section, in the case of the office of the Governor the term of which is the first one scheduled to expire at least 4 months after the date of the enactment of this paragraph—

"(i) such office may not, in the case of any person commencing service after that expiration date, be filled by any person other than an individual chosen from among persons nominated for such office with the unanimous concurrence of all labor organizations described in section 206(a)(1); and

"(ii) instead of the term that would otherwise apply under the first sentence of paragraph (1), the term of any person so appointed to such office shall be 3 years.

"(B) Except as provided in subparagraph (A), an appointment under this paragraph shall be made in conformance with all provisions of this section that would otherwise apply.".

(d) APPLICABILITY.—The amendment made by subsection (a) shall not affect the appointment or tenure of any person serving as a Governor of the Board of Governors of the United States Postal Service pursuant to an appointment made before the date of the enactment of this Act, or, except as provided in the amendment made by subsection (c), any nomination made before that date; however, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. The requirement set forth in the fourth sentence of section 202(a)(1) of title 39, United States Code (as amended by subsection (a)) shall be met beginning not later than 9 years after the date of the enactment of this Act.

SEC. 402. OBLIGATIONS.

(a) PURPOSES FOR WHICH OBLIGATIONS MAY BE ISSUED.—The first sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking "title." and inserting "title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.".

(b) LIMITATION ON NET ANNUAL INCREASE IN OBLIGATIONS ISSUED FOR CERTAIN PURPOSES.—The third sentence of section 2005(a)(1) of title 39, United States Code, is amended to read as follows: "In any one fiscal year, the net increase in the amount of obligations outstanding issued for the purpose of capital improvements and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed a combined total of $3,000,000,000." .

(c) LIMITATIONS ON OBLIGATIONS OUTSTANDING.—

(1) IN GENERAL.—Subsection (a) of section 2005 of title 39, United States Code, is amended by adding at the end the following:

"(3) For purposes of applying the respective limitations under this subsection, the aggregate amount of obligations issued by the Postal Service which are outstanding as of any one time, and the net increase in the amount of obligations outstanding issued by the Postal Service for the purpose of capital improvements or for the purpose of defraying operating expenses of the Postal Service in any fiscal year, shall be determined by aggregating the relevant obligations issued by the Postal Service under this section with the relevant obligations issued by the Postal Service under section 2011.".

(2) CONFORMING AMENDMENT.—The second sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking "any such obligations" and inserting "obligations issued by the Postal Service which may be".

(d) AMOUNTS WHICH MAY BE PLEDGED, ETC.—

(1) OBLIGATIONS TO WHICH PROVISIONS APPLY.—The first sentence of section 2005(b) of title 39, United States Code, is amended by striking "such obligations," and inserting "obligations issued by the Postal Service under this section,".

(2) ASSETS, REVENUES, AND RECEIPTS TO WHICH PROVISIONS APPLY.—Subsection (b) of section 2005 of title 39, United States Code, is amended by striking "(b)" and inserting "(b)(1)", and by adding at the end the following:

"(2) Notwithstanding any other provision of this section—

"(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and

"(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.".

SEC. 403. PRIVATE CARRIAGE OF LETTERS.

(a) IN GENERAL.—Section 601 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) A letter may also be carried out of the mails when—

"(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter;

"(2) the letter weighs at least 12½ ounces; or

"(3) such carriage is within the scope of services described by regulations of the Postal Service (including, in particular, sections 310.1 and 320.2–320.8 of title 39 of the Code of Federal Regulations, as in effect on July 1, 2004) that purport to permit private carriage by suspension of the operation of this section (as then in effect).

"(c) Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission.".

(b) EFFECTIVE DATE.—This section shall take effect on the date as of which the regulations

promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

SEC. 404. RULEMAKING AUTHORITY.

Paragraph (2) of section 401 of title 39, United States Code, is amended to read as follows:

"(2) to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title;".

SEC. 405. NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS, ETC.

(a) NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.—Except as provided in section 407, nothing in this Act or any amendment made by this Act shall restrict, expand, or otherwise affect any of the rights, privileges, or benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement.

(b) FREE MAILING PRIVILEGES CONTINUE UNCHANGED.—Nothing in this Act or any amendment made by this Act shall affect any free mailing privileges accorded under section 3217 or sections 3403 through 3406 of title 39, United States Code.

SEC. 406. BONUS AND COMPENSATION AUTHORITY.

Subchapter VI of chapter 36 of title 39, United States Code (as so redesignated by section 306) is amended by adding at the end the following:

"§3686. Bonus authority

"(a) IN GENERAL.—The Postal Service may establish one or more programs to provide bonuses or other rewards to officers and employees of the Postal Service in senior executive or equivalent positions to achieve the objectives of this chapter.

"(b) LIMITATION ON TOTAL COMPENSATION.—

"(1) IN GENERAL.—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2). Any such award or bonus may not cause the total compensation of such officer or employee to exceed the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which the bonus or award is paid.

"(2) APPROVAL PROCESS.—If the Postal Service wishes to have the authority, under any program described in subsection (a), to award bonuses or other rewards in excess of the limitation set forth in the last sentence of section 1003(a)—

"(A) the Postal Service shall make an appropriate request to the Board of Governors in such form and manner as the Board requires; and

"(B) the Board of Governors shall approve any such request if it certifies, for the annual appraisal period involved, that the performance appraisal system for affected officers and employees of the Postal Service (as designed and applied) makes meaningful distinctions based on relative performance.

"(3) REVOCATION AUTHORITY.—If the Board of Governors finds that a performance appraisal system previously approved under paragraph (2)(B) does not (as designed and applied) make meaningful distinctions based on relative performance, the Board may revoke or suspend the authority of the Postal Service to continue a program approved under paragraph (2) until such time as appropriate corrective measures have, in the judgment of the Board, been taken.

"(c) EXCEPTIONS FOR CRITICAL POSITIONS.—Notwithstanding any other provision of law, the Board of Governors may allow up to 12 officers or employees of the Postal Service in critical senior executive or equivalent positions to receive total compensation in an amount not to exceed 120 percent of the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which such payment is received. For each exception made under this subsection, the Board shall provide written notification to the Director of the Office of Personnel Management and the Congress within 30 days after the payment is made setting forth the name of the officer or employee involved, the critical nature of his or her duties and responsibilities, and the basis for determining that such payment is warranted.

"(d) INFORMATION FOR INCLUSION IN COMPREHENSIVE STATEMENT.—Included in its comprehensive statement under section 2401(e) for any period shall be—

"(1) the name of each person receiving a bonus or other payment during such period which would not have been allowable but for the provisions of subsection (b) or (c);

"(2) the amount of the bonus or other payment; and

"(3) the amount by which the limitation set forth in the last sentence of section 1003(a) was exceeded as a result of such bonus or other payment.

"(e) REGULATIONS.—The Board of Governors may prescribe regulations for the administration of this section.".

SEC. 407. MEDIATION IN COLLECTIVE-BARGAINING DISPUTES.

(a) IN GENERAL.—Section 1207(b) of title 39, United States Code, is amended by striking all that follows "the Director of the Federal Mediation and Conciliation Service shall" and inserting ", within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.".

(b) PROVISIONS RELATING TO ARBITRATION BOARDS.—Section 1207(c) of title 39, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "90" and inserting "60";

(B) by striking "not members of the factfinding panel,"; and

(C) by striking all that follows "shall be made" and inserting "from a list of names provided by the Director. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional stature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve."; and

(2) in paragraph (3), by striking "factfinding panel" and inserting "mediation".

(c) CONFORMING AMENDMENT.—Section 1207(d) of title 39, United States Code, is amended by striking "factfinding panel will be established" and inserting "mediator shall be appointed".

TITLE V—ENHANCED REGULATORY COMMISSION

SEC. 501. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.

(a) TRANSFER AND REDESIGNATION.—Title 39, United States Code, is amended—

(1) by inserting after chapter 4 the following:

"CHAPTER 5—POSTAL REGULATORY COMMISSION

"Sec.
"501. Establishment.
"502. Commissioners.
"503. Rules; regulations; procedures.
"504. Administration.

"§501. Establishment

"The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States.

"§502. Commissioners

"(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

"(b) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (e).

"(c) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

"(d) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

"(e) The Commissioners shall serve for terms of 6 years.";

(2) in subchapter I of chapter 36 (as in effect before the amendment made by section 201(c)), by striking the heading for such subchapter I and all that follows through section 3602; and

(3) by redesignating sections 3603 and 3604 as sections 503 and 504, respectively, and transferring such sections to the end of chapter 5 (as inserted by paragraph (1)).

(b) DETERMINATIONS.—Section 503 of title 39, United States Code, as so redesignated by subsection (a)(3), is amended by adding at the end the following: "Such rules shall include procedures which balance, inter alia, the need for protecting due process rights and ensuring expeditious decision-making.".

(c) APPLICABILITY.—The amendment made by subsection (a)(1) shall not affect the appointment or tenure of any person serving as a Commissioner on the Postal Regulatory Commission (as so redesignated by section 504) pursuant to an appointment made before the date of the enactment of this Act or any nomination made before that date, but, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment.

(d) CLERICAL AMENDMENT.—The analysis for part I of title 39, United States Code, is amended by inserting after the item relating to chapter 4 the following:

"5. Postal Regulatory Commission ...... 501".

SEC. 502. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.

Section 504 of title 39, United States Code (as so redesignated by section 501) is amended by adding at the end the following:

"(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.

"(2) The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title—

"(A) issue subpoenas requiring the attendance and presentation of testimony by, or the production of documentary or other evidence in the possession of, any covered person; and

"(B) order the taking of depositions and responses to written interrogatories by a covered person.

The written concurrence of a majority of the Commissioners then holding office shall, with respect to each subpoena under subparagraph (A), be required in advance of its issuance.

"(3) In the case of contumacy or failure to obey a subpoena issued under this subsection, upon application by the Commission, the district court of the United States for the district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(4) For purposes of this subsection, the term 'covered person' means an officer, employee, agent, or contractor of the Postal Service.

"(g)(1) If the Postal Service determines that any document or other matter it provides to the Postal Regulatory Commission pursuant to a subpoena issued under subsection (f), or otherwise at the request of the Commission in connection with any proceeding or other purpose under this title, contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission, in writing, of its determination (and the reasons therefor).

"(2) Except as provided in paragraph (3), no officer or employee of the Commission may, with respect to any information as to which the Commission has been notified under paragraph (1)—

"(A) use such information for purposes other than the purposes for which it is supplied; or

"(B) permit anyone who is not an officer or employee of the Commission to have access to any such information.

"(3)(A) Paragraph (2) shall not prevent the Commission from publicly disclosing relevant information in furtherance of its duties under this title if the Commission has adopted regulations under section 553 of title 5 that establish a procedure for according appropriate confidentiality to information identified by the Postal Service under paragraph (1). In determining the appropriate degree of confidentiality to be accorded information identified by the Postal Service under paragraph (1), the Commission shall balance the nature and extent of the likely commercial injury to the Postal Service against the public interest, as required by section 101(d) of this title for financial transparency of a government establishment.

"(B) Paragraph (2) shall not prevent information from being furnished under any process of discovery established under this title in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish procedures for ensuring appropriate confidentiality for any information furnished under the preceding sentence.".

SEC. 503. APPROPRIATIONS FOR THE POSTAL REGULATORY COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 501) is amended to read as follows:

"(d) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Postal Regulatory Commission. In requesting an appropriation under this subsection for a fiscal year, the Commission shall prepare and submit to the Congress under section 2009 a budget of the Commission's expenses, including expenses for facilities, supplies, compensation, and employee benefits.".

(b) BUDGET PROGRAM.—

(1) IN GENERAL.—The next to last sentence of section 2009 of title 39, United States Code, is amended to read as follows: "The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8L(e) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.".

(2) CONFORMING AMENDMENT.—Section 2003(e)(1) of title 39, United States Code, is amended by striking the first sentence and inserting the following: "The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated pursuant to section 504(d); and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated pursuant to section 8L(e) of the Inspector General Act of 1978.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2005.

(2) SAVINGS PROVISION.—The provisions of title 39, United States Code, that are amended by this section shall, for purposes of any fiscal year before the first fiscal year to which the amendments made by this section apply, continue to apply in the same way as if this section had never been enacted.

SEC. 504. REDESIGNATION OF THE POSTAL RATE COMMISSION.

(a) AMENDMENTS TO TITLE 39, UNITED STATES CODE.—Title 39, United States Code, is amended in sections 404, 503–504 (as so redesignated by section 501), 1001, and 1002 by striking "Postal Rate Commission" each place it appears and inserting "Postal Regulatory Commission".

(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended in sections 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating to Chairman, Postal Rate Commission), 5315 (in the item relating to Members, Postal Rate Commission), 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii), 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

(c) AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.—Section 101(f)(6) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)) is amended by striking "Postal Rate Office" and inserting "Postal Regulatory Commission".

(e) AMENDMENT TO TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

(f) OTHER REFERENCES.—Whenever a reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, document, or other record of the United States to the Postal Rate Commission, such reference shall be considered a reference to the Postal Regulatory Commission.

SEC. 505. OFFICER OF THE POSTAL REGULATORY COMMISSION REPRESENTING THE GENERAL PUBLIC.

(a) IN GENERAL.—Chapter 5 of title 39, United States Code (as added by this Act) is amended by adding after section 504 the following:

"§ 505. Officer of the Postal Regulatory Commission representing the general public

"The Postal Regulatory Commission shall designate an officer of the Postal Regulatory Commission in all public proceedings (such as developing rules, regulations, and procedures) who shall represent the interests of the general public.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 5 of title 39, United States Code (as amended by section 501(a)(1)) is amended by adding after the item relating to section 504 the following:

"505. Officer of the Postal Regulatory Commission representing the general public.".

TITLE VI—INSPECTORS GENERAL

SEC. 601. INSPECTOR GENERAL OF THE POSTAL REGULATORY COMMISSION.

(a) IN GENERAL.—Paragraph (2) of section 8G(a) of the Inspector General Act of 1978 is amended by inserting "the Postal Regulatory Commission," after "the United States International Trade Commission,".

(b) ADMINISTRATION.—Section 504 of title 39, United States Code (as so redesignated by section 501) is amended by adding after subsection (g) (as added by section 502) the following:

"(h)(1) Notwithstanding any other provision of this title or of the Inspector General Act of 1978, the authority to select, appoint, and employ officers and employees of the Office of Inspector General of the Postal Regulatory Commission, and to obtain any temporary or intermittent services of experts or consultants (or an organization of experts or consultants) for such Office, shall reside with the Inspector General of the Postal Regulatory Commission.

"(2) Except as provided in paragraph (1), any exercise of authority under this subsection shall, to the extent practicable, be in conformance with the applicable laws and regulations that govern selections, appointments and employment, and the obtaining of any such temporary or intermittent services, within the Postal Regulatory Commission.".

(c) DEADLINE.—No later than 180 days after the date of the enactment of this Act—

(1) the first Inspector General of the Postal Regulatory Commission shall be appointed; and

(2) the Office of Inspector General of the Postal Regulatory Commission shall be established.

SEC. 602. INSPECTOR GENERAL OF THE UNITED STATES POSTAL SERVICE TO BE APPOINTED BY THE PRESIDENT.

(a) DEFINITIONAL AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.—Section 11 of the Inspector General Act of 1978 is amended—

(1) in paragraph (1)—

(A) by striking "or" before "the President of the Export-Import Bank;" and

(B) by inserting "or the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code);" after "the President of the Export-Import Bank;"; and

(2) in paragraph (2)—

(A) by striking "or" before "the Export-Import Bank,"; and

(B) by inserting "or the United States Postal Service," after "the Export-Import Bank,".

(b) SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE.—

(1) IN GENERAL.—The Inspector General Act of 1978 is amended by inserting after section 8K the following:

"SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE

"SEC. 8L. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report any significant activities being carried out by the Postal Inspection Service to such Inspector General. The Postmaster General shall promptly report to such Inspector General all allegations of theft, fraud, or misconduct by Postal Service officers or employees, and entities or individuals doing business with the Postal Service.

"(b) In the case of any report that the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code) are required to transmit under the second sentence of section 5(d), such sentence shall be applied by deeming the term 'appropriate committees of Congress' to mean the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and such other committees or subcommittees of Congress as may be appropriate.

"(c) Notwithstanding any provision of paragraph (7) or (8) of section 6(a), the Inspector General of the United States Postal Service may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the United States Postal Service.

"(d) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

"(e) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Office of Inspector General of the United States Postal Service.".

(2) RELATED PROVISIONS.—For certain related provisions, see section 503(b).

(c) EXERCISE OF CERTAIN POWERS.—Section 6(e)(3) of the Inspector General Act of 1978 is amended—

(1) by striking "and the" before "Tennessee Valley Authority"; and

(2) by inserting ", and United States Postal Service" after "Tennessee Valley Authority".

(d) PUBLIC CONTRACTS.—

(1) ADDITIONAL PROVISIONS APPLICABLE.—Section 410(b)(5) of title 39, United States Code, is amended—

(A) in subparagraph (A), by striking "and" after the semicolon; and

(B) by adding after subparagraph (B) the following:

"(C) the Anti-Kickback Act of 1986 (41 U.S.C. 51 and following), other than subsections (a) and (b) of 7 and section 8 of that Act; and

"(D) section 315 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 265) (relating to protecting contractor employees from reprisal for disclosure of certain information);".

(2) REGULATIONS ON ALLOWABLE COSTS.—Section 410 of title 39, United States Code, is amended by adding at the end the following:

"(e) The Postal Service shall develop and issue purchasing regulations that prohibit contract costs not allowable under section 5.2.5 of the United States Postal Service Procurement Manual (Publication 41), as in effect on July 12, 1995.".

(e) REPORTS.—Section 3013 of title 39, United States Code, is amended by striking "Postmaster General" each place it appears and inserting "Chief Postal Inspector".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) RELATING TO THE INSPECTOR GENERAL ACT OF 1978.—(A) Subsection (a) of section 8G of the Inspector General Act of 1978 (as amended by section 601(a)) is further amended—

(i) in paragraph (2), by striking "the Postal Regulatory Commission, and the United States Postal Service;" and inserting "and the Postal Regulatory Commission;" and

(ii) in paragraph (4), by striking "except that" and all that follows through "Code);" and inserting "except that, with respect to the National Science Foundation, such term means the National Science Board;".

(B)(i) Subsection (f) of section 8G of such Act is repealed.

(ii) Subsection (c) of section 8G of such Act is amended by striking "Except as provided under subsection (f) of this section, the" and inserting "The".

(C) Section 8J of such Act is amended by striking the matter after "8D," and before "of this Act" and inserting "8E, 8F, 8H, or 8L".

(2) RELATING TO TITLE 39, UNITED STATES CODE.—(A) Subsection (e) of section 202 of title 39, United States Code, is repealed.

(B) Paragraph (4) of section 102 of such title 39 (as amended by section 101) is amended to read as follows:

"(4) 'Inspector General' means the Inspector General of the United States Postal Service, appointed under section 3(a) of the Inspector General Act of 1978;".

(C) The first sentence of section 1003(a) of such title 39 is amended by striking "chapters 2 and 12 of this title, section 8G of the Inspector General Act of 1978, or other provision of law," and inserting "chapter 2 or 12 of this title, subsection (b) or (c) of this section, or any other provision of law,".

(D) Section 1003(b) of such title 39 is amended by striking "respective" and inserting "other".

(E) Section 1003(c) of such title 39 is amended by striking "included" and inserting "includes".

(3) RELATING TO THE ENERGY POLICY ACT OF 1992.—Section 160(a) of the Energy Policy Act of 1992 (42 U.S.C. 8262f(a)) is amended (in the matter before paragraph (1)) by striking all that follows "(5 U.S.C. App.)" and before "shall—".

(g) EFFECTIVE DATE; TRANSITION PROVISIONS.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2) or subsection (c), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TRANSITION PROVISIONS.—

(A) PRESIDENTIAL APPOINTMENT AUTHORITY AVAILABLE IMMEDIATELY.—The authority to appoint an Inspector General of the United States Postal Service in accordance with the amendments made by this section shall be available as of the effective date of this section.

(B) CONTINUATION IN OFFICE.—Pending the appointment of an Inspector General of the United States Postal Service in accordance with the amendments made by this section, the individual serving as the Inspector General of the United States Postal Service on the day before the effective date of this section may continue to serve—

(i) in accordance with applicable provisions of the Inspector General Act of 1978 and (except as provided in clause (ii)) of title 39, United States Code, as last in effect before the effective date of this Act; but

(ii) subject to the provisions of such title 39 as amended by subsection (e) of this section (deeming any reference to the "Inspector General" in such provisions, as so amended, to refer to the individual continuing to serve under authority of this subparagraph) and subparagraph (C).

(C) AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—Notwithstanding any other provision of this subsection, section 8L(e) of the Inspector General Act of 1978 (as amended by this section) shall be effective for purposes of fiscal years beginning on or after October 1, 2005.

(ii) SAVINGS PROVISION.—For purposes of the fiscal year ending on September 30, 2005, funding for the Office of Inspector General of the United States Postal Service shall be made available in the same manner as if this Act had never been enacted.

(D) ELIGIBILITY OF PRIOR INSPECTOR GENERAL.—Nothing in this Act shall prevent any individual who has served as Inspector General of the United States Postal Service at any time before the date of the enactment of this Act from being appointed to that position pursuant to the amendments made by this section.

TITLE VII—EVALUATIONS

SEC. 701. UNIVERSAL POSTAL SERVICE STUDY.

(a) REPORT BY THE POSTAL SERVICE.—The United States Postal Service shall, within 12 months after the date of the enactment of this Act, submit to the President, the Congress, and the Postal Regulatory Commission, a written report on universal postal service in the United States (hereinafter in this section referred to as "universal service"). Such report shall include at least the following:

(1) A comprehensive review of the history and development of universal service, including how the scope and standards of universal service have evolved over time.

(2) The scope and standards of universal service provided under current law (including sections 101 and 403 of title 39, United States Code) and current rules, regulations, policy statements, and practices of the Postal Service.

(3) A description of any geographic areas, populations, communities, organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both.

(4) The scope and standards of universal service likely to be required in the future in order to meet the needs and expectations of the American public, including all types of mail users, based on such assumptions or alternative sets of assumptions as the Postal Service considers plausible.

(5) Such recommendations as the Postal Service considers appropriate.

(b) REPORT BY THE POSTAL REGULATORY COMMISSION.—The Postal Regulatory Commission shall, within 12 months after receiving the report of the Postal Service under subsection (a), submit to the President and the Congress a written report evaluating the report of the Postal Service. The report of the Commission shall include at least the following:

(1) Such comments and observations relating to the matters addressed in the Postal Service's report as the Commission considers appropriate.

(2) An estimate of the cost attributable to the obligation to provide universal service under prior and current law, respectively.

(3) An estimate of the likely cost of fulfilling the obligation to provide universal service under—

(A) the assumptions or respective sets of assumptions of the Postal Service described in subsection (a)(4); and

(B) such other assumptions or sets of assumptions as the Commission considers plausible.

(4) Such additional topics and recommendations as the Commission considers appropriate.

(c) CONSULTATION.—In preparing the reports required by this section, the Postal Service and the Postal Regulatory Commission—

(1) shall consult with each other, other Federal agencies, users of the mails, enterprises in the private sector engaged in the delivery of mail, and the general public; and

(2) shall address in their respective reports any written comments received under this section.

(d) CLARIFYING PROVISION.—Nothing in this section shall be considered to relate to any services that are not postal services (within the meaning of section 102 of title 39, United States Code, as amended by section 101).

SEC. 702. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.

(a) IN GENERAL.—The Postal Regulatory Commission shall, at least every 5 years, submit a report to the President and the Congress concerning—

(1) the operation of the amendments made by the Postal Accountability and Enhancement Act; and

(2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States.

(b) POSTAL SERVICE VIEWS.—A report under this section shall be submitted only after reasonable opportunity has been afforded to the Postal Service to review such report and to submit written comments thereon. Any comments timely received from the Postal Service under the preceding sentence shall be attached to the report submitted under subsection (a).

(c) SPECIFIC INFORMATION REQUIRED.—The Postal Regulatory Commission shall include, as part of at least its first report under subsection (a), the following:

(1) COST-COVERAGE REQUIREMENT RELATING TO COMPETITIVE PRODUCTS COLLECTIVELY.—With respect to section 3633 of title 39, United States Code (as amended by this Act)—

(A) a description of how such section has operated; and

(B) recommendations as to whether or not such section should remain in effect and, if so, any suggestions as to how it might be improved.

(2) COMPETITIVE PRODUCTS FUND.—With respect to the Postal Service Competitive Products Fund (under section 2011 of title 39, United States Code, as amended by section 301), in consultation with the Secretary of the Treasury—

(A) a description of how such Fund has operated;

(B) any suggestions as to how the operation of such Fund might be improved; and

(C) a description and assessment of alternative accounting or financing mechanisms that might be used to achieve the objectives of such Fund.

(3) ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS FUND.—With respect to section 3634 of title 39, United States Code (as amended by this Act), in consultation with the Secretary of the Treasury—

(A) a description of how such section has operated; and

(B) recommendations as to whether or not such section should remain in effect and, if so, any suggestions as to how it might be improved.

SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COMPETITIVE PRODUCTS.

(a) IN GENERAL.—The Federal Trade Commission shall prepare and submit to the President, the Congress, and the Postal Regulatory Commission, within 1 year after the date of the enactment of this Act, a comprehensive report identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and private companies providing similar products.

(b) RECOMMENDATIONS; ADJUSTMENTS.—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal differences to an end and, in the interim, to account under section 3633, for the net economic effects provided by those laws.

(c) CONSULTATION.—In preparing its report, the Federal Trade Commission shall consult with the United States Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received under this subsection.

(d) COMPETITIVE PRODUCT RATE REGULATION.—The Postal Regulatory Commission shall take into account the recommendations of the Federal Trade Commission, and subsequent events that affect the continuing validity of the estimate of the net economic effect, in promulgating or revising the regulations required by section 3633 of title 39, United States Code.

SEC. 704. GREATER DIVERSITY IN POSTAL SERVICE EXECUTIVE AND ADMINISTRATIVE SCHEDULE MANAGEMENT POSITIONS.

(a) STUDY.—The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and Congress a report concerning the extent to which women and minorities are represented in supervisory and management positions within the United States Postal Service. Any data included in the report shall be presented in the aggregate and by pay level.

(b) PERFORMANCE EVALUATIONS.—The United States Postal Service shall, as soon as practicable, take such measures as may be necessary to ensure that, for purposes of conducting performance appraisals of supervisory or managerial employees, appropriate consideration shall be given to meeting affirmative action goals, achieving equal employment opportunity requirements, and implementation of plans designed to achieve greater diversity in the workforce.

SEC. 705. PLAN FOR ASSISTING DISPLACED WORKERS.

(a) PLAN.—The United States Postal Service shall, before the deadline specified in subsection (b), develop and be prepared to implement, whenever necessary, a comprehensive plan under which reemployment assistance shall be afforded to employees displaced as a result of the automation or privatization of any of its functions.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the United States Postal Service shall submit to the Board of Governors and to Congress a written report describing its plan under this section.

SEC. 706. CONTRACTS WITH WOMEN, MINORITIES, AND SMALL BUSINESSES.

The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and the Congress a report concerning the number and value of contracts and subcontracts the Postal Service has entered into with women, minorities, and small businesses.

SEC. 707. RATES FOR PERIODICALS.

(a) IN GENERAL.—The United States Postal Service, acting jointly with the Postal Regulatory Commission, shall study and submit to the President and Congress a report concerning—

(1) the quality, accuracy, and completeness of the information used by the Postal Service in determining the direct and indirect postal costs attributable to periodicals; and

(2) any opportunities that might exist for improving efficiencies in the collection, handling, transportation, or delivery of periodicals by the Postal Service, including any pricing incentives for mailers that might be appropriate.

(b) RECOMMENDATIONS.—The report shall include recommendations for any administrative action or legislation that might be appropriate.

SEC. 708. ASSESSMENT OF CERTAIN RATE DEFICIENCIES.

(a) IN GENERAL.—Within 12 months after the date of the enactment of this Act, the Office of Inspector General of the United States Postal Service shall study and submit to the President, the Congress, and the United States Postal Service, a report concerning the administration of section 3626(k) of title 39, United States Code.

(b) SPECIFIC REQUIREMENTS.—The study and report shall specifically address the adequacy and fairness of the process by which assessments under section 3626(k) of title 39, United States Code, are determined and appealable, including—

(1) whether the Postal Regulatory Commission or any other body outside the Postal Service should be assigned a role; and

(2) whether a statute of limitations should be established for the commencement of proceedings by the Postal Service thereunder.

SEC. 709. NETWORK OPTIMIZATION.

(a) IN GENERAL.—The Postal Service shall, within 90 days after the end of each fiscal year, prepare and submit to the Postal Regulatory Commission, the Congress, and the Board of Governors a written report on the postal processing, transportation, and distribution networks. Such report shall include at least the following:

(1) An account of actions taken during the preceding fiscal year to improve the efficiency and effectiveness of the processing, transportation, and distribution networks, while preserving the timely delivery of postal services.

(2) An account of—

(A) actions taken to identify any excess capacity within the processing, transportation, and distribution networks; and

(B) actions taken to implement savings through realignment or consolidation of facilities.

(3) Identification of statutory or regulatory obstacles that prevented or will prevent the Postal Service from taking action to realign or consolidate facilities.

(4) Such additional topics and recommendations as the Postal Service considers appropriate.

(b) TREATMENT AS PERFORMANCE GOALS.—The Postal Service shall establish and report the matters set forth in subsection (a) as performance goals in the reports required by sections 2803 and 2804.

(c) ACTIONS TO BE TAKEN.—The Postal Service shall take such actions it considers, in its sole discretion, necessary and appropriate to provide the Nation with a modern and efficient network for the processing, transportation, and distribution of mail. Nothing in this section shall prevent the Postal Service from making such improvements in the efficiency and effectiveness of the network as it deems appropriate.

SEC. 710. ASSESSMENT OF FUTURE BUSINESS MODEL OF THE POSTAL SERVICE.

(a) APPOINTMENT OF RESEARCH ORGANIZATION.—Not later than 90 days after the date of

the enactment of this Act, the Comptroller General of the United States shall appoint, in such manner and under such terms as he in his sole discretion determines appropriate, an independent, impartial, and expert research organization (hereinafter in this section referred to as the "research organization") to prepare and submit to the President and to Congress a comprehensive report that evaluates what business model would best promote an efficient, reliable, innovative, and viable Postal Service that can meet the needs of the Nation and its citizens in the 21st century. The final report required by this section shall be submitted within 27 months of the date of the enactment of this Act. The final report shall identify costs, benefits, and feasible options, if any, associated with one or more strategies for—

(1) maintaining the Postal Service in its current form as an independent establishment in the executive branch of the Government; and

(2) transforming the Postal Service into an ordinary corporation, owned wholly by the Government, wholly by private shareholders, or partly by the Government and partly by private shareholders.

(b) PROTECTION OF UNIVERSAL SERVICE.—The research organization may include such recommendations as it considers appropriate with respect to how the Postal Service's business model can be maintained or transformed in an orderly manner that will minimize adverse effects on all interested parties and assure continued availability of affordable, universal postal service throughout the United States (based on the reports required by section 701). The research organization shall not consider any strategy or other course of action that would pose a significant risk to the continued availability of affordable, universal postal service throughout the United States.

(c) ELEMENTS OF REPORT.—

(1) TOPICS TO ADDRESS.—The report shall address at least the following:

(A) Specification of nature and bases of one or more sets of reasonable assumptions about the development of the postal services market, to the extent that such assumptions may be necessary or appropriate for each strategy identified by the research organization.

(B) Specification of the nature and bases of one or more sets of reasonable assumptions about the development of the regulatory framework for postal services, to the extent that such assumptions may be necessary or appropriate for each strategy identified by the research organization.

(C) Qualitative and, to the extent possible, quantitative effects that each strategy identified by the research organization may have on universal service generally, the Postal Service, mailers, postal employees, private companies that provide delivery services, and the general public.

(D) Financial effects that each strategy identified by the research organization may have on the Postal Service, postal employees, the Treasury of the United States, and other affected parties, including the American mailing consumer.

(E) Feasible and appropriate procedural steps and timetables for implementing each strategy identified by the research organization.

(F) Such additional topics as the Comptroller General or the research organization shall consider necessary and appropriate.

(2) MATTERS TO CONSIDER.—For each strategy identified, the research organization shall assess how each business model might—

(A) address the human-capital challenges facing the Postal Service, including how employee-management relations within the Postal Service may be improved;

(B) optimize the postal infrastructure, including the best methods for providing retail services that ensure convenience and access to customers;

(C) ensure the safety and security of the mail and of postal employees;

(D) minimize areas of inefficiency or waste and improve operations involved in the collection, processing, or delivery of mail; and

(E) impact other matters that the Comptroller General or the research organization determines are relevant to evaluating a viable long-term business model for the Postal Service.

(3) EXPERIENCES OF OTHER COUNTRIES.—In preparing the report required by subsection (a), the research organization shall comprehensively and quantitatively investigate the experiences of other industrialized countries that have transformed the national post office. The research organization shall undertake such original research as it deems necessary. In each case, the research organization shall describe as fully as possible the costs and benefits of transformation of the national post office on all affected parties and shall identify any lessons that foreign experience may imply for each strategy identified by the research organization.

(d) OUTSIDE EXPERTS.—In preparing its study, the research organization may retain the services of additional experts and consultants.

(e) CONSULTATION.—In preparing its report, the research organization shall consult fully with the Postal Service, the Postal Regulatory Commission, other Federal agencies, postal employee unions and management associations, mailers, private companies that provide delivery services, and the general public. The research organization shall include with its final report a copy of all formal written comments received under this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Postal Service Fund such sums as may be necessary to carry out this section.

SEC. 711. STUDY ON CERTAIN PROPOSED AMENDMENTS.

The Government Accountability Office shall study and, within 12 months after the date of the enactment of this Act, submit to the Congress a report on sections 805 and 807 of H.R. 22 (109th Congress), as introduced. Such report shall include the following:

(1) A description of the efficiencies of the current system under section 5402 of title 39, United States Code.

(2) The potential for cost savings to the United States Postal Service if the Postal Service, rather than the Department of Transportation, were to administer international mail carriage.

(3) The potential for harm to domestic air carriers and American workers currently employed by domestic air carriers.

(4) The potential loss of revenue to domestic air carriers and American workers currently employed by domestic air carriers.

(5) The process by which the United States Postal Service would administer any changes in current law.

(6) The process by which the Department of Transportation administers current law.

(7) The potential for change in protection of national security by carriage by foreign carriers of international mail to and from the United States.

SEC. 712. DEFINITION.

For purposes of this title, the term "Board of Governors" has the meaning given such term by section 102 of title 39, United States Code.

TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS

SEC. 801. EMPLOYMENT OF POSTAL POLICE OFFICERS.

Section 3061 of title 18, United States Code, is amended by adding at the end the following:

"(c)(1) The Postal Service may employ police officers for duty in connection with the protection of property owned or occupied by the Postal Service or under the charge and control of the Postal Service, and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

"(2) With respect to such property, such officers shall have the power to—

"(A) enforce Federal laws and regulations for the protection of persons and property;

"(B) carry firearms; and

"(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or for any felony cognizable under the laws of the United States if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

"(3) With respect to such property, such officers may have, to such extent as the Postal Service may by regulations prescribe, the power to—

"(A) serve warrants and subpoenas issued under the authority of the United States; and

"(B) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Postal Service or persons on the property.

"(4)(A) As to such property, the Postmaster General may prescribe regulations necessary for the protection and administration of property owned or occupied by the Postal Service and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in subparagraph (B), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

"(B) A person violating a regulation prescribed under this subsection shall be fined under this title, imprisoned for not more than 30 days, or both.".

SEC. 802. DATE OF POSTMARK TO BE TREATED AS DATE OF APPEAL IN CONNECTION WITH THE CLOSING OR CONSOLIDATION OF POST OFFICES.

(a) IN GENERAL.—Section 404(b) of title 39, United States Code, is amended by adding at the end the following:

"(6) For purposes of paragraph (5), any appeal received by the Commission shall—

"(A) if sent to the Commission through the mails, be considered to have been received on the date of the Postal Service postmark on the envelope or other cover in which such appeal is mailed; or

"(B) if otherwise lawfully delivered to the Commission, be considered to have been received on the date determined based on any appropriate documentation or other indicia (as determined under regulations of the Commission).".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to any determination to close or consolidate a post office which is first made available, in accordance with paragraph (3) of section 404(b) of title 39, United States Code, after the end of the 3-month period beginning on the date of the enactment of this Act.

SEC. 803. PROVISIONS RELATING TO BENEFITS UNDER CHAPTER 81 OF TITLE 5, UNITED STATES CODE, FOR OFFICERS AND EMPLOYEES OF THE FORMER POST OFFICE DEPARTMENT.

(a) IN GENERAL.—Section 8 of the Postal Reorganization Act (39 U.S.C. 1001 note) is amended by inserting "(a)" after "8." and by adding at the end the following:

"(b) For purposes of chapter 81 of title 5, United States Code, the Postal Service shall, with respect to any individual receiving benefits under such chapter as an officer or employee of the former Post Office Department, have the

same authorities and responsibilities as it has with respect to an officer or employee of the Postal Service receiving such benefits.".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall be effective as of the first day of the fiscal year in which this Act is enacted.

SEC. 804. OBSOLETE PROVISIONS.

(a) REPEAL.—

(1) IN GENERAL.—Chapter 52 of title 39, United States Code, is repealed.

(2) CONFORMING AMENDMENTS.—(A) Section 5005(a) of title 39, United States Code, is amended—

(i) by striking paragraph (1), and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(ii) in paragraph (3) (as so designated by clause (i)), by striking "(as defined in section 5201(6) of this title)".

(B) Section 5005(b) of such title 39 is amended by striking "(a)(4)" each place it appears and inserting "(a)(3)".

(C) Section 5005(c) of such title 39 is amended by striking "by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or" and inserting "by contract under subsection (a)(3) of this section or".

(b) ELIMINATING RESTRICTION ON LENGTH OF CONTRACTS.—(1) Section 5005(b)(1) of title 39, United States Code, is amended by striking "(or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years)" and inserting "(or such longer period of time as may be determined by the Postal Service to be advisable or appropriate)".

(2) Section 5402(d) of such title 39 is amended by striking "for a period of not more than 4 years".

(3) Section 5605 of such title 39 is amended by striking "for periods of not in excess of 4 years".

(c) CLERICAL AMENDMENT.—The analysis for part V of title 39, United States Code, is amended by repealing the item relating to chapter 52.

SEC. 805. INVESTMENTS.

Subsection (c) of section 2003 of title 39, United States Code, is amended—

(1) by striking "(c) If" and inserting "(c)(1) Except as provided in paragraph (2), if"; and

(2) by adding at the end the following:

"(2)(A) Nothing in this section shall be considered to authorize any investment in any obligations or securities of a commercial entity.

"(B) For purposes of this paragraph, the term 'commercial entity' means any corporation, company, association, partnership, joint stock company, firm, society, or other similar entity, as further defined under regulations prescribed by the Postal Regulatory Commission.".

SEC. 806. REDUCED RATES.

Section 3626 of title 39, United States Code, is amended—

(1) in subsection (a), by striking all before paragraph (4) and inserting the following:

"(a)(1) Except as otherwise provided in this section, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with section 3622.

"(2) For the purpose of this subsection, the term 'regular-rate category' means any class of mail or kind of mailer, other than a class or kind referred to in section 2401(c).

"(3) Rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title shall be established so that postage on each mailing of such mail reflects its preferred status as compared to the postage for the most closely corresponding regular-rate category mailing.";

(2) in subsection (g), by adding at the end the following:

"(3) For purposes of this section and former section 4358(a) through (c) of this title, those copies of an issue of a publication entered within the county in which it is published, but distributed outside such county on postal carrier routes originating in the county of publication, shall be treated as if they were distributed within the county of publication.

"(4)(A) In the case of an issue of a publication, any number of copies of which are mailed at the rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title, any copies of such issue which are distributed outside the county of publication (excluding any copies subject to paragraph (3)) shall be subject to rates of postage provided for under this paragraph.

"(B) The rates of postage applicable to mail under this paragraph shall be established in accordance with section 3622.

"(C) This paragraph shall not apply with respect to an issue of a publication unless the total paid circulation of such issue outside the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000."; and

(3) by adding at the end the following:

"(n) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).".

SEC. 807. HAZARDOUS MATTER.

(a) NONMAILABILITY GENERALLY.—Section 3001 of title 39, United States Code, is amended—

(1) by redesignating subsection (n) as subsection (o); and

(2) by inserting after subsection (m) the following:

"(n)(1) Except as otherwise authorized by law or regulations of the Postal Service, hazardous material is nonmailable.

"(2) In this subsection, the term 'hazardous material' means a substance or material designated by the Secretary of Transportation under section 5103(a) of title 49.".

(b) MAILABILITY.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"§ 3018. Hazardous material

"(a) IN GENERAL.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

"(b) PROHIBITIONS.—No person may—

"(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

"(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

"(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

"(A) is represented, marked, certified, or sold by such person for use in the mailing of hazardous material; and

"(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of hazardous material.

"(c) CIVIL PENALTY; CLEAN-UP COSTS AND DAMAGES.—

"(1) IN GENERAL.—A person who knowingly violates this section or a regulation prescribed under this section shall be liable for—

"(A) a civil penalty of at least $250, but not more than $100,000, for each violation;

"(B) the costs of any clean-up associated with each violation; and

"(C) damages.

"(2) KNOWING ACTION.—A person acts knowingly for purposes of paragraph (1) when—

"(A) the person has actual knowledge of the facts giving rise to the violation; or

"(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

"(3) SEPARATE VIOLATIONS.—

"(A) VIOLATIONS OVER TIME.—A separate violation under this subsection occurs for each day hazardous material, mailed or caused to be mailed in noncompliance with this section, is in the mail.

"(B) SEPARATE ITEMS.—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

"(d) HEARINGS.—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing. Proceedings under this section shall be conducted in accordance with section 3001(m).

"(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty for a violation of this section, the Postal Service shall consider—

"(1) the nature, circumstances, extent, and gravity of the violation;

"(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

"(3) the impact on Postal Service operations; and

"(4) any other matters that justice requires.

"(f) CIVIL ACTIONS TO COLLECT.—

"(1) IN GENERAL.—In accordance with section 409(d), a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, and damages assessed under subsection (c).

"(2) COMPROMISE.—The Postal Service may compromise the amount of a civil penalty, clean-up costs, and damages assessed under subsection (c) before commencing a civil action with respect to such civil penalty, clean-up costs, and damages under paragraph (1).

"(g) CIVIL JUDICIAL PENALTIES.—

"(1) IN GENERAL.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

"(2) RELIEF.—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

"(3) CONSTRUCTION.—A civil action under this subsection shall be in lieu of civil penalties for the same violation under subsection (c)(1)(A).

"(h) DEPOSIT OF AMOUNTS COLLECTED.—

"(1) POSTAL SERVICE FUND.—Except as provided under paragraph (2), amounts collected under subsection (c)(1)(B) and (C) shall be deposited into the Postal Service Fund under section 2003.

"(2) TREASURY.—Amounts collected under subsection (c)(1)(A) and any punitive damages collected under subsection (c)(1)(C) shall be deposited into the Treasury of the United States.".

(c) CONFORMING AMENDMENTS.—(1) Section 2003(b) of title 39, United States Code, is amended—

(A) in paragraph (7), by striking "and" after the semicolon;

(B) in paragraph (8), by striking "purposes." and inserting "purposes; and"; and

(C) by adding at the end the following:

"(9) any amounts collected under section 3018.".

(2) The analysis for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"3018. Hazardous material.".

(d) INJURIOUS ARTICLES AS NONMAILABLE.—Section 1716(a) of title 18, United States Code, is amended by inserting after "explosives," the following: "hazardous materials,".

SEC. 808. PROVISIONS RELATING TO COOPERATIVE MAILINGS.

(a) DETERMINATION.—The Postal Regulatory Commission shall examine section E670.5.3 of the Domestic Mail Manual to determine whether it contains adequate safeguards to protect against (1) abuses of rates for nonprofit mail and (2) deception of consumers.

(b) REGULATIONS.—If the Postal Regulatory Commission determines that section E670.5.3 of the Domestic Mail Manual does not contain adequate safeguards as described in the preceding subsection, the Commission shall promulgate such regulations as may be necessary to ensure such safeguards.

(c) TIMING.—The Postal Regulatory Commission shall complete the examination required by subsection (a) and the promulgation of any necessary regulations required by subsection (b) within one year after the date of the enactment of this section.

SEC. 809. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REIMBURSEMENT.—Section 3681 of title 39, United States Code, is amended by striking "section 3628" and inserting "sections 3662 through 3664".

(b) SIZE AND WEIGHT LIMITS.—Section 3682 of title 39, United States Code, is amended to read as follows:

"§3682. Size and weight limits

"The Postal Service may establish size and weight limitations for mail matter in the market-dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.".

(c) REVENUE FOREGONE, ETC.—Title 39, United States Code, is amended—

(1) in section 503 (as so redesignated by section 501), by striking "this chapter." and inserting "this title."; and

(2) in section 2401(d), by inserting "(as last in effect before enactment of the Postal Accountability and Enhancement Act)" after "3626(a)" and after "3626(a)(3)(B)(ii)".

(d) APPROPRIATIONS AND REPORTING REQUIREMENTS.—

(1) APPROPRIATIONS.—Subsection (e) of section 2401 of title 39, United States Code, is amended—

(A) by striking "Committee on Post Office and Civil Service" each place it appears and inserting "Committee on Government Reform"; and

(B) by striking "Not later than March 15 of each year," and inserting "Each year,".

(2) REPORTING REQUIREMENTS.—Sections 2803(a) and 2804(a) of title 39, United States Code, are amended by striking "2401(g)" and inserting "2401(e)".

(e) AUTHORITY TO FIX RATES AND CLASSES GENERALLY; REQUIREMENT RELATING TO LETTERS SEALED AGAINST INSPECTION.—Section 404 of title 39, United States Code (as amended by section 102) is further amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting after subsection (a) the following:

"(b) Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable and equitable rates of postage and fees for postal services in accordance with the provisions of chapter 36. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

"(c) The Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection. The rate for each such class shall be uniform throughout the United States, its territories, and possessions. One such class shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service. No letter of such a class of domestic origin shall be opened except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which the letter can be delivered, or pursuant to the authorization of the addressee.".

(f) LIMITATIONS.—Section 3684 of title 39, United States Code, is amended by striking all that follows "any provision" and inserting "of this title.".

(g) MISCELLANEOUS.—Title 39, United States Code, is amended—

(1) in section 1005(d)(2)—

(A) by striking "subsection (g) of section 5532,"; and

(B) by striking "8344," and inserting "8344";

(2) in the analysis for part III, by striking the item relating to chapter 28 and inserting the following:

"28. Strategic Planning and Performance Management .... 2801";

(3) in section 3005(a)—

(A) in the matter before paragraph (1), by striking all that follows "nonmailable" and precedes "(h)," and inserting "under section 3001(d),"; and

(B) in the sentence following paragraph (3), by striking all that follows "nonmailable" and precedes "(h)," and inserting "under such section 3001(d),";

(4) in section 3210(a)(6)(C), by striking the matter after "if such mass mailing" and before "than 60 days" and inserting "is postmarked fewer"; and

(5) by striking the heading for section 3627 and inserting the following:

"§3627. Adjusting free rates".

TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS

SEC. 901. CIVIL SERVICE RETIREMENT SYSTEM.

(a) TERMINATION OF OBLIGATION TO PAY GOVERNMENT CONTRIBUTIONS.—Section 8334(a)(1)(B)(ii) of title 5, United States Code, is amended by striking all that follows "be equal to" and inserting "zero.".

(b) DETERMINATION AND DISPOSITION OF POSTAL SURPLUS OR SUPPLEMENTAL LIABILITY.—Section 8348(h) of title 5, United States Code, is amended to read as follows:

"(h)(1) For purposes of this subsection, a Postal surplus (or supplemental liability) is the amount, as estimated by the Office, by which—

"(A) the actuarial present value of all future benefits which are payable from the Fund under this subchapter to current or former employees of the United States Postal Service, or their survivors, and attributable to civilian employment with the Postal Service, is less than (or greater than)

"(B) the sum of—

"(i) the actuarial present value of deductions to be withheld from the future basic pay of employees of the Postal Service currently subject to this subchapter pursuant to section 8334;

"(ii) that portion of the Fund balance, as of the date such surplus or supplemental liability is determined, attributable to payments to the Fund by the Postal Service and its employees, plus the earnings on such amounts while in the Fund; and

"(iii) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

"(2)(A)(i) Not later than June 15, 2006, the Office shall determine the Postal surplus or supplemental liability as of September 30, 2005.

"(ii) If a supplemental liability is determined under this subparagraph for fiscal year 2005, the Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2006, which provides for the liquidation of such liability by September 30, 2043.

"(iii) If a surplus is determined under this subparagraph for fiscal year 2005, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30, 2006.

"(B)(i) For each of fiscal years 2006 through 2038, the Office shall determine the Postal surplus or supplemental liability as of the close of such fiscal year, with each such determination to be made by June 15th of the following fiscal year.

"(ii) If a supplemental liability is determined under this subparagraph for a fiscal year, the Office shall establish an amortization schedule, including a series of equal annual installments commencing on September 30 of the following fiscal year, which provides for the liquidation of such liability by September 30, 2043.

"(iii)(I) If a surplus of $500,000,000 or more is determined under this subparagraph for a fiscal year, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30th of the following fiscal year.

"(II) If a surplus of less than $500,000,000 is determined under this subparagraph for a fiscal year, the surplus shall remain in the Fund, subject to transfer in a subsequent fiscal year under subclause (I) or subparagraph (C)(iii).

"(C)(i) Not later than June 15, 2040, the Office shall determine the Postal surplus or supplemental liability as of September 30, 2039.

"(ii) If a supplemental liability is determined under this subparagraph for fiscal year 2039, the Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2040, which provides for the liquidation of such liability by September 30, 2043.

"(iii) If a surplus is determined under this subparagraph for fiscal year 2039, the amount of the surplus—

"(I) shall be applied first toward reducing the amount of any supplemental liability described in section 8423(b)(1)(B); and

"(II) to the extent that any portion of such surplus remains after the application of subclause (I), shall, not later than June 30, 2040, be transferred to the Postal Service Retiree Health Benefits Fund.

"(D) An amortization schedule under this paragraph—

"(i) shall be established in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System;

"(ii) shall supersede any amortization schedule previously established under this paragraph; and

"(iii) shall not be taken into account, for purposes of any determination of Postal surplus or supplemental liability, except to the extent of any amounts under such schedule actually paid.

"(E)(i) The Postal Service shall pay to the Office the amounts due under any amortization

schedule established under this paragraph, to the extent not superseded or canceled.

“(ii) A determination under subparagraph (B)(i) or (C)(i) that no supplemental liability exists shall cancel any amortization schedule previously established under this paragraph, to the extent of any amounts first coming due after the close of the fiscal year to which such determination relates.

“(3) Notwithstanding any other provision of law, in computing the amount of any payment under any other subsection of this section that is based on the amount of the unfunded liability, such payment shall be computed disregarding that portion of the unfunded liability that the Office determines will be liquidated by payments under this subsection.

“(4) As used in this subsection, ‘Postal Service Retiree Health Benefits Fund’ refers to the Postal Service Retiree Health Benefits Fund, as established by section 8909a.”.

(c) Provisions Relating to Amounts for Military Service.—In the application of paragraph (2) of section 8348(g) of title 5, United States Code, for fiscal year 2006, the Office of Personnel Management shall include, in addition to the amount otherwise computed under that paragraph, the amounts that would have been included for fiscal years 2003 through 2005 with respect to credit for military service of former employees of the United States Postal Service if Public Law 108–18 had not been enacted (including earnings thereon) and the Secretary of the Treasury shall make the required transfer to the Civil Service Retirement and Disability Fund based on that amount.

(d) Review.—

(1) In general.—Notwithstanding any other provision of this section, any determination or redetermination made by the Office of Personnel Management under this section shall, upon request of the United States Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

(2) Response.—Upon receiving the report of the Postal Regulatory Commission, the Office of Personnel Management shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and the Congress.

SEC. 902. HEALTH INSURANCE.

(a) In General.—Chapter 89 of title 5, United States Code, is amended—

(1) in section 8906(g)(2)(A), by striking “by the United States Postal Service.” and inserting “first from the Postal Service Retiree Health Benefits Fund up to the amount contained therein, with any remaining amount paid by the United States Postal Service.”;

(2) by inserting after section 8909 the following:

“§ 8909a. Postal Service Retiree Health Benefits Fund

“(a) There is in the Treasury of the United States a Postal Service Retiree Health Benefits Fund (hereinafter in this section referred to as the ‘Fund’) which is administered by the Office of Personnel Management. Any amounts transferred to the Fund under section 8348(h)(2) shall yield interest at a rate equal to the weighted average yield of all the investments in the Civil Service Retirement and Disability Fund as of the date of transfer. All other investments of amounts in the Fund shall be made in accordance with subsections (c)–(e) of section 8348.

“(b) The Fund is available without fiscal year limitation for payments required by section 8906(g)(2).

“(c)(1) Not later than June 30, 2006, and by June 30 of each succeeding year, the Office of Personnel Management shall compute the net present value of the excess of future payments required by section 8906(g)(2)(A) for current and future United States Postal Service annuitants over the value of the assets of the Fund as of the end of the fiscal year ending on September 30 of that year. The actuarial costing method to be used by the Office and all actuarial assumptions shall be established by the Office after consultation with the United States Postal Service and must be in accordance with generally accepted actuarial practices and principles.

“(2) Not later than September 30, 2006, and by September 30 of each succeeding year, the Office shall compute and the United States Postal Service shall pay into such Fund—

“(A) the portion of the net present value described in paragraph (1) attributable to the current year’s service of Postal Service employees; and

“(B) interest on the net present value described in paragraph (1) for that fiscal year, at the interest rate used in computing that net present value;

except that the amount otherwise payable by the Postal Service under the preceding provisions of this paragraph by not later than September 30, 2006, shall be reduced by the total contributions made by the Postal Service under section 8906(g)(2) and attributable to fiscal year 2006 (as determined by the Office).

“(3)(A) Any computation or other determination of the Office under this subsection shall, upon request of the Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

“(B) Upon receiving the report of the Postal Regulatory Commission, the Office of Personnel Management shall reconsider its computation or other determination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and the Congress.

“(4) The Office shall promulgate, after consultation with the United States Postal Service, any regulations it deems necessary under this subsection.”; and

(3) in the analysis by inserting after the item relating to section 8909 the following:

“8909a. Postal Service Retiree Health Benefits Fund.”.

(b) Review.—

(1) In general.—Any regulation established under section 8909a(c)(4) of title 5, United States Code (as amended by subsection (a)) shall, upon request of the Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

(2) Response.—Upon receiving the report of the Postal Regulatory Commission, the Office of Personnel Management shall reconsider its regulation in light of such report, and shall take such action as it considers appropriate. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and the Congress.

SEC. 903. REPEALER.

Section 3 of Public Law 108–18 is repealed.

SEC. 904. ENSURING APPROPRIATE USE OF ESCROW AND MILITARY SAVINGS.

(a) Definition.—For purposes of this section, the term “total savings” means, for any fiscal year, the amount equal to—

(1) the amount of contributions that the Postal Service would otherwise have been required to make to the Civil Service Retirement and Disability Fund under subchapter III of chapter 83 of title 5, United States Code, for such fiscal year if Public Law 108–18 and this Act had not been enacted, minus

(2) the amount of amortization payments (if any) required under section 8348(h)(2) of title 5, United States Code, for such fiscal year.

(b) Calculations.—The following calculations shall be made for each of fiscal years 2006 through 2015:

(1) Not later than January 31 of the fiscal year following the fiscal year involved, the Office of Personnel Management (in consultation with the Postal Service) shall determine the total savings for the fiscal year.

(2) On the date of making its determination under paragraph (1), the Office shall also determine (in consultation with the Postal Service) the amount by which—

(A) the amount the Postal Service paid for that fiscal year into the Postal Service Retiree Health Benefits Fund in accordance with 8909a(c)(2) of title 5, United States Code, exceeds (if at all)

(B) the amount of payments made by the Postal Service for that fiscal year from such Fund in order to satisfy the requirements of section 8906(g)(2) of such title 5.

(c) Requirements.—

(1) If threshold is met.—If the amount calculated under subsection (b)(2) for a fiscal year is greater than or equal to two-thirds of the total savings in such fiscal year, no further action under this section is necessary with respect to such fiscal year.

(2) If threshold is not met.—

(A) In general.—If the amount calculated under subsection (b)(2) for a fiscal year is less than two-thirds of the total savings in such fiscal year, the Postal Service shall pay into the Postal Service Retiree Health Benefits Fund, by June 30 of the following fiscal year, an amount equal to the difference.

(B) Allowable alternative.—

(i) In general.—Notwithstanding subparagraph (A), and subject to clause (ii), the Postal Service may instead use the amount that it would otherwise be required to pay into the Postal Service Retiree Health Benefits Fund for a year (or any portion thereof) to reduce the postal debt.

(ii) Limitation.—Amounts used to reduce the postal debt under this subparagraph may not exceed a total of $3,000,000,000.

(3) Aggregation allowed.—Notwithstanding paragraph (2), if the amount calculated under subsection (b)(2) for a fiscal year is less than two-thirds of the total savings in such fiscal year, but the sum of the amounts calculated under subsection (b)(2) for all fiscal years from 2006 to the fiscal year involved is greater than or equal to two-thirds of the sum of the total savings for such years, no further action under this section is necessary with respect to such fiscal year.

(d) Reporting Requirement.—The Office of Personnel Management shall submit a report containing the results of its calculations under subsection (b) to the Postal Service, the Postal Regulatory Commission, and the Congress.

(e) Waiver Authority.—The requirements of subsection (c)(2)(A) may, upon application of the Postal Service, be waived by the Postal Regulatory Commission, to the extent that the Commission determines that such waiver is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

SEC. 905. EFFECTIVE DATES.

(a) In General.—Except as otherwise provided, this title shall take effect on October 1, 2005.

(b) GOVERNMENT CONTRIBUTIONS.—Section 901(a) shall take effect on the first day of the first pay period beginning on or after October 1, 2005.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except those printed in House Report 109-184. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 109-184.

AMENDMENT NO. 1 OFFERED BY MR. PENCE

Mr. PENCE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. PENCE:

Page 73, strike line 7 and all that follows through page 74, line 2.

Page 74, line 3, strike "(d)" and insert "(c)".

Page 74, strike all after "Act" on line 7 and before "any" on line 9, and insert "or".

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The CHAIRMAN. Pursuant to House Resolution 380, the gentleman from Indiana (Mr. PENCE) and the gentleman from Virginia (Mr. TOM DAVIS) each will control 10 minutes.

The Chair recognizes the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Chairman, I yield myself such time as I may consume.

I rise today to offer the Pence amendment to the Postal Accountability and Enhancement Act, and, along with several of my colleagues, will endeavor to bring real reform and real enhancement to a bill however well conceived and well intentioned by my colleagues. In fact, I rise today to begin by thanking the gentleman from Virginia (Chairman TOM DAVIS) and the gentleman from New York (Mr. McHUGH), the author of this legislation, for their leadership on this measure and their sincerity in attempting to ensure the ongoing vitality of the U.S. Postal Service and the tradition that it has enjoyed in this Nation, an invaluable part of our economy since before our Nation was formed.

But before I get to the substance of the Pence amendment, Mr. Chairman, I want to begin to address the reasons why the Bush administration did today issue a Statement of Administration Policy opposing significant portions of this legislation and, in fact, suggesting that if this legislation did not achieve the objective of budget restraint and fiscal reform, that the President's advisers would encourage him to veto this legislation that will come before the House today.

A few observations from the report on the President's Commission of the United States Postal Service are in order. The Commission found that the number one problem facing the United States Postal Service is its complete inability to control costs, and ratepayers have been paying the freight as a result of that along with taxpayers, who recently financed nearly $7 billion in a Postal Service bailout just a few short years ago. Of that uncontrollable cost, 80 percent of the United States Postal Service costs are constituted in labor, this in a competitive marketplace where its competitors like UPS and FedEx spend only 56 percent and 42 percent of their cost on labor. Clearly the United States Postal Service is, as the President's Commission found, desperately in need of flexibility to achieve labor and workforce reforms.

The USPS is currently providing its workers roughly $870 million more in benefits than Federal workers receive as a result of lucrative health and life insurance benefits, and that is just the beginning.

H.R. 22 that we will consider today contains none of the main collective bargaining proposals offered by the President's Commission. It contains none of the reforms offered by the Commission to establish a BRAC-style process to consolidate and shut down facilities that use money. And while H.R. 22 does laudably contain a cap on postal rate increases, many are highly skeptical about how that will work. The Congressional Budget Office states that the USPS will "increase rates . . . more frequently than under current law, but by smaller increments." In addition, the cap could be blown if such an increase were "reasonable and equitable and necessary" for the continuation of services. Such a cap hardly equips the U.S. Postal Service with the tools to control costs and renegotiate its labor costs.

So we come today, a series of us, with the kind of reforms that we believe will give the Postal Service the opportunity and the flexibility to achieve reforms necessary to live within its means. That is why I submitted an amendment to enact the Commission's recommendation to ensure that health care and pension benefits ought to be a part of normal collective bargaining. It was rejected and will not be considered today. That is why the gentleman from North Carolina (Mr. McHENRY) had offered an amendment to enact the Commission's recommendation to reform the workmen's compensation reforms to align more closely with the private sector. Unfortunately, these amendments were made not in order.

In fact, today the Pence amendment will deal with a provision of this legislation that, believe it or not, would set aside a seat on the Board of Governors specifically for an individual unanimously approved by all labor unions. More on that in a moment.

I say this with deep respect, Mr. Chairman. I understand why the Democratic minority whip just said on this floor that this was "a good bill that should be passed this year." I just do not understand why a Republican majority in Congress, with the firm and clear opposition of a Republican President, would do likewise.

Let me get to the substance of the Pence amendment, if I may. The Pence amendment essentially removes a provision of H.R. 22 that requires that the first vacant slot on the Board of Governors literally be filled by an individual with the unanimous backing of "all labor organizations." The headlines today would attest that it might be difficult, depending on the definition of "all labor organizations," to get all labor organizations to agree on anything these days.

Currently the Board of Governors consists of nine members with no more than five from the same party. This bill would ensure that one of these seats would be set aside to represent the interests of one special interest group to the exclusion of other interests like mailers or, dare I say it, taxpayers. It is this type of provision that we must confront in this legislation, and the Pence amendment humbly seeks to strike that.

And workforce is the issue. Mr. Chairman, the U.S. Postal Service is the second largest employer in the United States, second only to Wal-Mart. And according to the President's Commission report, 3 out of every $4 earned by the Postal Service went to pay wages and benefits of its employees in fiscal year 2002. The unions have been extraordinarily effective over the last 25 years, as has been said over and over again, preventing layoffs and recently announcing having inked the second largest pay increase in the unions' history. I believe that is why the Statement of Administration Policy that was issued today simply read, and I quote, "Should the final bill have such an adverse impact on the federal budget, the President's senior advisers would recommend that he veto the bill."

The Pence amendment is all about bringing the kind of reforms in this bill that will allow the U.S. Postal Service to maintain its vitality and its fiscal integrity for years to come. The Pence amendment in its effort to strike section 401 is a modest effort to achieve that goal.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, the gentleman from Indiana described the

President's Commission on Postal Reform. Many of the broad outlines of that Commission's recommendations are in the legislation before us today.

The legislation before us today is supported by not Democrats, not just Republicans, but by labor unions and management, the National Association of Manufacturers, the National Federation of Independent Businesses, Small Business Legislative Council, and the postal unions. And I will not go through all of them, but all the newspapers, the publishers, the mailers, all the people that look to the Postal Service for their service.

This amendment, when we get right to what the amendment is all about, is to take the one out of nine seats on the Board of Governors away from a union representative. The Postal Service has 700,000 career employees. They are the ones who make the system work. Are they not entitled to have one representative on this board? This idea of giving them representation is backed by labor, management, business. We have all worked cooperatively together on postal reform legislation. They have built trust and made compromises. That is why this legislation is so broadly supported.

This amendment would undermine the consensus behind the legislation. It singles out one group and says they lose, they lose their seat on the Board. That may be good politics for people who want to say they are antiunions, but it is not good for this legislation or for the Postal Service.

So I would urge my colleagues to oppose the Pence amendment and to support the bill, not to adopt this or any other amendment that would undermine the consensus behind the legislation. And then let us move forward. We will have to be talking to the other body. We will have to be talking to the President and people in his administration in order to get a law, but we have a consensus for a bill that we hope will become law.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

This amendment that is proposed would remove a provision from a very carefully crafted piece of legislation that would require the first vacant slot on the Postal Service Board of Governors to be filled by an individual with unanimous backing by labor unions. Currently there are 11 members. This bill would provide that one of those seats become a labor seat, certainly not documented by labor. One seat would be a labor seat.

The provision requiring the seat to become a labor seat has been in the Postal Accountability and Enhancement Act for 11 years. No group on either side of the issue has ever expressed any opposition to the change in statute, and I am unclear why this issue has actually risen today. Simply requiring one of a nine-member Board speak on behalf of thousands of employees in everyone's district here hardly seems to be unreasonable or undoable.

H.R. 22 is a bill that we have heard many people on the floor say how many years it has been worked on, well over decades. I urge my colleagues to vote against this and other amendments under consideration today that do not provide for any real improvements in the underlying text of the bill that we have before us tonight.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. MCHUGH).

Mr. MCHUGH. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to be very quick here, and I certainly appreciate our distinguished colleague's comments and deeply appreciate his concern.

Just a couple of points. As the gentleman from California (Mr. WAXMAN) said, I have to disagree with the gentleman's comments that somehow the President's Commission is at odds with what this bill entails. In fact, I think it is fair to say the President's Commission adopted at least, at least, 80 percent of H.R. 22 as it was originally crafted and continues to be contained therein.

He also spoke about the Statement of Administration Policy, the SAP, and talked about labor representation as though the President has opposed this. That is not true. The President's SAP does not address this issue, and, in fact, the United States Postal Service has not taken a position on this particular provision as well, which is the context of the gentleman's amendment. So with all due respect, I think that clarification is vital.

It also talked about Republican-Democrat. I do not think this is a novel concept. Many major corporations from DaimlerChrysler, TWA, and on and on have labor union representation on their boards. I would also note that many organizations that are generally not considered liberal, perhaps Democrat, not just support H.R. 22, but oppose the gentleman's amendment. I will name just a few: American Express, Bank of America, Capital One, JP Morgan Chase, the Citigroup, Financial Services Roundtable. As I said, pretty conservative organizations that oppose this amendment.

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The fact of the matter is, this is well accepted in the industry sector. There will be one out of nine members of the Board of Governors, and I do not think it is unreasonable to have such a labor-intensive organization have a labor vote on that. While I do respect the gentleman's intent, I think, as has been suggested, these are issues that are much better dealt with in the context of the committee.

Mr. PENCE. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I rise in support of the Pence amendment.

It is important to remove this language in H.R. 22 that reserves one seat on the Postal Board of Governors for a representative of labor unions.

The U.S. Postal Service is a government-owned corporation and, as such, is technically owned by the U.S. taxpayers. Reserving one space exclusively for labor representatives confers preferential status and, in my view, undue influence to one interest group at the expense of all other stakeholders in postal operations, particularly first-class mail users.

I think it is a good amendment. I think it is something that I believe this kind of set-aside may not be in the Senate version of the bill. It is certainly a topic that needs to be debated and taken up in conference, and I would encourage my colleagues to accept it.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, one of the great accomplishments of this legislation is the fact that it was able to bring labor and management together, to bring both sides to the table and have them agree. The gentleman from Indiana's amendment did not mention the fact that four of the slots were designated for management. So certainly, if management would have at least four slots pretty much designated, then certainly labor ought to have one.

The other point is that throughout the deliberations, very seldom did we hear much conversation about Democrats and Republicans. We really talked about moving a postal system and a postal service forward. So I would oppose the gentleman's amendment.

Mr. PENCE. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of his amendment.

As I understand it, if there are nine members of this board, no more than five can be from the party of the President. Inasmuch as the President is presently a Republican, that would mean that at least four seats would be allocated to those who are members of the Democrat party. The last time I looked, although perhaps some labor unions are having a falling out amongst themselves, there has not been a falling out between the labor union movement and the Democrat Party, so I would think they would be well represented.

I think perhaps somebody that might be terribly underrepresented tonight would be the poor beleaguered taxpayer. Given that there are over 140 million of them, perhaps we should consider reserving at least one seat for them, to make sure that their interests are represented since, too often, so many of the aspects of this legislation that we are discussing tonight ultimately could fall upon them. If there is anybody who deserves special recognition, and not that all stakeholders should not be considered, I would suggest that we reserve a seat for the taxpayer.

Mr. PENCE. Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman for yielding me this time.

First of all, I cannot thank the ranking member and the chairman of the full committee, and the ranking member of the subcommittee and chairman of the subcommittee enough for such a thoughtful piece of legislation. But with respect to this amendment, might I say the composition of this board and the representation of one union member is what you call consensus and what you call cooperation.

Just listening to the leadership of my local union, the letter carriers, with the President, President Prissy Grace, and the American Postal Workers Union, as well as the Postmaster General in my congressional district, Ms. Green, they have had a working relationship that can be exhibited by the structure in which this particular legislation allows: representation of the workers, the workers who are committed to delivering the mail, rain or shine. I think that to eliminate this particular position really eliminates the voice of the workers.

We are already saying that we are committed to the work ethic of the postal workers in the postal system. This is a reform and reformation of the postal system for the better, to make them efficient, to make them productive, and to serve the American people. Having their work represented on this board serves the American people, and I ask my colleagues to support the amendment.

Mr. PENCE. Mr. Chairman, I yield myself such time as I may consume.

I thank the members of the committee, especially the author of this bill, for their sincerity of purpose and civility in this debate. I also thank my colleagues who have risen in support of the Pence amendment, which, again, simply removes the provision of H.R. 22 that requires that the first vacant slot on the Board of Governors be filled by an individual with unanimous backing by all labor organizations.

The Pence amendment is supported by National Right to Work, by Americans For Tax Reform. We already have fairness on the board, Mr. Chairman: five members of one political party, the party in power in the White House, and four members appointed by the other political party. We do not need a tie-breaker member that is selected by the unanimous consent of all the labor unions.

If we are going to achieve the labor and workforce reforms necessary to restore efficiency to the Postal Service and ensure its vitality in the 21st century, we must ensure that those reforms are not stymied by a reserved seat for labor unions on the postal board.

Mr. Chairman, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume. I thank my friend for offering his amendment. I am unable to support it, but I understand the spirit in which he is giving it to try to make this a better bill.

This is a carefully crafted bill in which Republicans and Democrats have come together to try to work through a lot of issues, and moving one part out really jeopardizes the total package.

The gentleman quoted the minority leader, or the minority whip, as saying, This is a good bill and it should be passed this year; and he understood that, but why would a Republican Congress do it.

A Republican Congress would pass this bill because we do not want a 2-cent rate increase next January. The only way we can forestall that rate increase is by passing this legislation; and to pass this legislation, we need to work together with Republicans and Democrats. That means we give on some issues and we take on others.

The question was raised, well, we ought to have a taxpayer on the board. I think everybody who is on the board is a taxpayer. The fact of the matter is, there are four members of the board who are management, but they are not postal management. There are two postal management members of the board, and this would reserve one for the unions to pick; and by the way, there are diversity among the postal unions. That is a tough job to pick somebody because of competing interests over mail handlers versus letter carriers and the like.

But this is good legislation, and I am afraid that this amendment, in my judgment, despite I think the best intentions of its author, will upset that delicate balance that we have created to this point. It is not something that is new to corporate America to have a member of labor sitting on corporate boards. It is actually done quite frequently, particularly in the airline industry and a number of other industries where this is fairly common at this point. And since the postal workers have a lot to gain or lose by this as well, we think their voice can be very constructive at the end of the day.

So for those reasons and the fact that this particular provision has been in the bill since its introduction 11 years ago, and until this amendment was filed, I do not think any objections have been raised. I understand where the gentleman is coming from; but for those reasons, I would ask my colleagues to reject the Pence amendment and to support the final passage.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. PENCE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. PENCE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Indiana (Mr. PENCE) will be postponed.

It is now in order to consider amendment No. 2 printed in House Report 109-184.

AMENDMENT NO. 2 OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. FLAKE:

Page 120, after line 8, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 712. PILOT PROGRAM TO TEST ALTERNATIVE METHODS FOR THE DELIVERY OF POSTAL SERVICES.

(a) PILOT PROGRAM.—The United States Postal Service may conduct a pilot program to test the feasibility and desirability of alternative methods for the delivery of postal services. Subject to the provisions of this section, the pilot program shall not be limited by any lack of specific authority under title 39, United States Code, to take any action contemplated or, to the extent specified in a waiver granted by the Postal Service in accordance with regulations under subsection (f), by any provision of law, rule, or regulation inconsistent with any action contemplated (any such waiver to be granted or denied in consultation with the Attorney General, to the extent any provision of title 18, United States Code, is involved).

(b) REQUIREMENTS.—

(1) IN GENERAL.—Under the pilot program, alternative methods for the delivery of postal services may be tested only in those communities that submit an appropriate application (together with a written plan) in such time, form, and manner as the Postal Service by regulation requires, and whose application has been duly approved. Any such application shall include—

(A) a description of the postal services that would be affected;

(B) the alternative providers selected and the postal services each would furnish (or the manner in which those decisions would be made);

(C) the anticipated costs and benefits to the Postal Service and users of the mail;

(D) the anticipated duration of the community's participation;

(E) a specific description of any actions contemplated for which there is a lack of specific authority or for which a waiver (as described in subsection (a)) would be necessary; and

(F) such other information as the Postal Service may require.

(2) REVIEW BOARDS.—Under the pilot program, the postmaster or postmasters within a community may, in accordance with regulations prescribed by the Postal Service, establish a postal performance review board (hereinafter in this section referred to as a "review board"). It shall be the function of a review board to submit any application under paragraph (1) on behalf of the community that it represents and to carry out the plan on the basis of which any such application with respect to such community is approved. A review board shall consist of the postmaster for the community (or, if there is more than one, the postmaster designated in accordance with regulations under subsection (f)), at least 1 individual who shall represent the interests of business concerns, and at least 1 individual who shall represent the interests of users of the class of mail for which the most expeditious handling and transportation is afforded by the Postal Service. The postmaster (or postmaster so designated) shall serve as chairman of the review board.

(3) ALTERNATIVE PROVIDERS.—To be eligible to be selected as an alternative provider of postal services, a provider must be a commercial enterprise, nonprofit organization, labor organization, or other person that—

(A) possesses the personnel, equipment, and other capabilities necessary to furnish the postal services concerned;

(B) satisfies such security and other requirements as may be necessary to safeguard the mail, users of the mail, and the general public;

(C) submits a bid to the appropriate review board in such time, form, and manner (together with such accompanying information) as the review board may require; and

(D) meets such other requirements as the review board may require, consistent with any regulations under subsection (f) that may apply.

(4) USE OF POSTAL FACILITIES AND EQUIPMENT.—Postmasters shall at their discretion be permitted to allow alternative providers the use of facilities and equipment of the Postal Service, and any such proposed use shall, for purposes of the competitive bidding process, be taken into account using fair market value.

(c) LIMITATIONS.—The pilot program—

(1) may involve not more than a total of 20 communities; and

(2) shall terminate not later than 5 years after the date on which the program commences.

(d) TERMINATION AUTHORITY.—Subject to such conditions as the Postal Service may by regulation prescribe and the terms of any written agreement or contract entered into in conformance with such regulations, the participation of a community in the pilot program may be terminated by the Postal Service or by the review board for such community if either determines that the continued participation of the community is not in the best interests of the public or the Government of the United States.

(e) EVALUATIONS.—The Postal Service shall provide for an evaluation of the operation of the pilot program within each community that participates. Any such evaluation shall examine, at least and if applicable, reliability of mail delivery (including the rate of misdeliveries), timeliness of mail delivery (including the time of day that mail is delivered and the time elapsing from the postmarking to delivery of mail), volume of mail delivered, and any cost savings or additional costs to the Postal Service attributable to the use of alternative providers. Data included in any such evaluation shall be analyzed—

(1) by community characteristics, time of year, and type of postal service;

(2) by residential, business, and any other type of mail user; and

(3) on such other bases as the Postal Service may determine.

Each such evaluation and an overall evaluation of the pilot program shall be transmitted by the Postal Service to the President and each House of Congress by not later than 90 days after the date on which the program terminates.

(f) REGULATIONS.—The Postal Service may prescribe any regulations necessary to carry out this section.

(g) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to affect the obligation of the Postal Service to continue providing universal service, in accordance with otherwise applicable provisions of law, in all aspects not otherwise provided for pursuant to this section.

The CHAIRMAN. Pursuant to House Resolution 380, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I yield myself such time as I may consume.

My amendment is quite simple. It establishes a pilot program in at least 20 test communities, which would sunset in 5 years, to allow the U.S. Postal Service and the Congress to simply gather information. This pilot program would test the feasibility and desirability of alternative methods for the delivery of postal services.

The pilot program would test the current following assumptions about the Postal Service: Are consumers better off if the Postal Service remains a monopoly? Does the current postal infrastructure allow for as many delivery offerings as possible? Is the total value of the universal service model for postal delivery worth the expense?

Now, universal service by the Postal Service would continue to be provided, but participating postmasters would not be limited by the current monopoly statutes on first-class delivery and the use of postal mailboxes. If the postmaster so chooses, alternative providers, such as commercial enterprise, nonprofit organization, or a labor organization that satisfies a strict set of criteria could serve as an alternative provider for postal services. They would also be able to use the equipment and facilities of the USPS at the discretion of the postmaster for fair market value.

Mr. Chairman, with the dramatic reduction in first-class mail volume, coupled with the inability of the Postal Service to control costs, the Postal Service and Congress must have many well-tested alternatives for the future of mail delivery in the U.S.

Many European countries are well ahead of the U.S. on some new innovative ideas for structuring their respective postal delivery services. The pilot program is simply a test program to provide the Postal Service and Congress with useful information to make future changes to postal services, if needed.

I might add, Mr. Chairman, we know that some changes are needed. We are running into deficits; and every 4 years, we are bailing out the USPS. I do not want to be here 4 years from now doing the same thing. So let us test some alternatives. Let us see what else works. Let us see what other countries are doing that we might adopt to control costs and improve quality.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise to claim the time in opposition, and I yield 2 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I understand this amendment is to do something on a pilot project basis with the idea that we are going to promote innovation in the delivery of the mail. Well, I support that goal.

H.R. 22 has many provisions to promote flexibility and innovation; but this amendment, maybe it was not intended this way, but it is drafted in a way that is an open invitation to abuse. It allows a local postmaster to contract out the delivery of the mail to private companies; and in the course of that amendment, it provides that any provision of Federal law that might otherwise apply to these contracts and the delivery of mail can be waived.

Well, that is incredibly far-reaching. It would mean a local postal official could set up his own company. He can ask his brother-in-law to set up another company and then contract with that company to do the job of delivering the mail. It is certainly a blatant conflict of interest.

But even criminal laws could be waived under this amendment. There would be no prohibition against under-the-table kickbacks. The provision could allow the waiver of the privacy of first-class mail. This could lead to a lot of unforeseen problems.

That is why the postmasters of this country, the National League of Postmasters, which represents the local postmasters, has said that the postmasters very strongly oppose the amendment: "The Congressman's approach would be harmful to universal service."

So it is not just that this amendment goes against the compromise that has brought this whole bill together, but I do not think it has been thought through, and I do not think we ought to adopt something that has so many possible ramifications to it that we would certainly regret.

Mr. FLAKE. Mr. Chairman, I yield myself 1 minute.

I should point out to the gentleman that postmasters would have full authority under this legislation, under this amendment to actually contract out or not. They can disband the alternative at any time.

Now, under the law, only the government can do it right, and we ought to take over the entire economy. If we do not trust the private sector to deliver services more effectively and more efficiently than the government can, shoot, why do we not get in every business.

We know that that is not the case. We know the private sector typically can do it better, faster, cheaper, smarter than government.

Every 4 years, we are back in again to bail out the USPS. This simply says, why do we not try something, try some alternatives that are working in other countries; try some things that might work, that might lower the cost, that might be more taxpayer-friendly than this. That is what this amendment is all about.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

We are not bailing out the post office every 4 years; it is like every 35 years, since the last act. We did come out with some additional money because of anthrax and because of the added burdens that we put on the post office at that point, but the post office has to operate under its own budget; and right now, the only thing they can rely on is rate increases, and rate increases drive mail away into other areas, which is why we are working this bill tonight.

I appreciate the gentleman's amendment, but I think it is unnecessary. The Postal Service already has considerable authority to test and implement different methods of providing services to the public. Nothing in the current law, I repeat, nothing in the current law or in H.R. 22 prevents the Postal Service from employing contractors in providing mail service.

The post office has a long history of doing so, starting with the Pony Express. For most of its history, the Postal Service has relied on dedicated contractors to manage small post offices, often in rural communities. Almost 8 percent of all of the post offices are operated under contract, not by postal employees; 8 percent.

Also, for 160 years, the Postal Service has relied on private contractors for the transportation and delivery of mail. Star route carriers today continue to operate, transporting mail efficiently and effectively nationwide, even delivering the mail to over 2 million homes 6 days a week. In many rural communities, those served by both contract postal units and star route carriers, the Postal Service's entire relationship with their customers is already handled by contractors, not employees.

□ 2030

For these longstanding and successful postal contract arrangements, this amendment is at best unnecessary. At worst it adds a new layer of procedures that will place burdens on expanding these programs into newer areas. One puzzling aspect is its provision allowing the Postal Service to waive laws, rules and regulations, including sections of the criminal code, which I am not sure I understand. Maybe the gentleman on his time will explain.

But the Service does not need this waiver to contract the provisions. In fact, it only serves to remove needed protections safeguarding the sanctity, privacy and security of the mail. Do customers really want their mail delivered by contractors to whom no laws apply?

In short, the Postal Service has been conducting pilot tests of these ideas since the 19th century. I would say the evaluation phase is over, the results are in, they work. Let us not mess them up with a new, unnecessary, convoluted regulation. Both postmaster organizations oppose this.

And so I would urge that we defeat this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FLAKE. Mr. Chairman, before yielding 2 minutes to the gentleman from Indiana, let me just say that asking the Postal Service to give up what might lead to giving up their monopoly or a portion of their monopoly is unreasonable. We need to prime the pump a little. No private business would in their self-interest do that either. That is why this amendment is important.

Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of the Flake amendment. There are 38,000 post offices, stations and branches in the U.S. Postal Service. The Flake amendment contemplates a pilot program that would affect 20 communities.

By my bad math, that is about 1/20 of 1 percent of the communities that are served by 38,000 post offices, stations and branches. But that is an unacceptable reform.

I rise with great respect to the gentleman from California (Mr. WAXMAN), who has been a champion of postal reform for much longer than I have been in Congress. I do respect the gentleman and have great respect for the chairman. It is lost on me why we cannot say, in the name of reform, in the greatest free-market economy in the history of the world, that we will allow for competition in 20 pilot programs to run out inefficiencies and to bring innovation and new ideas to the delivery of postal services.

The Flake amendment is just simply that; 38,000 post offices, stations and branches. The Flake amendment asks humbly that we identify 20 communities to test the feasibility and desirability of alternative methods of delivery of postal services, and this reform bill and its reformers oppose that pilot program.

Let us bring real reform to reform. If we cannot, let us introduce a pilot program where reform and the ideas of reform might be able to take hold to create a truly diverse 21st century postal delivery system for America.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. MCHUGH).

Mr. MCHUGH. Mr. Chairman, a couple of comments. The gentleman from Arizona (Mr. FLAKE) said you cannot expect the Postal Service to give back any of its monopoly powers. With all due respect, the Postal Service has agreed to this bill. In this bill there is a substantial reduction in the monopoly scope on first class mail.

Right now first class mail and monopoly is whatever the Postal Service says it is. Under this bill there is a bright line determination; it is six times the rate of the first class stamp, which is a substantial give-back.

I also have to underscore the distinguished chairman's concerns about the suspension of title 18. You can argue about the needs for reform in pilot tests and such, but maybe it was an inadvertent step, but the fact still remains the amendment before the committee today will be a suspension of the criminal code, which would empower, rightly or wrongly, those who would be entrusted with the mail of the United States Postal Service to be totally absolved under criminal responsibility.

Now, I can leave it to the imagination of the Members what that could potentially mean for identity theft and on and on and on. I doubt that the gentleman from Arizona (Mr. FLAKE) meant it, but regardless, that is what this reform calls for.

The last thing I would say is I think that a concern is about a new model for the Postal Service, and I would agree, and this bill understands that as well. We specifically negotiated with the administration a study to be conducted under the auspices of GAO. They will hire a contract specialty firm that will look at establishing a future business model that, in part, and I will quote from the bill, "seeks to study the maintenance of the Postal Service in its current form as an independent establishment in the executive branch; and, two, transforming the Postal Service into an ordinary corporation, wholly owned by the government or wholly owned by private shareholders or partly by the government and partially by private shareholders."

This bill admits we have to take a careful look at the future of the business model of the Postal Service. That is why this amendment should be rejected.

Mr. FLAKE. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in support of this amendment. I do want to add my voice to those congratulating the gentleman from Virginia (Chairman TOM DAVIS) for his good work, and I know that the job has been very tough to try to reconcile all of the differing interests and opinions that are brought to bear. But I find it very difficult to believe that we have something to fear from a pilot program in 20 communities out of 38,000. It appears that something is not working, or we would not be here this evening.

Many, many years ago when I was in high school, I played both football and tennis, and I was equally poor at both, but I remember something a tennis coach once told me: There are many ways to lose at tennis. Try them all.

Well, we are losing here tonight if we are contemplating rate increases and imposing $6 billion on the taxpayers. Maybe we should try something new. Maybe we should try some pilot programs. Maybe we should get some more experimentation, some more innovation, some more competition into the system, and maybe we can find ways to start winning at this.

And because of that, I do rise in strong support of the gentleman's amendment.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, let me just say this: On the $6 billion figure floating around, it is important to understand that the reason the Congressional Budget Office scores this as an increase is because they have contemplated and put into their figuring that there will be rate increases. Our legislation takes away those rate increases, so that is not coming into the Treasury. So if you do not have a rate increase, it scores.

When you sit here and say it is going to cost the taxpayers, that means they do not have to go with a rate increase. We are being penalized because we are not doing rate increases, and it scores against us. We need to understand that. And that is why this legislation is being passed.

Mr. Chairman, I yield 1½ minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding me the time.

The Postal Service delivers to 140 million sites, and there is about a million new sites every year. It provides universal service.

When I hear my colleagues talk about fine-tuning this bill, that is what we have been doing for the last 10 years. This is a bill that has been fine-tuned, and it has been fine-tuned in a way that has gotten support from disparate parts.

The employees who work at the postal system know that more than 200,000 jobs are going to be lost. That is why we opposed the first amendment by the gentleman from Indiana (Mr. PENCE) because we need employee buy-in.

The reason why we opposed this amendment, it seems to fail to understand that there is competition with FedEx, with UPS, with DHL and many more things. They are also competing with the newspapers.

We are trying to provide flexibility to the postal system. So I understand the concept of fine-tuning, but I would dispute significantly the failure to recognize that the bill has been fine-tuned. And when I am hearing my colleagues offer their amendments, I feel like they have not read the bill, because the bill allows for competition, it allows for flexibility, and it has buy-in in all of these disparate parts.

This amendment needs to be defeated if we are going to pass this bill.

Mr. FLAKE. Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I will reserve the balance of my time.

Mr. FLAKE. Mr. Chairman, I yield myself the balance of the time. I will go ahead and wrap up.

Labor costs consume 80 percent of the Postal Service revenue, whereas UPS and FedEx spend only 56 and 42 percent of their revenues on labor. I know there are differences. It is a little different animal when we are talking about first class mail delivery, and what FedEx and UPS do, but 80 percent versus 56 and 42 percent respectively.

I think we ought to be questioning ourselves, what are they doing that we are not? What can we do so we will not have either more money out of the general fund or a rate increase? Whether it is paid by the consumer with monopoly service or the taxpayer is the same. It is both money coming out of the taxpayers' or consumers' pockets.

And I do not want to be here, like I said, 4 years from now talking about another rate increase or talking about more money from the general fund because we simply have not done anything about making sure that competition drives improvement in service and it controls cost. We know that from everything we know about the economy. We know that from education reform. We know that in other areas as well. Competition and choice controls costs and improve quality. This is what we are trying to jump-start here. That is the purpose of this amendment.

As the gentleman from Indiana (Mr. PENCE) mentioned, this is hardly revolutionary. A fraction of 1 percent would be allowed to actually test this proposition, that maybe competition would help control cost and improve quality, a fraction of 1 percent of all of the sites out there, of all of the systems running.

So this is a very modest amendment. I think it is important.

Mr. Chairman, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I would just note that the universal service obligation of the post office gives it a burden in requirements that some of the other facts and figures alluded to do not have to meet.

Mr. Chairman, I would yield the remaining time to my colleague, the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, where I come from, there is an old saying: If it looks like a duck, acts like a duck, quacks like a duck, talks like a duck, then it is a duck. And it seems to me that the bottom line is this is an attempt to privatize the Postal Service, which would decimate the concept of universal service. There could be no universal service if this amendment is passed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. FLAKE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona (Mr. FLAKE) will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 109–184

AMENDMENT NO. 3 OFFERED BY MR. HENSARLING OF TEXAS

Mr. HENSARLING. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. HENSARLING:

Page 138, line 13, strike "(h)(1)" and insert "(h)(1)(A)".

Page 138, line 16, strike "(A)" and insert "(i)".

Page 138, line 22, strike "(B)" and insert "(ii)".

Page 138, line 23, strike "(i)" and insert "(I)".

Page 139, line 1, strike "(ii)" and insert "(II)".

Page 139, line 7, strike "(iii)" and insert "(III)".

Page 139, after line 10, insert the following:

"(B)(i) In computing the actuarial present value of future benefits, the Office shall include the full value of benefits attributable to military and volunteer service for United States Postal Service employees first employed after June 30, 1971, and a prorated share of the value of benefits attributable to military and volunteer service for United States Postal Service employees first employed before July 1, 1971.

"(ii) Military service so included shall not be included in the computation of any amount under subsection (g)(2).

Page 142, strike line 21 and all that follows through page 143, line 7.

Page 143, line 8, strike "(d)" and insert "(c)".

Page 147, lines 12 through 13, strike "**ESCROW AND MILITARY**" (and make such technical and conforming changes as may be appropriate).

Page 148, line 2, strike "for each of fiscal years 2006 through 2015" and insert "for fiscal year 2006 and each fiscal year thereafter".

Page 148, line 24, strike "two-thirds of".

Page 149, line 6, strike "two-thirds of".

Page 149, line 25 through page 150, line 1, strike "two-thirds of".

Page 150, line 4, strike "two-thirds of".

Page 150, strike lines 13 through 21.

The CHAIRMAN. Pursuant to House Resolution 380, the gentleman from Texas (Mr. HENSARLING) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, earlier this evening some Members rose in support of postal workers. Other rose in support of large postal customers. This is good, and this is well, and I respect that.

But tonight I wish to rise in support of the taxpayer. Today our Nation is riding a wave, an impending fiscal tsunami, that threatens to drown our children and grandchildren in a sea of red ink.

Since 2000, the amount that government spends annually per household has risen from $18,000 to over $20,000 in 2004. This is only the fourth time in our Nation's history that spending exceeded $20,000 per household. It also represents the largest expansion of the Federal Government since the Vietnam era.

The Federal debt now stands at a staggering $7.8 trillion, or roughly $26,600 for every man, woman and child in America. And the Nation's financial challenges are about to get markedly worse over the next decade.

Without reforms we know that Medicare will grow at a rate of 9 percent, Medicaid 7.8 percent and Social Security at 5.5 percent a year, far outstripping our country's economic growth or our ability to pay for them. Where will it all end?

□ 2045

According to the GAO, if we ignore the runaway growth of government spending, we will have to double taxes, double taxes on our children and grandchildren just to balance the budget by the year 2040. If this occurs, we stand to become the first generation of Americans to leave our children with a lower standard of living, not to mention a legacy of limited freedom and unlimited government.

Now, day after day Member after Member comes to this floor to decry the Federal deficit and the legacy of debt that we are leaving our children. Rarely have so many of us spoken so passionately against the Federal deficit and yet done so little about it.

Today, I wish to provide us with an opportunity to change that. In 1970, the fundamental principle of postal reform was established, that the Postal Service would become a self-financed entity. According to title 39 of the U.S. Code: "Postal rates shall be established to apportion the costs of all postal operations to all users of the mail."

Simply put, the U.S. Postal Service is supposed to pay its own freight; but according to the Congressional Budget Office, and I understand that the chairman of the full committee respectfully disagrees with their score, the CBO says H.R. 22 will actually place us further in debt by almost $6 billion over 10 years. And who should pay for that $6 billion?

It either must be paid by those who use the Postal Service or the taxpayers. I vote for those who actually use the service. Now, some of my colleagues have argued that the Postal Service faces unique responsibilities and thus taxpayers must subsidize them. It is true. The Postal Service does have some unique responsibilities, but they also enjoy a host of unique benefits that private businesses do not. The Postal Service pays no Federal, States, or local taxes. They are immune from most regulations such as zoning, motor vehicle registration, and even parking tickets.

The Postal Service can borrow from the Treasury at below-market rates and is immune from anti-trust laws despite the fact that it can compete against private companies.

The number one problem facing the United States Postal Service is not the lack of a taxpayer subsidy. It is their seeming inability to control costs. Labor costs consume 80 percent of the Postal Service's revenue, whereas UPS and Fed Ex spend only 56 percent and 42 percent of their revenues on labor.

The Postal Service has been unable to close existing facilities or consolidate new operations. In fact, Mr. Chairman, over half of its 38,000 facilities do not generate enough revenue to cover their costs.

Mr. Chairman, again, I want to state that I respect the hard work that the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from New York (Mr. MCHUGH) have done on this bill. And I do understand that many different opinions had to be reconciled to get a postal reform bill to the floor. But I believe that we need to stand with President Bush, we need to stand with the American taxpayer and make this a budget-neutral bill. Instead, if we want to make the Postal Service more cost competitive, what we really need to do is enact all of the Presidential commission's workforce reforms.

In 2003, Congress decided that the Postal Service was on a course to possibly overpay its civil service retirement system costs. Rather than let the Postal Service spend the money, it retained it and an escrow account was created within the U.S. Treasury.

H.R. 22 releases that escrow account to pre-fund Postal Service health care liabilities. I agree this is a sound use of funds, but it is unfortunately incomplete. Under H.R. 22, only two-thirds of the funds would be used to fund the health care liabilities letting 2 to $3 billion a year slip back to the Postal Service for other expenditures.

With the Postal Service currently facing an unfunded health care liability of roughly $75 billion, I believe every dollar in the escrow account should be used to offset this growing concern. If not, taxpayers will surely be called upon to make up this tremendous shortfall.

Mr. Chairman, my amendment would reduce the cost of H.R. 22 substantially by ensuring that 100 percent of the civil service retirement system savings will be directed to the Postal Service's unfunded health care liability. In addition, this amendment would maintain the Postal Service's financial responsibility for paying the civil service retirement system costs associated with military service credits, instead of passing the cost on to the Treasury and the American taxpayer.

Again, the question is not whether but who will pay, the customers that use the Postal Service or the American taxpayers.

Mr. Chairman, I want the Postal Service to become more efficient, and I believe we can do so by enacting more of the President's initiatives. Let us not pass the buck to American taxpayers yet again. Let us not pile further debt upon our grandchildren. Let us ensure the United States Postal Service continues to pay its own freight. I do appreciate the good work of the gentleman from Virginia (Mr. TOM DAVIS), but let us make H.R. 22 budget neutral. I urge all of my colleagues to vote for this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of California. Mr. Chairman, I claim the time in opposition to the amendment.

Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate where the gentleman is trying to go with this, but even the White House does not want to have this scored neutrally under CBO numbers. They have asked for the Office of Management and Budget numbers because the Congressional Budget Office ends up counting rate increases that have not taken effect as already being part of revenue. And to the extent that we can stave off stamp tax rate increases, what the gentleman's amendment would do, not stave it off but it includes it, to the extent we do that, then it counts against the budget.

The other problem in terms of budget neutrality comes from the President's own commission on the Postal Service which recommended that the military years of service for postal employees under the CSRS retirement program, that those years be paid for by the military like they are for every other agency of government instead of having postal patrons for that. This was the President's commission which recommended that.

What I have talked about, we save money, not take money away. But the question is why should rate payers have to pay for military service in an agency where you have veterans hiring preference? It is not fair to rate payers. It is driving up rates.

Finally, let me say, it is not two-thirds of the escrow funds that is funding health care. Ninety percent of the escrow funds over the next 5 years are to fund health care. That is more than any other agency in government. Not enough for some Members, I am sure; but this is the appropriate way in my opinion for the post office to operate.

We have committed to the White House. We are going to work to try to get this as budget neutral as we can as we move forward to the conference working with OMB, but the Congressional Budget Office's arcane scoring rules make it virtually impossible to get here in this particular case.

Once again, let me remind everyone, what is the alternative? The alternative to this legislation is rate increases, postal rate increases, a stamp act, on every man, woman and child that mails a letter in this country. That is what we are trying to stave off, because as rate increases go up, people quit using the post office; and it gets this downward spiral that will lead to the demise of the post office as we know it. That is why this legislation has such broad support from such diverse groups in the private sector and in the public sector.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I join my chairman in opposing this amendment. It sounds like the gentleman from Texas (Mr. HENSARLING) has some vision of postal reform. Well, I just think that is great, except we cannot pass it.

The alternative to this, as the chairman has pointed out, is going to be the existing system and undesirable increases on rates.

So what is the amendment before us? It is not a different version of reform of the Postal Service. It would micromanage the Postal Service's use of money that is now in an escrow and will tell them they have to use most of that money to prefund health benefits.

Well, we say they must use some of that money for that, but if they shift the money for that purpose, then to run the Postal Service they are going to have to ask for an increase in rates. That is why in amendment would certainly be opposed by all the people who use the Postal Service, the mailers, the enterprises, the businesses in this country that rely on the Postal Service for their success.

Now, the amendment does something else, and I just have to underscore it. As the chairman of the Committee on Government Reform mentioned, it would require the Postal Service to pay for the pensions for those who served in the military before they went to work for the Postal Service. If you were in the military and went to work for any other agency of government, that agency would not be required to pay for your military pension. They might be required to pay for the pension accrued from service in that agency.

Why should the Postal Service have to pay for the military pensions? It does not make sense. And the consequence of it would be that the Postal Service would have to ask for an increase in rates because they have this extra financial burden to pay for military pensions. That is why this amendment is one that I think it to be a poison pill for the legislation.

You could imagine the groups that oppose this legislation like the National Association of Manufacturers and NFIB and others opposing this because they do not want higher rates. I urge opposition to the amendment.

Mr. HENSARLING. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Texas (Mr. HENSARLING) has 3½ minutes remaining.

Mr. HENSARLING. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Chairman, I want to thank the gentleman from Texas (Mr. HENSARLING) for his work on this amendment and, of course, our chairman of the Committee on Government Reform, who has worked so diligently on this bill and for years has worked to be able to move it to the body.

Mr. Chairman, you know, we are hearing a lot about the military benefits. From my service on the Committee on Government Reform, I think I remember that there was in 2003 $103 billion overpayment in pension benefits that was refunded to the Postal Service, and as a part of that agreement they were made responsible for the military pension costs of the employees. And this bill would reverse those provisions.

I think it is also worthy to notice that the gentleman from Texas (Mr. HENSARLING) has pointed out in 1971 the reform efforts put in place at the Postal Service, it would be a self-financing agency, and with that mandate they were given certain exemptions and advantages such as tax and anti-trust. And they are obliged and obligated to manage their finances in a manner that covers its full costs.

We must continue to encourage the Postal Service to be self-sufficient and not be subsidized by the taxpayer. I urge my colleagues to vote in favor of the amendment.

Mr. TOM DAVIS of California. Mr. Chairman, I yield myself such time as I may consume.

Let me just note for the record that we did agree at that point as a condition of releasing overpayment by the Post Office Department into pension funds that they, for a temporary period of time, fund the military for CSRS retirees. But we awaited studies; and the President's own commission, which has been quoted here, came back and recommended that in point of fact the post office should not be making these payments, that it should to go to the general fund side of the ledger.

Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. MCHUGH).

Mr. MCHUGH. Mr. Chairman, a couple points with respect to the gentlewoman's comments about the 1971 legislation. She is right, but she is also a little behind because that is why we are making changes.

H.R. 22, in fact, applies anti-trust provisions against the Postal Service, overturning the 1971 bill. We require taxes paid on the business computations for the competitive products portion of the Postal Service, again overchanging the 1971 bill. So that is what this is all about. I am glad I had the opportunity to update the gentlewoman's perspective on that.

The other thing I would note is that, again, this would be the only Federal agency treated in this manner, the only Federal agency. And there is really no justification for it. I have heard a great deal about budget scoring, and I cannot speak as to the author of this amendment, but I suspect he along with others including myself, stood in the well of this House many, many times and spoke about the moronic perspective of scoring when it came to tax cuts. We did not want that kind of scoring, the same kind of scoring that is applied here. We wanted dynamic scoring, and if we were dynamically scoring, I think we would be referring to the statistics provided by others including the Envelope Manufacturing

Association that says if this amendment were to pass, it would result in the loss of $64 billion in tax revenues from those firms that use the Postal Service for mailing and such that pay sales taxes and others; 245,000 jobs would be impacted just in the first year; and 3.5 million jobs would be impacted over 10 years, all of whom are taxpayers.

So if we are dynamically scoring, as all of us who were so strongly in support of it when it came to the tax cuts, this would not be even an issue.

Let me just state, here is what the Postal Service says about this particular amendment: "If the Hensarling amendment is adopted, the Postal Service will be in worse financial situation then it occupied before the CSRS overfunding was identified and corrected. If the Hensarling amendment is adopted, the total of these four payments would be $97 billion over the next 10 years." That is a tax on the American mailing public, and I think we ought to resist this amendment.

□ 2100

Mr. HENSARLING. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Chairman, I rise today to speak in favor of the amendment introduced by my friend, the gentleman from Texas (Mr. HENSARLING), that would encourage fiscal responsibility by the U.S. Postal Service. I, along with others, support the Postal Service that is staffed by thousands of resourceful and hard-working individuals who I believe have the ability, by themselves, to adapt and create a smoothly functioning postal system that can really be a world leader for us all.

I support the Postal Service and the valuable contribution that it provides to our economy, and the common-sense bill before us will move the U.S. Postal Service in the right direction so it will no longer be a drain on the U.S. taxpayer. This amendment will encourage the Postal Service to move forward, to take responsibility for its own liabilities, just as other large corporations have to do.

Recently Fortune Magazine ranked the Postal Service as the 44th largest corporation in the world and looked at the many assets that they have. Unfortunately, the Postal Service has not taken advantage of those assets and its potential. Instead, it has not moved in the direction of other industrialized nations in providing us with a mail system of innovation, financial soundness, and quality of services.

That study also looked at nine different postal services, two private and seven from industrial nations, and in seven out of those nine categories found the U.S. Postal Service ranked last.

I believe that the Hensarling amendment will change that. It will move the Postal Service of this country in the right direction, make it more efficient, and, most importantly, take the burden off the U.S. taxpayer.

For that reason, Mr. Chairman, I encourage my colleagues to support the gentleman from Texas in his amendment.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Chairman, I thank the gentleman for yielding me this time, and I certainly appreciate the intentions of my good friend from Texas in his amendment tonight, but this amendment would do absolutely nothing to stop a stamp rate increase for next year. In fact, it seems very clear this amendment would have the opposite impact. In fact, it would trigger large increases in the postal rates.

These rate increases would be caused by denying the Postal Service access to billions of dollars which are set aside in their escrow accounts, because the Postal Service will be forced actually to completely finance the escrow requirement as well as the annual health benefit premium for all of their retirees. This will not stop what we are all trying to stop, and that is a postal rate increase, which is really a tax. I guess you can call it a stamp tax, if you want, on the American people.

This amendment is not fiscally conservative. In fact, if you are an individual who just mails a couple of letters a year, I suppose it does not matter if you have a tax increase, a stamp tax increase, of 1 or 2 cents a letter. However, think if you are a catalogue mailing company or a large user of the Postal Service.

This amendment would also require the Postal Service to spend all of their savings released under H.R. 22 on paying the Postal Service's unfunded health care liability rather than giving the Postal Service some much-needed flexibility to use on other pressing issues.

This underlying bill is based on the premise of making the Postal Service more cost-effective, more cost-efficient, making it run in a more businesslike, user-friendly type of way, and this amendment, I believe, is a step backward. So I urge my colleagues to vote "no" on this amendment and also to support the underlying bill, which is a great bipartisan effort and a great bipartisan piece of legislation.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, the argument for budget-neutral reform reminds me of the teaching of Frederick Douglass when he said that he understood one thing, if he did not understand anything else; and that is that in this world we may not get everything that we pay for, but we most certainly will pay for everything that we get.

As the Comptroller General has pointed out, respected accounting principles indicate that the burden for payment for service belongs to the beneficiary. The U.S. Government benefited from military service, and it should cover the cost.

To ensure predictable rate increases, H.R. 22 employs strict rate caps at the subclass level, prohibiting rate increases at a rate greater than CPI. These restrictions, however, make it important that the Service have access to the one-third of its own money to help cover operational costs if need be. Otherwise there is no alternative but to accumulate debt.

Mr. Chairman, the Hensarling amendment would have us embedded in debt. I oppose it.

Mr. HENSARLING. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, 2 years ago the Postal Service was here asking for $7 billion from the taxpayer. They come here tonight asking for $6 billion from the taxpayers. Again, I ask the question: Where will it all end?

If we do not change the way we do business in Washington, we will have to double taxes on future generations just to balance the budget. Somehow, somewhere, some way, someday we must stop the madness of the spending.

I agree with many of my colleagues that there are only two choices: Either ratepayers or taxpayers are going to pick up this tab. I vote for ratepayers.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I urge opposition to this. First of all, the Postal Service is self-operating. What it raises, it spends. The increased money that was added was because of the anthrax issue. It was a national security issue.

This amendment is bad for the economy. We are talking about 8 percent of GDP now having at least a 2 percent increase. In fact, under this amendment, it would not just be a rate increase, this would be basically a rate shock to Americans. It would be far in excess of that.

This hurts Americans' competitiveness, it is bad for the economy, and I urge my colleagues to vote against this amendment.

Mrs. MALONEY. Mr. Chairman, I rise in opposition to the Hensarling amendment.

This amendment would strip critical provisions contained in the underlying bill.

The gentleman's amendment would require the Postal Service to continue to be responsible for the military retirement costs of its employees.

No agency other than the Postal Service is responsible for the military retirement costs that Treasury pays for all other Federal employees.

It is absolutely essential to the long-term survival of the Postal Service to relieve it and postal customers of this $27 billion burden by returning that responsibility to the Treasury.

Additionally, his amendment would mandate that 100 percent, rather than ⅔, of the Civil Service Retirement System savings that resulted from the fix Congress enacted 2 years ago and are currently in an escrow account, must go to the Retiree Health Benefits Fund.

This provision would have the effect of increasing postal rates by preventing the USPS from using these savings to help keep postal rates stable.

If Congress had not fixed this formula, the Postal Service's required share of this Federal government retirement fund would have resulted in a long-term overpayment of more than $70 billion.

These savings were intended to provide the Postal Service with much-needed fiscal relief and a promise of stable postal rates until 2006.

A vote for this amendment would undermine the very reason why this bill is on the Floor today . . . to enact long overdue reforms of the Postal Service.

I urge my colleagues to vote "no."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. HENSARLING).

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report number 109–184.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: Amendment No. 1 offered by the gentleman from Indiana (Mr. PENCE) and amendment No. 2 offered by the gentleman from Arizona (Mr. FLAKE).

The Chair will reduce to 5 minutes the time for the second electronic vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. PENCE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. PENCE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 82, noes 345, not voting 6, as follows:

[Roll No. 428]

AYES—82

Aderholt
Akin
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Blackburn
Blunt
Bonilla
Boustany
Brady (TX)
Burgess
Buyer
Cantor
Carter
Chabot
Chocola
Cole (OK)
Conaway
Cox
Culberson
Deal (GA)
DeLay
Feeney
Flake
Foxx
Franks (AZ)
Garrett (NJ)
Gingrey
Gohmert
Goodlatte
Granger
Hall
Hayes
Hayworth
Hefley
Hensarling
Herger
Hostettler
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jindal
Johnson, Sam
Jones (NC)
King (IA)
Kingston
Kirk
Mack
Marchant
McCaul (TX)
McCrery
McHenry
McMorris
Miller (FL)
Miller, Gary
Musgrave
Myrick
Neugebauer
Norwood
Otter
Paul
Pence
Pitts
Poe
Price (GA)
Rohrabacher
Royce
Ryun (KS)
Sessions
Shadegg
Stearns
Sullivan
Tancredo
Thornberry
Tiahrt
Weldon (FL)
Westmoreland
Whitfield
Wilson (SC)

NOES—345

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Boehlert
Boehner
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burton (IN)
Butterfield
Calvert
Camp
Cannon
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chandler
Clay
Cleaver
Clyburn
Coble
Conyers
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Gallegly
Gerlach
Gilchrest
Gillmor
Gonzalez
Goode
Gordon
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Herseth
Higgins
Hinchey
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McCotter
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Ney
Northup
Nunes
Nussle
Oberstar
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—6

Cooper
Gibbons
Hinojosa
Miller, George
Obey
Oxley

☐ 2128

Messrs. PETERSON of Pennsylvania, UDALL of Colorado, STUPAK, RAMSTAD, Ms. HARMAN, Ms. CARSON, Mrs. NORTHUP, and Ms. HART changed their vote from "aye" to "no."

Mr. MACK and Mr. KIRK changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. HINOJOSA. Mr. Speaker, on rollcall No. 428, had I been present, I would have voted "no."

AMENDMENT NO. 2 OFFERED BY MR. FLAKE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Arizona (Mr. FLAKE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 51, noes 379, not voting 3, as follows:

[Roll No. 429]

AYES—51

Akin
Barrett (SC)
Bartlett (MD)
Blackburn
Brady (TX)
Buyer
Carter
Chocola
Conaway
Cox
Culberson
Duncan
Feeney
Flake
Foxx
Franks (AZ)
Garrett (NJ)
Gingrey
Harris
Hayworth
Hensarling
Inglis (SC)
Jindal
Johnson, Sam
King (IA)
Kingston
Kolbe
Linder
Lungren, Daniel E.
Mack
McCaul (TX)
McHenry
McMorris
Mica
Miller (FL)
Musgrave
Myrick
Neugebauer
Otter
Paul
Pence
Poe
Rohrabacher
Royce
Sessions
Shadegg
Stearns
Sullivan
Tancredo
Weldon (FL)
Wilson (SC)

NOES—379

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chabot
Chandler
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Gallegly
Gerlach
Gilchrest
Gillmor
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kirk
Kline
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lynch
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—3

Gibbons
Miller, George
Oxley

□ 2136

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised that 2 minutes remain in this vote.

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BASS) having assumed the chair, Mr. SIMPSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 22) to reform the postal laws of the United States, pursuant to House Resolution 380, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage will be followed by a 5-minute vote on the motion to suspend the rules and pass H.R. 3339.

The vote was taken by electronic device, and there were—ayes 410, noes 20, not voting 3, as follows:

[Roll No. 430]

AYES—410

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman

Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—20

Akin
Barrett (SC)
Chocola
Culberson
Davis, Jo Ann
Feeney
Flake
Franks (AZ)
Gohmert
Hensarling
Istook
Johnson, Sam
Musgrave
Nussle
Otter
Paul
Pence
Royce
Shadegg
Weldon (FL)

NOT VOTING—3

Gibbons
Miller, George
Oxley

☐ 2154

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WISHING THE HON. DAN BOREN AND HIS BRIDE WELL ON THE OCCASION OF THEIR MARRIAGE

(Mr. HOYER asked and was given permission to speak out of order for 1 minute.)

Mr. HOYER. Mr. Speaker, we talk a lot about families on this floor, and properly so. We talk a lot about caring on this floor, and properly so. We talk a lot about relationships on this floor, and properly so.

And I am proud to rise today to say how pleased I am, and I know all Members of the House will be, the youngest Member on our side of the aisle is the gentleman from Oklahoma (Mr. BOREN), and the gentleman from Oklahoma (Mr. BOREN) this weekend took to himself a beautiful bride from South Dakota, Andrea.

Let us wish them well as they embark upon this new family.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS). Without objection, the next vote will be a 5-minute vote.

There was no objection.

JAMES T. MOLLOY POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3339.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and pass the bill, H.R. 3339, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 10, as follows:

[Roll No. 431]

YEAS—423

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Rahall

Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Davis (FL)
Gibbons
Hefley
Lewis (CA)
Marshall
Miller, George
Murtha
Oxley
Radanovich
Wexler

☐ 2204

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5, HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2005

Mr. PUTNAM, from the Committee on Rules, submitted a privileged report (Rept. No. 109–185) on the resolution (H. Res. 385) providing for consideration of the bill (H.R. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3045, DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION ACT

Mr. PUTNAM, from the Committee on Rules, submitted a privileged report (Rept. No. 109–186) on the resolution (H. Res. 386) providing for consideration of the bill (H.R. 3045) to implement the Dominican Republic-Central America-United States Free Trade Agreement, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3283, UNITED STATES TRADE RIGHTS ENFORCEMENT ACT

Mr. PUTNAM, from the Committee on Rules, submitted a privileged report (Rept. No. 109–187) on the resolution (H. Res. 387) providing for consideration of the bill (H.R. 3283) to enhance resources to enforce United States trade rights, which was referred to the House Calendar and ordered to be printed.

STRONGLY SUPPORTING CAFTA

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of the CAFTA agreement. Goods come from CAFTA countries into America absolutely duty free. Whether they are industrial, whether they are agricultural, no matter what goods they are, they come in duty free.

Our goods, when they go to their markets, suffer from the weight of heavy duties. So all this agreement does is drop the duties on our goods, drop the tariffs on American goods flowing into these markets.

It is a win for America on every single front. It is the status quo for the Central American nations. Why would they agree to it? Because it makes it permanent and because there are some two-way partnerships in this bill that are an advantage to these Central American nations, and to us.

We will be defeated by China in textiles if we do not modernize the partnership between the American yarn makers and the Central American textile companies.

As to the labor agreements, the labor portions of this agreement, I have gone into those in great detail over and over again. We have the best labor agreements we have ever had in any Free Trade Agreement, and the Democrats in this House have voted for those agreements overwhelmingly. It is a double standard, it is artificial, and it is unfair to vote against this agreement.

GOOD, BIG REASONS TO DEFEAT CAFTA

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, the Congressional Budget Office, the nonpartisan arm of Congress that provides economic projections, just released a report on the Central American Free Trade Agreement. The report shows the cost of its sugar provisions would be over $500 million over the next 10 years. They also found the loss in revenue to the U.S. Treasury would be $4.4 billion over the next 10 years, more than $400 million every year.

So not only does CAFTA jump up a trade deficit that has gone from $38 billion 12 years ago to $618 billion last year, but CAFTA continues this erosion, the hemorrhaging of manufacturing jobs: 3 million lost manufacturing jobs in the last 5 years. And it is also going to blow an even bigger hole in the Federal budget: one more good, big reason to defeat the Central American Free Trade Agreement.

CAFTA IS GOOD FOR AMERICAN BUSINESS

(Ms. HART asked and was given permission to address the House for 1 minute.)

Ms. HART. Mr. Speaker, I rise in support of the Dominican Republic-CAFTA agreement.

Our colleagues have discussed a lot of issues regarding CAFTA: whether it is important to our national security and whether it will help those countries to grow and become more secure and prevent some illegal immigration into the United States. But one of the most important things about this agreement is that it is good for American business.

I do not know about my colleagues, but I am for agreements that help our manufacturers, and what I have discovered is that the manufacturers in my district will benefit from this agreement. In fact, a significant portion of them either currently export or want to export to those countries. But currently, there are heavy tariffs placed on their products when they arrive in Central America, making those products more expensive to the purchasers there. This agreement will remove those tariffs and make American products more available to those who wish to purchase them in Central America.

Now, my question is, how can that be bad for American business? It is not. It is good for American business, and anybody who is thinking about growth in our economy should support the CAFTA agreement.

ON THE ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

(Mr. FARR asked and was given permission to address the House for 1 minute.)

Mr. FARR. Mr. Speaker, there can be no worse public act than a government that refuses to acknowledge the humanity of its citizens.

Throughout history, the United States has struggled to rise above the divisions among its people and, instead, fuse its people into a single, unified citizenry.

Whether it was the struggle over civil rights for persons of color, the fight for women's rights or, most recently, the battle for access by persons with disabilities, the United States has risen above our differences and embraced them as worthy of a society that sees itself as open, free, and inclusive.

The fight by persons with disabilities for nondiscrimination in matters of employment, transportation and building access, and accommodation, was landmark.

Through the enactment of the ADA, our country removed the cloak of secrecy wrapped around our disabled citizens and announced to the world that persons with disabilities were valued members of our society.

So, today, as we celebrate the 15th anniversary of the Americans With Disabilities Act, I rise to honor ever person, disabled or not, who worked so hard to see this law enacted. These persons and their effort are a testament to the spirit of fairness, the spirit of perseverance, and the spirit of hope that inspires us all.

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Whether it was the struggle over civil rights for persons of color, the fight for women's rights, or most recently, the battle for access by persons with disabilities, the United States has risen above our differences and embraced them as worthy of a society that sees itself as open, free, and inclusive.

The fight by persons with disabilities for non-discrimination in matters of employment, transportation and building access and accommodation was landmark.

Through the enactment of the ADA our country proclaimed that 43 million Americans were real people, deserving of amenities everyone else took for granted.

Through the enactment of the ADA our country removed the cloak of secrecy wrapped around our disabled citizens and announced to the world that persons with disabilities were valued members of our society.

The successes of ADA continue to astonish us, even 15 years later: the disabled child who now can play Little League ball; disabled veterans who can now use special equipment to play golf at military golf courses; disabled patrons who can now go to movie theaters, restaurants, and museums who before found the trip daunting, or were blocked entirely. Now we have buses that kneel for our disabled riders, earphones for opera lovers who just don't hear well enough, and talking elevators that tell blind passengers their floor stop.

All of this may have been mandated by the ADA but just as consequential is that it was American ingenuity that developed it. We figured it out. We set a goal to integrate persons with disabilities into mainstream America, and by gosh, we did.

Unfortunately, even with the ADA in place, the road to full accommodation has been pitted with potholes and rough spots. As it was with civil rights, or women's rights, the full recognition of disability rights falls short in many regards. As a Nation we need to recommit ourselves to these lofty laws; it is the right thing to do. There are still too many instances of persons with disabilities being excluded from public venue because they are different. That is just wrong and it is un-American. In the land of freedom, established so every man and woman could pursue their dreams, these incidents are blots against our national value of equality.

So today while we celebrate the 15th anniversary of the Americans with Disabilities Act, I rise to honor every person—disabled and not—who worked so hard to see this law enacted. These persons and their effort are testament to the spirit of fairness, the spirit of perseverance and the spirit of hope that inspires us all.

EXPRESSING SYMPATHY TO THE BOY SCOUTS OF AMERICA FAMILY

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, a day or two ago, I rose on the floor of the House to welcome the Boy Scouts of America to their jamboree that they hold every 4 years.

As a member of the Board of Directors of the Sam Houston Area Boy Scouts in my hometown of Houston, Texas, Houston-Galveston Council, I rise today to offer my deepest sympathy to the Boy Scouts of America family due to the loss of four scout leaders who died in an electrical accident in Virginia during the course of putting up some of the equipment for the young men who were about to participate in the jamboree right after their noontime service.

I know that the Boy Scouts are, in fact, a family. This is an enormous tragedy. Just as their scout oath reminds them of their commitment to their country and their God and the honor that they have, I know that they will draw together as a family and be united in their empathy and sympathy with the family members of their lost scout leaders.

I wish for them the very best as they continue their jamboree, and my greatest sympathy to those who lost their lives. As well, I know that the Boy Scouts will continue to serve in their communities around the Nation and continue to serve America, for they are young outstanding leaders that have come here to the United States Capital to begin to learn and recommit themselves to their values and to service.

□ 2215

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ON THE RETIREMENT OF GEORGE CRAWFORD

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. PELOSI) is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, I rise this evening to pay tribute to really a great person, a great leader, a truly decent man, and a dear friend on his retirement after nearly a quarter century of service to the House of Representatives, Mr. George Crawford.

George is a master of policy, politics and procedures of this institution, and he must be one of the kindest people working on Capitol Hill. George has been invaluable to my office as the chief of staff of the leader's office and of this Congress.

George began his distinguished career on the staff of the then Senator Howell Heflin of Alabama. He soon moved to the staff of the great Claude Pepper of Florida, who was chair of the Rules Committee, but, Mr. Speaker, in those days we still called him Senator Pepper.

And George worked with him and quickly revealed his remarkable talents. Again he went with Senator Pepper to the Rules Committee while Senator Pepper was chairman and worked his way up to staff director under the magnificent chairman, Joe Moakley of Massachusetts, who was a colleague to many of us who serve here today.

Today, having traveled a long and impressive arc, he retires as the chief of staff of the Democratic leader's office. I was privileged that George came to work for me nearly 4 years ago, shortly before I was elected House Democratic whip. George helped to take our staff to the next level, shaping and leading our office.

George loves sports analogies, so let me say that first in the whip's office and then in the leader's office, George recruited the best talent, ran creative plays and always knew how to put points on the board.

In the Democratic leader's office, George has been an innovative leader. He established a structure for reaching out beyond the Beltway; he built the strongest, most innovative Internet operation on the Hill; he has rolled up his sleeves with the policy staff; and he has helped shape our message to the American people. He is a gifted leader who gives staff guidance, but also room to grow. Young people in particular enjoyed working with him. He is both father figure and friend.

Throughout his career, George has largely worked behind the scenes. He is interested in accomplishments, not credit. He is strictly a shirt-and-tie kind of man, except when he is caught escaping to the golf course. And George has a comprehensive understanding of the rules of the House, and a keen sense of the Members. He has tutored so many Members, including me, on the intricacies of parliamentary procedure. He has earned the respect of Members and staff on both sides of the aisle.

For someone who seems to know everything about the House of Representatives, George is a remarkably well-rounded person. He has a wonderful family. He is a loyal Dodgers fan. He loves golf, and he is a maestro with orchids. He is a connoisseur of wines and an expert on vineyards.

Before his career on Capitol Hill, George held an assortment of jobs that reflect his unique spirit, including working as a baker, a short-order cook and a railroad brakeman.

Above all, though, George was and is a Californian at heart. That is why this goodbye is bittersweet for me; bitter because I will miss his unparalleled knowledge as well as his warmth and good humor, sweet because I know he will relish his return to the great Golden State of California. As a Californian for more than 36 years, I completely understand and share his desire to live in this country's most beautiful and most invigorating State.

George and his family, his wife Mel and his two sons, will be moving to the area of Santa Barbara not far from where the movie Sideways, a love letter to wine, was filmed, where he can enjoy the reds and the whites and get back to his golf game that I understand has suffered in recent years due to lack of attention.

He will always spend well-deserved time with his family. Again, I want to take the opportunity to thank George's wonderful wife Mel and his fine two sons, Curt and Casey, for sharing their father with us. It is hard to balance family life with work on Capitol Hill. We all appreciate the sacrifices that the Crawford family has made.

I know that so many colleagues on both sides of the aisle join me in wishing George luck in the next phase of his career, and many happy years with his beloved family in California.

With deep gratitude, respect, and affection, thank you, George, George Crawford, for your 24 years of service to the House of Representatives.

CAFTA IS NOT GOOD FOR THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I am back on the floor tonight to speak in opposition to CAFTA.

First I want to talk about my State of North Carolina. Of course I was not here in the Congress when the Congress passed NAFTA about 1992, and it was in effect in 1993. But let me tell you briefly what happened to North Carolina. First of all, we lost approximately 200,000 jobs in about a 10- to 12-year period of time. We also as a Nation lost about 2.5 million jobs.

CAFTA is the ugly cousin of NAFTA. That is all you can say about it. NAFTA and CAFTA are cousins, and actually CAFTA is about 85 percent of what NAFTA is. So therefore, I hate to say it, but CAFTA is the ugly cousin.

Let me also say that during that period of time, that prior to NAFTA, we had a surplus with Mexico, and now we have a deficit with Mexico. So now let me also share with you, Mr. Speaker, that prior to NAFTA, and then since NAFTA, we have had a 350 percent increase of illegal aliens coming to America since NAFTA became the law of the land. It did nothing to keep the Mexican workers down in Mexico.

Mr. Speaker, tonight I want to take just a few minutes of my time, I know it is very limited, to tell you that last night on the floor of the House, I submitted completely for the RECORD, from the countries of Nicaragua, El Salvador, Honduras and Guatemala, elected officials of those countries asked me last week at the interfaith conference of Protestants, Catholics, and a Jewish rabbi who are opposed to CAFTA to submit this, and I was glad to do it, so I submitted this for the RECORD in its entirety, but tonight for the last 2 or 3 minutes of my time, I want to read just certain points of what those people in the Central American countries are saying.

We know what it is doing to American workers, which is not good for the American workers, but let me share this with you very quickly. First of all, these are some points they made in this letter. These are elected officials from these Central Americans countries that said no to CAFTA.

First of all, let me read this: CAFTA will only lead to more social instability in the region as more medium and small farmers will lose their livelihoods and become part of the poor population numbers. CAFTA will only lead to more migration to the United States as more people are unable to make a living working in the rural areas and the job perspectives in the cities do not improve.

The 20 million people who are currently poor and those that will be further displaced will turn to immigration to the United States as the only solution to their economic problems.

Again, this is from the elected leaders of these countries that have asked me to submit this, and they have written every Member of Congress; not just me, but everyone else.

Two or three other points very quickly. These seven elected officials as legislative representatives of the region, who represent a diverse perspective of political views, we respectfully ask you to vote no on CAFTA. In addition, they say that the opposition keeps growing all throughout the region, because this treaty threatens to weaken the already vulnerable democratic institutions that were created during the long conflicts of the 1980s.

In addition, Mr. Speaker, and then I will close, CAFTA is a bad trade deal because it puts the interests of international corporations ahead of the welfare of the working poor and the poor in Central America. If CAFTA is approved, this social instability that CAFTA supporters like to use as a reason for approving this agreement will come not from the outside forces, but from the pressures created by the millions of displaced workers who will fall further into poverty.

Mr. Speaker, I must say tonight in closing that we in this Congress should do what is right for the American people, and that is to defeat CAFTA and go back to the negotiating table and do what is right for the American workers and do what is right for the people in Central America, and then we will do what the Bible says, and that is to help each and every one that needs to be helped.

God bless America. Thank you.

CAFTA IS BAD FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, if one was to look at this chart, and the black bars represent the extraordinary growth in the United States trade deficit over the last 14 years, and you see you are digging yourself a hole for the American people, for the future of the American economy, of over $600 billion in 1 year. This year we are going to eclipse that. We are headed toward $2 billion a day of foreign borrowing.

Now, most people say, well, Alan Greenspan says that is great. They are willing to lend us money. Shows how strong our economy is. But what Alan Greenspan and the other pointy-headed hack economists around here forget is that those are real dollars which can come back to bite us, and they are coming back to bite us when you have a Chinese Communist-controlled oil company trying to buy a major American oil company with substantial reserves around the world. For a country that is importing 20 million barrels a day of energy, we want to be selling off our oil assets, our reserves around the world to the Chinese Communist Government? I do not think so. But they think this is just working great.

The point is we have a failed and failing trade policy here in the United States of America. We lost 3 million manufacturing jobs, good high-wage, high-benefit jobs, through NAFTA, and the WTO and permanent most favored nation status for China. Those have cost the American people dearly. Millions of Americans have lost good jobs.

And the trend is accelerating. We are losing our manufacturing base. And the question becomes with CAFTA before the United States House of Representatives, do we think that these big black lines, these huge deficits, this borrowing, this putting America up for sale and in hock is a good trend? Yeah, it is a good trend for a few people, a lot of friends of the President. They are making a bunch of money. They own the stock. They run the multinational corporations. They are getting tens of millions of dollars, hundreds of millions of dollars sometimes, in stock options because of selling off our country.

Yeah, it is good for a few people, but it is bad for the majority of the American people. It is bad for the workers. It is bad for our future. It is bad for our economic security, our military security, if you look at some of the recent trends dealing with China.

So the question becomes should the United States House of Representatives, should those who are undecided now, particularly on the other side of the aisle, get pressured by the President to do something that they know is wrong and is against the interests of the people they represent?

This is not a partisan issue. You know, Bill Clinton was a disaster on trade policy. The problem is you cannot find much difference between Ronald Reagan, Bush the first, Bill Clinton and Bush the second on trade policy. They are a bipartisan disaster, selling out the American people, selling out our industrial infrastructure.

And people say, well, CAFTA is really not that big, so why are you so concerned about it? Well, you are right. It is not very big. If you combine the buying power of all of the people of the CAFTA nations and say somehow this is going to create jobs in America, well, whew, you need to have your head examined, because if all of those people living in those countries applied every cent they earned, whatever currency it is, to purchasing American goods, it would not be a tiny blip on the radar screen of the American economy.

This is the same people who sold us NAFTA, and they said it was going to produce 400,000 jobs. Instead it lost 800,000 jobs. They were only off by 1.2 million jobs in their estimates.

Now the President goes on television this week and says, oh, this will be good for the American people. This is going to create exports. What he forgot to tell them was his own experts say it will create more imports from Central America than exports. It is going to be yet another loser for the American people. They will see their jobs go south.

American workers should not be asked to compete with people earning 80 cents an hour, and guess what, people who earn 80 cents an hour are not going to be buying a lot of manufactured American goods.

□ 2230

So now CAFTA is the same disaster that was NAFTA, that is the WTO, and MFN for China. It is just saying, we have dug ourselves a deep hole. Here is a shovel; keep digging. Pretty soon you may come out in the other end in China, but by then they will own us.

So it is time for this Congress to stand up to this President, the same way they should have stood up to Bill Clinton or to Bush the First or to Reagan. We want a trade policy that benefits the American people, our national security, our economic security and brings and keeps jobs that pay decent wages and benefits home here.

Vote "no" on CAFTA.

CAFTA—PROPERTY RIGHTS

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under a previous order of the House, the gentleman from Idaho (Mr. OTTER) is recognized for 5 minutes.

Mr. OTTER. Mr. Speaker, I rise today to discuss perhaps the most fundamental of the reasons for my opposition to the Central American Free Trade Agreement or CAFTA—the serious conflicts it raises with private property rights guaranteed by the Constitution of the United States.

I'd like to draw your attention to the fact that CAFTA contains 1,000 pages of international law establishing, among other things, property rights for foreign investors that may impose restrictions on U.S. land-use policy. Chapter 10 of CAFTA outlines a system under which foreign investors operating in the United States are granted greater property rights than U.S. law provides for our own citizens!

Mr. Speaker, that's not encouraging free trade. That's giving away our natural resources and our national sovereignty. CAFTA would empower foreign investors to go to UN and World Bank tribunals to challenge state and federal policies here in the United States regarding property rights that violate their assumed "investor rights." Those foreign investors then could demand compensation in the form of U.S. taxpayer dollars for the losses caused by complying with the same domestic policies and regulations that apply to all U.S. citizens and businesses.

The standards for property rights protection that are used by the UN and World Bank to award U.S. taxpayer dollars to foreign investors would NOT be those of the U.S. Constitution, but rather international property rights standards set forth in CAFTA, as interpreted by an international tribunal. And I'm not the only one upset about this. No less than the Conference of State Supreme Court Chief Justices is among those concluding that CAFTA provides greater property rights to foreign investors than U.S. law provides you and me as U.S. citizens!

Furthermore, current rules under Trade Promotion Authority granted by Congress require that trade pacts grant to foreign investors "no greater substantive rights with respect to investment protections than U.S. investors in the United States." Yet even a cursory review reveals that CAFTA fails the test on both counts. Although some words included in NAFTA's investor protection system were changed in CAFTA, the changes were simply procedural and not substantive.

Instead of basing foreign investors' property rights on U.S. law, as Congress requires, CAFTA provides foreign investors in the United States with a "minimum standard of treatment" set forth by "customary international law" and established in "principle legal systems of the world." The effect is to throw U.S. sovereignty and property rights out the window in the name of "free trade." CAFTA exceeds U.S. law by empowering foreign investors to go to international tribunals in an effort to be compensated in U.S. taxpayer dollars for regulatory takings.

Furthermore, new language in CAFTA almost unbelievably extends the outrageous benefits of this foreign investor-state dispute resolution system to corporations that have a "written agreement" with the federal government regarding "natural resources or other assets that a national authority controls." For example, foreign investors could circumvent the U.S. court system entirely by bringing arbitrary challenges over oil and gas, mining, and water contracts to an international tribunal. If a foreign investor is granted a land concession for logging and, as a condition of the contract, is told that the trees must be replanted, the foreign investor can challenge the requirement to replant as an infringement on their "foreign investor rights" and "minimum standard of treatment" through UN and World Bank tribunals. The U.S. logging company down the street can only go through U.S. courts and has no such special rights.

The very notion that international tribunals should get a say in how we manage U.S. property rights and grant concessions on U.S. land is simply unacceptable. Opening new markets between Central America and the United States is one thing. Asking me to cede decisions over U.S. natural resources and property rights to international tribunals while giving foreigners greater rights to our land than our own citizens have is something else entirely. I won't accept it, and neither should you.

EXCHANGE OF SPECIAL ORDER TIME

Mr. POE. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Idaho (Mr. OTTER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

SANCTUARY HIDEOUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Mr. Speaker, in the early morning hours of May 14, 2005, two

Denver police officers were working security at a restaurant when Raul Garcia Gomez cowardly shot them both in the back and fled into the darkness of the night. Detective Donald Young was killed. Detective John Bishop was also shot in the back, but he survived. Gomez snuck out of Denver and the United States and sought safety in his country of Mexico to prevent being prosecuted for first degree murder and attempted murder.

Without dealing with the issue of Mexico's reluctance to extradite their citizens who have committed murder in the United States, Gomez had already been given a get-out-of-jail-free card in Denver because of absurd policies called "sanctuary laws." In Denver, Gomez had been stopped previously three times by local police for traffic offenses. Each time he presented a Mexican driver's license. Each time he had no proof of insurance, and each time he was released even though he was here illegally.

Had he been an American citizen, the fact that he had no insurance for the third time would have resulted in him being arrested and hauled off to jail. We seem to discriminate against American citizens for the benefit of illegal aliens. Anyway, the reason Gomez was released instead of deported: sanctuary laws.

They are laws that stop police from arresting and detaining illegals that are here in the United States. Therefore, law enforcement officials cannot do anything to a person they discover is illegally here in the country other than let them loose back in society.

In fact, some cities prohibit police from even inquiring into a person's legal status in the United States. So-called sanctuary laws prohibit officers from "initiating police action where the objective is to discover the alien status of the person."

It would seem to me, and common sense would dictate, that police should know who is in the United States illegally. Have these cities not heard of the war on terror?

This order was created in Los Angeles and has been adopted in the major cities in the United States. In these cities, if an illegal immigrant is caught for a minor violation, police cannot detain this individual for immigration violations despite the fact these people are committing a Federal offense by their presence in our country. This hands-off policy is absurd and these cities protect people who are illegally in the United States.

Unfortunately, because of lack of enforcement of immigration laws, these sanctuaries and safe havens in the United States are growing. Some U.S. cities have actually implemented policies that provide and require these safe havens for illegal people.

Mr. Speaker, in these selected hideouts, immigration laws are not enforced. These cities do not require and even some prohibit employers from reporting the illegal status to Federal officials. Creating these secret hideouts encourages illegal immigration, and Americans pay the price. Americans always pay.

Officials in Houston, Texas, recently have implemented policies restricting coordination with local police and Federal authorities regarding immigration laws. And even recently the Governor of Maine has announced an executive order forbids the State from enforcing Federal immigration laws.

Mr. Speaker, this is a serious problem and the cities that have adopted these sanctuary hideouts undermine the security of this Nation, encourage illegal immigration and promote lawlessness. All of this at the expense of Americans.

However, some cities faced with the cost of free social services to illegals have a different approach. The latest is Police Chief Garrett Chamberlain of New Ipswich, New Hampshire. He is charging illegals with criminal trespassing and arresting them. After all, they are trespassing on American soil. Part of the problem is there are too few Immigration and Custom Enforcement agents within the interior of the United States. There are less than 2,000 people enforcing the immigration laws of people who are illegally in the United States and in the interior.

Mr. Speaker, there are more than 800,000 law enforcement officials in the United States. They take a pledge to protect and serve every day, and they are tasked with the important job of keeping our communities safe from those outlaws who terrorize the streets. They watch out for our country, our kids, our families, and our great land. Novel idea, let these 800,000 officers help capture illegals that come across each day while they are on the police beat. They should be allies with the Federal Government and assist the Federal Government in efforts to protect our country from illegal immigrants that violate our law and disrespect the borders.

Police help is essential to homeland security. Local law enforcement, those first responders are the ones that encounter illegal aliens once they have snuck into our country. These sanctuary hideouts are not the answer. There should be no sanctuary for those who violate the law.

By the way, Detective Donald Young when he was murdered was shot three times in the back and in the head. He was married with two young daughters. He was 44 years of age. Detective John Bishop, shot in the back as well, only survived because of his bullet-proof vest. If the defendant had been deported upon his arrest and not given sanctuary, these officers would not have been shot. Mr. Speaker, this ought not to be.

EXCHANGE OF SPECIAL ORDER TIME

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Maryland (Mr. WYNN).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

RENEGOTIATE CAFTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, House leadership promised to bring the Central American Free Trade Agreement to the floor this week for a vote. They have said, Congress will stay here over the weekend until it is done.

The President has said that defeat on CAFTA "is not an option." "The cookie jar is open." One senior CAFTA supporter, a Member of the House, went so far as to say that CAFTA will pass Congress because they will "twist arms until they break into a thousand pieces."

CAFTA supporters have resorted to toothless ideals and strong-arm tactics because they know this agreement simply cannot pass on its merits. CAFTA has languished in Congress for more than a year. Four other trade agreements in the last couple of years passed Congress within 60 days. This CAFTA, this trade agreement has languished in Congress for almost 14 months.

The reason is this trade agreement, this CAFTA, it was crafted by and negotiated by a select few, mostly the oil industry, the insurance industry, and the pharmaceutical industry, was crafted by a select few for a selected few, and that is why this agreement offends so many.

Today on the lawn of the Capitol, I joined 22 House Republicans and Democrats and more than 350 people representing family farmers and ranchers, environmentalists and workers, food safety advocates and small manufacturers, all kinds of human rights organizations, religious leaders, faith-based groups, and others, all of us in concert speaking out against the Central American Free Trade Agreement.

On the one hand, those supporting CAFTA, we have a very thorough group of special interests, again, the drug industry, the insurance industry, some of America's largest corporations. On the other hand, you have this wide array of people today representing dozens and dozens of organizations of both political parties across the political spectrum.

Since April 21, more than 1,000 people have attended Capitol Hill news conferences asking the President to renegotiate this failed agreement. Democrats and Republicans, legislators from

Central America, along with grassroots organizations representing workers and farmers and religious organizations in all seven countries, in the United States and in the Dominican Republic and in five countries in Central America. Those same voices delivered a common unified message: renegotiate the Central American Free Trade Agreement.

Why do they oppose this? The gentleman from Oregon (Mr. DEFAZIO) showed this chart earlier. One of the reasons we oppose this agreement is our trade policy is not working. A dozen years ago I first ran in Congress in 1992, 13 years ago. We had a trade deficit in this country of $38 billion. Last year, just a dozen years later, that $38 billion had exploded into $618 billion. Clearly our trade policy is not working.

But make no mistake. Those of us opposed to this CAFTA do want trade with Central America, but we want an agreement that represents us all, not a select few. We want an agreement that deserves to pass Congress based on its merits, not based on arm twisting, not based on middle-of-the-night votes, not based on sleazy deals, not based on, as some cases we have seen on this floor, out and out bribery.

We want an agreement that promotes small business, family farmers, that promotes ranchers and workers, that promotes food safety and the environment and people of faith in all six CAFTA countries and in our country.

We want an agreement that stands in line with our faith and our values and promotes the principles of social and economic justice. This CAFTA will not do that.

The people supporting CAFTA, they love to make promises that with CAFTA jobs in the U.S. will increase. We will export more to the developing world and the standard of living in these poor countries will go up. They promised that every time there is a trade agreement. They never come true.

Here, really, is fundamentally the reason that we know, that American manufacturers know, that American small business knows, that American farmers know that we will not be exporting products to Central American countries. The average wage in the United States is $38,000. The average wage in El Salvador annually is $4,800; $2,600, Honduras; $2,300, Nicaragua.

The combined economic output of these Central American countries is about the same as that of Columbus, Ohio. They simply cannot afford to buy our products. This agreement will not allow workers in Central America to buy cars made in Dayton or Cincinnati or Toledo or Cleveland, Ohio. This agreement will not allow workers in Honduras to buy prime beef from Nebraska. It will not allow workers from Guatemala to buy software made in Seattle.

Mr. Speaker, this agreement is about U.S. companies moving plants to Honduras, outsourcing jobs to El Salvador, and exploiting cheap labor. Renegotiate this CAFTA and produce a better Central American Free Trade Agreement.

EXCHANGE OF SPECIAL ORDER TIME

Ms. FOXX. Mr. Speaker, I ask unanimous consent to claim the time of the gentlewoman from Florida (Ms. ROS-LEHTINEN.)

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

OUT-OF-TOUCH DEMOCRATS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Ms. FOXX) is recognized for 5 minutes.

Ms. FOXX. Mr. Speaker, I rise today to bring attention to a topic that I have discussed in this Chamber several times in recent months. As we enter the dog days of summer here in Washington, D.C. and the temperature continues to rise, so too does the rhetoric we hear from the other side of the aisle.

Democrats continue to say Republicans are out of the mainstream. However, from where I stand, I see nothing but hollow allegations and a complete lack of any legislative agenda for the American people from the other party. Meanwhile, Republicans continue to pursue a commonsense solutionist agenda that addresses important issues like securing our homeland, supporting our troops, growing the economy, and looking out for families and small businesses.

Mr. Speaker, I want to take a minute to read a quote from the minority leader, the gentlewoman from California (Ms. PELOSI), from a recent press conference she held: "It is important for us to take down their numbers, to take down their numbers on Social Security, to take down their numbers on credibility. That was very important. If you are the challenger, you are not going to go up against the leader in full strength. You have to take them down first and then you move out in a positive way."

This quote has troubled me greatly over the past week. I strongly disagree with this type of leadership.

While Republicans remain committed to moving forward with a positive, commonsense agenda, Democrats continue to rely on obstruction and partisan rhetoric. Republicans are concentrating on progress, and our results are hard to argue with. New jobs figures show that 146,000 new jobs were created in June. The economy has created over 3.7 million jobs since May 2003, and we have seen steady job gains for each of the last 25 months.

There are more Americans working than ever before. The unemployment rate fell to 5 percent in June, the lowest it has been since September 2001. The energy bill passed by Congress will create nearly half a million new jobs in the manufacturing, construction, agriculture and technology sectors by reducing our dependence on foreign oil while exploring different sources of renewable fuels and nuclear energy.

This legislation will also help eventually lower the cost of gasoline, a drag on profits that is hitting small businesses hard. Republicans have been working diligently on behalf of small businesses. According to a small business survey, over 80 percent of small businesses spend an average of $25,000 annually on attorney consultant fees and life insurance premiums in an attempt to avoid the crushing blow of the death tax. We are working to repeal the death tax because we feel this money could do more if it remains in the hands of business owners and not in the hands of the government.

In addition, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 that President Bush signed into law will reduce the number of abusive and frivolous bankruptcy filings that have hurt the economy and small businesses by raising the cost of credit.

Republicans are improving our Nation's transportation and infrastructure. House Republicans passed the highway bill which will fund our Federal highways and help increase the quality of our transportation and infrastructure. This will allow small businesses to move products more efficiently and economists estimate that for every $1 billion spent to improve our highways, 40,000 new jobs will be created.

House Republicans are working to facilitate job training for American workers. Hundreds of thousands of new jobs are being created under our watch, and we are dedicated to providing adequate job training for all Americans who seek it. The Job Training Improvement Act will break down barriers for millions of job seekers by streamlining bureaucracy and making sure more time is spent training for the jobs of the 21st century.

□ 2245

In addition, the Vocational and Technical Education for the Future Act will strengthen and improve the framework of current vocational and technical education programs, add new accountability measures, focus on academic achievement, and streamline Federal funding to help States and local communities make the most of Federal resources.

Republicans are also dedicated to national security and the war on terror. We are promoting responsible government spending and are committed to upholding vital American programs like Social Security. Democrats are committed to rhetoric that does nothing to keep America safe or grow our economy.

It has even come so far that the minority leadership is willing to contradict themselves in order to block growth. On March 6, the House minority leader stated on Fox News Sunday that "we must stop robbing the Social Security Trust Fund of its money to pay for other things." Yet in the June 24 edition of Congress Daily she stated, "There is nothing wrong with Social Security lending money with the prospect of returning it."

This week, I sat down in my office to do some reading and came across a series of editorials from leading Republican and Democrat Members. It was the sharp contrast in our ideologies that I saw when reading these articles that made me want to come to the floor tonight.

One of the Democrat's editorials claimed that the first 6 months of the 109th Congress will be remembered as legislatively unproductive. This is not only untrue, but it demonstrates the complete unwillingness of the House minority to acknowledge and join in the effort for progress in America.

Republicans are proud of our vast accomplishments in the first half of the 109th Congress and we hope we can work with our friends on the other side of the aisle to bring forth ideas for the betterment of the Nation. I am proud of our accomplishments not just because they represent good policy but also because so many of them attracted bipartisan support. More than 40 rank-and-file Democrats voted with us to enact some of the most important measures of this Congress—despite opposition from their leadership. I want to thank those on the other side of the aisle who acted in this Nation's best interest and put politics aside.

We are working towards solutions that will create a stronger America that we can hand down to future generations with pride. We want to preserve vital programs like Social Security, continue to create jobs, lower taxes for hardworking Americans, and address the security issues facing our country. I look forward to the day that the minority joins us in a bipartisan effort to strengthen our Nation and stops attempting to block progress for the sake of partisan politics.

In the meantime, I hope the American people will examine the record so that they can see which party truly is out of the mainstream. When they do, they will come to one and only one conclusion—that the Republican principles of progress and solutions are benefiting the entire Nation, while the Democrat tactics of obstruction and stonewalling contribute nothing. It is the Washington Democrats, Mr. Speaker, that are truly out of the mainstream—not the Republicans.

SMART SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, I rise to register my continued sadness and frustration with the Nation's Iraq policy. As much of Washington now focuses on a Supreme Court nomination, and as many Americans prepare for August vacations. I hope none of us forget the sacrifice of our men and women in uniform and the disastrous decisions that put them in harm's way in the very first place.

We are fast approaching 1,800 deaths in Iraq, Mr. Speaker, and for what? Are we any safer from terrorism? The recent attacks in London would seem to indicate that we are not. If the Iraq war has done so much to enhance American Security, why did we have to expand the PATRIOT Act last week and clamp down even further on our civil liberties?

The truth is our military presence in Iraq is contributing to the chaos there, not alleviating it. The occupation has sparked more intense feelings of anti-Americanism and breathed new life into the insurgency. A recent government report even voices concerns that terrorists and insurgents are succeeding at infiltrating the Iraqi police force.

Like all of my friends in Congress, I believe nothing is more important than supporting our troops, but I believe the best way to support them is to bring them home to their families as soon as possible. Ending the war should be the first step in a complete overhaul in our approach to a national security policy. We must redirect our priorities and our resources so that peace and diplomacy, not aggression and chest-beating, become the guiding lights of our foreign policy.

I have come up with a plan that I have labeled SMART Security, with SMART standing for Sensible, Multilateral American Response to Terrorism. There are five components to SMART.

First, stop future acts of terrorism, not by arbitrarily invading sovereign nations, but by collaborating with NATO and the U.N., by strengthening our intelligence capabilities, and by enhancing efforts to cut off financing of terrorist organizations.

Second, stop the spread of weapons of mass destruction, not by deposing regimes that do not have them, but with diplomacy, enhanced inspection regimes, and regional security arrangements. The United States should also work more closely with the states of the Soviet Union to secure loose nuclear material, and we should set an example for the world by living up to our own international nonproliferation commitments.

Third, address root causes of terrorism, like instability, despair and hopelessness. So SMART includes an ambitious international development program, debt relief, democracy building, sustainable development education, especially for women and for girls, and more for poor nations.

Fourth, shift U.S. budget priorities. Does it make any sense at all, Mr. Speaker, that we continue to invest billions of dollars in a missile defense shield? The Cold War is over, and our defense priorities should reflect the new threats of a new era. Among other things, we ought to be investing in renewable energy sources that will help wean the Nation from Middle Eastern oil. It is unbelievable to me that the Congress may soon pass an energy bill that costs us billions of dollars, but barely addresses the problem of dependence on oil imports.

Fifth, pursue alternatives to war. At its core, SMART is about choosing peace over war and resorting to force only in the most extreme circumstances. So it includes an emphasis on effective conflict assessment, early warning systems, multilateral response mechanisms, and other tools that will help avoid military action.

Mr. Speaker, our current national security posture is not only morally questionable, it is functionally flawed. My objection is not just a philosophical one, but a practical one. What we are doing now is not making America safer.

It is time to get smart about national security. It is time for a new strategy that protects America by relying on the very best of American values, our love of peace, our capacity for global leadership, our belief in freedom and opportunity, and our compassionate fellowship with the people of the world.

CENTRAL AMERICAN FREE TRADE AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Mr. Speaker, I rise tonight in strong support of the Central American Free Trade Agreement, known as CAFTA. This trade agreement will help boost American exports, create more American jobs, help fuel economic growth, and, perhaps more importantly, help preserve the economic liberties of the common American citizen.

Now, those favoring protectionism tonight have cited several fallacious arguments for rejecting CAFTA and other free trade efforts. Some argue CAFTA will hurt business and jobs. The opposite is true. Even more than previous free trade agreements, U.S. producers have so much to gain under CAFTA. You see, our U.S. markets are already open to Central America. Eighty percent of imports from the six CAFTA countries already enter duty free. Since our markets are already open to goods from these countries. CAFTA will level the playing field like never before for American exports.

CAFTA could expand U.S. farm exports by $1.5 billion a year as prices of U.S. wheat and other crops are free from tariffs. Manufacturing and information technology could see exports increase by $1 billion annually when duties are removed. And the list goes on and on. A vote against CAFTA is a vote against new American jobs.

Another argument used by those who oppose trade is concern for the trade deficit. but as I just pointed out. our markets are already 80 percent open to the CAFTA countries. It is their markets that are mostly closed to us. Therefore, CAFTA can only help ease the trade deficit.

Now, other people argue that CAFTA will somehow increase illegal immigration. The opposite is, of course, true. Most illegal aliens do not come to America because they love hot dogs, baseball, and apple pie. They come quite simply because they are poor, and they need to feed their families. Trade with these Central American countries will help make the Central American countries more prosperous. Greater Central American prosperity will lead to fewer desperate workers, which in turn will lead to fewer illegal immigrants than would otherwise come over.

The CAFTA understanding on immigration measures explicitly states that it does not impose on the parties any obligations with respect to foreigners seeking employment or residency. Simply put: A vote against CAFTA is actually a vote for more illegal immigration.

Another argument which just simply does not stand up to scrutiny, Mr. Speaker, is that somehow, some way, somewhere the U.S. loses sovereignty. CAFTA is a voluntary agreement with our neighbors to lower tariffs according to a mutually agreed-upon schedule. If any country violates their commitments, other countries, of course, are free to retaliate as they wish. But no international body can make or change U.S. law. Again, no international body can change or make U.S. law. All we do is agree to a nonbinding dispute resolution that we are free to ignore at our will.

Mr. Speaker, we must pass CAFTA and the free trade it represents. Free trade delivers greater choice of goods and services to our consumers at lower prices. That means American families can buy better products using less of their paychecks. It is all about competition, and competition has always helped the consumer. We have over 200 years of history to prove it. And it does not matter if that competition comes from Nashville, Nicaragua, El Paso, or El Salvador.

Over the past few years, prices have dropped for a wide array of goods and services that are produced around the world, such as video equipment and toys, yet we pay a whole lot more for products that do not compete with foreign countries: for example, prescription drugs and cable TV. Competition works. Trade works. No one should come to this floor claiming to speak for low-income Americans and oppose CAFTA.

Mr. Speaker, beyond all the obvious economic benefits of free trade, we must recognize that this is fundamentally an issue of personal freedom. Nations do not trade with nations. People trade with people. With the exception of national security considerations, every American citizen should have the right to determine the origin of the goods and services that they want to purchase. Is this not the land of the free? Have not generations fought and sacrificed to secure the blessings of liberty?

Now, maybe we in Congress have the power, but do we have the right, do we have the moral authority to tell a waitress in Topeka, Kansas, she cannot buy a can of beans to help feed her family because it comes from El Salvador? Do we have the right, do we have the moral authority to tell a construction worker in New York that he cannot buy a pretty blue dress for his 3-year-old daughter because it comes from Honduras? Shame on us if we claim we do have that right.

Mr. Speaker, for over 200 years America has benefited from more trade and greater competition. I urge my colleagues to once again reject raw protectionism, reject bitter partisanship, and stand for freedom, stand for prosperity, stand for free trade and vote for the Central American Free Trade Agreement.

STATE OF U.S. ECONOMY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentlewoman from New York (Mrs. MALONEY) is recognized for 30 minutes as the designee of the minority leader.

Mrs. MALONEY. Mr. Speaker, there has been a great deal of happy talk lately from the Bush administration and its supporters about the state of the American economy. To hear them tell it, you would think that some kind of supply-side miracle has taken place in the past few months and that the economy is now performing so well that jobs are plentiful, workers are well paid, that the budget deficit is being slashed in half, and that the trade deficit, which happens to be the largest in history, is nothing to worry about.

□ 2300

Of course nothing could be further from the truth, and all we have to do is go out and talk to our constituents to know that. Tonight my colleagues and I want to set the record straight on the economic policies of the Bush administration.

We want to look at the real record of job creation, the continued presence of unemployment, the failure of wages to keep up with inflation, and the widening disparity between the haves and the have-nots which is tremendously troubling. We will document how ordinary workers have been shortchanged in this economy, which has gone through the most protracted job slump since the Great Depression.

This chart summarizes the point well. The Bush administration has the worst job creation record of any administration back to Herbert Hoover. This chart shows the average rate of job creation by this administration. For most of his term, President Bush was the only President since President Hoover to actually lose jobs. Now he is at least in positive territory, but with a very anemic job growth of just 0.2 percent per year. Compare that with the 2.4 percent annual job growth under President Clinton, which is more than 10 times greater. Compare this from the Clinton administration back to the Hoover administration.

The Bush administration and its supporters will not take responsibility for the failure of their policies. Instead they keep saying the same thing over and over again: tax cuts. But the Bush administration's economic program has not created an economy that works for America's ordinary citizens, and they have mortgaged our future.

Responsible analysts have shown that the Bush tax cuts were poorly designed for generating jobs and putting people back to work in the wake of the 2001 recession. They had very low "bang for the buck" in terms of job stimulus in the short run, but they were so massive, they created a legacy of large budget deficits and mounting debt that will be a drag on the economy in the long run.

President Bush has squandered the hard-won fiscal discipline achieved in the 1990s. He inherited a 10-year budget surplus of $5.6 trillion and turned it into a stream of deficits. This chart shows what has happened so far. This chart shows that when President Bush took office, the Congressional Budget Office was projecting that the budget surplus of $236 billion in 2000 would grow to over $433 billion in 2005. In fact, the latest projection from the administration is that the budget will have a deficit of $333 billion this year.

In their mid-session review, the administration proclaimed this a major improvement because they had projected an even larger deficit in their January budget. But $333 billion is still the third largest deficit in the history of our country and a far cry from the $435 billion surplus that was being projected at the start of the Bush administration.

The administration is portraying a future of declining deficits over the next few years, but that is not what responsible analysts say. They observe instead that special factors were probably the reason for the jump in revenue this year, and they point out how much is left out of the budget projections, including the ongoing cost of the war in Iraq and Afghanistan and a fix for the alternative minimum tax.

We have become a Nation of debtors, relying on the rest of the world to finance our budget deficits and the rest of our excessive spending.

Last year we had to finance a record current account deficit of $668 billion, and that deficit was even larger at an annual rate in the first quarter reaching 6.4 percent of our gross national product.

Foreign governments are holding large quantities of our public debt, putting us at risk of a major international financial crisis if they should decide that the benefits of holding dollars are no longer worth the risk.

Mr. Speaker, our future prosperity depends on increasing our national savings and making wise investments. It depends on being ready for the retirement of the baby boom generation and the pressure we know that will be put on the budget. But how is the Bush administration preparing us for this future? With more deficits and more debt. They want to make the tax cuts that have gotten us into part of this mess permanent, and they have a plan for privatizing Social Security that would cut benefits substantially and add even more to our debt. We need a better plan.

Mr. Speaker, in the remainder of our time, we will look more closely at the realities of this economy and the failures of the current economic policies, including the weak labor market that continues to be a major characteristic of the Bush administration economy.

Mr. Speaker, I yield to the gentlewoman from California (Ms. LORETTA SANCHEZ), an economist by training.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I thank the gentlewoman from New York (Mrs. MALONEY) for putting together this Special Order.

I think the chart that was just up is a very important chart to talk about. A lot of people ask me what is the most important thing you are worried about when you go to sleep at night. They know that I sit on the Committee on Armed Services and the Committee on Homeland Security. I tell them the problem is the debt and the deficits that we are creating in Washington, D.C. because they will come back to haunt each and every family in this United States.

The chart there shows that when President Bush took office we were running a surplus, a surplus in the annual budget that we had, in other words, our annual spending plan. President Clinton had structured our taxes in such a way that he brought down the deficit from earlier years, and we were in a surplus. We were collecting more taxes than we were spending in a year, which allowed us to take those additional taxes and bring down the debt, the actual debt that this country carried.

But what happened when President Bush came into office? He began to change that around because spending went up and we collected fewer taxes. We have given three large packages of tax cuts in the time that President Bush has been in office. His own controller has said that the reason we are running deficits, 70 percent of that is due to the fact that we just do not collect taxes. We do not collect enough taxes to pay for the programs that we are spending on an annual basis. So 70 percent is due to the fact of those tax cuts. And those tax cuts, quite frankly, were not even very good; they are haphazard. They were used to buy votes and to make everybody think they had gotten a tax cut, but when you look at the tax packages and what has happened to us as a Nation in order to invest in our future, they were very poorly written and really do not do very much for our overall economy.

But this deficit problem that we see on this chart, every year we are spending more than the moneys we are taking in in Washington, D.C. That is a problem because it adds to our debt. It is a problem because this just keeps growing and growing. Our debt is now over $7 trillion, and no one seems to mind here in Washington, D.C.

We can give you tax cuts, we can spend $1.5 billion a week on a war in Iraq, and everything will be fine. When will that happen? Who will pay this debt? Well, sooner rather than later we will, my generation. And then when we cannot get to it, our children. After our children, our grandchildren. This is a major problem for us. The reason it is a problem is because unless you invest in your country for the future, you are going to become disadvantaged economically compared to the rest of the world. What do I mean by that?

□ 2310

Every week that we spend $1.5 billion in Iraq, we get nothing back in return, not one little dime on that investment. Meanwhile, we do not invest in education, we do not invest in a health care system, we do not invest in telecommunications, we cannot even pass a transportation bill in this town, we do not invest in new technology. When you do not invest in those things that make you more productive, sooner or later the Chinese and people from India and other places will be smarter, will be better equipped, and will be better able to take over the global economy.

We are not investing in our children. We are not investing in ourselves. We are not retraining those people who have lost jobs. We are not helping them. We are not building the next new thing. We are not putting enough money into research because we are not taking in the money at the Federal level because of those tax cuts and because we are spending it on a war that is bringing nothing, no rate of return back to us.

Mrs. MALONEY. I thank the gentlewoman for her comments.

The great American jobs machine, which created over 20 million net new jobs under President Clinton, has been sputtering under President Bush. We are only just emerging from the most protracted job slump since the 1930s. Job creation is still sluggish. There continues to be substantial hidden unemployment. Wages are not keeping up with inflation, and there is a widening gulf between the haves and the have-nots. The benefits of the economic recovery are showing up in the bottom line of companies, but not in the paychecks of American workers.

Let us look at job creation. Last month there were 1.1 million more jobs on nonfarm payrolls than there were when President Bush took office in January of 2001. That is a paltry pace of job creation of just 20,000 jobs per month, 2/10 of 1 percent per year. That is the slowest pace of job creation under any President in over 70 years.

Leaving aside job creation in the government sector, there were just 161,000 more private sector jobs on U.S. payrolls last month than there were when President Bush took office. Within the private sector, manufacturing was particularly hard hit, with payrolls declining by 2.8 million manufacturing jobs between 2001 and 2005. That is 2.8 million manufacturing jobs lost. The job slump associated with the recession that began in March 2001 has been the most protracted job slump since at least the end of World War II. We only have consistent data back that far. But, in fact, one would have to go back to the 1930s to find a worse job slump.

As you can see in this chart, which focuses on the period after the end of World War II and shows the percentage change in employment after the start of a recession, job losses typically stop about a year after the onset of a recession, and employment begins to increase after about 15 months. Within 2 years, employment surpasses its pre-recession level and is expanding at a healthy pace.

The most recent job slump has been dramatically different from that pattern and even more protracted than the so-called "jobless recovery" following the 1990-1991 recession. In the latest recession, which began in March 2001, job losses continued until May 2003, more than 2 years after the start of the recession. It was not until January 2005, nearly 4 years later, that payroll employment finally climbed out of the hole created by the recession.

The administration seems to think that it is evidence of a strong economic recovery that payroll employment has increased in every month since May 2003, but the pace of job creation over that period has been just 148,000 jobs per month. This is not the kind of job creation that you would expect in a strong economic recovery. In fact, it is only a little bit faster than the amount of job creation that is needed just to keep pace with normal growth in the labor force. We have to have between 125,000 to 150,000 new jobs created to just keep pace with the number of workers going into the labor force.

Compare this experience with the 1990s the long economic expansion of the 1990s under President Clinton, it was common to see job gains of 200,000 to 300,000 and, in some cases, 400,000 jobs per month. But months with job gains of 200,000 or more have been few and far between in this business cycle recovery. In May, 104,000 jobs were added and in June, 146,000 were added. These are not strong numbers because, as I said, we have to create between 125,000 and 150,000 new jobs just to keep pace with the new young workers moving into the job market.

The expansion of the 1990s started slowly, but the jobless recovery following the 1990–1991 recession pales in comparison with the prolonged job slump we experienced after the 2001 recession. At this point in the recovery from the 1990–1991 recession, the economy had created over 4 million more jobs than we have seen in this recovery.

Contrary to administration claims about the success of their policies in stimulating the economy and producing jobs, the facts tell a very different story about the Bush economic record on job creation. President Bush has the worst job creation record of any President since Herbert Hoover, and the economy under President Bush has struggled to escape from what has been by far the most prolonged job slump in the postwar period.

I yield to the distinguished gentlewoman from California for further comments on this issue.

Ms. LORETTA SANCHEZ of California. In fact, the Bush administration does try to paint things rosy, but we have to admit, you can feel it out there. You can feel it in towns. You know it. You can feel it within your family. During the Clinton years, everybody was making money. People had jobs. They had good jobs. We could see the economy expanding.

As an economist, I will tell you that in business school we learned that there are ups and there are downs in the economy. They are called cycles. A typical business cycle lasts 12 to 14 months. With Clinton in office, it lasted 8 years. There was a reason. He took the hard steps to bring in the money to pay down the debt of the United States. People realized that financially our house was in order, and it was sound, and it was getting sounder. But with Bush, it is completely the opposite. That is one of the reasons why we have an anemic job creation going on.

And other figures that they throw out, oh, unemployment is down. Let me tell you why unemployment would be down. After a while when you cannot find a job and you stop looking for a job because there is just not a job to be had in town, you come off the unemployment rolls, you are not considered unemployed anymore. You are just left. You are not in the figures. If you used to have a job that paid $25 an hour and had vacation time and had a pension, had health care paid, and you look and you look and you look for that job, but there is not a job to be had like that, and you are losing your home because you cannot pay your mortgage, and your kids need to be fed, and the only job you can get is to go down to McDonald's or something and get a minimum wage job, that happens, guess what, you are no longer unemployed. You are no longer unemployed.

That is why when they say unemployment is going down, what they mean is people are underemployed. They are taking whatever job they can find, without pensions, without medical health care for their families. These are not the same jobs that they used to have, that we used to have. That is why we feel it. We feel it in America. We know. Our gut tells us things are not as good today as they were back then under the Democrats.

□ 2320

Mrs. MALONEY. Mr. Speaker, reclaiming my time, I thank my colleague for her comments. And one of the things that we have talked about that is very troubling to her and me besides the sluggish job growth and the hidden unemployment which she talked about, the third most disturbing development in the labor market is the widening disparity in earnings between the haves and the have-nots. It is fundamentally unfair, and democracy works better when there are not huge differences between our people. And as Chairman Greenspan has testified before Congress many times his concern about this widening distance, he has argued that it tears at the very social fabric of our Nation.

And let me illustrate this with a few facts. The Bureau of Labor Statistics publishes data on the usual weekly earnings of full-time workers at different points on the wage ladder, and the chart shows that after adjusting for inflation, the usual weekly earnings at the exact middle of the distribution, real median usual weekly earnings, grew a paltry .2 percent per year from the fourth quarter of 2000 to the fourth quarter of 2004. That contrasts with the healthy 1.7 percent per year in the previous 4 years under President Clinton. In other words, the typical worker, whose earnings grew substantially faster than inflation in the late 1990s, has seen the earnings growth grind to a halt during the first 4 years of the Bush administration. The typical worker's earnings barely kept up with inflation.

Worse than the overall stagnation in earnings is the widening disparity of earnings between high earners and low earners. If we look at those same data on usual weekly earnings of full-time workers, but instead of just looking at the middle, we look at the top and bottom as well, we see a disturbing pattern. In this chart, the blue bars show growth in the Clinton years. Yes. There was very good growth at the very top of the distribution, but there was likewise substantial growth in the middle and at the bottom as well.

Compare that with the red bars showing the changes during the first 4 years of the Bush administration. Real earnings at the bottom of the distribution, the 10th percentile, actually fell at an average annual rate of .3 percent per year in President Bush's first term, while those at the top, the 90th percentile, rose the most, almost 1 percent per year. In other words, the earnings that lagged farthest behind for inflation under President Bush were those people with the lowest earnings to begin with, while the earnings that grew the fastest, faster even than inflation, were those for people at the highest earnings to begin with.

Finally, we come to the most disturbing trend of all. Things have been getting worse, not better, recently. During the period when the economy has finally started creating jobs, earnings have not been keeping up with inflation. In the past year, the only earnings that grew faster than inflation were those of people at the very top. Everyone else saw their cost of living grow faster than their earnings. And when we look at the facts of what is happening to most workers, it is hard to accept the President's argument that his tax cuts have worked to create better jobs and higher wages. That is not what we see when we look at this data.

It is very troubling to the people, and it is very troubling, I would say, to the future of this country. It is not good for anyone, whether they are at the top or bottom, to have this wage gap growing and this disparity growing in our Nation. It is an extremely troubling trend.

I yield to the gentlewoman from California.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I believe that this chart really tells a great picture. We look at these blue bars. We start on one side and we see people who make the least amount of money, and we go across the way to people who are very rich and making lots of money. And the blue bars are during Clinton's time, and what they say about "a high tide raises all boats," we can see that. See the blue. They all grow up.

The red represents the Bush years. The one under, the negative growth, are the poor people, the people who make the least amount of money. And the big red bar on the other end, those are the people who make the most money on an annual basis. Look at that. So that is what Bush has done. He has rewarded those who make the most money by increasing what they are making, and those households that make less money actually are losing ground.

But we do not have to look at a chart like that. We can see it every day. What is the biggest disparity that we have between those who have great jobs and those who have minimum-wage jobs? One of the major things is education, for example. Those who have a better education, they are probably, probably, going to make more money.

So what has Bush done during these years? If we look at this budget that he proposed this year, cutting moneys to community colleges, a place where people who have lost their jobs can go and get new skills, get retrained, the money is not there anymore. Places for immigrants who want to learn English at night, for example, cannot get into those classes anymore. The Republicans are trying to cut the student loan program, a way in which people, people who do not have money, are able to go and finance an education. I know because I had student loans. Pell grants. Those are the out, and scholarships that we give to people who want to go get a higher education, he managed to raise it by only $100. Think about that. Tuition going crazy at colleges and universities. Anybody who has got teenage kids and is looking at this can see the trend: $100, that is the increase that the President says is going to fix everything.

But the biggest disparity that has happened from this President is the fact that he put in a signature package called No Child Left Behind where he was going to look and measure how our kids were doing in our kindergarten through 12th-grade system, and if they were not doing well, if they were below the level where they should be, we were going to tutor them, get more people in to help them, take extra care of these kids so we can bring them up to the average where they were supposed to be. Guess what? Nine billion dollars short. In other words, he passed the program, but he forgot to fund it. And then people wonder what is wrong with education?

We are not investing in one of the most important things we have to do, and that is to get our people up, to make them scientists and mathematicians. Go to the universities. Go to the universities and look and see who is teaching our math and science classes. They are foreigners. And then take a look at who is in the class. They, too, are foreigners. And it used to be that these foreigners stayed in the United States, and they became Americans, and they helped us to make the new, new things and the new industries and the new technology, but now our very own companies are getting them and sending them back to India or China or wherever they come from, and they are competing against us.

Mrs. MALONEY. Mr. Speaker, reclaiming my time, the gentlewoman has pointed out a good fact there.

But let us talk a little bit now about the American jobs machine, which brought the unemployment rate down under President Clinton.

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under the Speaker's announced policy, the gentlewoman is recognized for an additional 30 minutes.

Mrs. MALONEY. Mr. Speaker, the great American jobs machine, which brought the unemployment rate down under President Clinton from 7.5 percent in 1992 to 4 percent in 2000, has been sputtering under President Bush. We are only just emerging from really the worst job slump since the 1903s, and job creation is still sluggish. There continues to be substantial hidden unemployment. Wages are not keeping up with inflation, and there is a widening disparity, as we talked about, in wages and incomes.

□ 2330

The benefits of the economic recovery are showing up in the bottom line of companies, but it is not showing up in the pocketbooks of American workers.

Let us look at hidden unemployment. The good news is that the official unemployment rate has come down from its high of 6.3 percent in June of 2003 to 5 percent this last month. The very bad news is that a 5 percent unemployment rate is still nearly a percentage point higher than it was when President Bush took office.

But, it is worse than that, because there is an additional hidden unemployment. People have not come back into the labor force the way they usually do in an economic recovery. Last month, 7.5 million people were officially counted as unemployed, 1.5 million more people than were unemployed when President Bush took office in January of 2001.

To be counted as unemployed, a person must be actively looking for work, but in a weak labor market, there can be considerable hidden unemployment and underemployment if people who want to work have been discouraged from looking for work, and if people who want to work full-time can only find a part-time job. In a typical business cycle recovery, people come back into the labor force as the prospects of finding a job improve but, this time, the labor force participation rate has remained depressed, compared with what it was in the start of the recession.

Last month, 5.2 million people who were not in the labor force said they wanted a job. About 1.6 million of these are considered "marginally attached" to the labor force because they have searched for work in the past year and are available for work, but they are not counted in the official unemployment rate, because they did not search for work recently enough. In addition to people who are not in the labor force but say they want a job, 4.5 million people were working part-time in June because of the weak economy. They wanted full-time work, but they were not able to find it.

The official unemployment rate was 5 percent in June. The Bureau of Labor Statistics estimates that if marginally attached workers were included, the unemployment rate would have been 6 percent, and if those working part-time for economic reasons were also included, it would have been 9 percent. A new study by Katherine Bradbury of the Federal Reserve of Boston reaches similar conclusions: labor force participation has not rebounded in this recovery the way it usually does, and the unemployment rate would be 1 to 3 percentage points higher if those missing participants were in the labor force.

Mr. Speaker, the President and his supporters seem to think that a 5 percent unemployment rate shows the success of their economic policies in creating jobs, but the facts tell a very different story. Employers are not hiring as though they believe the economy is strong, and potential workers are staying out of the labor force. The unemployment rate is still almost a percentage point higher than it was when President Bush took office, and there is considerable hidden unemployment. Employers are not hiring as though they believe the economy is strong, and potential workers are staying out of the labor force.

So these numbers are not strong, and I ask my colleague if she would like to elaborate.

Ms. LORETTA SANCHEZ of California. Well, almost everywhere you look in the economy, if you really understand what is going on, the numbers are not strong; the numbers just are not strong. Again, one of the things we need to do as a country is to invest in our people and invest in our country, make ourselves economically strong, because other countries are doing it. China is investing. They are not spending $1.5 billion a week in Iraq. They are investing in their people, they are building their water systems, their sewer systems, their transportation systems, their telecommunications systems; they are making themselves stronger. That is what countries do in order to bring up their standard of living.

Now, I have already told my colleagues that we are really not putting the money into education. Even the chairman of the Federal Reserve Board, Chairman Greenspan, said the other day in front of our economic committee, after everything he said and we had all kinds of questions, all kinds of things to say, and he kept coming back to the same thing: there is a problem in education in the United States, and if we do not fix education, nothing else matters. That is what he said to us, pretty much over and over: nothing else matters. It is productivity.

So we are not investing in education, we have not been able to pass a transportation bill to put people to work in their own communities, building their transportation systems so they can be more productive, so they do not spend as much time in traffic, for example, and those are good-paying jobs. Those are good-paying jobs that spin off other jobs, but we are not doing it from here. Why? Because we are sending the money out. Meanwhile, we are talking about building schools in Iraq and building transportation systems in Iraq, and building water systems in Iraq, but we are really not doing it here in the United States. We are not putting the money where we need to have it put. And, let me also add that we have another major problem, and that is called the trade deficit. The trade deficit.

Just earlier this year, when the tariffs came off of textiles with respect to China, our trade deficit went crazy against that country. And it will continue so until we figure out how to invest in ourselves, how to invest in our country, how to collect the taxes and pay down our debt, bring down the deficit every year, so that people will begin to believe us again, that we understand how to run a financially sound household here.

I am sure that the gentleman from New York is probably going to talk a little bit about the statistics with respect to trade and what that is doing to us.

Mrs. MALONEY. Mr. Speaker, I really want to point out that the President and his supporters are trying to make the case that the economy is thriving and that their policies are responsible. But when we look at the facts that we have pointed out tonight, we see instead that American workers are still waiting to see the benefits of the economic recovery in their paychecks, and that we have large and unsustainable budgets and trade deficits.

In fact, this administration has set a number of records, only the problem is, they are the wrong records. They have raised the debt ceiling 3 times so that now, we have a staggering debt of over $7.6 trillion. This is the largest debt in the history of our country, and that breaks down to each American's share being over $26,000. That is what we are giving to our children and our grandchildren.

And, as was said earlier, the trade deficit is again another record, only the wrong kind of record; another record of over $619 billion, the largest in the history of this country, and growing. And, we have a staggering deficit of over $333 billion.

I remember when I ran for office back in 1992, the country had a deficit of $250 billion, and everybody said it was the worst they have ever seen. If I had told them, "vote for me, I am going to go to Congress, I am going to work with the democratic Congress to pay off that deficit, and in a number of years you are going to see a huge surplus," they would have said, well, she is a nice little girl, but she does not know what she is talking about.

But that is exactly what we did. We came to Congress with President Clinton, we paid down that deficit, and he left office with a surplus, a huge surplus. That is what the Bush administration inherited. And what have they given us? They have given us a staggering deficit, a staggering trade deficit, and the largest debt in the history of our Nation. What kind of legacy is that?

Mr. Speaker, I say to my colleagues that on top of this burden that they are putting on our children and our grandchildren, they now plan to privatize part of Social Security that would also add to the debt without increasing our national savings. And, according to Chairman Greenspan, this privatization that they proposed for Social Security would not do one inch of help to help the solvency of the Social Security plan. It does not help the solvency; it just adds to the staggering debt.

□ 2340

And on top of this, they proposed cuts to traditional Social Security benefits that would undermine the economic security of future retirees. And I say to my colleagues, this is not the legacy that I want to leave to my children or to my grandchildren. It is a burden that will have a huge impact on their quality of life.

That concludes my remarks.

Ms. LORETTA SANCHEZ of California. I will just say that the whole issue of Social Security, by the way, pension plans that many of our retirees are on or believe that they are going to be on in a few years, are really due to be lost under the Bush administration.

Some of the policies that they have and some of the ideas that they have of really the security, the financial security, of people is really up for grabs with this administration with some of the ideas that they have, but that is another night. We can talk about what they plan to do to the American people on another night.

I want to finish off by saying, you know, again, we feel it. You feel it. We feel the difference between what we experienced under President Clinton and what we are experiencing under President Bush.

President Bush would have you believe it is because 9/11 happened, and because the terrorists are after us, and because we are now having to spend money in the war. And he is trying to tell you that that is why we have this malaise going on in our economy.

I have got news for you. That has very little to do with it. It has to do with the priorities of where you put your money. The priorities should be in investing in America. The priorities should be in trade because we are in a global economy, but in fair trade, not free trade, in fair trade with countries who will not have slave labor competing against us, the American workers.

It is about people who hold to promises, if we have trademarks, if we have copyrights, if we have intellectual property. If we spend the money to make a software system, it should not be pirated and copied the next day over in China and then back in our markets to compete against us. But other countries do that, and we sit here as an administration and they do nothing. They do nothing.

So they have forgotten to fund education; they are cutting it back, in fact. We have not even begun to get into the whole idea of health care. If you are not a healthy country, you are not going to be a productive country. We have not talked about investing in technology and transportation and in telecommunication. Those are all issues that are important for us. But these issues of not understanding and not standing up to other countries who are mistreating us when we trade is another reason why this trade deficit is against us, and that in return hurts us economically and builds this debt and this deficit.

But one of the biggest reasons why we have deficits and why we are adding to the debt is because again this President has told us that we can go to war, that we can do everything, that we should continue to spend, that we do not need to save as a country, and that somehow or another everything is going to work out, oh, and by the way, we do not have to pay taxes. That is his message. Well, we are smart people. Americans, we are smart people. We understand what is going on.

The answer is we need to begin to change this, and we need to get our financial house in order. And I thank the gentlewoman for having taken the time tonight to discuss some of these issues.

Mrs. MALONEY. Well, I thank the gentlewoman for her comments. And I would just like to conclude by noting that this Monday was President Clinton's birthday. And I authored a resolution congratulating him on his birthday, which emphasized his strong economic program for this country.

Although many of my colleagues or some of my colleagues may not agree with all of his policies, the facts speak for themselves. He inherited a deficit; he left office with a surplus. And while he was putting our economic house in order, we balanced our budget, and we invested also in child care, in health care, in education and helped the people in our country.

During the Clinton years there was a very important economic factor, that the distance between the haves and the have-nots came closer together. In other words, everyone prospered, which is good for the Nation. It is not good for only one segment to prosper and others to fall behind. That really could destroy the social fabric of this country. It is very disturbing to me.

So I wish that we would return to really the financial policies that we had under President Clinton where we balanced our budget, we invested in our people, in education, and health care, and we had a surplus. Yet under this administration the surplus is gone, and we have a staggering debt, the largest in our history. This is not the legacy that I want to leave to my children.

CONFERENCE REPORT ON H.R. 2361

Mr. TAYLOR of North Carolina submitted the following conference report and statement on the bill:

(H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes:

Conference Report (H. Rept. 109–188)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2361) "making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MANAGEMENT OF LANDS AND RESOURCES

For necessary expenses for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–487 (16 U.S.C. 3150(a)), $860,791,000, to remain available until expended, of which $1,250,000 is for high priority projects, to be carried out by the Youth Conservation Corps; and of which $3,000,000 shall be available in fiscal year 2006 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation for cost-shared projects supporting conservation of Bureau lands; and such funds shall be advanced to the Foundation as a lump sum grant without regard to when expenses are incurred.

In addition, $32,696,000 is for Mining Law Administration program operations, including the cost of administering the mining claim fee program; to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than $860,791,000, and $2,000,000, to remain available until expended, from communication site rental fees established by the Bureau for the cost of administering communication site activities.

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for fire preparedness, suppression operations, fire science and research, emergency rehabilitation, hazardous fuels reduction, and rural fire assistance by the Department of the Interior, $766,564,000, to remain available until expended, of which not to exceed $7,849,000 shall be for the renovation or construction of fire facilities: Provided, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: Provided further, That persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: Provided further, That notwithstanding 42 U.S.C. 1856d, sums received by a bureau or office of the Department of the Interior for fire protection rendered pursuant to 42 U.S.C. 1856 et seq., protection of United States property, may be credited to the appropriation from which funds were expended to provide that protection, and are available without fiscal year limitation: Provided further, That using the amounts designated under this title of this Act, the Secretary of the Interior may enter into procurement contracts, grants, or cooperative agreements, for hazardous fuels reduction activities, and for training and monitoring associated with such hazardous fuels reduction activities, on Federal land, or on adjacent non-Federal land for activities that benefit resources on Federal land: Provided further, That the costs of implementing any cooperative agreement between the Federal Government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: Provided further, That notwithstanding requirements of the Competition in Contracting Act, the Secretary, for purposes of hazardous fuels reduction activities, may obtain maximum practicable competition among: (1) local private, nonprofit, or cooperative entities; (2) Youth Conservation Corps crews or related partnerships with State, local, or non-profit youth groups; (3) small or micro-businesses; or (4) other entities that will hire or train locally a significant percentage, defined as 50 percent or more, of the project workforce to complete such contracts: Provided further, That in implementing this section, the Secretary shall develop written guidance to field units to ensure accountability and consistent application of the authorities provided herein: Provided further, That funds appropriated under this head may be used to reimburse the United States Fish and Wildlife Service and the National Marine Fisheries Service for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference, as required by section 7 of such Act, in connection with wildland fire management activities: Provided further, That the Secretary of the Interior may use wildland fire appropriations to enter into non-competitive sole source leases of real property with local governments, at or below fair market value, to construct capitalized improvements for fire facilities on such leased properties, including but not limited to fire guard stations, retardant stations, and other initial attack and fire support facilities, and to make advance payments for any such lease or for construction activity associated with the lease: Provided further, That the Secretary of the Interior and the Secretary of Agriculture may authorize the transfer of funds appropriated for wildland fire management, in an aggregate amount not to exceed $9,000,000, between the Departments when such transfers would facilitate and expedite jointly funded wildland fire management programs and projects: Provided further, That funds provided for wildfire suppression shall be available for support of Federal emergency response actions.

CONSTRUCTION

For construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $11,926,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out sections 205, 206, and 318(d) of Public Law 94–579, including administrative expenses and acquisition of lands or waters, or interests therein, $8,750,000, to be derived from the Land and Water Conservation Fund and to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein, including existing connecting roads on or adjacent to such grant lands; $110,070,000, to remain available until expended: Provided, That 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

FOREST ECOSYSTEM HEALTH AND RECOVERY FUND

(REVOLVING FUND, SPECIAL ACCOUNT)

In addition to the purposes authorized in Public Law 102–381, funds made available in the Forest Ecosystem Health and Recovery Fund can be used for the purpose of planning, preparing, implementing and monitoring salvage timber sales and forest ecosystem health and recovery activities, such as release from competing vegetation and density control treatments. The Federal share of receipts (defined as the portion of salvage timber receipts not paid to the counties under 43 U.S.C. 1181f and 43 U.S.C. 1181f–1 et seq., and Public Law 106–393) derived from treatments funded by this account shall be deposited into the Forest Ecosystem Health and Recovery Fund.

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 percent of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,000,000, to remain available until expended: Provided, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under Public Law 94–579, as amended, and Public Law 93–153, to remain available until expended: Provided, That, notwithstanding any provision to the contrary of section 305(a) of Public Law 94–579 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this Act by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such action are used on the exact lands damaged which led to the action: Provided further, That any such moneys that are in excess of amounts needed to repair damage to the exact land for which funds were collected may be used to repair other damaged public lands.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing laws, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on her certificate, not to exceed $10,000: Provided, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For necessary expenses of the United States Fish and Wildlife Service, as authorized by law, and for scientific and economic studies, maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge, general administration, and for the performance of other authorized functions related to such resources by direct expenditure, contracts, grants, cooperative agreements and reimbursable agreements with public and private entities, $1,008,880,000, to remain available until September 30, 2007, except as otherwise provided herein: Provided, That $2,500,000 is for high priority projects, which shall be carried out by the Youth Conservation Corps: Provided further, That not to exceed $18,130,000 shall be used for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act, as amended, for species that are indigenous to the United States (except for processing petitions, developing and issuing proposed and final regulations, and taking any other steps to implement actions described in subsection (c)(2)(A), (c)(2)(B)(i), or (c)(2)(B)(ii)), of which not to exceed $12,852,000 shall be used for any activity regarding the designation of critical habitat, pursuant to subsection (a)(3), excluding litigation support, for species listed pursuant to subsection (a)(1) prior to October 1, 2005: Provided further, That of the amount available for law enforcement, up to $400,000, to remain available until expended, may at the discretion of the Secretary be used for payment for information, rewards, or evidence concerning violations of laws administered by the Service, and miscellaneous and emergency expenses of enforcement activity, authorized or approved by the Secretary and to be accounted for solely on her certificate: Provided further, That of the amount provided for environmental contaminants, up to $1,000,000 may remain available until expended for contaminant sample analyses.

CONSTRUCTION

For construction, improvement, acquisition, or removal of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; $45,891,000, to remain available until expended: Provided, That funds made available under the 2005 Consolidated Appropriations Act (Public Law 108–447) for the Chase Lake and Arrowwood National Wildlife Refuges, North Dakota, shall be transferred to North Dakota State University to complete planning and design for a Joint Interpretive Center.

LAND ACQUISITION

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $28,408,000 to be derived from the Land and Water Conservation Fund and to remain available until expended: Provided, That none of the funds appropriated for specific land acquisition projects can be used to pay for any administrative overhead, planning or other management costs.

LANDOWNER INCENTIVE PROGRAM

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, $24,000,000, to be derived from the Land and Water Conservation Fund, and to remain available until expended: Provided, That the amount provided herein is for a Landowner Incentive Program established by the Secretary that provides matching, competitively awarded grants to States, the District of Columbia, federally recognized Indian tribes, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, and American Samoa, to establish or supplement existing landowner incentive programs that provide technical and financial assistance, including habitat protection and restoration, to private landowners for the protection and management of habitat to benefit federally listed, proposed, candidate, or other at-risk species on private lands.

PRIVATE STEWARDSHIP GRANTS

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, $7,386,000, to be derived from the Land and Water Conservation Fund, and to remain available until expended: Provided, That the amount provided herein is for the Private Stewardship Grants Program established by the Secretary to provide grants and other assistance to individuals and groups engaged in private conservation efforts that benefit federally listed, proposed, candidate, or other at-risk species.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as amended, $82,200,000, of which $20,161,000 is to be derived from the Cooperative Endangered Species Conservation Fund and $62,039,000 is to be derived from the Land and Water Conservation Fund and to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $14,414,000.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, as amended, $40,000,000, to remain available until expended.

NEOTROPICAL MIGRATORY BIRD CONSERVATION

For financial assistance for projects to promote the conservation of neotropical migratory birds in accordance with the Neotropical Migratory Bird Conservation Act, Public Law 106–247 (16 U.S.C. 6101–6109), $4,000,000, to remain available until expended.

MULTINATIONAL SPECIES CONSERVATION FUND

For expenses necessary to carry out the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), the Asian Elephant Conservation Act of 1997 (Public Law 105–96; 16 U.S.C. 4261–4266), the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301–5306), the Great Ape Conservation Act of 2000 (16 U.S.C. 6301), and the Marine Turtle Conservation Act of 2004 (Public Law 108–266; 16 U.S.C. 6601), $6,500,000, to remain available until expended.

STATE AND TRIBAL WILDLIFE GRANTS

For wildlife conservation grants to States and to the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, American Samoa, and federally recognized Indian tribes under the provisions of the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act, for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished, $68,500,000, to be derived from the Land and Water Conservation Fund and to remain available until expended: Provided, That of the amount provided herein, $6,000,000 is for a competitive grant program for Indian tribes not subject to the remaining provisions of this appropriation: Provided further, That the Secretary *shall, after deducting said $6,000,000 and administrative expenses, apportion the amount provided herein in the following manner: (1) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than one-half of 1 percent thereof; and (2) to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than one-fourth of 1 percent thereof: Provided further, That the Secretary shall apportion the remaining amount in the following manner: (1) one-third of which is based on the ratio to which the land area of such State bears to the total land area of all such States; and (2) two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States: Provided further, That the amounts apportioned under this paragraph shall be adjusted equitably so that no State shall be apportioned a sum which is less than 1 percent of the amount available for apportionment under this paragraph for any fiscal year or more than 5 percent of such amount: Provided further, That the Federal share of planning grants shall not exceed 75 percent of the total costs of such projects and the Federal share of implementation grants shall not exceed 50 percent of the total costs of such projects: Provided further, That the non-Federal share of such projects may not be derived from Federal grant programs: Provided further, That no State, territory, or other jurisdiction shall receive a grant unless it has developed, by October 1, 2005, a comprehensive wildlife conservation plan, consistent with criteria established by the Secretary of the Interior, that considers the broad range of the State, territory, or other jurisdiction's wildlife and associated habitats, with appropriate priority placed on those species with the greatest conservation need and taking into consideration the relative level of funding available for the conservation of those species: Provided further, That no State, territory, or other jurisdiction shall receive a grant if its comprehensive wildlife conservation plan is disapproved and such funds that would have been distributed to such State, territory, or other jurisdiction shall be distributed equitably to States, territories, and other jurisdictions with approved plans: Provided further, That any amount apportioned in 2006 to any State, territory, or other jurisdiction that remains unobligated as of September 30, 2007, shall be reapportioned, together with funds appropriated in 2008, in the manner provided herein: Provided further, That balances from amounts previously appropriated under the heading "State Wildlife Grants" shall be transferred to and merged with this appropriation and shall remain available until expended.*

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of passenger motor vehicles; repair of damage to public roads within and adjacent to reservation areas caused by operations of the Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the Service and to which the United States has title, and which are used pursuant to law in connection with management, and investigation of fish and wildlife resources: Provided, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: Provided further, That, notwithstanding any other provision of law, the Service may use up to $2,000,000 from funds provided for contracts for employment-related legal services: Provided further, That the Service may accept donated aircraft as replacements for existing aircraft: Provided further, That, notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in the statement of the managers accompanying this Act.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, $1,744,074,000, of which $9,892,000 is for planning and interagency coordination in support of Everglades restoration and shall remain available until expended; of which $97,600,000, to remain available until September 30, 2007, is for maintenance, repair or rehabilitation projects for constructed assets, operation of the National Park Service automated facility management software system, and comprehensive facility condition assessments; and of which $2,000,000 is for the Youth Conservation Corps for high priority projects: Provided, That the only funds in this account which may be made available to support United States Park Police are those funds approved for emergency law and order incidents pursuant to established National Park Service procedures, those funds needed to maintain and repair United States Park Police administrative facilities, and those funds necessary to reimburse the United States Park Police account for the unbudgeted overtime and travel costs associated with special events for an amount not to exceed $10,000 per event subject to the review and concurrence of the Washington headquarters office.

UNITED STATES PARK POLICE

For expenses necessary to carry out the programs of the United States Park Police, $81,411,000.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, heritage partnership programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, $54,965,000: Provided, That none of the funds in this Act for the River, Trails and Conservation Assistance program may be used for cash agreements, or for cooperative agreements that are inconsistent with the program's final strategic plan.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333), $73,250,000, to be derived from the Historic Preservation Fund and to remain available until September 30, 2007, of which $30,000,000 shall be for Save America's Treasures for preservation of nationally significant sites, structures, and artifacts: Provided, That not to exceed $5,000,000 of the amount provided for Save America's Treasures may be for Preserve America grants to States, Tribes, and local communities for projects that preserve important historic resources through the promotion of heritage tourism: Provided further, That any individual Save America's Treasures or Preserve America grant shall be matched by non-Federal funds: Provided further, That individual projects shall only be eligible for one grant: Provided further, That all projects to be funded shall be approved by the Secretary of the Interior in consultation with the House and Senate Committees on Appropriations, and in consultation with the President's Committee on the Arts and Humanities prior to the commitment of Save America's Treasures grant funds and with the Advisory Council on Historic Preservation prior to the commitment of Preserve America grant funds: Provided further, That Save America's Treasures funds allocated for Federal projects, following approval, shall be available by transfer to appropriate accounts of individual agencies.

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For construction, improvements, repair or replacement of physical facilities, including the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, $301,291,000, to remain available until expended, of which $17,000,000 for modified water deliveries to Everglades National Park shall be derived by transfer from unobligated balances in the "Land Acquisition and State Assistance" account for Everglades National Park land acquisitions, and of which $400,000 for the Mark Twain Boyhood Home National Historic Landmark shall be derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470a: Provided, That none of the funds available to the National Park Service may be used to plan, design, or construct any partnership project with a total value in excess of $5,000,000, without advance approval of the House and Senate Committees on Appropriations: Provided further, That notwithstanding any other provision of law, the National Park Service may not accept donations or services associated with the planning, design, or construction of such new facilities without advance approval of the House and Senate Committees on Appropriations: Provided further, That funds provided under this heading for implementation of modified water deliveries to Everglades National Park shall be expended consistent with the requirements of the fifth proviso under this heading in Public Law 108–108:

Provided further, That funds provided under this heading for implementation of modified water deliveries to Everglades National Park shall be available for obligation only if matching funds are appropriated to the Army Corps of Engineers for the same purpose:

Provided further, That none of the funds provided under this heading for implementation of modified water deliveries to Everglades National Park shall be available for obligation if any of the funds appropriated to the Army Corps of Engineers for the purpose of implementing modified water deliveries, including finalizing detailed engineering and design documents for a bridge or series of bridges for the Tamiami Trail component of the project, becomes unavailable for obligation: Provided further, That funds provided under this heading for implementation of modified water deliveries to Everglades National Park shall be expended consistent with the requirements of the fifth proviso under this heading in Public Law 108–108: Provided further, That hereinafter notwithstanding any other provision of law, procurements for the Mount Rainier National Park Jackson Visitor Center replacement and the rehabilitation of Paradise Inn and Annex may be issued which include the full scope of the facility: Provided *further, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232.18: Provided further, That none of the funds provided in this or any other Act may be used for planning, design, or construction of any underground security screening or visitor contact facility at the Washington Monument until such facility has been approved in writing by the House and Senate Committees on Appropriations.*

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 2006 by 16 U.S.C. 460l–10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with the statutory authority applicable to the National Park Service, $74,824,000, to be derived from the Land and Water Conservation Fund and to remain available until expended, of which $30,000,000 is for the State assistance program including $1,587,000 for program administration: Provided, That none of the funds provided for the State assistance program may be used to establish a contingency fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 245 passenger motor vehicles, of which 199 shall be for replacement only, including not to exceed 193 for police-type use, 10 buses, and 8 ambulances: Provided, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project: Provided further, That in fiscal year 2006 and thereafter, appropriations available to the National Park Service may be used to maintain the following areas in Washington, District of Columbia: Jackson Place, Madison Place, and Pennsylvania Avenue between 15th and 17th Streets, Northwest.

None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.

The National Park Service may distribute to operating units based on the safety record of each unit the costs of programs designed to improve workplace and employee safety, and to encourage employees receiving workers' compensation benefits pursuant to chapter 81 of title 5, United States Code, to return to appropriate positions for which they are medically able.

If the Secretary of the Interior considers the decision of any value determination proceeding conducted under a National Park Service concession contract issued prior to November 13, 1998, to misinterpret or misapply relevant contractual requirements or their underlying legal authority, the Secretary may seek, within 180 days of any such decision, the de novo review of the value determination by the United States Court of Federal Claims, and that court may make an order affirming, vacating, modifying or correcting the determination.

In addition to other uses set forth in section 407(d) of Public Law 105–391, franchise fees credited to a sub-account shall be available for expenditure by the Secretary, without further appropriation, for use at any unit within the National Park System to extinguish or reduce liability for Possessory Interest or leasehold surrender interest. Such funds may only be used for this purpose to the extent that the benefiting unit anticipated franchise fee receipts over the term of the contract at that unit exceed the amount of funds used to extinguish or reduce liability. Franchise fees at the benefiting unit shall be credited to the sub-account of the originating unit over a period not to exceed the term of a single contract at the benefiting unit, in the amount of funds so expended to extinguish or reduce liability.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, biology, and the mineral and water resources of the United States, its territories and possessions, and other areas as authorized by 43 U.S.C. 31, 1332, and 1340; classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g(1)) and related purposes as authorized by law; and to publish and disseminate data relative to .the foregoing activities; $976,035,000, of which $63,770,000 shall be available only for cooperation with States or municipalities for water resources investigations; of which $8,000,000 shall remain available until expended for satellite operations; of which $21,720,000 shall be available until September 30, 2007, for the operation and maintenance of facilities and deferred maintenance; of which $1,600,000 shall be available until expended for deferred maintenance and capital improvement projects that exceed $100,000 in cost; and of which $177,485,000 shall be available until September 30, 2007, for the biological research activity and the operation of the Cooperative Research Units: Provided, That none of the funds provided for the biological research activity shall be used to conduct new surveys on private property, unless specifically authorized in writing by the property owner: Provided further, That no part of this appropriation shall be used to pay more than one-half the cost of topographic mapping or water resources data collection and investigations carried on in cooperation with States and municipalities.

ADMINISTRATIVE PROVISIONS

From within the amount appropriated for activities of the United States Geological Survey such sums as are necessary shall be available for the purchase and replacement of passenger motor vehicles; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Survey duly appointed to represent the United States in the negotiation and administration of interstate compacts: Provided, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302 et seq.: Provided further, That the United States Geological Survey may enter into contracts or cooperative agreements directly with individuals or indirectly with institutions or nonprofit organizations, without regard to 41 U.S.C. 5, for the temporary or intermittent services of students or recent graduates, who shall be considered employees for the purpose of chapters 57 and 81 of title 5, United States Code, relating to compensation for travel and work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, but shall not be considered to be Federal employees for any other purposes.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only, $153,651,000, of which $78,529,000 shall be available for royalty management activities; and an amount not to exceed $122,730,000, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for Outer Continental Shelf administrative activities performed by the Minerals Management Service (MMS) over and above the rates in effect on September 30, 1993, and from additional fees for Outer Continental Shelf administrative activities established after September 30, 1993: Provided, That to the extent $122,730,000 in additions to receipts are not realized from the sources of receipts stated above, the amount needed to reach $122,730,000 shall be credited to this appropriation from receipts resulting from rental rates for Outer Continental Shelf leases in effect before August 5, 1993: Provided further, That $3,000,000 for computer acquisitions shall remain available until September 30, 2007: Provided further, That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: Provided further, That notwithstanding any other provision of law, $15,000 under this heading shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of MMS concurred with the claimed refund due, to pay amounts owed to Indian allottees or tribes, or to correct prior unrecoverable erroneous payments: Provided further, That in fiscal year 2006 and thereafter, the MMS may under the royalty-in-kind program, or under its authority to transfer oil to the Strategic Petroleum Reserve, use a portion of the revenues from royalty-in-kind sales, without regard to fiscal year limitation, to pay for transportation to wholesale market centers or upstream pooling points, to process or otherwise dispose of royalty production taken in kind, and to recover MMS transportation costs, salaries, and other administrative costs directly related to the royalty-in-kind program: Provided further, That MMS shall analyze and document the expected return in advance of any royalty-in-kind sales to assure to the maximum extent practicable that royalty income under the program is equal to or greater than royalty income recognized under a comparable royalty-in-value program.

OIL SPILL RESEARCH

For necessary expenses to carry out title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, $7,006,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, as amended, including the purchase of not to exceed 10 passenger motor vehicles, for replacement only; $110,435,000: Provided, That the Secretary of the Interior, pursuant to regulations, may use directly or through grants to States, moneys collected in fiscal year 2006 for civil penalties assessed under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: Provided further, That appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 10 passenger motor vehicles for replacement only, $188,014,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended; of which up to $10,000,000, to be derived from the Federal Expenses Share of the Fund, shall be for supplemental grants to States for the reclamation of abandoned sites with acid mine rock drainage from coal mines, and for associated activities, through the Appalachian Clean Streams Initiative: Provided, That grants to minimum program States will be $1,500,000 per State in fiscal year 2006: Provided further, That pursuant to Public Law 97-365, the Department of the Interior is authorized to use up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That funds made available under title IV of Public Law 95–87 may be used for any required non-Federal share of the cost of projects funded by the Federal Government for the purpose of environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines: Provided further, That such projects must be consistent with the purposes and priorities of the Surface Mining Control and Reclamation Act: Provided further, That amounts allocated under section 402(g)(2) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(2)) as of September 30, 2005, but not appropriated as of that date, are reallocated to the allocation established in section 402(g)(3) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(3)): Provided further, That the State of Maryland may set aside the greater of $1,000,000 or 10 percent of the total of the grants made available to the State under title IV of the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1231 et seq.), if the amount set aside is deposited in an acid mine drainage abatement and treatment fund established under a State law, pursuant to which law the amount (together with all interest earned on the amount) is expended by the State to undertake acid mine drainage abatement and treatment projects, except that before any amounts greater than 10 percent of its title IV grants are deposited in an acid mine drainage abatement and treatment fund, the State of Maryland must first complete all Surface Mining Control and Reclamation Act priority one projects: Provided further, That amounts provided under this heading may be used for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ADMINISTRATIVE PROVISION

With funds available for the Technical Innovation and Professional Services program in this Act, the Secretary may transfer title for computer hardware, software and other technical equipment to State and Tribal regulatory and reclamation programs.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For expenses necessary for the operation of Indian programs, as authorized by law, including the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), as amended, the Education Amendments of 1978 (25 U.S.C. 2001-2019), and the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), as amended, $1,991,490,000, to remain available until September 30, 2007 except as otherwise provided herein, of which not to exceed $86,462,000 shall be for welfare assistance payments and notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, not to exceed $134,609,000 shall be available for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts, grants, compacts, or annual funding agreements entered into with the Bureau prior to or during fiscal year 2006, as authorized by such Act, except that tribes and tribal organizations may use their tribal priority allocations for unmet indirect contract support costs of ongoing contracts, grants, or compacts, or annual funding agreements and for unmet welfare assistance costs; and of which not to exceed $464,585,000 for school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 2006, and shall remain available until September 30, 2007; and of which not to exceed $61,667,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, the Indian Self-Determination Fund, land records improvement, and the Navajo-Hopi Settlement Program: Provided, That notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, and 25 U.S.C. 2008, not to exceed $44,718,000 within and only from such amounts made available for school operations shall be available to tribes and tribal organizations for administrative cost grants associated with ongoing grants entered into with the Bureau prior to or during fiscal year 2005 for the operation of Bureau-funded schools, and up to $500,000 within and only from such amounts made available for school operations shall be available for the transitional costs of initial administrative cost grants to tribes and tribal organizations that enter into grants for the operation on or after July 1, 2005, of Bureau-operated schools: Provided further, That any forestry funds allocated to a tribe which remain unobligated as of September 30, 2007, may be transferred during fiscal year 2008 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: Provided further, That any such unobligated balances not so transferred shall expire on September 30, 2008.

CONSTRUCTION

For construction, repair, improvement, and maintenance of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands, and interests in lands; and preparation of lands for farming, and for construction of the Navajo Indian Irrigation Project pursuant to Public Law 87–483, $275,637,000, to remain available until expended: Provided, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: Provided further, That not to exceed 6 percent of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau: Provided further, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a nonreimbursable basis: Provided further, That for fiscal year 2006, in implementing new construction or facilities improvement and repair project grants in excess of $100,000 that are provided to tribally controlled grant schools under Public Law 100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: Provided further, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: Provided further, That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(b), with respect to organizational and financial management capabilities: Provided further, That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2504(f): Provided further, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2507(e): Provided further, That in order to ensure timely completion of replacement school construction projects, the Secretary may assume control of a project and all funds related to the project, if, within eighteen months of the date of enactment of this Act, any tribe or tribal organization receiving funds appropriated in this Act or in any prior Act, has not completed the planning and design phase of the project and commenced construction of the replacement school: Provided further, That this Appropriation may be reimbursed from the Office of the Special Trustee for American Indians Appropriation for the appropriate share of construction costs for space expansion needed in agency offices to meet trust reform implementation.

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, $34,754,000, to remain available until expended, for implementation of Indian land and water claim settlements pursuant to Public Laws 99–264, 100–580, 101–618, 106–554, 107–331, and 108–34, and for implementation of other land and water rights settlements, of which $10,000,000 shall be available for payment to the Quinault Indian Nation pursuant to the terms of the North Boundary Settlement Agreement dated July 14, 2000, providing for the acquisition of perpetual conservation easements from the Nation.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed and insured loans, $6,348,000, of which $701,000 is for administrative expenses, as authorized by the Indian Financing Act of 1974, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $118,884,000.

ADMINISTRATIVE PROVISIONS

The Bureau of Indian Affairs may carry out the operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts and grants, either directly or in cooperation with States and other organizations.

Notwithstanding 25 U.S.C. 15, the Bureau of Indian Affairs may contract for services in support of the management, operation, and maintenance of the Power Division of the San Carlos Irrigation Project.

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase and replacement of passenger motor vehicles.

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office operations or pooled overhead general administration (except facilities operations and maintenance) shall be available for tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103–413).

In the event any tribe returns appropriations made available by this Act to the Bureau of Indian Affairs for distribution to other tribes, this action shall not diminish the Federal Government's trust responsibility to that tribe, or the government-to-government relationship between the United States and that tribe, or that tribe's ability to access future appropriations.

Notwithstanding any other provision of law, no funds available to the Bureau, other than the amounts provided herein for assistance to public schools under 25 U.S.C. 452 et seq., shall be available to support the operation of any elementary or secondary school in the State of Alaska.

Appropriations made available in this or any other Act for schools funded by the Bureau shall be available only to the schools in the Bureau school system as of September 1, 1996. No funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995. Funds made available under this Act may not be used to establish a charter school at a Bureau-funded school (as that term is defined in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026)), except that a charter school that is in existence on the date of the enactment of this Act and that has operated at a Bureau-funded school before September 1, 1999, may continue to operate during that period, but only if the charter school pays to the Bureau a pro rata share of funds to reimburse the Bureau for the use of the real and personal property (including buses and vans), the funds of the charter school are kept separate and apart from Bureau funds, and the Bureau does not assume any obligation for charter school programs of the State in which the school is located if the charter school loses such funding. Employees of Bureau-funded schools sharing a campus with a charter school and performing functions related to the charter school's operation and employees of a charter school shall not be treated as Federal employees for purposes of chapter 171 of title 28, United States Code.

Notwithstanding any other provision of law, including section 113 of title I of appendix C of Public Law 106–113, if a tribe or tribal organization in fiscal year 2003 or 2004 received indirect and administrative costs pursuant to a distribution formula based on section 5(f) of Public Law 101–301, the Secretary shall continue to distribute indirect and administrative cost funds to such tribe or tribal organization using the section 5(f) distribution formula.

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, $76,883,000, of which: (1) $69,502,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, coral reef initiative activities, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $7,381,000 shall be available for salaries and expenses of the Office of Insular Affairs: Provided, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or used by such governments, may be audited by the Government Accountability Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: Provided further, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 104–134: Provided further, That of the amounts provided for technical assistance, sufficient funds shall be made available for a grant to the Pacific Basin Development Council: Provided further, That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: Provided further, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance improvement of capital infrastructure with territorial participation and cost sharing to be determined by the Secretary based on the grantee's commitment to timely maintenance of its capital assets: Provided further, That any appropriation for disaster assistance under this heading in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

COMPACT OF FREE ASSOCIATION

For grants and necessary expenses, $5,362,000, to remain available until expended, as provided for in sections 221(a)(2), 221(b), and 233 of the Compact of Free Association for the Republic of Palau; and section 221(a)(2) of the Compacts of Free Association for the Government of the Republic of the Marshall Islands and the Federated States of Micronesia, as authorized by Public Law 99–658 and Public Law 108–188.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, $127,183,000; of which $7,441,000 is to be derived from the Land and Water Conservation Fund and shall remain available until expended; of which not to exceed $8,500 may be for official reception and representation expenses; and of which up to $1,000,000 shall be available for workers compensation payments and unemployment compensation payments associated with the orderly closure of the United States Bureau of Mines: Provided, That none of the funds in this Act or previous appropriations Acts may be used to establish reserves in the Working Capital Fund account other than for accrued annual leave and depreciation of equipment without prior approval of the House and Senate Committees on Appropriations.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901–6907), $236,000,000, of which not to exceed $400,000 shall be available for administrative expenses: Provided, That no payment shall be made to otherwise eligible units of local government if the computed amount of the payment is less than $100.

CENTRAL HAZARDOUS MATERIALS FUND

For necessary expenses of the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), $9,855,000, to remain available until expended: Provided, That hereafter, notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to section 107 or 113(f) of such Act, shall be credited to this account, to be available until expended without further appropriation: Provided further, That hereafter such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary and which shall be credited to this account.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $55,440,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $39,116,000.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

For the operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, $191,593,000, to remain available until expended, of which not to exceed $58,000,000 from this or any other Act, shall be available for historical accounting: Provided, That funds for trust management improvements and litigation support may, as needed, be transferred to or merged with the Bureau of Indian Affairs, "Operation of Indian Programs" account; the Office of the Solicitor, "Salaries and Expenses" account; and the Departmental Management, "Salaries and Expenses" account: Provided further, That funds made available to Tribes and Tribal organizations through contracts or grants obligated during fiscal year 2006, as authorized by the Indian Self-Determination Act of 1975 (25 U.S.C. 450 et seq.), shall remain available until expended by the contractor or grantee: Provided further, That, notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of the enactment of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with an accounting of such funds from which *the beneficiary can determine whether there has been a loss: Provided further, That, notwithstanding any other provision of law, the Secretary shall not be required to provide a quarterly statement of performance for any Indian trust account that has not had activity for at least 18 months and has a balance of $1.00 or less: Provided further, That the Secretary shall issue an annual account statement and maintain a record of any such accounts and shall permit the balance in each such account to be withdrawn upon the express written request of the account holder: Provided further, That not to exceed $50,000 is available for the Secretary to make payments to correct administrative errors of either disbursements from or deposits to Individual Indian Money or Tribal accounts after September 30, 2002: Provided further, That erroneous payments that are recovered shall be credited to and remain available in this account for this purpose.*

INDIAN LAND CONSOLIDATION

For consolidation of fractional interests in Indian lands and expenses associated with redetermining and redistributing escheated interests in allotted lands, and for necessary expenses to carry out the Indian Land Consolidation Act of 1983, as amended, by direct expenditure or cooperative agreement, $34,514,000, to remain available until expended, and which may be transferred to the Bureau of Indian Affairs and Departmental Management accounts: Provided, That funds provided under this heading may be expended pursuant to the authorities contained in the provisos under the heading "Office of Special Trustee for American Indians, Indian Land Consolidation" of the Interior and Related Agencies Appropriations Act, 2001 (Public Law 106–291).

Natural Resource Damage Assessment and Restoration

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment and restoration activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), the Oil Pollution Act of 1990 (Public Law 101–380) (33 U.S.C. 2701 et seq.), and Public Law 101–337, as amended (16 U.S.C. 19jj et seq.), $6,106,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: Provided, That existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: Provided further, That no programs funded with appropriated funds in the "Departmental Management", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund: Provided further, That the annual budget justification for Departmental Management shall describe estimated Working Capital Fund charges to bureaus and offices, including the methodology on which charges are based: Provided further, That departures from the Working Capital Fund estimates contained in the Departmental Management budget justification shall be presented to the Committees on Appropriations for approval: Provided further, That the Secretary shall provide a semi-annual report to the Committees on Appropriations on reimbursable support agreements between the Office of the Secretary and the National Business Center and the bureaus and offices of the Department, including the amounts billed pursuant to such agreements.

General Provisions, Department of the Interior

Sec. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: Provided further, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of wildland fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oil spills; for response and natural resource damage assessment activities related to actual oil spills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99–198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95–87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for wildland fire operations shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for wildland fire operations, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That for wildland fire operations, no funds shall be made available under this authority until the Secretary determines that funds appropriated for "wildland fire operations" shall be exhausted within 30 days: Provided further, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible: Provided further, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

Sec. 103. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

Sec. 104. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore preleasing, leasing and related activities placed under restriction in the President's moratorium statement of June 12, 1998, in the areas of northern, central, and southern California; the North Atlantic; Washington and Oregon; and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

Sec. 105. No funds provided in this title may be expended by the Department of the Interior to conduct offshore oil and natural gas preleasing, leasing and related activities in the eastern Gulf of Mexico planning area for any lands located outside Sale 181, as identified in the final Outer Continental Shelf 5-Year Oil and Gas Leasing Program, 1997–2002.

Sec. 106. No funds provided in this title may be expended by the Department of the Interior to conduct oil and natural gas preleasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

Sec. 107. Appropriations made in this Act under the headings Bureau of Indian Affairs and Office of Special Trustee for American Indians and any unobligated balances from prior appropriations Acts made under the same headings shall be available for expenditure or transfer for Indian trust management and reform activities, except that total funding for historical accounting activities shall not exceed amounts specifically designated in this Act for such purpose.

Sec. 108. Notwithstanding any other provision of law, in fiscal years 2006 through 2010, for the purpose of reducing the backlog of Indian probate cases in the Department of the Interior, the hearing requirements of chapter 10 of title 25, United States Code, are deemed satisfied by a proceeding conducted by an Indian probate judge, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing the appointments in the competitive service, for such period of time as the Secretary determines necessary: Provided, That the basic pay of an Indian probate judge so appointed may be fixed by the Secretary without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, governing the classification and pay of General Schedule employees, except that no such Indian probate judge may be paid at a level which exceeds the maximum rate payable for the highest grade of the General Schedule, including locality pay.

Sec. 109. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to redistribute any Tribal Priority Allocation funds, including tribal base funds, to alleviate tribal funding inequities by transferring funds to address identified, unmet needs, dual enrollment, overlapping service areas or inaccurate distribution methodologies. No tribe shall receive a reduction in Tribal Priority Allocation funds of more than 10 percent in fiscal year 2006. Under circumstances of dual enrollment, overlapping service areas or inaccurate distribution methodologies, the 10 percent limitation does not apply.

Sec. 110. (a) For fiscal year 2006 and each succeeding fiscal year, any funds made available by this Act for the Southwest Indian Polytechnic Institute and Haskell Indian Nations University for postsecondary programs of the Bureau of Indian Affairs in excess of the amount made available for those postsecondary programs for fiscal year 2005 shall be allocated in direct proportion to the need of the schools, as determined in accordance with the postsecondary funding formula adopted by the Office of Indian Education Programs.

(b) For fiscal year 2007 and each succeeding fiscal year, the Bureau of Indian Affairs shall

use the postsecondary funding formula adopted by the Office of Indian Education Programs based on the needs of the Southwest Indian Polytechnic Institute and Haskell Indian Nations University to justify the amounts submitted as part of the budget request of the Department of the Interior.

SEC. 111. Notwithstanding any other provision of law, in conveying the Twin Cities Research Center under the authority provided by Public Law 104–134, as amended by Public Law 104–208, the Secretary may accept and retain land and other forms of reimbursement: Provided, That the Secretary may retain and use any such reimbursement until expended and without further appropriation: (1) for the benefit of the National Wildlife Refuge System within the State of Minnesota; and (2) for all activities authorized by Public Law 100-696; 16 U.S.C. 460zz.

SEC. 112. The Secretary of the Interior may use or contract for the use of helicopters or motor vehicles on the Sheldon and Hart National Wildlife Refuges for the purpose of capturing and transporting horses and burros. The provisions of subsection (a) of the Act of September 8, 1959 (18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary.

SEC. 113. Funds provided in this Act for Federal land acquisition by the National Park Service for Shenandoah Valley Battlefields National Historic District and Ice Age National Scenic Trail, and funds provided in division E of Public Law 108-447 (118 Stat. 3050) for land acquisition at the Niobrara National Scenic River, may be used for a grant to a State, a local government, or any other land management entity for the acquisition of lands without regard to any restriction on the use of Federal land acquisition funds provided through the Land and Water Conservation Fund Act of 1965 as amended.

SEC. 114. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 115. None of the funds made available in this Act may be used: (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when such pedestrian use is consistent with generally accepted safety standards.

SEC. 116. None of the funds in this or any other Act can be used to compensate the Special Master and the Special Master-Monitor, and all variations thereto, appointed by the United States District Court for the District of Columbia in the Cobell v. Norton litigation at an annual rate that exceeds 200 percent of the highest Senior Executive Service rate of pay for the Washington-Baltimore locality pay area.

SEC. 117. The Secretary of the Interior may use discretionary funds to pay private attorney fees and costs for employees and former employees of the Department of the Interior reasonably incurred in connection with Cobell v. Norton to the extent that such fees and costs are not paid by the Department of Justice or by private insurance. In no case shall the Secretary make payments under this section that would result in payment of hourly fees in excess of the highest hourly rate approved by the District Court for the District of Columbia for counsel in Cobell v. Norton.

SEC. 118. The United States Fish and Wildlife Service shall, in carrying out its responsibilities to protect threatened and endangered species of salmon, implement a system of mass marking of salmonid stocks, intended for harvest, that are released from Federally operated or Federally financed hatcheries including but not limited to fish releases of coho, chinook, and steelhead species. Marked fish must have a visible mark that can be readily identified by commercial and recreational fishers.

SEC. 119. (a) IN GENERAL.—Nothing in section 134 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (115 Stat. 443) affects the decision of the United States Court of Appeals for the 10th Circuit in Sac and Fox Nation v. Norton, 240 F.3d 1250 (2001).

(b) USE OF CERTAIN INDIAN LAND.—Nothing in this section permits the conduct of gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) on land described in section 123 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (114 Stat. 944), or land that is contiguous to that land, regardless of whether the land or contiguous land has been taken into trust by the Secretary of the Interior.

SEC. 120. No funds appropriated for the Department of the Interior by this Act or any other Act shall be used to study or implement any plan to drain Lake Powell or to reduce the water level of the lake below the range of water levels required for the operation of the Glen Canyon Dam.

SEC. 121. Notwithstanding the limitation in subparagraph (2)(B) of section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(a)), the total amount of all fees imposed by the National Indian Gaming Commission for fiscal year 2007 shall not exceed $12,000,000.

SEC. 122. Notwithstanding any implementation of the Department of the Interior's trust reorganization or reengineering plans, or the implementation of the "To Be" Model, funds appropriated for fiscal year 2006 shall be available to the tribes within the California Tribal Trust Reform Consortium and to the Salt River Pima-Maricopa Indian Community, the Confederated Salish and Kootenai Tribes of the Flathead Reservation and the Chippewa Cree Tribe of the Rocky Boys Reservation through the same methodology as funds were distributed in fiscal year 2003. This Demonstration Project shall continue to operate separate and apart from the Department of the Interior's trust reform and reorganization and the Department shall not impose its trust management infrastructure upon or alter the existing trust resource management systems of the above referenced tribes having a self-governance compact and operating in accordance with the Tribal Self-Governance Program set forth in 25 U.S.C. 458aa–458hh: Provided, That the California Trust Reform Consortium and any other participating tribe agree to carry out their responsibilities under the same written and implemented fiduciary standards as those being carried by the Secretary of the Interior: Provided further, That they demonstrate to the satisfaction of the Secretary that they have the capability to do so: Provided further, That the Department shall provide funds to the tribes in an amount equal to that required by 25 U.S.C. 458cc(g)(3), including funds specifically or functionally related to the provision of trust services to the tribes or their members.

SEC. 123. Notwithstanding any provision of law, including 42 U.S.C. 4321 et. seq., nonrenewable grazing permits authorized in the Jarbidge Field Office, Bureau of Land Management within the past 9 years, shall be renewed. The Animal Unit Months contained in the most recently expired nonrenewable grazing permit, authorized between March 1, 1997, and February 28, 2003, shall continue in effect under the renewed permit. Nothing in this section shall be deemed to extend the nonrenewable permits beyond the standard 1-year term.

SEC. 124. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to acquire lands, waters, or interests therein including the use of all or part of any pier, dock, or landing within the State of New York and the State of New Jersey, for the purpose of operating and maintaining facilities in the support of transportation and accommodation of visitors to Ellis, Governors, and Liberty Islands, and of other program and administrative activities, by donation or with appropriated funds, including franchise fees (and other monetary consideration), or by exchange; and the Secretary is authorized to negotiate and enter into leases, subleases, concession contracts or other agreements for the use of such facilities on such terms and conditions as the Secretary may determine reasonable.

SEC. 125. Upon the request of the permittee for the Clark Mountain Allotment lands adjacent to the Mojave National Preserve, the Secretary shall also issue a special use permit for that portion of the grazing allotment located within the Preserve. The special use permit shall be issued with the same terms and conditions as the most recently-issued permit for that allotment and the Secretary shall consider the permit to be one transferred in accordance with section 325 of Public Law 108-108.

SEC. 126. Notwithstanding any other provision of law, the National Park Service final winter use rules published in Part VII of the Federal Register for November 10, 2004, 69 Fed. Reg. 65348 et seq., shall be in force and effect for the winter use season of 2005–2006 that commences on or about December 15, 2005.

SEC. 127. Section 1121(d) of the Education Amendments of 1978 (25 U.S.C. 2001(d)) is amended by striking paragraph (7) and inserting the following:

"(7) APPROVAL OF INDIAN TRIBES.—The Secretary shall not terminate, close, consolidate, contract, transfer to another authority, or take any other action relating to an elementary school or secondary school (or any program of such a school) of an Indian tribe without the approval of the governing body of any Indian tribe that would be affected by such an action.".

SEC. 128. Section 108(e) of the Act entitled "An Act to establish the Kalaupapa National Historical Park in the State of Hawaii, and for other purposes" (16 U.S.C. 410jj–7) is amended by striking "twenty-five years from" and inserting "on the date that is 45 years after".

Sec. 129. Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "September 30, 2005," and inserting "June 30, 2006,".

SEC. 130. None of the funds in this or any other Act may be used to set up Centers of Excellence and Partnership Skills Bank training without prior approval of the House and Senate Committees on Appropriations.

SEC. 131. Section 114 of the Department of the Interior and Related Agencies Appropriations Act, 2003 (16 U.S.C. 460bb–3 note; 117 Stat. 239; division F of Public Law 108-7), is amended—

(1) in the second sentence, by inserting ", including utility expenses of the National Park Service or lessees of the National Park Service" after "Fort Baker properties"; and

(2) by inserting between the first and second sentences the following: "In furtherance of a lease entered into under the first sentence, the Secretary of the Interior or a lessee may impose fees on overnight lodgers for the purpose of covering the cost of providing utilities and transportation services at Fort Baker properties at a rate not to exceed the annual cost of providing these services.".

SEC. 132. (a) Section 813(a) of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6812(a)) is amended by striking "and (i)" and inserting "and (i) (except for paragraph (1)(C))".

(b) Section 4(i)(1)(C)(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)(1)(C)(i)) is amended—

(1) by striking "Notwithstanding subparagraph (A)" and all that follows through "or section 107" and inserting "Notwithstanding section 107"; and

(2) by striking "account under subparagraph (A)" and inserting "account under section 807(a) of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6806(a))".

(c) Except as provided in this section, section 4(i)(1)(C) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(i)(1)(C)) shall be applied and administered as if section 813(a) of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6812(a)) (and the amendments made by that section) had not been enacted.

(d) This section and the amendments made by this section take effect as of December 8, 2004.

SEC. 133. Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following:

"(43)(A) The Captain John Smith Chesapeake National Historic Watertrail, a series of routes extending approximately 3,000 miles along the Chesapeake Bay and the tributaries of the Chesapeake Bay in the States of Virginia, Maryland, Pennsylvania, and Delaware and the District of Columbia that traces Captain John Smith's voyages charting the land and waterways of the Chesapeake Bay and the tributaries of the Chesapeake Bay.

"(B) The study shall be conducted in consultation with Federal, State, regional, and local agencies and representatives of the private sector, including the entities responsible for administering—

"(i) the Chesapeake Bay Gateways and Watertrails Network authorized under the Chesapeake Bay Initiative Act of 1998 (16 U.S.C. 461 note; title V of Public Law 105–312); and

"(ii) the Chesapeake Bay Program authorized under section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267).

"(C) The study shall include an extensive analysis of the potential impacts the designation of the trail as a national historic watertrail is likely to have on land and water, including docks and piers, along the proposed route or bordering the study route that is privately owned at the time the study is conducted.".

Sec. 134. (a) Notwithstanding section 508(c) of the Omnibus Parks and Public Lands Management Act of 1996 (40 U.S.C. 8903 note; Public Law 104–333) there is hereby appropriated to the Secretary of the Interior $10,000,000, to remain available until expended, for necessary expenses for the Memorial to Martin Luther King, Jr. authorized in that Act.

(b) The funds appropriated in subsection (a) shall only be made available after the entire amount in matched by non-federal contributions (not including in-kind contributions) that are pledged and received after July 26, 2005, but prior to the date specified in subsection(c).

(c) Section 508(b)(2) of the Omnibus Parks and Public Lands Management Act of 1996 is amended by striking "November 12, 2006" and inserting "November 12, 2008".

TITLE II—ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $85,000 per project, $741,722,000, to remain available until September 30, 2007.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $85,000 per project; and not to exceed $19,000 for official reception and representation expenses, $2,381,752,000, to remain available until September 30, 2007, including administrative costs of the brownfields program under the Small Business Liability Relief and Brownfields Revitalization Act of 2002.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $85,000 per project, $37,455,000, to remain available until September 30, 2007.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, $40,218,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111(c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $85,000 per project; $1,260,621,000, to remain available until expended, consisting of such sums as are available in the Trust Fund upon the date of enactment of this Act as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and up to $1,260,621,000 as a payment from general revenues to the Hazardous Substance Superfund for purposes as authorized by section 517(b) of SARA, as amended: Provided, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: Provided further, That of the funds appropriated under this heading, $13,536,000 shall be transferred to the "Office of Inspector General" appropriation to remain available until September 30, 2007, and $30,606,000 shall be transferred to the "Science and Technology" appropriation to remain available until September 30, 2007.

LEAKING UNDERGROUND STORAGE TANK PROGRAM

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $85,000 per project, $73,027,000, to remain available until expended.

OIL SPILL RESPONSE

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $15,863,000, to be derived from the Oil Spill Liability trust fund, to remain available until expended.

STATE AND TRIBAL ASSISTANCE GRANTS

(INCLUDING RESCISSIONS OF FUNDS)

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, $3,261,696,000, to remain available until expended, of which $900,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended (the "Act"); of which up to $50,000,000 shall be available for loans, including interest free loans as authorized by 33 U.S.C. 1383(d)(1)(A), to municipal, inter-municipal, interstate, or State agencies or nonprofit entities for projects that provide treatment for or that minimize sewage or stormwater discharges using one or more approaches which include, but are not limited to, decentralized or distributed stormwater controls, decentralized wastewater treatment, low-impact development practices, conservation easements, stream buffers, or wetlands restoration; $850,000,000 shall be for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act, as amended, except that, notwithstanding section 1452(n) of the Safe Drinking Water Act, as amended, hereafter none of the funds made available under this heading in this or previous appropriations Acts shall be reserved by the Administrator for health effects studies on drinking water contaminants; $50,000,000 shall be for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; $35,000,000 shall be for grants to the State of Alaska to address drinking water and waste infrastructure needs of rural and Alaska Native Villages: Provided, That, of these funds: (1) the State of Alaska shall provide a match of 25 percent; (2) no more than 5 percent of the funds may be used for administrative and overhead expenses; and (3) not later than October 1, 2005 the State of Alaska shall make awards consistent with the State-wide priority list established in 2004 for all water, sewer, waste disposal, and similar projects carried out by the State of Alaska that are funded under section 221 of the Federal Water Pollution Control Act (33 U.S.C. 1301) or the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) which shall allocate not less than 25 percent of the funds provided for projects in regional hub communities; $200,000,000 shall be for making special project grants for the construction of drinking water, wastewater and storm water infrastructure and for water quality protection in accordance with the terms and conditions specified for such grants in the joint explanatory statement of the managers accompanying this Act, and, for purposes of these grants, each grantee shall contribute not less than 45 percent of the cost of the project unless the grantee is approved for a waiver by the Agency; $90,000,000 shall be to carry out section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including grants, interagency agreements, and associated program support costs; $7,000,000 for making cost-shared grants for school bus retrofit and replacement projects that reduce diesel emissions; and

$1,129,696,000 shall be for grants, including associated program support costs, to States, federally recognized tribes, interstate agencies, tribal consortia, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities, including activities pursuant to the provisions set forth under this heading in Public Law 104–134, and for making grants under section 103 of the Clean Air Act for particulate matter monitoring and data collection activities subject to terms and conditions specified by the Administrator, of which $50,000,000 shall be for carrying out section 128 of CERCLA, as amended, $20,000,000 shall be for Environmental Information Exchange Network grants, including associated program support costs, and $16,856,000 shall be for making competitive targeted watershed grants: Provided further, That for fiscal year 2006 and thereafter, State authority under section 302(a) of Public Law 104–182 shall remain in effect: Provided further, That notwithstanding section 603(d)(7) of the Federal Water Pollution Control Act, the limitation on the amounts in a State water pollution control revolving fund that may be used by a State to administer the fund shall not apply to amounts included as principal in loans made by such fund in fiscal year 2006 and prior years where such amounts represent costs of administering the fund to the extent that such amounts are or were deemed reasonable by the Administrator, accounted for separately from other assets in the fund, and used for eligible purposes of the fund, including administration: Provided further, That for fiscal year 2006, and notwithstanding section 518(f) of the Act, the Administrator is authorized to use the amounts appropriated for any fiscal year under section 319 of that Act to make grants to Indian tribes pursuant to sections 319(h) and 518(e) of that Act: Provided further, That for fiscal year 2006, notwithstanding the limitation on amounts in section 518(c) of the Act, up to a total of 1½ percent of the funds appropriated for State Revolving Funds under title VI of that Act may be reserved by the Administrator for grants under section 518(c) of that Act: Provided further, That no funds provided by this legislation to address the water, wastewater and other critical infrastructure needs of the colonias in the United States along the United States-Mexico border shall be made available to a county or municipal government unless that government has established an enforceable local ordinance, or other zoning rule, which prevents in that jurisdiction the development or construction of any additional colonia areas, or the development within an existing colonia the construction of any new home, business, or other structure which lacks water, wastewater, or other necessary infrastructure: Provided further, That, notwithstanding this or any other appropriations Act, heretofore and hereafter, after consultation with the House and Senate Committees on Appropriations and for the purpose of making technical corrections, the Administrator is authorized to award grants under this heading to entities and for purposes other than those listed in the joint explanatory statements of the managers accompanying the Agency's appropriations Acts for the construction of drinking water, wastewater and stormwater infrastructure and for water quality protection.

In addition, $80,000,000 is hereby rescinded from prior year funds in appropriation accounts available to the Environmental Protection Agency: Provided, That such rescissions shall be taken solely from amounts associated with grants, contracts, and interagency agreements whose availability, under the original project period for such grant or interagency agreement or contract period for such contract, has expired: Provided further, That such rescissions shall include funds that were appropriated under this heading for special project grants in fiscal year 2000 or earlier that have not been obligated on an approved grant by September 1, 2006.

ADMINISTRATIVE PROVISIONS

For fiscal year 2006, notwithstanding 31 U.S.C. 6303(1) and 6305(1), the Administrator of the Environmental Protection Agency, in carrying out the Agency's function to implement directly Federal environmental programs required or authorized by law in the absence of an acceptable tribal program, may award cooperative agreements to federally-recognized Indian Tribes or Intertribal consortia, if authorized by their member Tribes, to assist the Administrator in implementing Federal environmental programs for Indian Tribes required or authorized by law, except that no such cooperative agreements may be awarded from funds designated for State financial assistance agreements.

The Administrator of the Environmental Protection Agency is authorized to collect and obligate pesticide registration service fees in accordance with section 33 of the Federal Insecticide, Fungicide, and Rodenticide Act (as added by subsection (f)(2) of the Pesticide Registration Improvement Act of 2003), as amended.

Notwithstanding CERCLA 104(k)(4)(B)(i)(IV), appropriated funds for fiscal year 2006 may be used to award grants or loans under section 104(k) of CERCLA to eligible entities that satisfy all of the elements set forth in CERCLA section 101(40) to qualify as a bona fide prospective purchaser except that the date of acquisition of the property was prior to the date of enactment of the Small Business Liability Relief and Brownfield Revitalization Act of 2001.

For fiscal years 2006 through 2011, the Administrator may, after consultation with the Office of Personnel Management, make not to exceed five appointments in any fiscal year under the authority provided in 42 U.S.C. 209 for the Office of Research and Development.

Beginning in fiscal year 2006 and thereafter, and notwithstanding section 306 of the Toxic Substances Control Act, the Federal share of the cost of radon program activities implemented with Federal assistance under section 306 shall not exceed 60 percent in the third and subsequent grant years.

GENERAL PROVISIONS, ENVIRONMENTAL PROTECTION AGENCY

SEC. 201. None of the funds made available by this Act may be used by the Administrator of the Environmental Protection Agency to accept, consider or rely on third-party intentional dosing human toxicity studies for pesticides, or to conduct intentional dosing human toxicity studies for pesticides until the Administrator issues a final rulemaking on this subject. The Administrator shall allow for a period of not less than 90 days for public comment on the Agency's proposed rule before issuing a final rule. Such rule shall not permit the use of pregnant women, infants or children as subjects; shall be consistent with the principles proposed in the 2004 report of the National Academy of Sciences on intentional human dosing and the principles of the Nuremberg Code with respect to human experimentation; and shall establish an independent Human Subjects Review Board. The final rule shall be issued no later than 180 days after enactment of this Act.

SEC. 202. None of the funds made available by this Act may be used in contravention of, or to delay the implementation of, Executive Order No. 12898 of February 11, 1994 (59 Fed. Reg. 7629; relating to Federal actions to address environmental justice in minority populations and low-income populations).

SEC. 203. None of the funds made available in this Act may be used to finalize, issue, implement, or enforce the proposed policy of the Environmental Protection Agency entitled "National Pollutant Discharge Elimination System (NPDES) Permit Requirements for Municipal Wastewater Treatment During Wet Weather Conditions", dated November 3, 2003 (68 Fed. Reg. 63042).

SEC. 204. None of the funds made available in this Act may be used in contravention of 15 U.S.C. 2682(c)(3) or to delay the implementation of that section.

SEC. 205. None of the funds provided in this Act or any other Act may be used by the Environmental Protection Agency to publish proposed or final regulations pursuant to the requirements of section 428(b) of division G of Public Law 108–199 until the Administrator of the Environmental Protection Agency, in coordination with other appropriate Federal agencies, has completed and published a technical study to look at safety issues, including the risk of fire and burn to consumers in use, associated with compliance with the regulations. Not later than six months after the date of enactment of this Act, the Administrator shall complete and publish the technical study.

TITLE III—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

For necessary expenses of forest and rangeland research as authorized by law, $283,094,000, to remain available until expended: Provided, That of the funds provided, $60,267,000 is for the forest inventory and analysis program.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with and providing technical and financial assistance to States, territories, possessions, and others, and for forest health management, including treatments of pests, pathogens, and invasive or noxious plants and for restoring and rehabilitating forests damaged by pests or invasive plants, cooperative forestry, and education and land conservation activities and conducting an international program as authorized, $283,577,000, to remain available until expended, as authorized by law of which $57,380,000 is to be derived from the Land and Water Conservation Fund: Provided, That none of the funds provided under this heading for the acquisition of lands or interests in lands shall be available until the Forest Service notifies the House Committee on Appropriations and the Senate Committee on Appropriations, in writing, of specific contractual and grant details including the non-Federal cost share: Provided further, That of the funds provided herein, $1,000,000 shall be provided to Custer County, Idaho, for economic development in accordance with the Central Idaho Economic Development and Recreation Act, subject to authorization: Provided further, That notwithstanding any other provision of law, of the funds provided under this heading, an advance lump sum payment of $1,000,000 shall be made available to Madison County, NC, for a forest recreation center, and a similar $500,000 payment shall be made available to Folkmoot USA in Haywood County, NC, for Appalachian folk programs including forest crafts.

NATIONAL FOREST SYSTEM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, $1,424,348,000, to remain available until expended, which shall include 50 percent of all moneys received during prior fiscal years as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l–6a(i)): Provided, That unobligated balances under this heading available at *the start of fiscal year 2006 shall be displayed by budget line item in the fiscal year 2007 budget justification: Provided further, That of the funds provided under this heading for Forest Products, $5,000,000 shall be allocated to the Alaska Region, in addition to its normal allocation for the purposes of preparing additional timber for sale, to establish a 3-year timber supply and such funds may be transferred to other appropriations accounts as necessary to maximize accomplishment: Provided further, That within funds available for the purpose of implementing the Valles Caldera Preservation Act, notwithstanding the limitations of section 107(e)(2) of the Valles Caldera Preservation Act (Public Law 106–248), for fiscal year 2006, the Chair of the Board of Trustees of the Valles Caldera Trust may receive, upon request, compensation for each day (including travel time) that the Chair is engaged in the performance of the functions of the Board, except that compensation shall not exceed the daily equivalent of the annual rate in effect for members of the Senior Executive Service at the ES–1 level, and shall be in addition to any reimbursement for travel, subsistence and other necessary expenses incurred by the Chair in the performance of the Chair's duties.*

WILDLAND FIRE MANAGEMENT
(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to such lands or other lands under fire protection agreement, hazardous fuels reduction on or adjacent to such lands, and for emergency rehabilitation of burned-over National Forest System lands and water, $1,779,395,000, to remain available until expended: Provided, That such funds including unobligated balances under this heading, are available for repayment of advances from other appropriations accounts previously transferred for such purposes: Provided further, That such funds shall be available to reimburse State and other cooperating entities for services provided in response to wildfire and other emergencies or disasters to the extent such reimbursements by the Forest Service for non-fire emergencies are fully repaid by the responsible emergency management agency: Provided further, That not less than 50 percent of any unobligated balances remaining (exclusive of amounts for hazardous fuels reduction) at the end of fiscal year 2005 shall be transferred to the fund established pursuant to section 3 of Public Law 71–319 (16 U.S.C. 576 et seq.) if necessary to reimburse the fund for unpaid past advances: Provided further, That, notwithstanding any other provision of law, $8,000,000 of funds appropriated under this appropriation shall be used for Fire Science Research in support of the Joint Fire Science Program: Provided further, That all authorities for the use of funds, including the use of contracts, grants, and cooperative agreements, available to execute the Forest and Rangeland Research appropriation, are also available in the utilization of these funds for Fire Science Research: Provided further, That funds provided shall be available for emergency rehabilitation and restoration, hazardous fuels reduction activities in the urban-wildland interface, support to Federal emergency response, and wildfire suppression activities of the Forest Service: Provided further, That of the funds provided, $286,000,000 is for hazardous fuels reduction activities, $6,281,000 is for rehabilitation and restoration, $23,219,000 is for research activities and to make competitive research grants pursuant to the Forest and Rangeland Renewable Resources Research Act, as amended (16 U.S.C. 1641 et seq.), $46,500,000 is for State fire assistance, $7,889,000 is for volunteer fire assistance, $15,000,000 is for forest health activities on Federal lands and $10,000,000 is for forest health activities on State and private lands: Provided further, That amounts in this paragraph may be transferred to the "State and Private Forestry", "National Forest System", and "Forest and Rangeland Research" accounts to fund State fire assistance, volunteer fire assistance, forest health management, forest and rangeland research, vegetation and watershed management, heritage site rehabilitation, and wildlife and fish habitat management and restoration: Provided further, That transfers of any amounts in excess of those authorized in this paragraph, shall require approval of the House and Senate Committees on Appropriations in compliance with reprogramming procedures contained in the report accompanying this Act: Provided further, That funds provided under this heading for hazardous fuels treatments may be transferred to and made a part of the "National Forest System" account at the sole discretion of the Chief of the Forest Service thirty days after notifying the House and the Senate Committees on Appropriations: Provided further, That the costs of implementing any cooperative agreement between the Federal Government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: Provided further, That in addition to funds provided for State Fire Assistance programs, and subject to all authorities available to the Forest Service under the State and Private Forestry Appropriation, up to $15,000,000 may be used on adjacent non-Federal lands for the purpose of protecting communities when hazard reduction activities are planned on national forest lands that have the potential to place such communities at risk: Provided further, That included in funding for hazardous fuel reduction is $5,000,000 for implementing the Community Forest Restoration Act, Public Law 106–393, title VI, and any portion of such funds shall be available for use on non-Federal lands in accordance with authorities available to the Forest Service under the State and Private Forestry Appropriation: Provided further, That the Secretary of the Interior and the Secretary of Agriculture may authorize the transfer of funds appropriated for wildland fire management, in an aggregate amount not to exceed $9,000,000, between the Departments when such transfers would facilitate and expedite jointly funded wildland fire management programs and projects: Provided further, That of the funds provided for hazardous fuels reduction, not to exceed $5,000,000, may be used to make grants, using any authorities available to the Forest Service under the State and Private Forestry appropriation, for the purpose of creating incentives for increased use of biomass from national forest lands: Provided further, That funds designated for wildfire suppression shall be assessed for indirect costs on the same basis as such assessments are calculated against other agency programs.

CAPITAL IMPROVEMENT AND MAINTENANCE

For necessary expenses of the Forest Service, not otherwise provided for, $441,178,000, to remain available until expended for construction, reconstruction, maintenance and acquisition of buildings and other facilities, and for construction, reconstruction, repair, decommissioning, and maintenance of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205: Provided, That up to $15,000,000 of the funds provided herein for road maintenance shall be available for the decommissioning of roads, including unauthorized roads not part of the transportation system, which are no longer needed: Provided further, That no funds shall be expended to decommission any system road until notice and an opportunity for public comment has been provided on each decommissioning project: Provided further, That of funds provided, $3,000,000 is provided for needed rehabilitation and restoration work at Jarbidge Canyon, Nevada: Provided further, That the Secretary of Agriculture may authorize the transfer of up to $1,350,000 as necessary to the Department of the Interior, Bureau of Land Management and Fish and Wildlife Service when such transfers would facilitate and expedite needed rehabilitation work on Bureau of Land Management lands, and for the Fish and Wildlife Service to implement terms and conditions identified in the Biological Opinion.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $42,500,000, to be derived from the Land and Water Conservation Fund and to remain available until expended: Provided further, That, subject to valid existing rights, all land and interests in land acquired in the Thunder Mountain area of the Payette National Forest (including patented claims and land that are encumbered by unpatented claims or previously appropriated funds under this section, or otherwise relinquished by a private party) are withdrawn from mineral entry or appropriation under Federal mining laws, and from leasing claims under Federal mineral and geothermal leasing laws.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,069,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, such sums, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities, and for authorized expenditures from funds deposited by non-Federal parties pursuant to Land Sale and Exchange Acts, pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 percent of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the 16 Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $64,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

MANAGEMENT OF NATIONAL FOREST LANDS FOR SUBSISTENCE USES

For necessary expenses of the Forest Service to manage Federal lands in Alaska for subsistence uses under title VIII of the Alaska National Interest Lands Conservation Act (Public Law 96–487), $5,067,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (1) purchase of passenger motor vehicles; acquisition of passenger motor vehicles from excess *sources, and hire of such vehicles; purchase, lease, operation, maintenance, and acquisition of aircraft from excess sources to maintain the operable fleet for use in Forest Service wildland fire programs and other Forest Service programs; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (2) services pursuant to 7 U.S.C. 2225, and not to exceed $100,000 for employment under 5 U.S.C. 3109; (3) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (4) acquisition of land, waters, and interests therein pursuant to 7 U.S.C. 428a; (5) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, and 558a note); (6) the cost of uniforms as authorized by 5 U.S.C. 5901–5902; and (7) for debt collection contracts in accordance with 31 U.S.C. 3718(c).*

None of the funds made available under this Act shall be obligated or expended to abolish any region, to move or close any regional office for National Forest System administration of the Forest Service, Department of Agriculture without the consent of the House and Senate Committees on Appropriations.

Any appropriations or funds available to the Forest Service may be transferred to the Wildland Fire Management appropriation for forest firefighting, emergency rehabilitation of burned-over or damaged lands or waters under its jurisdiction, and fire preparedness due to severe burning conditions upon notification of the House and Senate Committees on Appropriations and if and only if all previously appropriated emergency contingent funds under the heading "Wildland Fire Management" have been released by the President and apportioned and all wildfire suppression funds under the heading "Wildland Fire Management" are obligated.

The first transfer of funds into the Wildland Fire Management account shall include unobligated funds, if available, from the Land Acquisition account and the Forest Legacy program within the State and Private Forestry account.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b, except that in fiscal year 2006 the Forest Service may transfer funds to the "National Forest System" account from other agency accounts to enable the agency's law enforcement program to pay full operating costs including overhead.

None of the funds available to the Forest Service may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the reprogramming procedures contained in the report accompanying this Act.

Not more than $72,646,000 of funds available to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture. Nothing in this paragraph shall prohibit or limit the use of reimbursable agreements requested by the Forest Service in order to obtain services from the Department of Agriculture's National Information Technology Center.

Funds available to the Forest Service shall be available to conduct a program of not less than $2,500,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps.

Of the funds available to the Forest Service, $4,000 is available to the Chief of the Forest Service for official reception and representation expenses.

Pursuant to sections 405(b) and 410(b) of Public Law 101–593, of the funds available to the Forest Service, $3,000,000 may be advanced in a lump sum to the National Forest Foundation to aid conservation partnership projects in support of the Forest Service mission, without regard to when the Foundation incurs expenses, for administrative expenses or projects on or benefitting National Forest System lands or related to Forest Service programs: Provided, That of the Federal funds made available to the Foundation, no more than $300,000 shall be available for administrative expenses: Provided further, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds made available by the Forest Service: Provided further, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds: Provided further, That authorized investments of Federal funds held by the Foundation may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

Pursuant to section 2(b)(2) of Public Law 98-244, $2,650,000 of the funds available to the Forest Service shall be advanced to the National Fish and Wildlife Foundation in a lump sum to aid cost-share conservation projects, without regard to when expenses are incurred, on or benefitting National Forest System lands or related to Forest Service programs: Provided, That such funds shall be matched on at least a one-for-one basis by the Foundation or its subrecipients.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

Funds appropriated to the Forest Service shall be available for payments to counties within the Columbia River Gorge National Scenic Area, pursuant to sections 14(c)(1) and (2), and section 16(a)(2) of Public Law 99-663.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service not to exceed $500,000 may be used to reimburse the Office of the General Counsel (OGC), Department of Agriculture, for travel and related expenses incurred as a result of OGC assistance or participation requested by the Forest Service at meetings, training sessions, management reviews, land purchase negotiations and similar non-litigation related matters. Future budget justifications for both the Forest Service and the Department of Agriculture should clearly display the sums previously transferred and the requested funding transfers.

Any appropriations or funds available to the Forest Service may be used for necessary expenses in the event of law enforcement emergencies as necessary to protect natural resources and public or employee safety: Provided, That such amounts shall not exceed $500,000.

An eligible individual who is employed in any project funded under title V of the Older American Act of 1965 (42 U.S.C. 3056 et seq.) and administered by the Forest Service shall be considered to be a Federal employee for purposes of chapter 171 of title 28, United States Code.

Any funds appropriated to the Forest Service may be used to meet the non-Federal share requirement in section 502(c) of the Older American Act of 1965 (42 U.S.C. 3056(c)(2)).

For each fiscal year through 2009, funds available to the Forest Service in this Act may be used for the purpose of expenses associated with primary and secondary schooling for dependents of agency personnel stationed in Puerto Rico prior to the date of enactment of this Act, who are subject to transfer and reassignment to other locations in the United States, at a cost not in excess of those authorized for the Department of Defense for the same area, when it is determined by the Chief of the Forest Service that public schools available in the locality are unable to provide adequately for the education of such dependents.

Funds available to the Forest Service, not to exceed $35,000,000, shall be assessed for the purpose of performing facilities maintenance. Such assessments shall occur using a square foot rate charged on the same basis the agency uses to assess programs for payment of rent, utilities, and other support services.

In support of management of the National Wildlife Refuge System, Lot 6C of United States Survey 2538–A, containing 2.39 acres and the residential triplex situated thereon, located in Kodiak, Alaska, is hereby transferred from the USDA Forest Service to the U.S. Fish and Wildlife Service.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, $2,732,298,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 238(b) for services furnished by the Indian Health Service: Provided, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: Provided further, That up to $18,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: Provided further, That $507,021,000 for contract medical care shall remain available for obligation until September 30, 2007: Provided further, That of the funds provided, up to $27,000,000, to remain available until expended, shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act: Provided further, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: Provided further, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall remain available until expended for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): Provided further, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available until expended: Provided further, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act shall be reported and accounted for and available to the receiving tribes *and tribal organizations until expended: Provided further, That, notwithstanding any other provision of law, of the amounts provided herein, not to exceed $268,683,000 shall be for payments to tribes and tribal organizations for contract or grant support costs associated with contracts, grants, self-governance compacts or annual funding agreements between the Indian Health Service and a tribe or tribal organization pursuant to the Indian Self-Determination Act of 1975, as amended, prior to or during fiscal year 2006, of which not to exceed $5,000,000 may be used for contract support costs associated with new or expanded self-determination contracts, grants, self-governance compacts or annual funding agreements: Provided further, That the Bureau of Indian Affairs may collect from the Indian Health Service and tribes and tribal organizations operating health facilities pursuant to Public Law 93–638 such individually identifiable health information relating to disabled children as may be necessary for the purpose of carrying out its functions under the Individuals with Disabilities Education Act, 20 U.S.C. 1400, et seq.: Provided further, That of the amounts provided to the Indian Health Service, $15,000,000 is provided for alcohol control, enforcement, prevention, treatment, sobriety and wellness, and education in Alaska, to be distributed in accordance with the instruction provided in Senate Report 109–80: Provided further, That none of the funds may be used for tribal courts or tribal ordinance programs or any program that is not directly related to alcohol control, enforcement, prevention, treatment, or sobriety: Provided further, That no more than 15 percent may be used by any entity receiving funding for administrative overhead including indirect costs.*

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act, and the Indian Health Care Improvement Act, and for expenses necessary to carry out such Acts and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, $358,485,000, to remain available until expended: Provided, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities: Provided further, That not to exceed $500,000 shall be used by the Indian Health Service to purchase TRANSAM equipment from the Department of Defense for distribution to the Indian Health Service and tribal facilities: Provided further, That none of the funds appropriated to the Indian Health Service may be used for sanitation facilities construction for new homes funded with grants by the housing programs of the United States Department of Housing and Urban Development: Provided further, That not to exceed $1,000,000 from this account and the "Indian Health Services" account shall be used by the Indian Health Service to obtain ambulances for the Indian Health Service and tribal facilities in conjunction with an existing interagency agreement between the Indian Health Service and the General Services Administration: Provided further, That notwithstanding any other provision of law, the Indian Health Service is authorized to construct a replacement health care facility in Nome, Alaska, on land owned by the Norton Sound Health Corporation: Provided further, That not to exceed $500,000 shall be placed in a Demolition Fund, available until expended, to be used by the Indian Health Service for demolition of Federal buildings.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefor as authorized by 5 U.S.C. 5901–5902; and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

In accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation. Notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 93–638, as amended.

Funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation.

None of the funds made available to the Indian Health Service in this Act shall be used for any assessments or charges by the Department of Health and Human Services unless identified in the budget justification and provided in this Act, or approved by the House and Senate Committees on Appropriations through the reprogramming process. Personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full time equivalent level of the Indian Health Service below the level in fiscal year 2002 adjusted upward for the staffing of new and expanded facilities, funding provided for staffing at the Lawton, Oklahoma hospital in fiscal years 2003 and 2004, critical positions not filled in fiscal year 2002, and staffing necessary to carry out the intent of Congress with regard to program increases.

Notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant, or agreement authorized by title I or title V of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), may be deobligated and reobligated to a self-determination contract under title I, or a self-governance agreement under title V of such Act and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation.

None of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to the eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law.

With respect to functions transferred by the Indian Health Service to tribes or tribal organizations, the Indian Health Service is authorized to provide goods and services to those entities, on a reimbursable basis, including payment in advance with subsequent adjustment. The reimbursements received therefrom, along with the funds received from those entities pursuant to the Indian Self-Determination Act, may be credited to the same or subsequent appropriation account which provided the funding. Such amounts shall remain available until expended.

Reimbursements for training, technical assistance, or services provided by the Indian Health Service will contain total costs, including direct, administrative, and overhead associated with the provision of goods, services, or technical assistance.

The appropriation structure for the Indian Health Service may not be altered without advance notification to the House and Senate Committees on Appropriations.

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For necessary expenses for the National Institute of Environmental Health Sciences in carrying out activities set forth in section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and section 126(g) of the Superfund Amendments and Reauthorization Act of 1986, $80,289,000.

AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY

TOXIC SUBSTANCES AND ENVIRONMENTAL PUBLIC HEALTH

For necessary expenses for the Agency for Toxic Substances and Disease Registry (ATSDR) in carrying out activities set forth in sections 104(i), 111(c)(4), and 111(c)(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; section 118(f) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended; and section 3019 of the Solid Waste Disposal Act, as amended, $76,024,000, of which up to $1,500,000, to remain available until expended, is for Individual Learning Accounts for full-time equivalent employees of the Agency for Toxic Substances and Disease Registry: Provided, That notwithstanding any other provision of law, in lieu of performing a health assessment under section 104(i)(6) of CERCLA, the Administrator of ATSDR may conduct other appropriate health studies, evaluations, or activities, including, without limitation, biomedical testing, clinical evaluations, medical monitoring, and referral to accredited health care providers: Provided further, That in performing any such health assessment or health study, evaluation, or activity, the Administrator of ATSDR shall not be bound by the deadlines in section 104(i)(6)(A) of CERCLA: Provided further, That none of the funds appropriated under this heading shall be available for ATSDR to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 2006, and existing profiles may be updated as necessary.

OTHER RELATED AGENCIES

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, and not to exceed $750 for official reception and representation expenses, $2,717,000: Provided, That notwithstanding section 202 of the National Environmental Policy Act of 1970, the Council shall consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as chairman and exercising all powers, functions, and duties of the Council.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

For necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, as amended, including hire of passenger vehicles, uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902, and for services authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376, $9,200,000: Provided, That the Chemical Safety and Hazard Investigation Board (Board) shall have not more than three career Senior Executive Service positions: Provided further, That notwithstanding any other provision of law, the individual appointed to the position of Inspector General of the Environmental Protection Agency (EPA) shall, by virtue of such appointment, also hold the position of Inspector General of the Board: Provided further, That notwithstanding any other provision of law, the Inspector General of the Board shall utilize personnel of the Office of Inspector General of EPA in performing the duties of the Inspector General of the Board, and shall not appoint any individuals to positions within the Board.

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, $8,601,000, to remain available until expended: Provided, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: Provided further, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: Provided further, That no relocatee will be provided with more than one new or replacement home: Provided further, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99–498, as amended (20 U.S.C. 56 part A), $6,300,000.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed 30 years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to five replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees, $524,281,000, of which not to exceed $10,992,000 for the instrumentation program, collections acquisition, exhibition reinstallation, the National Museum of African American History and Culture, and the repatriation of skeletal remains program shall remain available until expended; and of which $9,086,000 for the reopening of the Patent Office Building and for fellowships and scholarly awards shall remain available until September 30, 2007; and including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: Provided, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: Provided further, That the Smithsonian Institution may expend Federal appropriations designated in this Act for lease or rent payments for long term and swing space, as rent payable to the Smithsonian Institution, and such rent payments may be deposited into the general trust funds of the Institution to the extent that federally supported activities are housed in the 900 H Street, N.W. building in the District of Columbia: Provided further, That this use of Federal appropriations shall not be construed as debt service, a Federal guarantee of, a transfer of risk to, or an obligation of, the Federal Government: Provided further, That no appropriated funds may be used to service debt which is incurred to finance the costs of acquiring the 900 H Street building or of planning, designing, and constructing improvements to such building.

FACILITIES CAPITAL

For necessary expenses of repair, revitalization, and alteration of facilities owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), and for construction, including necessary personnel, $100,000,000, to remain available until expended, of which not to exceed $10,000 is for services as authorized by 5 U.S.C. 3109: Provided, That contracts awarded for environmental systems, protection systems, and repair or restoration of facilities of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

ADMINISTRATIVE PROVISIONS, SMITHSONIAN INSTITUTION

None of the funds in this or any other Act may be used to make any changes to the existing Smithsonian science programs including closure of facilities, relocation of staff or redirection of functions and programs without the advance approval of the House and Senate Committees on Appropriations.

None of the funds in this or any other Act may be used to initiate the design for any proposed expansion of current space or new facility without consultation with the House and Senate Appropriations Committees.

None of the funds in this or any other Act may be used for the Holt House located at the National Zoological Park in Washington, D.C., unless identified as repairs to minimize water damage, monitor structure movement, or provide interim structural support.

None of the funds available to the Smithsonian may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the reprogramming procedures contained in the statement of the managers accompanying this Act.

None of the funds in this or any other Act may be used to purchase any additional buildings without prior consultation with the House and Senate Committees on Appropriations.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $96,600,000, of which not to exceed $3,157,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $16,200,000, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: Provided further, That, notwithstanding any other provision of law, a single procurement for the Master Facilities Plan renovation project at the National Gallery of Art may be issued which includes the full scope of the Work Area #3 project: Provided further, That the solicitation and the contract shall contain the clause "availability of funds" found at 48 CFR 52.232.18.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $17,800,000.

CONSTRUCTION

For necessary expenses for capital repair and restoration of the existing features of the building and site of the John F. Kennedy Center for *the Performing Arts, $13,000,000, to remain available until expended.*

Woodrow Wilson International Center for Scholars

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $9,201,000.

National Foundation on the Arts and the Humanities

National Endowment for the Arts

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $126,264,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to organizations and individuals pursuant to sections 5(c) and 5(g) of the Act, including $17,922,000 for support of arts education and public outreach activities through the Challenge America program, for program support, and for administering the functions of the Act, to remain available until expended: Provided, That funds previously appropriated to the National Endowment for the Arts "Matching Grants" account and "Challenge America" account may be transferred to and merged with this account: Provided further, That funds appropriated herein shall be expended in accordance with sections 309 and 311 of Public Law 108–108.

National Endowment for the Humanities

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $127,605,000, shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until expended.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $15,449,000, to remain available until expended, of which $10,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

Administrative Provisions

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses: Provided further, That funds from nonappropriated sources may be used as necessary for official reception and representation expenses: Provided further, That the Chairperson of the National Endowment for the Arts may approve grants up to $10,000, if in the aggregate this amount does not exceed 5 percent of the sums appropriated for grant-making purposes per year: Provided further, That such small grant actions are taken pursuant to the terms of an expressed and direct delegation of authority from the National Council on the Arts to the Chairperson.

Commission of Fine Arts

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $1,893,000: Provided, That the Commission is authorized to charge fees to cover the full costs of its publications, and such fees shall be credited to this account as an offsetting collection, to remain available until expended without further appropriation.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (20 U.S.C. 956a), as amended, $7,250,000.

Advisory Council on Historic Preservation

SALARIES AND EXPENSES

For necessary expenses of the Advisory Council on Historic Preservation (Public Law 89–665, as amended), $4,860,000: Provided, That none of these funds shall be available for compensation of level V of the Executive Schedule or higher positions.

National Capital Planning Commission

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109, $8,244,000: Provided, That one-quarter of 1 percent of the funds provided under this heading may be used for official reception and representational expenses associated with hosting international visitors engaged in the planning and physical development of world capitals.

United States Holocaust Memorial Museum

HOLOCAUST MEMORIAL MUSEUM

For expenses of the Holocaust Memorial Museum, as authorized by Public Law 106–292 (36 U.S.C. 2301–2310), $42,780,000, of which $1,874,000 for the museum's repair and rehabilitation program and $1,246,000 for the museum's exhibition design and production program shall remain available until expended.

Presidio Trust

PRESIDIO TRUST FUND

For necessary expenses to carry out title I of the Omnibus Parks and Public Lands Management Act of 1996, $20,000,000 shall be available to the Presidio Trust, to remain available until expended..

White House Commission on the National Moment of Remembrance

SALARIES AND EXPENSES

For necessary expenses of the White House Commission on the National Moment of Remembrance, $250,000.

TITLE IV—GENERAL PROVISIONS

Sec. 401. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

Sec. 402. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete other than to communicate to Members of Congress as described in 18 U.S.C. 1913.

Sec. 403. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 404. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

Sec. 405. Estimated overhead charges, deductions, reserves or holdbacks from programs, projects, activities and subactivities to support government-wide, departmental, agency or bureau administrative functions or headquarters, regional or central operations shall be presented in annual budget justifications and subject to approval by the Committees on Appropriations. Changes to such estimates shall be presented to the Committees on Appropriations for approval.

Sec. 406. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government except pursuant to a transfer made by, or transfer provided in, this Act or any other Act.

Sec. 407. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (Sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 2005.

Sec. 408. (a) Limitation of Funds.—None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) Exceptions.—The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994; and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) Report.—On September 30, 2006, the Secretary of the Interior shall file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on actions taken by the Department under the plan submitted pursuant to section 314(c) of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104–208).

(d) Mineral Examinations.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

Sec. 409. Notwithstanding any other provision of law, amounts appropriated to or earmarked in committee reports for the Bureau of Indian Affairs and the Indian Health Service by Public Laws 103–138, 103–332, 104–134, 104–208, 105–83, 105–277, 106–113, 106–291, 107–63, 108–7, 108–108, and 108–447 for payments to tribes and tribal organizations for contract support costs associated with self-determination or self-governance contracts, grants, compacts, or annual funding agreements with the Bureau of Indian Affairs or the Indian Health Service as funded by such

Acts, are the total amounts available for fiscal years 1994 through 2005 for such purposes, except that, for the Bureau of Indian Affairs, tribes and tribal organizations may use their tribal priority allocations for unmet contract support costs of ongoing contracts, grants, self-governance compacts or annual funding agreements.

SEC. 410. *The National Endowment for the Arts and the National Endowment for the Humanities are hereafter authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts and the National Endowment for the Humanities. Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts or the National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman. The Chairman shall enter the proceeds in a special interest-bearing account to the credit of the appropriate endowment for the purposes specified in each case.*

SEC. 411. *No part of any appropriation contained in this Act shall be expended or obligated to complete and issue the 5-year program under the Forest and Rangeland Renewable Resources Planning Act.*

SEC. 412. *Section 3(a) of the Act of June 9, 1930 (commonly known as the Knutson-Vandenberg Act; 16 U.S.C. 576b), is amended—*

(1) by striking "or" following "stand of timber," in (3); and

(2) by striking the period following "wildlife habitat management" in (4), and inserting ", or (5) watershed restoration, wildlife habitat improvement, control of insects, disease and noxious weeds, community protection activities, and the maintenance of forest roads, within the Forest Service region in which the timber sale occurred: Provided, That such activities may be performed through the use of contracts, forest product sales, and cooperative agreements.".

SEC. 413. *Amounts deposited during fiscal year 2005 in the roads and trails fund provided for in the 14th paragraph under the heading "FOREST SERVICE" of the Act of March 4, 1913 (37 Stat. 843; 16 U.S.C. 501), shall be used by the Secretary of Agriculture, without regard to the State in which the amounts were derived, to repair or reconstruct roads, bridges, and trails on National Forest System lands or to carry out and administer projects to improve forest health conditions, which may include the repair or reconstruction of roads, bridges, and trails on National Forest System lands in the wildland-community interface where there is an abnormally high risk of fire. The projects shall emphasize reducing risks to human safety and public health and property and enhancing ecological functions, long-term forest productivity, and biological integrity. The projects may be completed in a subsequent fiscal year. Funds shall not be expended under this section to replace funds which would otherwise appropriately be expended from the timber salvage sale fund. Nothing in this section shall be construed to exempt any project from any environmental law.*

SEC. 414. *Other than in emergency situations, none of the funds in this Act may be used to operate telephone answering machines during core business hours unless such answering machines include an option that enables callers to reach promptly an individual on-duty with the agency being contacted.*

SEC. 415. *Prior to October 1, 2006, the Secretary of Agriculture shall not be considered to be in violation of subparagraph 6(f)(5)(A) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)(A)) solely because more than 15 years have passed without revision of the plan for a unit of the National Forest System. Nothing in this section exempts the Secretary from any other requirement of the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1600 et seq.) or any other law: Provided, That if the Secretary is not acting expeditiously and in good faith, within the funding available, to revise a plan for a unit of the National Forest System, this section shall be void with respect to such plan and a court of proper jurisdiction may order completion of the plan on an accelerated basis.*

SEC. 416. *No timber sale in Region 10 shall be advertised if the indicated rate is deficit when appraised using a residual value approach that assigns domestic Alaska values for western redcedar. Program accomplishments shall be based on volume sold. Should Region 10 sell, in the current fiscal year, the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan in sales which are not deficit when appraised using a residual value approach that assigns domestic Alaska values for western redcedar, all of the western redcedar timber from those sales which is surplus to the needs of domestic processors in Alaska, shall be made available to domestic processors in the contiguous 48 United States at prevailing domestic prices. Should Region 10 sell, in the current fiscal year, less than the annual average portion of the decadal allowable sale quantity called for in the Tongass Land Management Plan in sales which are not deficit when appraised using a residual value approach that assigns domestic Alaska values for western redcedar, the volume of western redcedar timber available to domestic processors at prevailing domestic prices in the contiguous 48 United States shall be that volume: (1) which is surplus to the needs of domestic processors in Alaska; and (2) is that percent of the surplus western redcedar volume determined by calculating the ratio of the total timber volume which has been sold on the Tongass to the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan. The percentage shall be calculated by Region 10 on a rolling basis as each sale is sold (for purposes of this amendment, a "rolling basis" shall mean that the determination of how much western redcedar is eligible for sale to various markets shall be made at the time each sale is awarded). Western redcedar shall be deemed "surplus to the needs of domestic processors in Alaska" when the timber sale holder has presented to the Forest Service documentation of the inability to sell western redcedar logs from a given sale to domestic Alaska processors at a price equal to or greater than the log selling value stated in the contract. All additional western redcedar volume not sold to Alaska or contiguous 48 United States domestic processors may be exported to foreign markets at the election of the timber sale holder. All Alaska yellow cedar may be sold at prevailing export prices at the election of the timber sale holder.*

SEC. 417. *No funds provided in this Act may be expended to conduct preleasing, leasing and related activities under either the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) within the boundaries of a National Monument established pursuant to the Act of June 8, 1906 (16 U.S.C. 431 et seq.) as such boundary existed on January 20, 2001, except where such activities are allowed under the Presidential proclamation establishing such monument.*

SEC. 418. *In entering into agreements with foreign countries pursuant to the Wildfire Suppression Assistance Act (42 U.S.C. 1856m) the Secretary of Agriculture and the Secretary of the Interior are authorized to enter into reciprocal agreements in which the individuals furnished under said agreements to provide wildfire services are considered, for purposes of tort liability, employees of the country receiving said services when the individuals are engaged in fire suppression: Provided, That the Secretary of Agriculture or the Secretary of the Interior shall not enter into any agreement under this provision unless the foreign country (either directly or through its fire organization) agrees to assume any and all liability for the acts or omissions of American firefighters engaged in firefighting in a foreign country: Provided further, That when an agreement is reached for furnishing fire fighting services, the only remedies for acts or omissions committed while fighting fires shall be those provided under the laws of the host country, and those remedies shall be the exclusive remedies for any claim arising out of fighting fires in a foreign country: Provided further, That neither the sending country nor any legal organization associated with the firefighter shall be subject to any legal action whatsoever pertaining to or arising out of the firefighter's role in fire suppression.*

SEC. 419. *Notwithstanding any other provision of law or regulation, to promote the more efficient use of the health care funding allocation for fiscal year 2006, the Eagle Butte Service Unit of the Indian Health Service, at the request of the Cheyenne River Sioux Tribe, may pay base salary rates to health professionals up to the highest grade and step available to a physician, pharmacist, or other health professional and may pay a recruitment or retention bonus of up to 25 percent above the base pay rate.*

SEC. 420. *In awarding a Federal contract with funds made available by this Act, notwithstanding Federal Government procurement and contracting laws, the Secretary of Agriculture and the Secretary of the Interior (the "Secretaries") may, in evaluating bids and proposals, give consideration to local contractors who are from, and who provide employment and training for, dislocated and displaced workers in an economically disadvantaged rural community, including those historically timber-dependent areas that have been affected by reduced timber harvesting on Federal lands and other forest-dependent rural communities isolated from significant alternative employment opportunities: Provided, That notwithstanding Federal Government procurement and contracting laws the Secretaries may award contracts, grants or cooperative agreements to local non-profit entities, Youth Conservation Corps or related partnerships with State, local or non-profit youth groups, or small or micro-business or disadvantaged business: Provided further, That the contract, grant, or cooperative agreement is for forest hazardous fuels reduction, watershed or water quality monitoring or restoration, wildlife or fish population monitoring, or habitat restoration or management: Provided further, That the terms "rural community" and "economically disadvantaged" shall have the same meanings as in section 2374 of Public Law 101-624: Provided further, That the Secretaries shall develop guidance to implement this section: Provided further, That nothing in this section shall be construed as relieving the Secretaries of any duty under applicable procurement laws, except as provided in this section.*

SEC. 421. *No funds appropriated in this Act for the acquisition of lands or interests in lands may be expended for the filing of declarations of taking or complaints in condemnation without the approval of the House and Senate Committees on Appropriations: Provided, That this provision shall not apply to funds appropriated to implement the Everglades National Park Protection and Expansion Act of 1989, or to funds appropriated for Federal assistance to the State of Florida to acquire lands for Everglades restoration purposes.*

SEC. 422. (a) LIMITATION ON COMPETITIVE SOURCING STUDIES.—

(1) Of the funds made available by this or any other Act to the Department of the Interior for fiscal year 2006, not more than $3,450,000 may be used by the Secretary of the Interior to initiate or continue competitive sourcing studies in fiscal year 2006 for programs, projects, and activities for which funds are appropriated by this Act until such time as the Secretary concerned submits a reprogramming proposal to the Committees on Appropriations of the Senate and the House of Representatives, and such proposal has been processed consistent with the reprogramming guidelines included in the report accompanying this Act.

(2) Of the funds appropriated by this Act, not more than $3,000,000 may be used in fiscal year 2006 for competitive sourcing studies and related activities by the Forest Service.

(b) COMPETITIVE SOURCING STUDY DEFINED.—In this section, the term "competitive sourcing study" means a study on subjecting work performed by Federal Government employees or private contractors to public-private competition or on converting the Federal Government employees or the work performed by such employees to private contractor performance under the Office of Management and Budget Circular A–76 or any other administrative regulation, directive, or policy.

(c) COMPETITIVE SOURCING EXEMPTION FOR FOREST SERVICE STUDIES CONDUCTED PRIOR TO FISCAL YEAR 2006.—The Forest Service is hereby exempted from implementing the Letter of Obligation and post-competition accountability guidelines where a competitive sourcing study involved 65 or fewer full-time equivalents, the performance decision was made in favor of the agency provider; no net savings was achieved by conducting the study, and the study was completed prior to the date of this Act.

(d) In preparing any reports to the Committees on Appropriations on competitive sourcing activities, agencies funded in this Act shall include the incremental cost directly attributable to conducting the competitive sourcing competitions, including costs attributable to paying outside consultants and contractors and, in accordance with full cost accounting principles, all costs attributable to developing, implementing, supporting, managing, monitoring, and reporting on competitive sourcing, including personnel, consultant, travel, and training costs associated with program management.

(e) In carrying out any competitive sourcing study involving Forest Service employees, the Secretary of Agriculture shall—

(1) determine whether any of the employees concerned are also qualified to participate in wildland fire management activities; and

(2) take into consideration the effect that contracting with a private sector source would have on the ability of the Forest Service to effectively and efficiently fight and manage wildfires.

SEC. 423. None of the funds in this Act or prior Acts making appropriations for the Department of the Interior and Related Agencies may be provided to the managing partners or their agents for the SAFECOM or Disaster Management projects.

SEC. 424. (a) IN GENERAL.—An entity that enters into a contract with the United States to operate the National Recreation Reservation Service (as solicited by the solicitation numbered WO-04-06vm) shall not carry out any duties under the contract using:

(1) a contact center located outside the United States; or

(2) a reservation agent who does not live in the United States.

(b) NO WAIVER.—The Secretary of Agriculture may not waive the requirements of subsection (a).

(c) TELECOMMUTING.—A reservation agent who is carrying out duties under the contract described in subsection (a) may not telecommute from a location outside the United States.

(d) LIMITATIONS.—Nothing in this Act shall be construed to apply to any employee of the entity who is not a reservation agent carrying out the duties under the contract described in subsection (a) or who provides managerial or support services.

SEC. 425. Section 331 of the Department of the Interior and Related Agencies Appropriations Act, 2000 (as enacted into law by section 1000(a)(3) of Public Law 106-113; 113 Stat. 1501A-196; 16 U.S.C. 497 note), as amended, is amended—

(1) in subsection (a) by striking "2005" and inserting "2006"; and

(2) in subsection (b) by striking "2005" and inserting "2006".

SEC. 426. Section 321 of the Department of the Interior and Related Agencies Appropriations Act, 2003 (division F of Public Law 108-7; 117 Stat. 274; 16 U.S.C. 565a–1 note) is amended by striking "September 30, 2005" and inserting "September 30, 2007".

SEC. 427. Section 5 of the Arts and Artifacts Indemnity Act (20 U.S.C. 974) is amended—

(1) in subsection (b), by striking "$8,000,000,000" and inserting "$10,000,000,000"; and

(2) in subsection (c), by striking "$600,000,000" and inserting "$1,200,000,000".

SEC. 428. Section 330 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (Public Law 106–291; 114 Stat. 996; 43 U.S.C. 1701 note), is amended—

(1) in the first sentence, by striking "2005" and inserting "2008";

(2) in the first sentence by striking "may pilot test agency-wide joint permitting and leasing programs" and inserting after "Congress." the following: "may establish pilot programs involving the land management agencies referred to in this section to conduct projects, planning, permitting, leasing, contracting and other activities, either jointly or on behalf of one another; may co-locate in Federal offices and facilities leased by an agency of either Department;";

(3) in the third sentence, by inserting ", National Park Service, Fish and Wildlife Service," after "Bureau of Land Management"; and

(4) by adding at the end the following new sentence: "To facilitate the sharing of resources under the Service First initiative, the Secretaries of the Interior and Agriculture may make transfers of funds and reimbursement of funds on an annual basis, including transfers and reimbursements for multi-year projects, except that this authority may not be used to circumvent requirements and limitations imposed on the use of funds.".

SEC. 429. The Secretary of Agriculture may acquire, by exchange or otherwise, a parcel of real property, including improvements thereon, of the Inland Valley Development Agency of San Bernardino, California, or its successors and assigns, generally comprising Building No. 3 and Building No. 4 of the former Defense Finance and Accounting Services complex located at the southwest corner of Tippecanoe Avenue and Mill Street in San Bernardino, California, adjacent to the former Norton Air Force Base. As full consideration for the property to be acquired, the Secretary of Agriculture may terminate the leasehold rights of the United States received pursuant to section 8121(a)(2) of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 999). The acquisition of the property shall be on such terms and conditions as the Secretary of Agriculture considers appropriate and may be carried out without appraisals, environmental or administrative surveys, consultations, analyses, or other considerations of the condition of the property.

SEC. 430. None of the funds in this Act may be used to prepare or issue a permit or lease for oil or gas drilling in the Finger Lakes National Forest, New York, during fiscal year 2006,

SEC. 431. (a) IN GENERAL.—

(1) The Secretary of Agriculture and the Secretary of the Interior are authorized to make grants to the Eastern Nevada Landscape Coalition for the study and restoration of rangeland and other lands in Nevada's Great Basin in order to help assure the reduction of hazardous fuels and for related purposes.

(2) Notwithstanding 31 U.S.C. secs. 6301–6308, the Director of the Bureau of Land Management may enter into a cooperative agreement with the Eastern Nevada Landscape Coalition for the Great Basin Restoration Project, including hazardous fuels and mechanical treatments and related work.

(b). AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 432. (a) Section 108(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v–6(g)) is amended—

(1) in the first sentence, by striking "The Secretary" and inserting the following:

"(1) LAW ENFORCEMENT.—

"(A) IN GENERAL.—The Secretary";

(2) in the second sentence, by striking "The Trust" and inserting the following:

"(B) FEDERAL AGENCY.—The Trust"; and

(3) by striking "At the request of the Trust" and all that follows through the end of the subsection and inserting the following:

"(2) FIRE MANAGEMENT.—

"(A) NON-REIMBURSABLE SERVICES.—

"(i) DEVELOPMENT OF PLAN.—Subject to the availability of appropriations under section 111(a), the Secretary shall, in consultation with the Trust, develop a plan to carry out fire preparedness, suppression, and emergency rehabilitation services on the Preserve.

"(ii) CONSISTENCY WITH MANAGEMENT PROGRAM.—The plan shall be consistent with the management program developed pursuant to subsection (d).

"(iii) COOPERATIVE AGREEMENT.—To the extent generally authorized at other units of the National Forest System, the Secretary shall provide the services to be carried out pursuant to the plan under a cooperative agreement entered into between the Secretary and the Trust.

"(B) REIMBURSABLE SERVICES.—To the extent generally authorized at other units of the National Forest System and subject to the availability of appropriations under section 111(a), the Secretary shall provide presuppression and nonemergency rehabilitation and restoration services for the Trust at any time on a reimbursable basis."

(b) The amendments made by subsection (a) take effect as of January 1, 2005.

SEC. 433. None of the funds made available to the Forest Service under this Act shall be expended or obligated for the demolition of buildings at the Zephyr Shoals property, Lake Tahoe, Nevada.

SEC. 434. Section 323(a) of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 1011 note; as contained in section 101(e) of Public Law 105-277), is amended by striking "fiscal year 1999" and all that follows through "2005" and inserting "each of fiscal years 2006 through 2011".

SEC. 435. CONGRESSIONAL SECURITY RELATING TO CERTAIN REAL PROPERTY. (a) IN GENERAL.—Except as provided under subsection (b)—

(1) the District of Columbia Board of Zoning Adjustments and the District of Columbia Zoning Commission may not take any action to grant any variance relating to the property located at 51 Louisiana Avenue NW, Square 631, Lot 17 in the District of Columbia; and

(2) if any variance described under paragraph (1) is granted before the effective date of this section, such variance shall be set aside and shall have no force or effect.

(b) CONDITIONS FOR VARIANCE.—A variance described under subsection (a) may be granted or shall be given force or effect if—

(1) the Capitol Police Board makes a determination that any such variance shall not—

(A) negatively impact congressional security; and

(B) increase Federal expenditures relating to congressional security;

(2) the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives approve such determination; and

(3) the Capitol Police Board certifies the determination in writing to the District of Columbia Board of Zoning Adjustments and the District of Columbia Zoning Commission.

(c) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act and apply to the remaining portion of the fiscal year in which enacted and each fiscal year thereafter.

SEC. 436. WISCONSIN NATIONAL FOREST ACQUISITION. (a) PROSPECTIVE MANAGEMENT REQUIREMENTS.—The Secretary of Agriculture is authorized to acquire property located within Sections 1 and 2, Township 44 North, Range 4 West; Section 31, Township 45 North, Range 3 West; and Section 36, Township 45 North, Range 4 West; Fourth Principal Meridian, Ashland County, State of Wisconsin, and upon such acquisition, such lands shall be subject to the special management requirements of subsection (b).

(b) SPECIAL MANAGEMENT.—Subject to valid existing rights of record, upon acquisition by the Secretary of Agriculture of any land referenced in subsection (a), that area of the land encompassed within 300 feet of the ordinary high water mark of the Brunsweiler River or Beaverdam Lake, whether or not the waterways are impounded, shall be subject to the laws and regulations pertaining to the National Forest System with the following management emphasis:

(1) Enhancing the physical, biological, and cultural features and values for public use, interpretation, research, and monitoring;

(2) Maintenance of the natural character of Brunsweiler River, whether or not impounded; and

(3) Prohibition of structures, motorized use of trails, developed recreation facilities, and surface occupancy for mineral exploration or extraction.

(c) NATIONAL FOREST BOUNDARIES.—Without further action by the Secretary of Agriculture, the boundaries of the Chequamegon National Forest are hereby expanded to encompass the lands referenced in subsection (a).

(d) SAVINGS PROVISION.—Nothing in this section shall be construed to prohibit the maintenance or reconstruction of the existing dam on the Brunsweiler River, located within the area referenced in subsection (a).

SEC. 437. In addition to amounts provided to the Department of the Interior in this Act, $5,000,000 is provided for a grant to Kendall County, Illinois.

SEC. 438. Section 344 of the Department of the Interior and Related Agencies Appropriations Act, 2005 as contained in division E of the Consolidated Appropriations Act, 2005 (Public Law 108–447) is amended as follows:

(1) by striking: "seven"; "14910001,"; and ", 14913007, and 14913008";

(2) by inserting "and" after "14913005,"; and

(3) by striking all language after "(2)" and inserting in lieu thereof "immediately transfer to the Alaska SeaLife Center for various acquisitions, waterfront improvements and facilities that complement the new Federal facility, any remaining balance of previously appropriated funds."

SEC. 439. (a) ACROSS-THE-BOARD RESCISSIONS.—There is hereby rescinded an amount equal to 0.476 percent of the budget authority provided for fiscal year 2006 for any discretionary appropriation in titles I through IV of this Act.

(b) PROPORTIONATE APPLICATION.—Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in subsection (a); and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President's budget).

(c) INDIAN LAND AND WATER CLAIM SETTLEMENTS.—Under the heading "Bureau of Indian Affairs, Indian Land and Water Claim Settlements and Miscellaneous Payments to Indians", the across-the-board rescission in this section, and any subsequent across-the-board rescission for fiscal year 2006, shall apply only to the first dollar amount in the paragraph and the distribution of the rescission shall be at the discretion of the Secretary of the Interior who shall submit a report on such distribution and the rationale therefor to the House and Senate Committees on Appropriations.

TITLE V—FOREST SERVICE FACILITY REALIGNMENT AND ENHANCEMENT

SECTION 501. SHORT TITLE.

This title may be cited as the "Forest Service Facility Realignment and Enhancement Act of 2005".

SEC. 502. DEFINITIONS.

In this title:

(1) ADMINISTRATIVE SITE.—The term "administrative site" means—

(A) any facility or improvement, including curtilage, that was acquired or is used specifically for purposes of administration of the National Forest System;

(B) any Federal land associated with a facility or improvement described in subparagraph (A) that was acquired or is used specifically for purposes of administration of Forest Service activities and underlies or abuts the facility or improvement; or

(C) not more than 10 isolated, undeveloped parcels per fiscal year of not more than 40 acres each that were acquired or used for purposes of administration of Forest Service activities, but are not being so utilized, such as vacant lots outside of the proclaimed boundary of a unit of the National Forest System.

(2) FACILITY OR IMPROVEMENT.—The term "facility or improvement" includes—

(A) a forest headquarters;

(B) a ranger station;

(C) a research station or laboratory;

(D) a dwelling;

(E) a warehouse;

(F) a scaling station;

(G) a fire-retardant mixing station;

(H) a fire-lookout station;

(I) a guard station;

(J) a storage facility;

(K) a telecommunication facility; and

(L) other administrative installations for conducting Forest Service activities.

(3) MARKET ANALYSIS.—The term "market analysis" means the identification and study of the real estate market for a particular economic good or service.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 503. AUTHORIZATION FOR CONVEYANCE OF FOREST SERVICE ADMINISTRATIVE SITES.

(a) CONVEYANCES AUTHORIZED.—In the manner provided by this title, the Secretary may convey an administrative site, or an interest in an administrative site, that is under the jurisdiction of the Secretary.

(b) MEANS OF CONVEYANCE.—The conveyance of an administrative site under this title may be made—

(1) by sale;

(2) by lease;

(3) by exchange;

(4) by a combination of sale and exchange; or

(5) by such other means as the Secretary considers appropriate.

(c) SIZE OF CONVEYANCE.—An administrative site or compound of administrative sites disposed of in a single conveyance under this title may not exceed 40 acres.

(d) CERTAIN LANDS EXCLUDED.—The following Federal land may not be conveyed under this title:

(1) Any land within a unit of the National Forest System that is exclusively designated for natural area or recreational purposes.

(2) Any land included within the National Wilderness Preservation System, the Wild and Scenic River System, or a National Monument.

(3) Any land that the Secretary determines—

(A) is needed for resource management purposes or to provide access to other land or water;

(B) is surrounded by National Forest System land or other publicly owned land, if conveyance would not be in the public interest due to the creation of a non-Federal inholding that would preclude the efficient management of the surrounding land; or

(C) would be in the public interest to retain.

(e) CONGRESSIONAL NOTIFICATIONS.—

(1) NOTICE OF ANTICIPATED USE OF AUTHORITY.—As part of the annual budget justification documents provided to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, the Secretary shall include—

(A) a list of the anticipated conveyances to be made, including the anticipated revenue that may be obtained, using the authority provided by this title or other conveyance authorities available to the Secretary;

(B) a discussion of the intended purposes of any new revenue obtained using this authority or other conveyance authorities available to the Secretary, and a list of any individual projects that exceed $500,000; and

(C) a presentation of accomplishments of previous years using this authority or other conveyance authorities available to the Secretary.

(2) NOTICE OF CHANGES TO CONVEYANCE LIST.—If the Secretary proposes to convey an administrative site under this title or using other conveyance authorities available to the Secretary and the administrative site is not included on a list provided under paragraph (1)(A), the Secretary shall submit to the congressional committees specified in paragraph (3) written notice of the proposed conveyance, including the anticipated revenue that may be obtained from the conveyance.

(3) NOTICE OF USE OF AUTHORITY.—At least once a year, the Secretary shall submit to the Committee on Agriculture, the Committee on Appropriations, and the Committee on Resources of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations, and the Committee on Energy and Natural Resources of the Senate a report containing a description of all conveyances of National Forest System land made by the Secretary under this title or other conveyance authorities during the period covered by the report.

(f) DURATION OF AUTHORITY.—The authority of the Secretary to initiate the conveyance of an administrative site under this title expires on September 30, 2008.

(g) REPEAL OF PILOT CONVEYANCE AUTHORITY.—Effective September 30, 2006, section 329 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (16 U.S.C. 580d note; Public Law 107-63), is repealed. Notwithstanding the repeal of such section, the Secretary may complete the conveyance under such section of any administrative site whose conveyance was initiated under such section before that date.

SEC. 504. CONVEYANCE REQUIREMENTS.

(a) CONFIGURATION OF ADMINISTRATIVE SITES.—

(1) CONFIGURATION.—To facilitate the conveyance of an administrative site under this title, the Secretary may configure the administrative site—

(A) to maximize the marketability of the administrative site; and

(B) to achieve management objectives.

(2) SEPARATE TREATMENT OF FACILITY OR IMPROVEMENT.—A facility or improvement on an administrative site to be conveyed under this title may be severed from the land and disposed of in a separate conveyance.

(3) RESERVATION OF INTERESTS.—In conveying an administrative site under this title, the Secretary may reserve such right, title, and interest in and to the administrative site as the Secretary determines to be necessary.

(b) CONSIDERATION.—

(1) CONSIDERATION REQUIRED.—A person or entity acquiring an administrative site under this title shall provide to the Secretary consideration in an amount that is at least equal to the market value of the administrative site.

(2) FORM OF CONSIDERATION.—

(A) SALE.—Consideration for an administrative site conveyed by sale under this title shall be paid in cash on conveyance of the administrative site.

(B) EXCHANGE.—If the administrative site is conveyed by exchange, the consideration shall be provided in the form of a conveyance to the Secretary of land or improvements that are equal in market value to the conveyed administrative site. If the market values are not equal, the market values may be equalized by—

(i) the Secretary making a cash payment to the person or entity acquiring the administrative site; or

(ii) the person or entity acquiring the administrative site making a cash equalization payment to the Secretary.

(c) DETERMINATION OF MARKET VALUE.—The Secretary shall determine the market value of an administrative site to be conveyed under this title or of non-Federal land or improvements to be provided as consideration in exchange for an administrative site—

(1) by conducting an appraisal that is performed in accordance with—

(A) the Uniform Appraisal Standards for Federal Land Acquisitions, established in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.); and

(B) the Uniform Standards of Professional Appraisal Practice; or

(2) by competitive sale.

(d) RELATION TO OTHER LAWS.—

(1) FEDERAL PROPERTY DISPOSAL.—Subchapter I of chapter 5 of title 40, United States Code, shall not apply to the conveyance of an administrative site under this title.

(2) LAND EXCHANGES.—Section 206 of the Federal Land Policy and Management Act (43 U.S.C. 1716) shall not apply to the conveyance of an administrative site under this title carried out by means of an exchange or combination of sale and exchange.

(3) LEAD-BASED PAINT AND ASBESTOS ABATEMENT.—Notwithstanding any provision of law relating to the mitigation or abatement of lead-based paint or asbestos-containing building materials, the Secretary is not required to mitigate or abate lead-based paint or asbestos-containing building materials with respect to an administrative site to be conveyed under this title. However, if the administrative site has lead-based paint or asbestos-containing building materials, the Secretary shall—

(A) provide notice to the person or entity acquiring the administrative site of the presence of the lead-based paint or asbestos-containing building material; and

(B) obtain written assurance from the person or entity acquiring the administrative site that the person or entity will comply with applicable Federal, State, and local laws relating to the management of the lead-based paint and asbestos-containing building materials.

(4) ENVIRONMENTAL REVIEW.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to the conveyance of administrative sites under this title, except that, in any environmental review or analysis required under such Act for the conveyance of an administrative site under this title, the Secretary is only required to—

(A) analyze the most reasonably foreseeable use of the administrative site, as determined through a market analysis;

(B) determine whether or not to reserve any right, title, or interest in the administrative site under subsection (a)(3); and

(C) evaluate the alternative of not conveying the administrative site, consistent with the National Environmental Policy Act of 1969.

(e) REJECTION OF OFFERS.—The Secretary shall reject any offer made for the acquisition of an administrative site under this title if the Secretary determines that the offer is—

(1) not adequate to cover the market value of the administrative site; or

(2) not otherwise in the public interest.

(f) CONSULTATION AND PUBLIC NOTICE.—As appropriate, the Secretary is encouraged to work with the Administrator of the General Services Administration with respect to the conveyance of administrative sites under this title. Before making an administrative site available for conveyance under this title, the Secretary shall consult with local governmental officials of the community in which the administrative site is located and provide public notice of the proposed conveyance.

SEC. 505. DISPOSITION OF PROCEEDS RECEIVED FROM ADMINISTRATIVE SITE CONVEYANCES.

(a) DEPOSIT.—The Secretary shall deposit in the fund established under Public Law 90–171 (commonly known as the Sisk Act; 16 U.S.C. 484a) all of the proceeds from the conveyance of an administrative site under this title.

(b) USE.—Amounts deposited under paragraph (1) shall be available to the Secretary, until expended and without further appropriation, to pay any necessary and incidental costs incurred by the Secretary in connection with—

(1) the acquisition, improvement, maintenance, reconstruction, or construction of a facility or improvement for the National Forest System; and

(2) the conveyance of administrative sites under this title, including costs described in subsection (c).

(c) BROKERAGE SERVICES.—The Secretary may use the proceeds from the conveyance of an administrative site under this title to pay reasonable commissions or fees for brokerage services obtained in connection with the conveyance if the Secretary determines that the services are in the public interest. The Secretary shall provide public notice of any brokerage services contract entered into in connection with a conveyance under this title.

TITLE VI—VETERANS HEALTH CARE

SEC. 601. From the money in the Treasury not otherwise appropriated, there is appropriated to the Department of Veterans Affairs an additional amount for "Medical Services" of $1,500,000,000 to be available for obligation upon enactment of this Act and to remain available until September 30, 2006.

This Act may be cited as the "Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006".

And the Senate agree to the same.

CHARLES H. TAYLOR,
JERRY LEWIS,
ZACH WAMP,
JOHN E. PETERSON,
DON SHERWOOD,
ERNEST J. ISTOOK, Jr.,
ROBERT ADERHOLT,
JOHN T. DOOLITTLE,
MICHAEL SIMPSON,
NORMAN D. DICKS,
JAMES P. MORAN,
MAURICE D. HINCHEY,
JOHN W. OLVER,
ALAN B. MOLLOHAN,
Managers on the Part of the House.

CONRAD BURNS,
TED STEVENS,
THAD COCHRAN,
PETE V. DOMENICI,
ROBERT F. BENNETT,
JUDD GREGG,
LARRY CRAIG,
WAYNE ALLARD,
BYRON L. DORGAN,
ROBERT C. BYRD,
PATRICK J. LEAHY,
HARRY REID,
DIANNE FEINSTEIN,
BARBARA A. MIKULSKI,
HERB KOHL,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2361), making appropriations for the Department of the Interior, Environment, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on H.R. 2361 incorporates some of the provisions of both the House and the Senate versions of the bill. Report language and allocations set forth in either House Report 109-80 or Senate Report 109–80 that are not changed by the conference are approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not negate the language referenced above unless expressly provided herein.

REPROGRAMMING GUIDELINES

The managers have revised the reprogramming guidelines to add an exception for certain Environmental Protection Agency grants (section 3(b)) and to delete certain instructions to the Forest Service dealing with boundary adjustments and transfer of funds.

The following are the procedures governing reprogramming actions for programs and activities funded in the Interior, Environment, and Related Agencies Appropriations Act:

1. *Definitions.*—(a) "Reprogramming," as defined in these procedures, includes the reallocation of funds from one budget activity to another. In cases where either the House or Senate Committee report displays an allocation of an appropriation below the activity level, that more detailed level shall be the basis for reprogramming. For construction accounts, a reprogramming constitutes the reallocation of funds from one construction project (identified in the justification or Committee report) to another. A reprogramming shall also consist of any significant departure from the program described in the agency's budget justifications. This includes proposed reorganizations even without a change in funding.

(b) "Committees" refer to the House and Senate Committees on Appropriations and, specifically, the Subcommittee on Interior, Environment, and Related Agencies.

2. *Guidelines for Reprogramming.*—(a) A reprogramming should be made only when an unforeseen situation arises; and then only if postponement of the project or the activity until the next appropriation year would result in actual loss or damage. Mere convenience or desire should not be factors for consideration.

(b) Any project or activity, which may be deferred through reprogramming, shall not later be accomplished by means of further reprogramming; but, instead, funds should again be sought for the deferred project or activity through the regular appropriations process.

(c) Reprogramming should not be employed to initiate new programs or to change allocations specifically denied, limited or increased by the Congress in the Act or the report. In cases where unforeseen events or conditions are deemed to require changes, proposals shall be submitted in advance to the Committees, regardless of amounts involved, and be fully explained and justified.

(d) Reprogramming proposals submitted to the Committees for approval shall be considered approved 30 calendar days after receipt if the Committees have posed no objection. However, agencies will be expected to extend the approval deadline if specifically requested by either Committee.

(e) Proposed changes to estimated working capital fund bills and estimated overhead charges, deductions, reserves or holdbacks, as such estimates were presented in annual budget justifications, shall be submitted through the reprogramming process.

3. *Criteria and Exceptions.*—Any proposed reprogramming must be submitted to the Committees in writing prior to implementation if it exceeds $500,000 annually or results in an increase or decrease of more than 10 percent annually in affected programs, with the following exceptions:

(a) With regard to the tribal priority allocations activity of the Bureau of Indian Affairs, Operation of Indian Programs account, there is no restriction on reprogrammings among the programs within this activity. However, the Bureau shall report on all reprogrammings made during the first 6 months of the fiscal year by no later than May 1 of each year, and shall provide a final report of all reprogrammings for the previous fiscal year by no later than November 1 of each year.

(b) With regard to the Environmental Protection Agency, State and Tribal Assistance Grants account, reprogramming requests associated with States and Tribes applying for partnership grants do not need to be submitted to the Committees for approval should such grants exceed the normal reprogramming limitations. In addition, the Agency need not submit a request to move funds between wastewater and drinking water objectives for those grants targeted to specific communities.

4. *Quarterly Reports.*—(a) All reprogrammings shall be reported to the Committees quarterly and shall include cumulative totals.

(b) Any significant shifts of funding among object classifications also should be reported to the Committees.

5. *Administrative Overhead Accounts.*—For all appropriations where costs of administrative expenses are funded in part from "assessments" of various budget activities within an appropriation, the assessments shall be shown in justifications under the discussion of administrative expenses.

6. *Contingency Accounts.*—For all appropriations where assessments are made against various budget activities or allocations for contingencies the Committees expect a full explanation, as part of the budget justification, consistent with section 405 of this Act. The explanation shall show the amount of the assessment, the activities assessed, and the purpose of the fund. The Committees expect reports each year detailing the use of these funds. In no case shall a fund be used to finance projects and activities disapproved or limited by Congress or to finance new permanent positions or to finance programs or activities that could be foreseen and included in the normal budget review process. Contingency funds shall not be used to initiate new programs.

7. *Report Language.*—Any limitation, directive, or earmarking contained in either the House or Senate report which is not contradicted by the other report nor specifically denied in the conference report shall be considered as having been approved by both Houses of Congress.

8. *Assessments.*—No assessments shall be levied against any program, budget activity, subactivity, or project funded by the Interior, Environment, and Related Agencies Appropriations Act unless such assessments and the basis therefore are presented to the Committees and are approved by such Committees, in compliance with these procedures.

9. *Land Acquisitions and Forest Legacy.*—(a) Lands shall not be acquired for more than the approved appraised value (as addressed in section 301(3) of Public Law 91–646) except for condemnations and declarations of taking, unless such acquisitions are submitted to the Committees for approval in compliance with these procedures.

(b) Subsection (a) does not apply to the National Park Service for tracts with an appraised value of $500,000 or less.

10. *Land Exchanges.*—Land exchanges, wherein the estimated value of the Federal lands to be exchanged is greater than $500,000, shall not be consummated until the Committees have had a 30-day period in which to examine the proposed exchange.

11. *Appropriations Structure.*—The appropriation structure for any agency shall not be altered without advance approval of the Committees.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

The conference agreement provides $860,791,000 for management of lands and resources instead of $845,783,000 as proposed by the House and $867,045,000 as proposed by the Senate.

Land Resources.—Changes to the House level for land resources include an increase of $1,000,000 for the National Center for Invasive Plant Management, and decreases of $100,000 for Santa Ana River land management, $156,000 for Wyoming soil surveys, which is addressed under realty and ownership management, and $250,000 for Santa Ana River conservation efforts.

The managers encourage the Bureau to work with the Bighorn Institute to conserve and recover the peninsular desert bighorn sheep.

The managers are aware of the Salt Cedar Task Force's work in northeast Montana and encourage the Bureau to explore methods of partnering with the task force on control and eradication efforts surrounding Fort Peck Reservoir.

Within the funds provided for Santa Ana River conservation efforts, $100,000 should be directed to the land management planning effort.

Recreation Management.—Changes to the House level for recreation management include an increase of $1,000,000 for the undaunted stewardship program and a decrease of $500,000 for Santa Rosa and San Jacinto National Monument management plans.

Energy and Minerals.—Changes to the House level for energy and minerals include an increase of $1,000,000 for oil and gas management.

The managers do not include funding for the Utah Oil and Gas internet pilot program due to the Bureau's inability to perform the pilot at this time but encourage the Bureau to work to develop this capability.

Realty Ownership and Management.—Changes to the House level for realty ownership and management include increases of $7,000,000 for Alaska conveyance, $300,000 for GIS mapping in Utah, $750,000 for recordable disclaimer applications in Alaska, $160,000 for Wyoming soil surveys and $950,000 for a cadastral survey in Montana.

Resource Protection and Maintenance.—Changes to the House level for resource protection and maintenance include a decrease of $250,000 for California desert conservation plans.

The managers agree that law enforcement funds provided above the requested level should be used in National Landscape Conservation System lands in Montana, Colorado, California, and other NLCS lands not included in the Administration's requested increased above the enacted level.

Transportation and Facilities Maintenance.—Changes to the House level for transportation and facilities maintenance include increases of $750,000 for capping oil wells in the National Petroleum Reserve Alaska and $750,000 for Pacific Crest, Continental Divide and Iditarod trails.

Challenge Cost Share.—Changes to the House level for challenge cost share include an increase of $2,604,000 for the traditional challenge cost share program.

The Administration's budget request included a proposal to eliminate the range improvement account and included $3,000,000 in the cooperative conservation initiative and $7,000,000 in the deferred maintenance program to fund the activities performed by the range improvement account. The managers have restored the range improvement account, but direct the Bureau to focus no less than $4,000,000 from the deferred maintenance program to the range improvement activities suggested in the budget justification. Furthermore, the Bureau is expected to focus at least $3,000,000 of challenge cost share activities on range activities including sagebrush restoration and invasive weed control.

BILL LANGUAGE.—The conference agreement retains language included in the Senate bill that earmarks $1,250,000 for the Youth Conservation Corps program. The House bill recommended $1,000,000 for this purpose.

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

The conference agreement provides $766,564,000 for wildland fire management as proposed by the Senate instead of $761,564,000 as proposed by the House.

STATE AND LOCAL FIRE ASSISTANCE.—The change to the House level for State and local fire assistance is an increase of $5,000,000.

The managers agree that funding for the National Center for Landscape Fire Analysis shall remain at or above the fiscal year 2005 enacted level.

BILL LANGUAGE.—The conference agreement includes language contained in the House bill allowing for the transfer of up to $9,000,000 of wildland fire management funds between the Department of the Interior and the Department of Agriculture. The Senate contained similar language.

CONSTRUCTION

The conference agreement provides $11,926,000 for construction instead of $11,476,000 as proposed by the House and $9,976,000 as proposed by the Senate.

Changes to the House level for construction include increases of $1,500,000 for the Sand Hollow Recreation MOU with the State of Utah, which completes the project, $450,000 for the Paiute Meadows Trail project, and a decrease of $1,500,000 for general construction projects.

LAND ACQUISITION

The conference agreement provides $8,750,000 for land acquisition instead of $3,817,000 as proposed by the House and $12,250,000 as proposed by the Senate.

The managers agree to the following distribution of funds:

Area (State)	*Amount*
Colorado River SRMA (UT)	$1,200,000
Oregon NWSR/North Fork Owyhee NWSR (OR)	650,000
Sandy River/Oregon NHT (OR)	1,600,000
Santa Rosa and San Jacinto Mountains NM (CA)	500,000
Upper Snake/South Fork Snake River ACEC/SRMA (ID)	1,500,000
Subtotal	5,450,000
Emergencies and Hardships	1,000,000
Acquisition Management	2,300,000
Total	8,750,000

OREGON AND CALIFORNIA GRANT LANDS

The conference agreement provides $110,070,000 for Oregon and California grant lands as proposed by both the House and Senate.

RANGE IMPROVEMENTS

The conference agreement provides an indefinite appropriation for range improvements of not less than $10,000,000 as proposed by both the House and the Senate.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

The conference agreement provides an indefinite appropriation for service charges, deposits, and forfeitures, which is estimated to be $32,940,000, as proposed by both the House and the Senate.

MISCELLANEOUS TRUST FUNDS

The conference agreement provides an indefinite appropriation of $12,405,000 for miscellaneous trust funds as proposed by both the House and the Senate.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

The conference agreement provides $1,008,880,000 for resource management instead of $1,005,225,000 as proposed by the House and $993,485,000 as proposed by the Senate. Changes to the House recommended level are described below.

Ecological Services.—In Endangered Species Act recovery programs, there are decreases of $298,000 for wolf recovery and $150,000 for the Northern aplomado falcon and increases of $1,114,000 for the Yellowstone grizzly bear conservation strategy, $500,000 for Lahontan cutthroat trout, $1,000,000 for the Penobscot River restoration project, $1,000,000 for Atlantic salmon recovery activities managed through the National Fish and Wildlife Foundation, $1,200,000 for eider and sea otter recovery at the Alaska SeaLife Center, and $350,000 for White Sulphur Springs NFH, WV, mussel recovery.

In habitat conservation, increases for the partners for fish and wildlife program include $1,000,000 for Seattle, WA, shoreline restoration for salmon habitat, $700,000 for Big Hole watershed restoration in Montana, $500,000 for the Montana Water Center wild fish habitat initiative, $1,250,000 for the Nevada biodiversity research and conservation project, $100,000 for Bald eagle restoration with the Vermont Natural Heritage Partners program, $540,000 for conservation work at Don Edwards NWR, CA, $1,000,000 for the wildlife enterprises program at Mississippi State University, $150,000 for the Thunder Basin initiative in Wyoming, $100,000 for invasive species control by the Friends of Lake Sakakawea, $550,000 for endangered bird conservation in Hawaii, $500,000 for geographic information system mapping of NWRs in Alaska, and $425,000 for the study of declining wildlife populations on Lake Umbagog NWR with the New Hampshire Audubon Society. These increases are offset by a decrease of $100,000 for a study of Colorado River flow and aquatic habitats (Blue sucker) from Longhorn Dam to Matagorda Bay and a $9,000,000 reduction to the general program increase proposed in the budget request.

In coastal programs, there is an increase of $200,000 in support of the proposed general program expansion.

Refuges and Wildlife.—In refuge operations/refuge visitor services, there is a decrease of $1,000,000 for visitor facility enhancements. The managers note that $5,000,000 is provided in the construction account for visitor contact facilities.

In migratory bird management, there are increases in conservation and monitoring of $375,000 for focal species management, $100,000 for survey and monitoring, and $100,000 for population and habitat assessment. In the joint ventures program, there is an increase of $100,000 in national administration for a program assessment of existing joint ventures and an increase of $400,000 to initiate the Central Hardwoods and the Northern Great Plains joint ventures.

In law enforcement operations, there is a decrease of $100,000 for vehicle replacement.

Fisheries.—In the fisheries program, there are increases in hatchery operations of $600,000 for hatchery operations, $1,400,000 for whirling disease and related fish health issues, and $500,000 for the wildlife health center in Montana. In hatchery maintenance, there is a decrease of $1,500,000 for whirling disease; funds for this program have been moved to hatchery operations. In fish and wildlife management, there are decreases of $750,000 for the national fish habitat initiative and $350,000 for Yukon River Salmon Treaty implementation and an increase of $102,000 for aquatic nuisance species control.

General Administration.—In general operations, increases include $250,000 for National Conservation Training Center operations and $397,000 for NCTC maintenance. In international programs, increases include $300,000 for the Caddo Lake Ramsar Center in Texas and $100,000 for the wildlife without borders Africa program.

Bill Language.—Language is included earmarking $2,500,000 for the Youth Conservation Corps as proposed by the Senate instead of $2,000,000 as proposed by the House.

The managers agree to the following:

1. The funds provided for wolf recovery include $350,000 for the Nez Perce Tribe, $730,000 for the Idaho Office of Species Conservation, $100,000 for the Service's Snake River Basin Office pursuant to a memorandum of agreement between the Nez Perce Tribe and the State of Idaho, and $320,000 for wolf monitoring and related activities by the State of Montana.

2. The $1,000,000 provided in the ESA recovery program for the Penobscot River restoration project represents the first time funding has been provided in the Service's budget. Funds were provided for the project by the National Oceanic and Atmospheric Administration last fiscal year; additional funds are anticipated through the Army Corps of Engineers and NOAA in fiscal year 2006; and the State of Maine along with private groups are also expected to provide funds for removing dams on the Penobscot River. The managers will carefully analyze any future requests for funding from the Fish and Wildlife Service budget for this project with the expectation that the aforementioned other entities will be the primary contributors to the project.

3. The Peregrine Fund is funded at $550,000 in fiscal year 2006, which includes $150,000 for Northern aplomado falcon recovery activities.

4. The funding provided in the partners for fish and wildlife program for a study of declining wildlife populations on Lake Umbagog NWR in cooperation with the New Hampshire Audubon Society, will complete this project.

5. The managers are concerned that for the past two years the white pelican population at Chase Lake NWR, ND, has experienced unexplained disturbances. In 2004, nearly 30,000 pelicans abandoned the colony and in 2005, inspections revealed only about 500 live chicks out of a potential summer hatch of 9,000.

The managers are aware that the Service is working to determine the scope of these problems and expects the Service to report to the House and Senate Committees on Appropriations no later than October 1, 2005, on what it believes is the cause of the 2004 abandonment and the 2005 deaths and what steps it believes are necessary to reverse this trend.

6. The managers are aware that the Service is currently working on the Comprehensive Conservation Plan for Vieques NWR in Puerto Rico. In an effort to keep the House and Senate Committees on Appropriations informed on the progress and scope of the CCP, the Service should report to the Committees by January 1, 2006, on plan development and

on environmental cleanup efforts currently being conducted on Vieques NWR, the expected cost of the cleanup, if known, and the methods being used to dispose of ordinance.

7. The managers continue to be concerned about the Service?s share of the cost of airport operations at Midway Atoll NWR. The managers also are concerned about the unresolved issues surrounding a new contract for airport operations and funding by the Federal Aviation Administration. The managers understand that FAA will cover the costs associated with the airfield in fiscal year 2006 and beyond and that the Service will pay an appropriate share of the indirect costs in addition to paying ongoing refuge operations costs. The total cost to the Service for all operations at Midway is expected to be $4.3 million in fiscal year 2006. The managers note that the airport is not needed for refuge operations and the managers will not agree to a reprogramming for additional funds for airport-related expenses in fiscal year 2006 unless there is a compelling, unanticipated, emergency requirement. Further, to the extent the new airport contract results in savings, the Service should share in those savings. The House and Senate Committees on Appropriations should be notified when the contract is awarded.

8. No additional funding is provided for existing joint ventures in fiscal year 2006. The $100,000 provided in the migratory bird management program for national administration of joint venture activities is for a program assessment of the existing joint venture programs. To the extent that future funding increases are requested for joint ventures, the funding should be based on the results of the program assessment. Likewise, if the assessment determines that certain joint ventures are not yielding desired results, the managers believe the Service should consider decreased funding for those projects in future budget requests.

9. The $1,400,000 provided for whirling disease research includes $1,000,000 for the National Partnership on the Management of Wild and Native Coldwater Fisheries and $400,000 for the Whirling Disease Foundation.

10. Funding for whirling disease research and related fish health issues and for the wildlife health center in Montana is provided in the hatchery operations budget. The Service should reprogram any other base budget funds for these activities in fiscal year 2006 to the hatchery operations budget and should budget for these activities in hatchery operations in future budget requests.

11. An increase of $1,000,000 is provided for continued development of the National Fish Habitat Initiative. Distribution of these funds should follow the direction in House Report 109–80.

12. The fisheries program should continue to keep the House and Senate Committees on Appropriations apprised of its efforts to address base budget erosion and inequities in field station funding, including consideration of reimbursable funding.

13. The funds provided for the Caddo Lake Ramsar Center in Texas are for conservation and education programs directly related to Caddo Lake and may not be used for infrastructure, construction-related projects, legal or management fees, or any other purposes. The Center should work cooperatively with Texas A&M University on preparing a program of work for fiscal year 2006.

CONSTRUCTION

The conference agreement provides $45,891,000 for construction instead of $41,206,000 as proposed by the House and $31,811,000 as proposed by the Senate. The managers agree to the following distribution of funds:

[Dollars in thousands]

Project	Description	Amount
Allegheny NFH, PA	Water Supply Improvements [complete planning]	$250
Balcones Canyonlands NWR, TX	Martin Lake and Martin West Dams [p/d/cc]	500
Big Oaks NWR, IN	Old Timbers Lake Dam Rehabilitation—Phase II [d/cc]	150
Clark R. Bavin Forensics Laboratory, OR	Renovation/Upgrade Facility—Phase II [cc]	3,355
Crab Orchard NWR, IL	Visitor Center Dam Rehabilitation [cc]	2,625
Craig Brook NFH, ME	Wastewater Treatment Compliance—Phase III [cc]	2,480
Division of Safety, Security and Aviation	Replacement of Survey Aircraft—Phase III	1,500
Garrison Dam NFH, ND	Hatchery renovation [completes 9 of 17 pond liners]	200
Hakalau Forest NWR, HI	Ungulate Control Fencing [c]	700
Hanford Reach NM/Saddle Mountain NWR, WA	Visitor Center	2,250
Kenai NWR, AK	Visitor Center/Water and Sewer Lines [cc]	500
Klamath Basin NWR Complex, CA	Water Supply and Management—Phase V	1,000
Kodiak NWR, AK	Visitor Center [cc]	4,000
Kofa NWR, AZ	Structural Replacement of Four Buildings—Phase II [cc]	1,515
Northwest Power Planning Area	Fish Screens, etc	2,000
Ohio River Islands NWR, WV	Erosion protection for Middle & Buckley Islands	435
Servicewide	Bridge Safety Inspections	570
Servicewide	Dam Safety Programs & Inspections	720
Servicewide	Visitor Contact Facilities	5,000
Sevilleta NWR, NM	Laboratory Construction [cc]	2,100
Tualatin NWR, OR	Visitor Center and Administration Building [cc]	3,900
White Sulphur Springs NFH, WV	Maintenance, grounds improvements, quarters rehabilitation	525
Subtotal, Line Item Construction		36,275
Nationwide Engineering Services:		
Cost Allocation Methodology		2,456
Environmental Compliance		1,000
Other, non-project specific Nationwide Engineering Services		5,900
Seismic Safety Program		130
Waste Prevention, Recycling Environmental Management		130
Subtotal, Nationwide Engineering Services		9,616
Total		$45,891

Bill Language.—The conference agreement includes language proposed by the Senate transferring funds appropriated in fiscal year 2005 for the Chase Lake and Arrowwood NWRs, ND, to North Dakota State University to complete planning and design for a joint interpretive center. The House had no similar provision.

The managers agree to the following:

1. The $700,000 in funding for Hakalau Forest NWR, HI, ungulate control fencing is provided with the understanding that an additional $400,000 will need to be provided in fiscal year 2007 to complete the project.

2. The funding provided for the Hanford Reach, WA visitor center completes the Federal commitment to this project.

3. The $4,000,000 in funding for Kodiak NWR, AK, visitor center is sufficient to complete construction. The managers agree that an additional $400,000 will need to be provided in fiscal year 2007 to complete the acquisition of furnishings and equipment for the center.

4. The Service should reprogram $350,000 from the completed Orangeburg dam project at Orangeburg NFH, SC, to complete the waterline construction project at the National Conservation Training Center.

5. The funding provided for laboratory construction at Sevilleta NWR, NM completes this project.

6. The $525,000 provided for White Sulphur Springs NFH, WV, includes $400,000 for maintenance and grounds improvements and $125,000 for quarters rehabilitation. An additional $125,000 will need to be provided in fiscal year 2007 to complete the quarters renovation.

LAND ACQUISITION

The conference agreement provides $28,408,000 for land acquisition instead of $14,937,000 as proposed by the House and $40,827,000 as proposed by the Senate.

The managers agree to the following distribution of funds:

Area (State)	*Amount*
Alaska Peninsula NWR (AK)	$400,000
Balcones Canyonlands NWR (TX)	500,000
Cache River NWR (AR)	809,000
Cahaba NWR (AL)	421,000
Canaan Valley NWR (WV)	190,000
Clark's River NWR (KY)	200,000
Dakota Tallgrass Prairie WMA (SD/ND)	500,000
Eastern Shore NWR (VA)	2,000,000
Edwin B. Forsythe NWR (NJ)	300,000
Lake Atascosa NWR (TX)	400,000
Lake Umbagog NWR (NH)	500,000
Lower Rio Grande Valley NWR (TX)	800,000
Northern Tallgrass Prairie NWR (MN/IA)	500,000

Area (State)	*Amount*
Primehook NWR (DE)	250,000
Rachel Carson NWR (ME) ..	600,000
Rhode Island Refuge Complex (RI)	525,000
Rocky Mountain Front (MT)	1,000,000
San Joaquin River NWR (CA)	450,000
Silvio O. Conte NFWR (NH, VT, CT, MA)	650,000
Tensas River NWR (LA)	1,900,000
Togiak NWR (AK)	300,000
Upper Klamath Lake NWR, Barnes Tract (OR)	2.000,000
Use of carryover/anticipated slippage	1,500,000
Subtotal	13,695,000
Inholdings	1,500,000
Emergencies and Hardships	1,500,000
Exchanges	1,500,000
Acquisition Management ..	8,393,000
Cost Allocation Methodology	1.820,000
Total	$28,408,000

Bill Language.—The conference agreement retains language proposed by the House providing that none of the funds appropriated for specific land acquisition projects can be used to pay for any administrative overhead, planning or other management costs.

The managers agree to the following:

1. Funds appropriated in fiscal year 2006 for Tensas River NWR (LA) completes this land acquisition project.

2. Within funds provided for the Silvio Conte NWR, not less than $500,000 is for the Pondicherry Division.

3. Within funds provided for acquisition management, $500,000 is for an environmental impact statement of the proposed Yukon Flats land exchange between Doyon Ltd. and the United States Fish and Wildlife Service.

Landowner Incentive Program

The conference agreement provides $24,000,000 for the landowner incentive program instead of $23,700,000 as proposed by the House and $25,000,000 as proposed by the Senate.

Private Stewardship Grants

The conference agreement provides $7,386,000 for private stewardship grants as proposed by the House instead of $7,500,000 as proposed by the Senate.

Cooperative Endangered Species Conservation Fund

The conference agreement provides $82,200,000 for the cooperative endangered species conservation fund instead of $84,400,000 as proposed by the House and $80,000,000 as proposed by the Senate.

Bill Language.—The conference agreement includes language earmarking $62,039,000 to be derived from the Land and Water Conservation Fund instead of $64,239,000 as proposed by the House and $45,653,000 as proposed by the Senate. A total of $20,161,000 is derived from the Cooperative Endangered Species Conservation Fund as proposed by the House instead of $34,347,000 as proposed by the Senate.

National Wildlife Refuge Fund

The conference agreement provides $14,414,000 for the national wildlife refuge fund as proposed by both the House and the Senate.

North American Wetlands Conservation Fund

The conference agreement provides $40,000,000 for the North American wetlands conservation fund as proposed by the House instead of $39,500,000 as proposed by the Senate.

Neotropical Migratory Bird Conservation

The conference agreement provides $4,000,000 for neotropical migratory bird conservation as proposed by both the House and the Senate.

Multinational Species Conservation Fund

The conference agreement provides $6,500,000 for the multinational species conservation fund as proposed by the Senate instead of $5,900,000 as proposed by the House. Changes to the House recommended level include increases of $200,000 for rhinoceros and tiger conservation and $400,000 for marine turtle conservation.

State and Tribal Wildlife Grants

The conference agreement provides $68,500,000 for State and Tribal wildlife grants instead of $65,000,000 as proposed by the House and $72,000,000 as proposed by the Senate.

Bill Language.—The conference agreement includes language proposed by the House restating the October 1, 2005, deadline for completion of State comprehensive wildlife conservation plans and providing direction on distributing funds for States with disapproved plans. The Senate had no similar provisions.

Administrative Provisions

The conference agreement does not specify the number of replacement passenger motor vehicles that may be purchased by the Service.

The conference agreement includes a reference to the current reprogramming guidelines, which are contained in the front of the statement of the managers in this report.

NATIONAL PARK SERVICE

Operation of the National Park System

The conference agreement provides $1,744,074,000 for the operation of the national park system instead of $1,754,199,000 as proposed by the House and $1,748,486,000 as proposed by the Senate.

The managers have provided an additional $20,000,000 for recurring park base increases. Of this amount $15,000,000 is provided for across the board increases for all park units and $5,000,000 is available for high priority program increases to specific parks. Within the $5,000,000, $500,000 is provided for national trails. This amount is in addition to the increases provided in the budget request for pay and fixed costs.

The conference agreement provides $354,141,000 for resource stewardship, instead of $354,116,000 as proposed by the House and $354,841,000 as proposed by the Senate. Changes to the House level include a reduction of $1,000,000 for inventory and monitoring and increases of $225,000 for the International Center for Science and Learning at Mammoth Cave NP, $500,000 for air tour management and $300,000 for Vanishing Treasures.

The conference agreement provides $346,181,000 for visitor services, the same as the House and Senate.

The conference agreement provides $594,686,000 for maintenance as proposed by the House instead of $595,186,000 as proposed by the Senate.

Within the amount provided for repair and rehabilitation, $80,000 is for campground rehabilitation at Ozark NSR, $200,000 is for historic landscaping at Gettysburg NMP, $200,000 is for Alice Ferguson (Wareham Lodge), $497,000 is for Indiana Dunes NL (West Beach), $206,000 is for Indiana Dunes NL (Dunbar Beach), $300,000 is for Death Valley NP (Cow Creek), $140,000 is for San Juan NHS (sewer repairs), $243,000 is for El Morro (restrooms), $250,000 is for Timucuan NP&P (Kingsley Plantation), $250,000 is for the George Washington Memorial Parkway, $310,000 is for Saratoga NHP (Victory Woods), $375,000 is for Dayton Aviation NHP (Wright Dunbar Plaza), $400,000 is for New River Gorge NR (building stabilization), $340,000 is for New River Gorge NR (HVAC), $350,000 is for Harpers Ferry NHP (building repairs), $490,000 is for Harpers Ferry NHP (exhibits/trails), and $640,000 is for Natchez Trace Parkway (re-striping and sealing).

The conference agreement provides $298,509,000 for park support, instead of $298,659,000 as proposed by the House and $301,721,000 as proposed by the Senate. Changes to the House level include a decrease of $400,000 for Jamestown 2007 and an increase of $250,000 for wild and scenic rivers. Funding for Jamestown has been moved to the statutory or contractual aid program.

The conference agreement provides $130,557,000 for external administrative costs, the same as the House and Senate.

Bill language.—The conference agreement does not include language proposed by the House relating to across the board increases for parks. The managers agree to provide $97,600,000 in 2-year funding for maintenance, repair and rehabilitation, and an earmark of $2,000,000 for Youth Conservation Corps projects.

The conference agreement continues to earmark one-third of the challenge cost share program for the National Trails System. Foreign travel must continue to be preapproved by the Committees on Appropriations.

The conference agreement has provided $48,000 for Johnstown Area Heritage Association Museum and $785,000 for Ice Age National Scientific Reserve in the statutory or contractual aid program in the national recreation and preservation account.

The managers are aware of the recent completion of the Natchez Trace Parkway. Given the historic significance of the Parkway and its high visitation levels, the managers encourage the Secretary to consider elevating the superintendent's position to the senior executive service.

United States Park Police

The conference agreement provides $81,411,000 for the United States Park Police instead of $82,411,000 as proposed by the House and $80,411,000 as proposed by the Senate. The additional funds are for new recruit classes.

National Recreation and Preservation

The conference agreement provides $54,965,000 for national recreation and preservation, instead of $48,997,000 as proposed by the House and $56,729,000 as proposed by the Senate.

The conference agreement provides $554,000 for recreation programs, the same as the House and the Senate. The conference agreement provides $9,845,000 for natural programs instead of $9,545,000 as proposed by the House and $10,045,000 as proposed by the Senate. The change to the House level is an increase of $300,000 for rivers, trails and conservation assistance.

The conference agreement provides $20,028,000 for cultural programs instead of $19,953,000 as proposed by the House and $20,403,000 as proposed by the Senate. Changes to the House level include an increase of $375,000 for underground railroad to freedom grants. Decreases to the House level include $300,000 for a digitization design plan. Within available funds, $300,000 is provided for Heritage Preservation Inc.

Within the funds provided for the cultural program, $200,000 is to initiate planning authorized in the American Revolution Commemoration Act. The Service is strongly encouraged to include funding for this in the fiscal year 2007 budget. The managers expect the Service to address the management and program issues detailed in the House report regarding the Chesapeake Bay Gateways and Water Trails program.

The managers have once again provided funding for the Center for Preservation Technology and Training in Louisiana. The creation of this facility was recommended to the Committee by the National Park Service, yet the budget request did not include these funds. The managers strongly urge the Service to include adequate funding for the Center in future budget requests.

The conference agreement provides $1,618,000 for international park affairs, the same as the House and Senate. The conference agreement provides $399,000 for environmental and compliance review, the same as the House and the Senate. The conference agreement provides $1,913,000 for grant administration, the same as the House and the Senate.

The conference agreement provides $13,400,000 for designated heritage areas and $100,000 for administration. Funds are to be distributed as follows:

Project	*Amount*
America's Agricultural Heritage Partnership	$700,000
Augusta Canal National Heritage Area	350,000
Automobile National Heritage Area	450,000
Blue Ridge National Heritage Area	800,000
Cane River National Heritage Area	800,000
Delaware and Lehigh National Heritage Corridor	750,000
Erie Canalway National Heritage Corridor	650,000
Essex National Heritage Area	800,000
Hudson River Valley National Heritage Area	450,000
John H. Chafee Blackstone River Valley National Heritage Corridor	800,000
Lackawanna Valley National Heritage Area	500,000
Mississippi Gulf Coast National Heritage Area	200,000
National Aviation Heritage Area	200,000
National Coal Heritage Area	100,000
Ohio & Erie Canal National Heritage Corridor	800,000
Oil Region National Heritage Area	200,000
Quinnebaug & Shetucket Rivers Valley National Heritage Corridor	800,000
Rivers of Steel National Heritage Area	800,000
Schuykill River Valley National Heritage Center	450,000
Shenandoah Valley Battlefields National Historic District	450,000
South Carolina National Heritage Corridor	800,000
Tennessee Civil War Heritage Area	400,000
Wheeling National Heritage Area	800,000
Yuma Crossing National Heritage Area	350,000
Subtotal	13,400,000
Technical Support	100,000
Total, Heritage Partnership Programs	$13,500,000

The conference agreement provides $7,108,000 for statutory or contractual aid, instead of no funding as proposed by the House and $8,225,000 as proposed by the Senate. The funds provided are to be distributed as follows:

Project	*Amount*
Brown Foundation	$250,000
Chesapeake Bay Gateways & Water Trails	1,500,000
Crossroads of the West Historic District	500,000
Delta Interpretive Center, MS	1,000,000
Ft. Mandan, Ft. Lincoln, and No. Plains Foundations	625,000
Harper's Ferry NHP (Niagara Movement)	300,000
Ice Age National Scientific Reserve	785,000
Jamestown 2007 (moved from ONPS)	400,000
Johnstown Area Heritage Association	48,000
Lamprey River	600,000
Native Hawaiian culture & arts program	600,000
Siege and Battle of Corinth Commission (Contraband Camp)	500,000
Total	$7,108,000

Historic Preservation Fund

The conference agreement provides $73,250,000 for the historic preservation fund instead of $72,705,000 as proposed by the House and $74,500,000 as proposed by the Senate.

Changes to the House level include increases of $250,000 for States and Territories and $795,000 for Indian tribes. Decreases to the House level include $500,000 for historically black colleges and universities.

The conference agreement includes a total of $30,000,000 for Save America's Treasures. Of this amount, $13,250,000 is for competitive grants, of which $5,000,000 is provided for Preserve America grants, and the balance of the funds are to be distributed as follows:

Project/State	*Amount*
Actors Theatre, KY	$150,000
Anaconda-Deer Lodge Courthouse, MT	150,000
Athenaeum, VA	75,000
Beacon Island Agate Basin Site, ND	250,000
Bethel Cultural Arts Center, SC	200,000
Black Horse Tavern, PA	150,000
Brooklyn Arts Center at St. Andrews, Wilmington, NC	180,000
Brookville Historic District, PA	150,000
Bulgarian-Macedonian National Educational and Cultural Center	150,000
Bushrod Crawford/McClellan's HQ Building, WV	250,000
Calfax Depot, CA	50,000
Cambria Iron Works, PA	200,000
Campo de Cahuenga, CA	75,000
Carlyle House, VA	50,000
Carnegie Library Building, Missoula, MT	400,000
Church of the Advocate, PA	125,000
Copiah County Courthouse, MS ,	225,000
Elson Mill, OH	200,000
Fair Park, TX	100,000
Fort Mitchell NHL, AL	140,000
Freedmen's Cemetery, VA	75,000
Ft. Gratiot Lighthouse, MI	400,000
Ft. Ticonderoga Pavillion, NY	150,000
Gadsby's Tavern, VA	50,000
Graycliff Estate, NY	150,000
Greene Courthouse, MO.	100,000
Hayes Presidential Home, OH	400,000
Heroine Steamboat, OK	200,000
Hickman House, MO	250,000
High Bridge Stairway, Bronx, NY	200,000
Hinds County Courthouse, Raymond, MS	225,000
Historic Bethlehem Partnership, 1762 Waterworks, PA	150,000
Hudson Coal Company Shanty & Fan House, PA	200,000
Indiana Harbor Branch library, IN	200,000
Jasper Courthouse, MO	100,000
Jens Jensen Park, IL	175,000
John C. Campbell Folk School, NC	200,000
John List House, WV	250,000
Kam Wah Chung & Co. Museum, OR	400,000
Lac du Flambeau Boys & Girls Indian School	95,000
Landmark Theatre, NY	240,000
Las Vegas Historic Post Office, NV	540,000
Liberty Memorial Museum, MO	300,000
McKelvy House at Lafayette College, PA	250,000
Minnequa Steel Works Archives & Museum, CO	200,000
Mission San Miguel, CA	300,000
Monroe Courthouse, MS	150,000
Montrose City Hall Renovation, CO	100,000
Moravian College, PA	140,000
Morristown College, Morristown, TN	175,000
Moundville Archaeological Park, AL	500,000
Mount Royal Station & Train Shed, MD	300,000
Mt. Sterling Methodist Church, KY	250,000
Murray Schoolhouse, CA	30,000
Ocean Springs Community Center, MS	100,000
Old Capitol Museum, IA	365,000
Olympic Stadium, WA	150,000
Palace Theatre Renovations, Columbus, OH	250,000
Pantages Theater, WA	150,000
Pearl Buck House, PA	140,000
Pelham Picture House, NY	200,000
Pennsylvania House, OH	200,000
Plaza House and Vickrey-Brunswig Complex, CA	200,000
Preservation Maryland Tobacco Barns, MD	200,000
President Benjamin Harrison Home, IN	200,000
Randolph County Community Arts Center, WV	140,000
Rev. Harrison House Museum, MA	250,000

Project/State	Amount
Roberson Museum and Science Center, NY	100,000
Shafter Research Center, CA	200,000
Slater Memorial Park Bandshell, RI	100,000
Soldiers and Sailors Monument, OH	100,000
St. Ann Arts & Cultural Center, RI	300,000
St. Luke AME Church, KS	100,000
St. Martin Parish Courthouse, LA	150,000
Stanley Theater, NY	250,000
Tecumseh Theatre, OH	200,000
Tioga County Council on the Arts, NY	20,000
Tule Lake Interment Camp, CA	200,000
USS *Joseph P. Kennedy*, MA	300,000
Vermont History Center Auditorium, VT	300,000
Victory Memorial Drive Historic District, MN	200,000
Waco Texas Mammoth Paleontology Site (preservation building), TX	200,000
Walker-Eisen Building, CA	150,000
Waterbury Historic Preservations, CT	200,000
Wilox Park, Westerly, RI	150,000
Woodstock Craftsmen Guild/Byrdcille Art Colony, NY	130,000
Woodward Opera House, OH	140,000
Total	16,750,000

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

The conference agreement provides $301,291,000 for construction instead of $291,230,000 as proposed by the House and $299,201,000 as proposed by the Senate. The funds are to be distributed as follows:

Project	Amount
Abraham Lincoln Presidential Library & Museum	$1,000,000
Amistad NRA (upgrade water & wastewater systems, Diablo East)	1,003,000
Big Bend NP (curatorial)	2,100,000
Blue Ridge Parkway (replace Otter Creek Bridge & campground services)	804,000
Blue Ridge Parkway (visitor center)	3,500,000
Boston Harbor Islands NRA (construct floating docks)	832,000
Boston NHP (Bldg. 5)	3,082,000
Chaco Culture NHP (replace & upgrade curation facilities w/ UNM)	4,238,000
Chesapeake & Ohio Canal NHP (rehab Great Falls visitor ctr. & facilities)	1,847,000
Cumberland Island NS (Plum Orchard home)	3,247,000
Cuyahoga Valley NP (rehab)	2,500,000
Delaware Water Gap NRA (cabins)	700,000
Delaware Water Gap NRA (replace Depew recreations site)	2,871,000
Everglades NP (modified water delivery system)	25,000,000
Fire Island NS (West Entrance Ranger Sta. and construct restrooms)	764,000
Flight 93 Memorial	1,000,000
Fort Larned NHS (North Officers' Quarters)	1,159,000
Fort Washington Park (stabilization)	2,876,000
George Washington Mem. Parkway (rehab Arlington House)	1,251,000
Glacier NP (remove hazmat and correct fire egress at Many Glacier hotel)	758,000
Grand Portage NM (establish heritage center)	4,000,000
Gulf Islands NS (rehab Ft. Pickens water system)	971,000
Harpers Ferry NHP (rehab Jackson Hs, School Hs Ridge trails/ways., Arm.)	510,000
Homestead NM (visitor center/heritage museum and education center)	3,690,000
Hopewell Culture NHP (salvage arch. resources threatened by erosion)	389,000
Hot Springs NP (rehab bathhouses)	6,059,000
Independence NHP (Mall landscaping/infrastructure)	2,000,000
John H. Chafee Blackstone River Valley NHC	500,000
Kalaupapa NHP (replace non-compliant cesspools)	3,779,000
Kenai Fjords NP (multi-agency center)	495,000
Keweenaw NHP (Calumet & Hecla Bldg rehab, Phase II)	1,650,000
Little Rock Central High School NHS (complete visitor center)	5,100,000
Mark Twain Boyhood Home NHL (restoration)	400,000
Moccasin Bend NAD (erosion)	2,000,000
Mt. Rainier NP (rehab structural components at Paradise Inn and Annex)	7,900,000
Mt. Rainier NP (replace Jackson Visitor Ctr and rehab parking areas)	14,307,000
New River Gorge NR (various)	769,000
Olympic NP (Elwha River ecosystem)	5,000,000
Pinnacles NM (relocate and replace maintenance & visitor facilities)	4,794,000
Redwood NP (protect park resources by removing failing roads)	2,169,000
San Francisco Maritime NHP (repair Sala Burton Maritime Museum bldg.)	4,350,000
Saugus Iron Works NHS (rehab resources for accessibility and safety)	1,334,000
Shenandoah NP (rehab & remodel Panorama facility as visitor/learning ctr)	4,835,000
Shiloh NMP (Corinth interpretation)	500,000
Southwest Pennsylvania Heritage Commission	2,500,000
Statue of Liberty/Ellis Island NM (rehab Ellis Island seawall)	8,452,000
Tuskegee Airmen NHS (preserve and rehab Moton Airfield site)	6,767,000
Utah Public Lands Artifact Preservation Act	4,000,000
Valley Forge NHP (George Washington's headquarters)	2,326,000
Western Artic National Parklands (NW Alaska Heritage Ctr & admin. facil.)	12,733,000
White House (structural and utility rehab)	6,523,000
Wind Cave NP (replace failing wastewater treatment facility)	4,928,000
Wolf Trap NP (replace Main Gate facility, Filene Ctr; Phase 2)	3,000,000
Yellowstone NP (Old Faithful Inn)	11,118,000
Yellowstone NP (replace Madison wastewater facility)	4,114,000
Yellowstone NP (replace Old Faithful Visitor Center)	11,175,000
Yosemite NP (replace haz. gas disinfect. sys., El Portal waste. plant)	2,176,000
Subtotal, Line Item	217,845,000
Emergency/unscheduled projects	3,000,000
Housing replacement	7,000,000
Dam safety	2,662,000
Equipment replacement	26,000,000
Construction planning	19,925,000
Construction program management	28,105,000
General management planning	13,754,000
Subtotal, (before use of priors)	318,291,000
Use of prior year unobligated balances	- 17,000,000
Total	301,291,000

The funds provided for general management planning should be expended consistent with project directives in both the House and Senate reports.

Funds provided for Big Bend NP (curatorial facility), Grand Portage NM (heritage center), Homestead NM (visitor center), Little Rock Central High School NHS (visitor center), Wolf Trap (main gate facility) and Yellowstone NP (Old Faithful visitor center) are intended to complete these projects.

Funds provided for the Flight 93 National Memorial may not be used for land acquisition. The Service is strongly encouraged to reduce dramatically the amount of land required for this project.

The managers expect the National Park Service and the legislated partners for the Dayton Aviation Heritage National Historical Park to collaborate in the development of a priority list of requirements needed to fulfill the authorized mission of the park. Such a list should give consideration to both the recurring and non-recurring needs of the park, and should serve as a framework for guiding decisions about the most important investments needed to further the park's purpose. The managers recognize that the National Aviation Heritage Area may have a separate set of priorities, but the priorities for the park and heritage area should complement one another.

The managers direct the National Park Service to explore viable ways to encourage the sale, by concessioners or via lease agreements (in accordance with real property leasing authority, 36 CFR Part 17), of authentic American made souvenirs, which reflect, educate, and celebrate the unique history, spirit, culture, and natural treasures of the designated region and individual park, either through existing concessioner retail operations or other appropriate agreements. The managers expect a written report detailing progress made by December 1, 2006.

The managers encourage the Secretary to give priority consideration for funding in the next round of Southern Nevada Public Lands Management Act project approvals to the water and wastewater system improvements that were proposed in the fiscal year 2006 budget request for Lake Mead National Recreation Area. The managers are aware that nearly $1 billion in revenues will be available in fiscal year 2006. Of that amount, the Secretary of the Interior controls 85 percent. Projects such as these should be funded from this source and not requested in the budget.

The managers understand that private funds already raised toward replacement visitor facilities at the U.S.S. Arizona Memorial are available for planning and design of the new facility. The National Park Service is nearing completion of its review of this partnership construction project, and is encouraged to complete the review and advance the project to the next stage as expeditiously as possible. Before final approval, the Director of the National Park Service should forward to the House and Senate Committees on Appropriations the details of the financing of this project. The managers understand that the present facility is undersized for the visitation to this park site, and that a new facility is needed to address functional and structural requirements.

Bill language.—The conference agreement provides $400,000 for the Mark Twain Boyhood Home NHL to be derived from the Historic Preservation Fund. The agreement also includes language proposed by the Senate permitting a solicitation that includes the full scope of the contract for the Jackson Visitor Center replacement and rehabilitation of the Paradise Inn and Annex at Mount Rainier NP.

The managers have included $25,000,000 for the purpose of implementing the Modified Water Deliveries to Everglades National Park project which will allow the Army Corps of Engineers to continue this important restoration project so as to restore more natural water flows to the park. The $25,000,000 is subject to the reporting requirements of P.L. 108-108 and the availability of the funds is contingent upon the appropriation and full availability of funds appropriated to the Army Corps of Engineers for the purpose of implementing the project, including the development of detailed design documents for a bridge or series of bridges for Tamiami Trail that will allow for restored water flows between the water conservation areas and Everglades National Park.

Land and Water Conservation Fund

(RESCISSION)

The conference agreement rescinds the contract authority provided for fiscal year 2006 by 16 U.S.C. 460l–10a as proposed by both the House and the Senate.

Land Acquisition and State Assistance

The conference agreement provides $64,909,000 for land acquisition and State assistance instead of $9,421,000 as proposed by the House and $86,005,000 as proposed by the Senate.

The managers agree to the following distribution of funds:

Area (State)	*Amount*
Big Thicket National Preserve (TX)	$2,000,000
Chickamauga-Chattanooga NMP (TN)	1,800,000
Civil War Battlefield Sites (Grants)	3,000,000
Gauley River NRA (WV)	500,000
Golden Gate NRA (CA)	525,000
Haleakala NP (HI)	3,700,000
Harpers Ferry NHP (WV)	2,000,000
Ice Age NST (WI)	1,000,000
Lewis and Clark NHP (OR/WA)	1,600,000
New River Gorge NSR (WV)	2,000,000
Pinnacles NM (CA)	3,000,000
Piscataway Park (MD)	700,000
Shenandoah Valley Battlefields NHD (VA)	1,000,000
Sleeping Bear Dunes NL (MI)	5,300,000
Wilson's Creek NB (MO)	1,200,000
Wrangell-St. Elias NP & P (AK)	750,000
Subtotal	30,075,000
Emergencies and Hardships	2,500,000
Acquisition Management	9,749,000
Inholdings	2,500,000
Use of Prior Year Balances	–9,915,000
Stateside Grants	28,413,000
Stateside Administration	1,587,000
Total	$64,909,000

Bill Language.—The conference agreement includes language proposed by the Senate, providing that none of the funds provided for the State assistance program may be used to establish a contingency fund.

The conferrence agreement rescinds $9,915,000 in prior year funds from the Cat Island project at Gulf Islands National Seashore, as proposed by the House.

The managers agree that the heroic efforts by the passengers of Flight 93 should be remembered with a lasting memorial. Although no funds are provided for land acquisition, $1,000,000 is included in the construction account for planning activities.

The managers have revised the reprogramming guidelines to specify that the reprogramming requirement for acquisitions in excess of appraised values does not apply to the National Park Service for condemnations, declarations of taking, and tracts with an appraised value of $500,000 or less. The revised reprogramming guidelines are contained in the front of the statement of the managers in this report.

Administrative Provisions

The conference agreement does not include the longstanding proviso providing that none of the funds may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913.

UNITED STATES GEOLOGICAL SURVEY

Surveys, Investigations, and Research

The conference agreement provides $976,035,000 for surveys, investigations, and research instead of $974,586,000 as proposed by the House and $963,057,000 as proposed by the Senate.

Mapping, Remote Sensing and Geographic Investigations.—The change to the House level for mapping, remote sensing and geographic investigations is a decrease of $2,000,000 for the Landsat program.

The managers direct the Survey to offset the decrease with reductions in travel, administrative streamlining and buyout savings throughout the Bureau.

Geologic Hazards, Resources and Processes. Changes to the House level for geologic hazards, resources and processes include increases of $500,000 for Alaska gas hydrates, and decreases of $648,000 for Florida shelf research, $412,000 for Puget Sound and $1,134,000 for Alaska mineral assessments.

The managers strongly disagree with the Administration's proposed reductions to the minerals assessment program and believe it is irresponsible for the Administration to decrease or eliminate funding for what is clearly an inherently Federal responsibility. The conference agreement restores funding for this vital program to the enacted level.

Water Resources Investigations.—Changes to the House level for water resources investigations include increases of $500,000 for the Memphis aquifer study, $230,000 for the Ozark aquifer study, $1,250,000 to continue Tar Creek remediation with the University of Oklahoma, $900,000 for coalbed methane research on the Tongue River, $450,000 for water monitoring in Hawaii, $295,000 for Lake Champlain monitoring and a decrease of $450,000 for the San Pedro partnership.

The managers are concerned by continuing reports that suggest the Survey's water resources program is providing or seeking to provide a variety of commercial services to Federal and non-Federal entities in direct competition with the private sector. The managers have previously encouraged the Survey to use the services of the private sector in the conduct of its activities wherever feasible, cost effective, and consistent with the quality standards and principles pertaining to the effective performance of governmental functions. The managers expect that the Survey should strive to implement such a policy to the best of its ability in the performance of its work.

The managers agree that if the San Francisco South Bay salt ponds project is a priority for the Survey, additional funding should be requested in future budgets.

The managers agree to continue the Lake Champlain monitoring and research assessment activities and have included increased funding of $295,000 to restore the program to the enacted level. Future budget requests should include sufficient funds for these operations.

The managers agree that the Survey's participation in the Long Term Estuary Assessment program should be continued at the current year enacted level.

Biological Research.—Changes to the House level for biological research include increases of $100,000 for the invasive species initiative, $350,000 to complete the Mark Twain National Forest mining study, $800,000 for molecular biology research at the Leetown Science Center, $200,000 for the multidisciplinary water study at Leetown Science Center, $350,000 for pallid sturgeon research, $200,000 for the diamondback terrapin study, $400,000 to complete the Northern Continental Divide Ecosystem study in Montana, $55,000 to restore the base funding for Cooperative Research Units, $400,000 for remote survey and monitoring equipment for the ivory-billed woodpecker in Arkansas, $200,000 for the University of Missouri-Columbia to establish a wetland ecology center for excellence, and decreases of $150,000 for a database of invasive species on national wildlife refuges and $185,000 for equipment for the Anadromous Fish Research Center.

The managers have included a portion of the requested funding increase for the invasive species initiative and direct the Survey to fund the leafy spurge eradication program proposed in the request.

The managers have included funding for ivory-billed woodpecker survey efforts in Arkansas. The funding should be used in collaboration with Cornell University's Laboratory of Ornithology and the U.S. Fish and

Wildlife Service to conduct aerial and ground surveys using remote video and acoustic technologies.

The managers understand funding provided to the University of Missouri-Columbia for the establishment of a wetland ecology center of excellence should be used for one-time start-up costs and this funding will not be included in future appropriations.

The managers remain concerned about the National Biological Information Infrastructure program. No clearly coordinated budgetary and programmatic plan has emerged for its expansion, and the managers remain concerned about the reason an Internet-based program that hosts biological information must be geographically distributed.

The managers understand that the multidisciplinary water study at Leetown Science Center is nearing completion. The Survey should provide a brief report to the House and Senate Committees on Appropriations by December 31, 2005, evaluating the research that has been conducted to date and outlining what, if any, issues remain to be addressed in order to finish the project.

Science Support.—The change to the House level for science support is a decrease of $2,000,000 for the Landsat program.

The managers direct the Survey to offset the decrease with reductions in travel, administrative streamlining and buyout savings throughout the Bureau.

Bill Language.—The conference agreement modifies language included in both the House and Senate bills allowing the Survey to publish and disseminate data.

ADMINISTRATIVE PROVISIONS

The conference agreement includes language proposed by the Senate that contained minor technical differences from the House.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

The conference agreement provides $153,651,000 for royalty and offshore minerals management instead of $152,676,000 as proposed by the House and $152,516,000 as proposed by the Senate. The managers agree to the following changes to the House recommendations:

1. The leasing and environmental program includes an earmark of $150,000 within available funds for the Alaska Whaling Commission as proposed by the Senate and there is a decrease of $175,000 for fixed costs.
2. Resource evaluation includes an increase of $900,000 for the Center for Marine Resources, MS as proposed by the Senate and a decrease of $100,000 for fixed costs.
3. The regulatory program has a decrease of $200,000 for fixed costs.
4. The information management program has a decrease of $200,000 for fixed costs.
5. Royalty management includes an increase of $1,000,000 for the State and tribal audit program.
6. General administration includes fixed cost decreases of $250,000 for administrative operations and $150,000 for general support services.
7. The Department is undertaking a study of the impacts of the merger of the GovWorks program into the National Business Center. This study will also include an assessment of the impact that this organizational realignment will have on MMS's ability to carry out its mission. The managers understand that an initial organizational transfer will commence at the beginning of the fiscal year, but before the final commencement of the restructuring, the managers expect to receive a report on the impacts of the merger.

OIL SPILL RESEARCH

The conference agreement provides $7,006,000 for oil spill research as proposed by both the House and the Senate.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

The conference agreement provides $110,535,000 for regulation and technology as proposed by both the House and the Senate. This total includes an indefinite appropriation estimated to be $100,000.

ABANDONED MINE RECLAMATION FUND

The conference agreement provides $188,014,000 for the abandoned mine reclamation fund as proposed by both the House and the Senate. The managers note that bill language within Title I, general provisions, provides an extension until June 30, 2006, of the Secretary's authority to collect fees pursuant to the Surface Mining Control and Reclamation Act. The conference agreement includes the bill language proposed by the House which provides for a one-time transfer of the balance in the fund for the rural abandoned mine program, which has not been used for 10 years, to the Federal share fund, so the funds could be used in the future for emergencies and other Federal obligations. The conference agreement also includes the bill language recommended by the Senate concerning special grant authorities for Maryland's acid mine abatement program.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

The conference agreement provides $1,991,490,000 for the operation of Indian programs instead of $1,992,737,000 as proposed by the House and $1,971,132,000 as proposed by the Senate.

The managers agree that an alternative budget structure for the operation of Indian programs would provide greater opportunity for reviewing funding levels and assessing performance on a programmatic level. The managers are concerned that there was inadequate consultation with Tribes when preparing this new budget structure. The Bureau should follow previous guidance given in the House and Senate reports on this issue.

Tribal Priority Allocations.—The change to the House level for tribal priority allocations is a decrease of $750,000 for the Indian Child Welfare Act.

Other Recurring Programs.—Changes to the House level for other recurring programs include increases of $12,500,000 for tribally controlled community colleges, $500,000 for technical assistance for tribally controlled community colleges, $210,000 for fish hatchery maintenance, $98,000 for the Alaska Sea Otter Commission, $450,000 for the Bering Sea Fishermen's Association, $300,000 for the Chugach Regional Resources Commission, $350,000 for Lake Roosevelt management, and decreases of $12,000,000 for ISEP formula funding, $1,500,000 for student transportation, $200,000 for irrigation operations and maintenance, $1,000,000 for the Washington State Fish and Wildlife program and $1,250,000 for the Chippewa Ottawa Resource Authority.

The managers have included funding in the ISEP program and direct this increase to the Bureau's FOCUS program for assisting at-risk children, encouraging more parental participation in schools, and encouraging participation in after-school activities.

The managers are aware that the Department is examining how to strengthen management of education programs and would consider a reprogramming from education program adjustments to support education management.

The managers have retained the increases provided in both the House and Senate bills for the Intertribal Bison Cooperative.

Non-recurring Programs.—Changes to the House level for non-recurring programs include increases of $500,000 for the Rocky Mountain Patient Advocate program, $750,000 for the rural Alaska fire program, $1,500,000 for the Salish and Kootenai College information technology program, $1,500,000 for water management planning, $400,000 for Alaska legal services, and a decrease of $970,000 for the endangered species program.

The managers expect funding provided for the Rocky Mountain Patient Advocate Program to be the last installment from this account. The program is expected to seek other methods of funding to become a self-sufficient, long term, advocacy program for Native Americans seeking health care.

The managers agree that within the water management and planning program, $200,000 is for the operation, maintenance, and repair of the Fort Peck Reservation tribal water system.

Special Programs and Pooled Overhead.—Changes to the House level for special programs and pooled overhead include increases of $49,000 for the United Tribes Technical College, $450,000 for the United Sioux Tribes Development Corporation, $1,250,000 for the Western Heritage Center tribal history and education project, $100,000 for the Rocky Mountain Tribal education symposia, $74,000 for the Crownpoint Institute and decreases of $4,500,000 for public safety and justice law enforcement and $58,000 for the National Ironworkers Training program.

The managers believe that the United Tribes Technical College and Crownpoint Institute are institutions of higher learning that provide an educational benefit to Indian country and should be included in future budget requests.

Bill Language.—The conference agreement includes language proposed by the Senate that continues to allow the use of contract support funds for indirect contract support costs. The House included language that allowed the use of contract support funds for both direct and indirect costs.

The managers believe that any change to the allocation of contract support costs must be done formally with tribal consultation and any funding for direct contract support costs should be above the current levels provided for indirect contract support costs.

CONSTRUCTION

The conference agreement provides $275,637,000 for construction instead of $284,137,000 as proposed by the House and $267,137,000 as proposed by the Senate. Changes to the House level include an increase of $7,500,000 for irrigation projects and decreases of $10,000,000 for replacement school construction, $1,000,000 for employee housing, and $5,000,000 for facilities improvement and repair.

The addition of $7,500,000 in non-reimbursable construction funds for Indian irrigation rehabilitation is separate from the Navajo Indian Irrigation Project, which retains its own construction budget of $12,773,000. Within the funds provided for Indian irrigation rehabilitation, a number of Bureau and tribal projects are in desperate need of immediate attention to continue delivering water to users. The Bureau is expected to consult with the House and Senate Committees on Appropriations, in the form of a detailed proposal, prior to obligating funds. The Bureau is expected to administer these funds from the central office program level to address projects with the greatest need of rehabilitation. Construction of new projects or expansion of existing projects is secondary to the rehabilitation, reconstruction, and necessary upgrade of current irrigation projects and systems. Specific projects to be addressed under these guidelines, and to be addressed in the Bureau's proposal for the obligation of these funds are: the Fort Yates Unit of the Standing Rock Sioux Project, the Blackfeet Irrigation Project, the Crow Irrigation Project, the Fort Belknap Irrigation Project, the Fort Peck Irrigation Project, and the Wind River Irrigation Project.

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

The conference agreement provides $34,754,000 for Indian land and water claim settlements and miscellaneous payments to Indians as proposed by the House instead of $24,754,000 as proposed by the Senate.

The managers have agreed to $10,000,000 for the Quinault Indian Nation settlement and retained bill language included in the House that authorized the payment. The managers understand that this is the final payment for this settlement.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

The conference agreement provides $6,348,000 for the Indian guaranteed loan program as proposed by both the House and the Senate.

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

The conference agreement provides $76,883,000 for assistance to territories instead of $76,563,000 as proposed by the House and $76,683,000 as proposed by the Senate. Changes in funding levels from the House recommendation include the Senate recommendation for an additional $320,000 to continue judicial, court education, and court administration training.

COMPACT OF FREE ASSOCIATION

The conference agreement provides $5,362,000 for the compact of free association as proposed by the House instead of $4,862,000 as proposed by the Senate. The conference agreement follows the funding recommendations made by the House.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

The conference agreement provides $127,183,000 for departmental management instead of $97,755,000 as proposed by the House and $104,627,000 as proposed by the Senate. The changes described below are to the House recommended funding level.

Management and Coordination.—Performance data contracting/financial management is reduced by $250,000.

Central Services.—IT certification and accreditation is reduced by $322,000.

Financial and Business Management System.—The conference agreement reduces the Financial and Business Management System by $1,000,000.

Other Items.—The conference agreement restores $21,000,000 for necessary expenses for management of the Department of the Interior.

Bill Language.—The conference agreement retains language proposed by the Senate deriving $7,441,000 from the Land and Water Conservation Fund for consolidated land acquisition appraisal services, and prohibiting the use of funds in this Act or previous appropriations Acts to establish reserves in the Working Capital Fund other than for accrued annual leave and depreciation of equipment without prior House and Senate Committee approval.

PAYMENTS IN LIEU OF TAXES

The conference agreement provides $236,000,000 for payments in lieu of taxes instead of $212,000,000 as proposed by the House and $235,000,000 as proposed by the Senate.

CENTRAL HAZARDOUS MATERIALS FUND

The conference agreement provides $9,855,000 for the central hazardous materials fund as proposed by the House and the Senate.

The conference agreement includes language included in the Senate bill that makes provisions for this account permanent. The House did not include permanent language.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

The conference agreement provides $55,440,000 for the office of the solicitor instead of $55,340,000 as proposed by the House and $55,652,000 as proposed by the Senate. The change described below is to the House recommended funding level.

General Administration.—Funding for a FOIA appeals support position is increased by $100,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

The conference agreement provides $39,116,000 for office of inspector general as proposed by the Senate, instead of $39,566,000 as proposed by the House. The changes described below are to the House recommended funding level.

Audits.—Funding for FISMA/audit capability is decreased by $300,000.

Investigations.—Funding for additional audit staff is decreased by $150,000.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

The conference agreement provides $191,593,000 for Federal trust programs as proposed by both the House and the Senate. The managers have retained language contained in the House bill that caps the total amount of funding that can be used for historical accounting activities at $58,000,000.

The managers are closely following efforts to settle the long-standing Cobell v. Norton case and reiterate their position that any settlement to the case must be implemented in such a way that the programs in this bill are not adversely affected. The House and Senate Committees on Appropriations will not consider any settlement that decreases available funding for programs in Indian country funded in this bill. Further, the managers disagree with the continued insistence by the court that the Department of the Interior, to fulfill the intent of Congress, must perform a full historical accounting. This results in the Department of the Interior being forced to divert resources and negatively impacts programs in Indian country.

INDIAN LAND CONSOLIDATION

The conference agreement provides $34,514,000 for Indian land consolidation programs as proposed by both the House and the Senate.

NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

The conference agreement provides $6,106,000 for the natural resource damage assessment fund as proposed by both the House and the Senate.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Section 101. The conference agreement modifies a provision in section 101 of both the House and Senate bills, providing Secretarial authority to transfer program funds for expenditures in cases of emergency when all other emergency funds are exhausted.

Section 102. The conference agreement modifies a provision in section 102 of both the House and Senate bills, providing for expenditure or transfer of funds by the Secretary in the event of actual or potential emergencies including forest fires, range fires, earthquakes, floods, volcanic eruptions, storms, oil spills, grasshopper and Mormon cricket outbreaks, and surface mine reclamation emergencies. The modification requires transferred funds to be replenished by a supplemental appropriation and to be reimbursed on a pro rata basis.

Section 103. The conference agreement retains an identical provision in section 103 of both the House and Senate bills, continuing a provision providing for use of appropriated funds for contracts, rental cars and aircraft, certain library memberships, and certain telephone expenses.

Section 104–106. The conference agreement retains identical provisions in sections 104–106 of both the House and Senate bills, continuing provisions prohibiting the expenditure of funds for Outer Continental Shelf (OCS) leasing activities in certain areas.

Section 107. The conference agreement retains an identical provision in section 108 of the House bill and section 107 of the Senate bill, continuing a provision permitting the transfer of funds between the Bureau of Indian Affairs and the Office of Special Trustee for American Indians.

Section 108. The conference agreement retains a provision in section 108 of the Senate bill, continuing through fiscal year 2010 a provision that allows the hiring of administrative law judges to address the Indian probate backlog. The House had a similar provision in section 109 of the House bill.

Section 109. The conference agreement retains an identical provision in section 110 of the House bill and section 109 of the Senate bill, continuing a provision permitting the redistribution of tribal priority allocation and tribal base funds to alleviate funding inequities.

Section 110. The conference agreement retains a provision in section 110 of the Senate bill, continuing a provision requiring the allocation of Bureau of Indian Affairs postsecondary schools funds consistent with unmet needs. The House had a similar provision in section 111 of the House bill.

Section 111. The conference agreement retains an identical provision in section 112 of the House bill and section 111 of the Senate bill, continuing a provision permitting the conveyance of the Twin Cities Research Center of the former Bureau of Mines for the benefit of the National Wildlife Refuge System.

Section 112. The conference agreement retains an identical provision in section 113 of the House bill and section 112 of the Senate bill, continuing a provision authorizing the Secretary of the Interior to use helicopters or motor vehicles to capture and transport horses and burros at the Sheldon and Hart National Wildlife Refuges.

Section 113. The conference agreement modifies an identical provision in section 114 of the House bill and section 113 of the Senate bill, continuing a provision allowing certain funds provided for land acquisition at the Shenandoah Valley Battlefield NHD and

Ice Age NST to be granted to a State, a local government, or any other land management entity. The modification adds Niobrara NSR.

Section 114. The conference agreement retains an identical provision in section 115 of the House bill and section 114 of the Senate bill, continuing a provision prohibiting the closure of the underground lunchroom at Carlsbad Caverns NP, NM.

Sec. 115. The conference agreement retains a provision in section 116 of the House bill, continuing a provision preventing the demolition of a bridge between New Jersey and Ellis Island. The Senate had no similar provision.

Sec. 116. The conference agreement retains an identical provision in section 117 of the House bill and section 115 of the Senate bill, continuing a provision limiting compensation for the Special Master and Court Monitor appointed by the Court in Cobell v. Norton to 200 percent of the highest Senior Executive Service rate of pay.

Sec. 117. The conference agreement retains an identical provision in section 118 of the House bill and section 116 of the Senate bill, continuing a provision allowing the Secretary to pay private attorney fees for employees and former employees incurred in connection with Cobell v. Norton.

Sec. 118. The conference agreement retains a provision in section 119 of the House bill dealing with the U.S. Fish and Wildlife Service's responsibilities for mass marking of salmonid stocks. The Senate had no similar provision.

Sec. 119. The conference agreement retains an identical provision in section 121 of the House bill and section 117 of the Senate bill, continuing a provision prohibiting certain activities on lands described in section 123 of the Department of the Interior and Related Agencies Appropriations Act, 2001, or land that is contiguous to that land.

Sec. 120. The conference agreement retains an identical provision in section 122 of the House bill and 118 of the Senate bill, continuing a provision prohibiting the use of funds to study or implement a plan to drain or reduce water levels in Lake Powell.

Sec. 121. The conference agreement retains an identical provision in section 123 of the House bill and section 119 of the Senate bill, continuing a provision allowing the National Indian Gaming Commission to collect $12,000,000 in fees for fiscal year 2007.

Sec. 122. The conference agreement retains a provision in section 120 of the Senate bill, continuing a provision making funds available to the tribes within the California Tribal Trust Reform Consortium and others on the same basis as funds were distributed in fiscal year 2003 and separates this demonstration project from the Department of the Interior's trust reform organization. The House had a similar provision in section 124 of the House bill.

Sec. 123. The conference agreement retains an identical provision in section 125 of the House bill and section 121 of the Senate bill, continuing a provision dealing with grazing permits in the Jarbidge field office of the Bureau of Land Management.

Sec. 124. The conference agreement retains an identical provision in section 126 of the House bill and section 122 of the Senate bill, continuing a provision authorizing the Secretary of the Interior to acquire lands for the operation and maintenance of facilities in support of transportation of visitors to Ellis, Governors, and Liberty Islands.

Sec. 125. The conference agreement retains a provision in section 127 of the House bill, continuing a provision regarding special use grazing permits on the Mojave National Preserve, CA. The Senate had no similar provision.

Sec. 126. The conference agreement retains a provision in section 123 of the Senate bill, continuing a provision implementing rules concerning winter snowmobile use in Yellowstone National Park. The House had a similar provision with a slight technical difference in section 128 of the House bill.

Sec. 127. The conference agreement retains a provision in section 124 of the Senate bill, requiring the Secretary of the Interior to obtain the approval of the governing body of an Indian tribe before closing or taking any other action relating to a school of the tribe. The House had no similar provision.

Sec. 128. The conference agreement retains a provision in section 126 of the Senate bill, extending authority of the Kalaupapa National Historic Park Advisory Commission. The House had no similar provision.

Sec. 129. The conference agreement retains a provision in section 127 of the Senate bill, extending the authority of the Secretary of the Interior to collect fees pursuant to the Surface Mining Control and Reclamation Act until June 20, 2006.

Sec. 130. The conference agreement includes a new provision prohibiting the use of funds to set up Centers of Excellence and Partnership Skills Bank training without prior approval.

Sec. 131. The conference agreement modifies a provision in section 430 of the Senate bill that authorizes the National Park Service to assess a fee on overnight lodging guests at leased Fort Baker buildings in Golden Gate National Recreation Area to pay the operating expenses associated with the utilities and shuttle system of those facilities at Fort Baker. The House had no similar provision.

Sec. 132. The conference agreement modifies a provision in section 431 of the Senate bill, authorizing the retention of campground fees at Great Smoky Mountains National Park. The House had no similar provision.

Sec. 133. The conference agreement modifies a provision in section 438 of the Senate bill, providing for a feasibility study on designation of the Captain John Smith Chesapeake National Historic Watertrail as a national historic trail. The modification requires an analysis of the impacts on privately owned land and water. The House had no similar provision.

Sec. 134. Provides $10,000,000 for the Martin Luther King, Jr. Memorial in Washington, DC, and extends for two years the authorization for the Memorial. The funds provided in this section are to be matched by the newly raised, non-Federal funds.

The conference agreement does not include a provision in section 107 of the House bill prohibiting the National Park Service from reducing recreation fees for non-local travel through any park unit.

The conference agreement does not include a provision in section 120 of the House bill dealing with paying for operational needs at the Midway Atoll National Wildlife Refuge airport using funds appropriated under the "Departmental Management, Salaries and Expenses" appropriation.

The conference agreement does not include a provision in section 129 of the House bill, limiting the use of funds for staffing for the Department of the Interior's Office of Law Enforcement and Security. The Department has assured the managers that staffing will be limited to 34 full time equivalent employees and eight detailed staff, except in the event of an emergency.

The conference agreement does not include a provision in section 125 of the Senate bill authorizing the Secretary of the Interior to collect and retain parking fees at the U.S.S. Arizona Memorial. The managers understand that the Department has determined that the Secretary currently has such authority pursuant to the Federal Lands Recreation Enhancement Act (FLREA).

TITLE II—ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

The conference agreement provides $741,722,000 for science and technology instead of $765,340,000 as proposed by the House and $730,795,000 as proposed by the Senate. Changes to the House recommended level are described below.

Air Toxics and Quality.—In air toxics and quality, there is a decrease of $619,000 for the clean air allowance trading programs.

Climate Protection.—In climate protection programs, there is a decrease of $1,000,000.

Research/Congressional Priorities.—The conference agreement provides a total of $33,275,000 for high priority projects, a decrease of $6,725,000 below the House recommended level. The managers have not agreed to a competitive solicitation this year for these programs. This issue may be revisited in future years. The managers agree to the following distribution of funds:

State	Project name	Amount
1. AL	University of South Alabama Center for Estuarine Research	$500,000
2. CA	Central California Ozone Study, San Joaquin Valleywide Air Pollution Study Agency	375,000
3. CA	Irrigation Training and Research Center—Cal Poly., San Luis Obispo Flow Rate Measurement	1,200,000
4. DE	Center for the Study of Metals in the Environment at the University of Delaware	250,000
5. FL	FL Dept. of Citrus Abscission Chemical Studies	1,000,000
6. ID	Boise State University to continue research on multi-purpose sensors to detect and analyze contaminants and time-lapse imaging of shallow subsurface fluid flow.	500,000
7. IL	Clean Air Counts program emission reduction partnership with the Illinois Environmental Protection Agency	800,000
8. KY	University of Louisville Lung Biology/Translational Lung Disease Program	1,500,000
9. LA	Louisiana Smart Growth program in the State of Louisiana	500,000
10. NC	UNC Charlotte VisualGRID	500,000
11. ND	Center for Air Toxic Metals, EERC at the University of North Dakota	2,000,000
12. NM	National Environmental Respiratory Center [NERC] at the Lovelace Respiratory Research Institute in Albuquerque, New Mexico	500,000
13. NY	Alfred University Center for Environmental and Energy Research	750,000
14. NY	Environmental Systems Center of Excellence at Syracuse Univ., NY Indoor Environment Quality	2,000,000
15. OH	Ohio University Consortium for Energy, Economics, and the Environment	500,000
16. OH	The Ohio State University Olentangy River Wetlands Park Teaching, Research, and Outreach Initiative	500,000
17. SD	Missouri River Institute at the University of South Dakota	400,000
18. TN	University of Memphis Groundwater Institute to conduct a groundwater study	500,000

State	Project name	Amount
19. TN	University of Tennessee at Knoxville Natural Resources Policy Center	500,000
20. TX	Comprehensive assessment of Lake Whitney at Baylor University	200,000
21. TX	Environmental program at the Water Policy Institute at Texas Tech University	450,000
22. TX	Mickey Leland National Urban Air Toxic Research Center	1,500,000
23. TX	Poultry science project at Stephen F. Austin State University	200,000
24. TX	Texas Air Quality Study 2	2,000,000
25. TX	Texas Institute for Applied Environmental Research	400,000
26. TX	Texas State University System Geography and Geology Project	800,000
27. VT	Aiken Greening at the University of Vermont	400,000
28. VT	Proctor Maple Research Station in Underhill, Vermont	200,000
29. WI	Paper industry byproduct waste reduction research in Wisconsin	250,000
30. WV	National Alternative Fuels Training Consortium at West Virginia University	2,000,000
31.	American Water Works Association Research Foundation	1,000,000
32.	Consortium for Plant Biotechnology Research	750,000
33.	Mine Waste Technology program at the National Environmental Waste Technology, Testing, and Evaluation Center	2,100,000
34.	New England Green Chemistry Consortium	750,000
35.	Southwest Center for Environmental Research and Policy	1,500,000
36.	Water Environment Research Foundation	3,000,000
37.	Water Systems Council Wellcare Program	1,000,000
Total		33,275,000

Research: Clean Air.—In research: clean air, there are decreases of $600,000 for global change and $2,000,000 for national ambient air quality standards.

Research: Clean Water.—In research: clean water, there is a decrease of $4,800,000 for water quality programs.

Research: Human Health and Ecosystems.—In research: human health and ecosystems, there is an increase of $15,000 for fellowships and decreases of $213,000 for endocrine disruptor research and $5,376,000 for other research, which includes decreases of $2,000,000 for exploratory grants, $600,000 for aggregate risks, $500,000 for condition assessments of estuaries in the Gulf of Mexico, and $2,276,000 for a general program reduction, which should be applied after consultation with the House and Senate Committees on Appropriations.

Research: Land Protection.—In research: land protection, there is a decrease of $2,300,000 for land protection and restoration.

Other.—The managers do not agree with the transfer of research funds to other offices. In addition to the offices mentioned in House Report 109–80, this direction applies to the Office of the Administrator, which was inadvertently omitted from the House report.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

The conference agreement provides $2,381,752,000 for environmental programs and management instead of $2,389,491,000 as proposed by the House and $2,333,416,000 as proposed by the Senate. Changes to the House recommended level are described below.

Air Toxics and Quality.—In Federal support for air quality management, there are decreases of $5,000,000 for the clean diesel initiative and $5,000,000 for other program activities. Other decreases include $400,000 for radiation protection programs, $156,000 for stratospheric ozone domestic programs, and $1,600,000 for stratospheric ozone multilateral programs.

Brownfields.—There is an increase of $362,000 for brownfields support.

Climate Protection Programs.—In climate protection, there are increases of $500,000 for the energy star program and $1,500,000 for the methane to markets program.

Compliance Monitoring.—There is a decrease of $3,184,000 for compliance monitoring.

Enforcement Programs.—In enforcement, there are increases of $1,500,000 for civil enforcement, $1,900,000 for criminal enforcement, and $500,000 for enforcement training.

Environmental Protection/Congressional Priorities.—The conference agreement provides a total of $50,543,000 for high priority projects, an increase of $10,543,000 above the House recommended level. The managers have not agreed to a competitive solicitation this year for these programs. This issue may be revisited in future years. The managers agree to the following distribution of funds:

State	Project Name	Amount
1. AL	Alabama Department of Environmental Management for a water and wastewater training program	$500,000
2. CA	Highland Learning Center	1,750,000
3. CT	Waste to Energy project in Stamford, Connecticut	250,000
4. CT	Wastewater turbine technology project for the City of New Haven, Connecticut	500,000
5. FL	University of West Florida Partnership for Environmental Research and Community Health (PERCH) program	500,000
6. HI	Hawaii Island Economic Development Board's Big Island Recycle program	500,000
7. IA	University of Northern Iowa to develop new environmental technologies for small business outreach	500,000
8. IA	Water quality project in Storm Lake, Iowa	500,000
9. IL	For an aquifer model of groundwater resources	938,000
10. LA	Grambling University in Louisiana for a water quality research program	200,000
11. LA	Lake Pontchartrain Basin Foundation lake restoration in Louisiana	500,000
12. MA	Environmental and science education program in New Bedford, Massachusetts	500,000
13. MD	Anacostia River Tidal Wetlands Project	1,000,000
14. MO	Ozarks Environmental and Water Resources Institute at Southwest Missouri State University	500,000
15. MO	Southwest Missouri Water Quality Improvement Project	1,500,000
16. MS	Environmental education initiative at Crow's Neck Environmental Education Center in Tishomingo County, Mississippi	130,000
17. MT	Air quality improvement program in Lincoln County, Montana	1,000,000
18. NC	EPA National Computer Center Research Triangle Park, NC Continuity of Operations/Disaster Recovery	2,000,000
19. NE	Lead-based paint hazard control program in Omaha, Nebraska	500,000
20. NJ	Restoration project in Greenwood Lake, New Jersey	300,000
21. NV	Walker Lake, Nevada Working Group's lake restoration program	250,000
22. NY	Central NY Watersheds in Onondaga and Cayuga Counties Water Quality Management	1,500,000
23. NY	Long Island Sound restoration	1,800,000
24. NY	Mohawk Valley, New York Water Authority's bacteria detection program	250,000
25. OK	Oklahoma Department of Environmental Quality to complete remediation work on Tar Creek	2,000,000
26. OR	Oregon Department of Environmental Quality site assessment program	250,000
27. RI	Waterfront stormwater management analysis in East Providence, Rhode Island	250,000
28. VT	Environmental clean-up and research programs in Lake Champlain, Vermont	775,000
29. VT	Storm water research program at the University of Vermont	450,000
30. WA	Northwest Straits Commission, Washington State University beach watchers marine resources program	250,000
31. WA	Rathdrum Prairie/Spokane Valley Aquifer study	300,000
32. WA	Spokane River Bi-State Non-Point Phosphorus study	250,000
33. WV	Canaan Valley Institute—On-going Operations	2,000,000
34.	America's Clean Water Foundation On-Farm Assessment and Environmental Review Program	3,000,000
35.	EPA Region 10 environmental compliance	1,000,000
36.	Groundwater Protection Council	650,000
37.	National Assoc. of Development Organizations Training and Information Dissemination Related to Rural Brownfields, Air Quality Standards, and Water Infrastructure.	500,000
38.	National Biosolids Partnership	1,000,000
39.	National Rural Water Association, including source water protection programs	11,000,000
40.	Ohio River Pollutant Reduction Program	1,500,000
41.	Rural Community Assistance Program	3,500,000
42.	Small Public Water System Technology Centers at Western Kentucky University, the University of New Hampshire, the University of Alaska-Sitka, Pennsylvania State University, the University of Missouri-Columbia, Montana State University, the University of Illinois, and Mississippi State University.	4,000,000
Total		50,543,000

Geographic Programs.—In geographic programs, there are increases of $2,000,000 for the Chesapeake Bay program, $532,000 for the Gulf of Mexico program, and $1,167,000 in other activities for Lake Pontchartrain, and decreases of $45,000 for the Lake Champlain program and $1,523,000 for the Long Island Sound program.

Indoor Air Programs.—In indoor air, there is a decrease of $400,000 for radon programs.

Information Exchange/Outreach.—In information exchange/outreach, there is a decrease of $400,000 for State and local prevention and preparedness programs.

International Programs.—In international programs, there are decreases of $250,000 for international capacity building and $1,000,000 for the persistent organic pollutants program.

Legal/Science/Regulatory/Economic Review.—There is a decrease of $600,000 for the regulatory innovation program.

Pesticide Licensing.—In pesticide licensing, there is an increase of $3,041,000 for review/re-registration of existing pesticides.

Toxics Risk Review and Prevention.—In the toxics risk review and prevention program, there is an increase of $1,356,000 for the high production volume challenge and high production volume information system and a decrease of $1,582,000 for the pollution prevention program.

Water: Ecosystems.—There is an increase of $2,000,000 for Great Lakes Legacy Act programs.

Water: Human Health Protection.—There are decreases of $1,500,000 for drinking water programs and $10,000,000 for the National Rural Water Association, which is funded under the environmental protection/Congressional priorities activity detailed above.

Water Quality Protection.—There is a decrease of $2,000,000 for the water quality monitoring program.

Bill Language.—Language is included increasing the earmark for official reception and representation expenses to $19,000 for fiscal year 2006 only.

The managers agree to the following:

1. A total of $5,000,000 is provided for the clean diesel initiative as described in House Report 109–80.

2. Within stratospheric ozone domestic programs, the Sunwise program should be continued at the fiscal year 2005 funding level.

3. A total of $2,000,000 is provided for the Puget Sound geographic program under section 320 of the Federal Water Pollution Control Act, as amended. This program is to be administered by the Washington State Department of Ecology.

4. Within indoor air programs, $2,000,000 should be used to continue environmental tobacco-related programs. The managers note that, after this set-aside, there is still an increase for asthma programs above the fiscal year 2005 level.

Office of Inspector General

The conference agreement provides $37,455,000 for the Office of Inspector General instead of $37,955,000 as proposed by the House and $36,955,000 as proposed by the Senate.

Buildings and Facilities

The conference agreement provides $40,218,000 for buildings and facilities as proposed by both the House and the Senate.

Hazardous Substance Superfund

(INCLUDING TRANSFERS OF FUNDS)

The conference agreement provides $1,260,621,000 for hazardous substance superfund instead of $1,258,333,000 as proposed by the House and $1,256,165,000 as proposed by the Senate. Changes to the House recommended level are detailed below.

Air Toxics and Quality.—In air toxics and quality, there is a decrease of $175,000 for radiation protection programs.

Enforcement.—In enforcement, there are increases of $200,000 for civil enforcement and $3,000,000 for Superfund enforcement.

Compliance.—In compliance, there are decreases of $11,000 for compliance assistance and centers, $11,000 for compliance incentives, and $200,000 for compliance monitoring.

Information Exchange and Outreach.—There is a decrease of $6,000 for congressional, intergovernmental, and external relations activities.

Information Technology/Data Management/Security.—There is a decrease of $3,000 for information security.

Operations and Administration.—In operations and administration, there is a decrease of $1,000,000 for facilities infrastructure and operations.

Superfund Cleanup.—In Superfund cleanup, there is an increase of $494,000 for emergency response and removal.

Bill Language.—Language is included earmarking $1,260,621,000 as the maximum payment from general revenues for Superfund instead of $1,258,333,000 as proposed by the House and $1,256,165,000 as proposed by the Senate.

The managers are concerned that EPA has not yet issued a Record of Decision (ROD) for Libby, Montana, despite years of cleanup efforts. The managers direct the Agency to issue its Record of Decision for Libby, Montana no later than May 1, 2006. EPA should also provide a report on the contents of the ROD to both the House and Senate Committees on Appropriations no later than June 15, 2006. The managers are disappointed that the Agency could not meet an earlier deadline, originally proposed by the Senate, and expect periodic updates on the progress of completion of the ROD for Libby, Montana.

The House proposed a study by the National Academy of Sciences of Superfund mega sites that involve dredging. Upon further reflection, the managers believe that the appropriate role for the NAS is to act as an independent peer review body that will conduct an objective evaluation of some of the ongoing dredging projects underway at Superfund mega sites. By undertaking such an evaluation, the Academy can serve as an objective voice on this issue. The manager expect that the evaluation will be initiated by December 1, 2005, and finished as soon as possible, but no later than one year after the Academy begins work. In addition, the managers insist that an such evaluation by the Academy should not delay in any way the progress of the Hudson River PCB dredging project or any other Superfund dredging project.

LEAKING UNDERGROUND STORAGE TANK PROGRAM

The conference agreement provides $73,027,000 for the leaking underground storage tank program as proposed by both the House and the Senate.

OIL SPILL RESPONSE

The conference agreement provides $15,863,000 for oil spill response as proposed by both the House and the Senate.

STATE AND TRIBAL ASSISTANCE GRANTS

(INCLUDING RESCISSIONS OF FUNDS)

The conference agreement provides $3,261,696,000 for State and Tribal assistance grants and a rescission of $80,000,000 from expired grants, contracts, and interagency agreements, instead of $3,227,800,000 and a rescission of $100,000 as proposed by the House and $3,453,550,000 and a rescission of $58,000,000 as proposed by the Senate. The rescission is to be taken from expired grants, contracts, and interagency agreements in the various EPA accounts and is not exclusive to this account.

Changes to the House recommended level are detailed below.

Air Toxics and Quality.—In air toxics and quality programs, there is a decrease of $3,000,000 for the clean school bus initiative.

Brownfields.—There is a decrease of $7,500,000 for brownfields projects.

Infrastructure Assistance.—There is an increase of $20,000,000 for infrastructure assistance for Alaska Native villages, a net decrease of $, .000 for the clean water State revolving fund and a decrease of $4,000,000 for infrastructure assistance for Puerto Rico. The House proposal to direct rescinded funds to the CWSRF is not included in the conference agreement.

Infrastructure Grants/Congressional Priorities.—The conference agreement includes $200,000,000 for special project grants as proposed by both the House and the Senate. The managers agree to the following distribution of funds:

State	Project name	Amount
1. AK	Water and sewer project in the City of Craig, Alaska	$250,000
2. AK	Water and sewer project in Unalaska, Alaska	750,000
3. AL	Coosa Valley Water Supply District surface water project in Alabama	800,000
4. AL	Haleyville, AL North Industrial Area Water Storage Tank	50,000
5. AL	Hellin, AL Industrial Site Water and Sewer Project	150,000
6. AL	Huntsville, AL City of Huntsville Water System Improvements	1,000,000
7. AL	Sewer improvement project in the City of York, Alabama	700,000
8. AL	Twin, AL Twin Water Authority Water Systems Renovation	250,000
9. AL	Water main extension improvements project in Alexander City, Alabama	500,000
10. AR	Improvements to the Little Maumelle water treatment plant in the City of Little Rock, Arkansas	500,000
11. AR	Regional wastewater treatment improvements for the City of Fayetteville, Arkansas	500,000
12. AR	St. Charles, AR St. Charles Drainage Planning and Improvements	50,000
13. AZ	Avondale, AZ Avondale Wastewater Treatment Facility Expansion	1,500,000
14. AZ	Safford, AZ City of Safford Waste Treatment Plant Debt Repayment to Arizona Infrastructure Finance Authority	800,000
15. AZ	Tucson, AZ Tucson Water Security Demonstration Project	450,000
16. AZ	Wastewater treatment plant in Lake Havasu City, Arizona	1,500,000
17. CA	Arcadia, Sierra Madre, CA Joint Water Infrastructure	2,500,000
18. CA	Bakersfield, CA Rexland Acres Wastewater Treatment Project	1,500,000
19. CA	Bellflower, CA Drinking Water Infrastructure Improvement	378,000
20. CA	Cathedral City, CA Water and Wastewater Infrastructure Improvements	500,000

State	Project name	Amount
21. CA	Colfax, CA Colfax Wastewater Treatment Plant Improvement	600,000
22. CA	Georgetown, CA Greenwood Lake Water Treatment Facility	1,500,000
23. CA	Lake Arrowhead, CA Lake Arrowhead Groundwater Development	250,000
24. CA	Martin Slough interceptor project in the City of Eureka, California	375,000
25. CA	Monterey, CA Monterey County Development and Implementation of Water Management Plan	750,000
26. CA	Perchlorate treatment program in the City of Pasadena, California	375,000
27. CA	Riverside, CA Water and Wastewater Infrastructure Improvements	500,000
28. CA	San Bernardino, CA Lakes and Streams Project	1,000,000
29. CA	Santa Jose, CA Perchlorate Assistance Santa Clara Valley Water District	2,000,000
30. CA	Solana Beach, CA Solana Beach Wastewater System Improvements	1,000,000
31. CA	Southern California Water and Wastewater Infrastructure Improvements (Mission Springs Water District 1.6M, Brinton Reservoir (Banning) 1M, Bighorn-Desert View Water Agency 500K, SAWPA SARI 450K, Yucca Valley 350K, Dunlap 100K).	4,000,000
32. CA	Wastewater treatment plant expansion in Crescent City, California	375,000
33. CA	Water and wastewater infrastructure improvements project for the San Francisco Public Utility Commission in California	500,000
34. CA	Water facility project in the City of Santa Paula, California	375,000
35. CO	Drinking water project in the Town of Walden, Colorado	800,000
36. CO	Stormwater improvement program in Jefferson County, Colorado	500,000
37. CO	Wastewater facility upgrades in Yuma, Colorado	100,000
38. CO	Wastewater treatment facility improvements project in Brush, Colorado	100,000
39. CO	Wastewater treatment plant improvements in the Cities of Englewood and Littleton, Colorado	500,000
40. CO	Water treatment facility in the City of Alamosa, Colorado	650,000
41. CT	East Hampton, CT Municipal Water System Improvements	1,200,000
42. CT	Infrastructure upgrades at water pollution control plant in the Town of Plainville, Connecticut	500,000
43. CT	Stamford, CT Mill River Stormwater Management Infrastructure Improvements	1,000,000
44. DE	Combined sewer overflow program in the City of Wilmington, Delaware	1,000,000
45. FL	Citrus County, FL Homosassa Wastewater Collection System Project	750,000
46. FL	Coral Springs, FL Water and Wastewater Infrastructure Improvements	700,000
47. FL	East Central, FL East-Central Florida Integrated Water Resources	1,500,000
48. FL	Emerald Coast treatment plant replacement project for the Northwest Florida Water Management District	800,000
49. FL	Jacksonville Beach, FL North 2nd Street Drainage Collection and Treatment System	1,000,000
50. FL	Keaton Beach, FL Taylor Coastal Wastewater Project	750,000
51. FL	Lake Region water treatment plant improvements for the South Florida Water Management District	300,000
52. FL	North Port, FL Water and Wastewater Infrastructure Improvements	500,000
53. FL	Pinellas Park, FL On-site Sewerage system elimination	1,787,000
54. GA	Columbus, GA—Ox Bow Meadows Wastewater Improvements	1,000,000
55. GA	Moultrie, GA City of Moultrie Wastewater Treatment Plant Rehabilitation	350,000
56. GA	West Area Combined Sewer Overflow Tunnel in the City of Atlanta, Georgia	500,000
57. HI	Statewide cesspool replacement in the following counties, $500,000 for the County of Hawaii; $400,000 for the County of Kauai, and, $100,000 for the City and County of Hawaii	1,000,000
58. IA	Combined sewer separation project in the City of Ottumwa, Iowa	800,000
59. IA	Construction of a wastewater treatment plant in Sioux City, Iowa	500,000
60. IA	Mason City, IA Sanitary Sewer Interceptor Project	1,000,000
61. IA	Sewer separation project in the City of Davenport, Iowa	800,000
62. ID	Construction of a wastewater collection and treatment facility in Valley County, Idaho	600,000
63. ID	Wastewater treatment project in the City of Twin Falls, Idaho	500,000
64. ID	Water system infrastructure improvements in the City of Castleford, Idaho	400,000
65. IL	Big Rock, IL Big Rock South Side Drainage System	175,000
66. IL	Calumet City, IL Water and Sewer Improvements	275,000
67. IL	Construction of a wastewater treatment facility in the Village of Pecatonica, Illinois	250,000
68. IL	Drinking water improvements in the City of Wauconda, Illinois	750,000
69. IL	Drinking water infrastructure improvements in the City of Springfield, Illinois	250,000
70. IL	Hampshire, IL Water and Wastewater System Improvements	600,000
71. IL	Hinckley, IL Water Main Replacement	418,000
72. IL	Pleasant Plains, IL New Sanitary Sewer Collection System and Wastewater Treatment Facilities	765,000
73. IL	Sewer Improvement Consortium of Lake Bluff, Highwood, Highland Park and Lake Forest, Illinois	500,000
74. IL	Water system upgrades in the Village of Port Byron, Illinois	250,000
75. IN	Construction of a wastewater treatment facility in Morgan County, Indiana for the Town of Waverly	750,000
76. IN	Saudborn, IN Water and Wastewater Infrastructure Improvements	500,000
77. IN	Valparaiso, IN Valparaiso Sewer Infrastructure Improvements	825,000
78. IN	Water infrastructure upgrades in the City of Upland, Indiana	1,700,000
79. KS	New drinking water transmission line in the City of Medicine Lodge, Kansas	500,000
80. KS	Water infrastructure improvements in Johnson County, Kansas	500,000
81. KS	Rose Hill, KS City of Rose Hill Sewer System Improvements	2,500,000
82. KY	City of Columbia, Kentucky, and the Adair County Regional Water Treatment Plant	500,000
83. KY	Louisville, KY Louisville Olmsted Parks Conservancy Watershed Restoration	1,000,000
84. KY	Somerset, KY Somerset Wastewater Treatment Plant	3,200,000
85. KY	Wastewater sewer line extension project in the City of South Campbellsville, Kentucky	1,000,000
86. KY	Wastewater treatment plant expansion project in Culver City, Kentucky	500,000
87. LA	Shreveport Municipal Water Distribution system backflow prevention project in Shreveport, Louisiana	400,000
88. LA	South Lake Charles, LA Wastewater Treatment Plant	1,000,000
89. LA	Tioga, LA Water Works District No. 3 of Rapides Parish—Drinking Water Extension	1,500,000
90. MA	Combined sewer overflow abatement project in Bristol County, Massachusetts	1,000,000
91. MA	Hartford, CT; Springfield, Chicopee, Holyoke, Ludlow, South Hadley, MA Connecticut River Clean-up	2,000,000
92. MD	Anacostia Sanitary Sewer Overflow	500,000
93. MD	Combined sewer overflow project in the City of Cumberland, Maryland	350,000
94. MD	Combined sewer overflow project in the City of Frostburg, Maryland	500,000
95. MD	Combined sewer overflow project in the City of Westernport, Maryland	500,000
96. MD	Greenmount Interceptor sewer improvement project in the City of Baltimore, Maryland	1,000,000
97. MD	Port Tobacco, MD Port Tobacco Watershed Water and Wastewater Infrastructure Improvements	200,000
98. MD	Sewer line repair project in the City of Emmitsburg, Maryland	150,000
99. MD	Wastewater lagoon repair in the City of Funkstown, Maryland	150,000
100. ME	Wastewater treatment project in the Town of Machias, Maine	500,000
101. ME	Waterline extension and water system upgrade project in the Town of Dover-Foxcroft, Maine	472,000
102. MI	Combined sewer overflow control program for the City of Port Huron, Michigan	1,000,000
103. MI	Detroit, MI Far Eastside Water and Wastewater Infrastructure Improvement Project	1,500,000
104. MI	North-East Relief Sewer [NERS] project in Genesee County, Michigan	250,000
105. MI	Oakland County, MI Evergreen-Farmington Sanitary Sewer Overflow Control Demonstration Project	2,000,000
106. MI	Public sewer system improvements in the City of Northport, Michigan	250,000
107. MI	Regional wastewater treatment system improvements in Eastern Calhoun County, Michigan	225,000
108. MI	Rouge River CSO, SSO Wet Weather demonstration project in Wayne County, Michigan	500,000
109. MI	Sewage treatment program in Traverse City, Michigan	150,000
110. MI	Sewer plant improvements in the City of Saginaw, Michigan	250,000
111. MN	Construction of a new wastewater treatment plant in the City of Willmar, Minnesota	500,000
112. MN	Minneapolis, MN Combined Sewer Overflow Program	1,500,000
113. MN	Sanitary management district of Crow Wing County, Minnesota	500,000
114. MN	Western Lake Superior Sanitary District in the City of Duluth, Minnesota	500,000
115. MO	Expansion of the Clarence Cannon Wholesale Water Commission treatment Plant in Missouri	500,000
116. MO	Springfield, MO Wastewater System improvements	1,200,000
117. MO	St. Louis, Missouri Combined Sewer Overflow Project	1,000,000
118. MO	Wastewater improvements project in the City of Seneca, Missouri	850,000
119. MS	Drinking water and wastewater treatment improvements project in the Chipley area in the City of Pascagoula, Mississippi	747,000
120. MS	Regional wastewater program in DeSoto County, Mississippi	500,000
121. MS	Wastewater infrastructure evaluation and repair project in the City of Ridgeland, Mississippi	500,000
122. MS	Wastewater system rehabilitation for the West Rankin Water Authority in Mississippi	2,000,000
123. MS	Wastewater treatment facilities improvements in the City of Pontotoc, Mississippi	1,200,000
124. MS	Wastewater treatment improvements in the City of Brookhaven, Mississippi	1,000,000
125. MS	Wastewater treatment improvements in the City of Flowood, Mississippi	500,000
126. MS	Wastewater treatment improvements project in Wheeler, Mississippi	750,000
127. MS	Water and sewer infrastructure project in Forrest County, Mississippi	700,000
128. MS	Water and sewer infrastructure project in the City of Biloxi, Mississippi	1,000,000

State	Project name	Amount
129. MS	Water and sewer infrastructure project in the Town of McLain, Mississippi	250,000
130. MT	Drinking water system upgrades in the City of Belgrade, Montana	750,000
131. MT	Havre, MT Rocky Boy's/North Central Montana Regional Water System	1,000,000
132. MT	Wastewater treatment improvements in the Pablo/Lake County Water and Sewer District, Montana	500,000
133. MT	Wastewater treatment improvements in the Seeley Lake Sewer District, Montana	1,000,000
134. MT	Wastewater treatment improvements in the Town of St. Ignatius, Montana	750,000
135. MT	Wastewater treatment improvements in the Wisdom Sewer District, Montana	500,000
136. MT	Wastewater treatment plant improvement project in the City of Bozeman, Montana	170,000
137. MT	Water system infrastructure improvements in the City of Helena, Montana	2,250,000
138. NC	Anson County, NC Raw Water Intake Project	1,000,000
139. NC	Brightwater, NC Water and Wastewater Infrastructure Improvements (water distribution system) (grantee is City of Hendersonville)	587,000
140. NC	Cedar Grove, NC Cedar Grove Waterline Project	253,000
141. NC	Charlotte, NC Providence Road Water Line project	1,000,000
142. NC	Haywood County, NC Water and Wastewater Infrastructure Improvements (Town of Clyde 500k, Canton 500k)	1,000,000
143. NC	Kannapolis, NC Groundwater Storage Tank & Fire Pump System	500,000
144. NC	Mitchell County, NC Ledger Community Water and Wastewater Infrastructure Improvements	500,000
145. NC	Moore County, NC North West Moore Water District Water and Wastewater Infrastructure Improvements	500,000
146. NC	Sylva, NC Jackson County Water and Wastewater Infrastructure Improvements	500,000
147. NC	Wake County, NC Jordan Lake Water and Wastewater Infrastructure Improvements	1,500,000
148. NC	Wilson, NC Wilson Wastewater Infrastructure Program	1,000,000
149. NC/VA	Sparta, NC & Independence, VA Virginia Carolina Water Authority Water and Wastewater Infrastructure Improvements	1,000,000
150. ND	Drinking water distribution improvements for the North Central Rural Water Consortium, North Dakota	250,000
151. ND	Regional drinking water infrastructure expansion for the Towns of Hankinson, Wyndemere, LaMoure, and Oakes, North Dakota (Southeast Area)	300,000
152. ND	Regional water treatment facility improvements in the City of Washburn, North Dakota	700,000
153. ND	Regional water treatment facility infrastructure in the City of Riverdale, North Dakota	500,000
154. ND	Rural water district infrastructure improvements in Walsh County, North Dakota	250,000
155. ND	Wastewater treatment facility upgrades in the City of Lakota, North Dakota	300,000
156. ND	Water and sewer improvement projects in the City of Crosby, North Dakota	250,000
157. ND	Water infrastructure improvements in the City of Devils Lake, North Dakota	500,000
158. ND	Water treatment plant regulatory improvements in the City of Grafton, North Dakota	725,000
159. NE	Combined sewer separation projects in the City of Omaha, Nebraska	500,000
160. NE	Water and wastewater infrastructure improvements in the City of Lincoln, Nebraska	500,000
161. NH	Combined sewer overflow separation project in the City of Manchester, New Hampshire	500,000
162. NH	Exeter, NH Water and Wastewater Infrastructure Improvements	1,000,000
163. NH	Waterworks Project in the City of Berlin, New Hampshire	500,000
164. NJ	$250,000 for the Rahway City Sanitary Sewer I&I, and $250,000 for the Rahway Valley Sewerage Authority	500,000
165. NJ	Bergen County, NJ Bergen County Wastewater Infrastructure Improvements	1,000,000
166. NJ	Passaic Valley, NJ Passaic Valley Sewerage Commission Combined Sewage Overflow Project	2,500,000
167. NJ	Stormwater infrastructure improvements at Farnham Park in the City of Camden, New Jersey	500,000
168. NM	Construction of a wastewater treatment system in Kirtland, New Mexico	1,000,000
169. NM	Village of Tijeras, NM Phase III Water System	952,000
170. NM	Wastewater and drinking water improvements project for the Albuquerque/Bernalillo Water Utility Authority in New Mexico	1,000,000
171. NM	Wastewater collection, treatment, and disposal system in the Town of Edgewood, New Mexico	1,000,000
172. NM	Wastewater project in the City of Belen, New Mexico	1,000,000
173. NM	Water project in the City of Las Cruces, New Mexico	1,000,000
174. NV	Henderson, NV Southwest Wastewater Treatment Plant	1,000,000
175. NV	Searchlight sewer system upgrades/Clark County Reclamation District improvement project in Nevada	650,000
176. NV	Water and wastewater infrastructure improvements for the Marlette/Hobart water system in Carson City, Nevada	50,000
177. NV	Water infrastructure improvements for the North Lemmon Valley Artificial Recharge Project in North Lemmon Valley, Nevada	150,000
178. NV	Water infrastructure improvements in Douglas County, Nevada	400,000
179. NY	Ballston Spa, NY Saratoga County Water Treatment and Transmission Facilities	3,000,000
180. NY	Cayuga County, NY Village of Fairhaven Wastewater Infrastructure Improvements	750,000
181. NY	Corning, NY Water and Wastewater Infrastructure Improvements	750,000
182. NY	Dunkirk, NY Chadwick Bay West End Water and Wastewater Infrastructure Improvements	400,000
183. NY	Monroe County Water Authority Eastside Water Treatment Project Water and Wastewater Infrastructure Improvements	2,000,000
184. NY	Mt. Pleasant, NY Stormwater Infrastructure Improvements	138,000
185. NY	Saugerties, NY Saugerties Water and Wastewater Infrastructure Improvements	2,100,000
186. NY	Stormwater restoration project in the Town of North Hempstead, New York	1,000,000
187. NY	Water and sewer extension project in the Town of Bethel, New York	1,000,000
188. OH	Canal Winchester, OH Village of Canal Winchester Water Treatment Plant Expansion	500,000
189. OH	Construction of a sewer collection and treatment system in the Village of Higginsport, Ohio	850,000
190. OH	Drinking water line replacement in Muskingum County, Ohio	200,000
191. OH	Galion, OH Wastewater Infrastructure Improvements	1,000,000
192. OH	Greene Community in Greene County, Ohio for wastewater and drinking water projects	150,000
193. OH	Wastewater collection and treatment system in the City of Elmira, Ohio, and the City of Burlington, Ohio	800,000
194. OH	Yellow Springs, OH Morris Bean Sanitary Sewer Connection Project	125,000
195. OK	Nicoma Park, OK Nicoma Park Water Line	200,000
196. OK	Wewoka, OK City of Wewoka Well Water Access	275,000
197. OR	Sanitary district facility upgrades in the City of Winchester Bay, Oregon	750,000
198. PA	Allegheny County Sanitary Authority for the Three Rivers Wet Weather program in Allegheny County, Pennsylvania	1,750,000
199. PA	Ambridge, PA Drinking Water Infrastructure Improvements	92,000
200. PA	Central sewer collection and treatment replacement in Tulpehocken Township, Pennsylvania	250,000
201. PA	Combined sewer overflow and flood protection project in the City of Plum Creek and Allegheny County, Pennsylvania	800,000
202. PA	Interceptor improvements project in Penn Hills, Pennsylvania	200,000
203. PA	Kingston, PA Luzerne County Combined Sewer Overflow	1,000,000
204. PA	Pen Argyl Borough, PA Wastewater Treatment Plant	100,000
205. PA	Philadelphia, PA Southeastern Pennsylvania Waterways Restoration Stormwater Infrastructure Improvements	695,000
206. PA	Pleasantville, PA Borough of Pleasantville Water System Improvements	300,000
207. PA	Public sewer service extensions in Menallen Township, Pennsylvania	250,000
208. PA	Sewer improvement project in the Borough of Archbald, Pennsylvania	750,000
209. PA	Storm sewer pipe construction in Millcreek Township, Pennsylvania	250,000
210. PA	Stormwater infrastructure improvements project in the Borough of Pottstown, Pennsylvania	250,000
211. PA	Tarentum, PA Bull Creek Flood Protection Plan	1,000,000
212. PA	Water infrastructure improvements in the City of Lancaster, Pennsylvania	500,000
213. RI	Cumberland, RI Cumberland Drinking Water Infrastructure Improvements	500,000
214. RI	New water storage tank in the Town of Westerly, Rhode Island	875,000
215. RI	Water infrastructure improvements in the City of Cumberland, Rhode Island	500,000
216. RI	Water infrastructure improvements in the City of North Smithfield, Rhode Island	200,000
217. SC	Construction of the Maple Creek Water Treatment Plant for the Greer Commission of Public Works in Greer, South Carolina	500,000
218. SC	Myrtle Beach, SC Storm Water Management System	615,000
219. SC	Olar, SC Olar and Govan Regional Water System	733,000
220. SD	Water and wastewater master plan development in Rapid City, South Dakota	800,000
221. SD	Water infrastructure improvements in the City of Springfield, South Dakota	180,000
222. TN	East Tennessee Development District Water and Wastewater Infrastructure Improvements (Jefferson City 700k, Norris 300k, Cumberland Gap 250k, Jefferson County 300k).	1,550,000
223. TN	Lake Tansi Sewer Project in Cumberland County, Tennessee	1,000,000
224. TN	Southeast Tennessee Development District Water and Wastewater Infrastructure Improvements (Cleveland 550k, Ducktown 150k, Spring City 250k)	950,000
225. TN	Watauga River Regional Water Authority in Carter County, Tennessee	1,000,000
226. TN	West End water and wastewater infrastructure project in Oak Ridge, Tennessee	1,000,000
227. TX	Fresno/Arcola, TX Fort Bend County Water and Wastewater Infrastructure Improvements	2,000,000
228. TX	Liberty Hill, TX Liberty Hill Wastewater Treatment Facilities and Collection System	365,000
229. TX	Lorena, TX City of Lorena Wastewater Treatment Plant	350,000
230. TX	Richmond/Rosenberg, TX West Fort Bend County Regional Water System	570,000
231. TX	Sewer overflow prevention project in the City of Austin, Texas	500,000
232. UT	Arsenic and perchlorate removal project in Magna, Utah	700,000
233. UT	Construction of a drinking water nitrate remediation plant for Centerfield, Utah, and Mayfield, Utah	1,500,000
234. UT	Drinking water and stormwater infrastructure improvements in Sandy City, Utah	1,000,000
235. UT	Wastewater treatment plant in Eagle Mountain, Utah	500,000
236. UT	Water infrastructure improvements for Judge Tunnel in Park City, Utah	300,000
237. VA	Alexandria, VA Four Mile Run Restoration	1,500,000

State	Project name	Amount
238. VA	Construction of wastewater treatment facilities expansion in Lee County, Virginia	500,000
239. VA	Hanover County, VA Water and Wastewater Infrastructure Improvements	682,000
240. VA	Henry County, VA Henry County Water System Connector to Pittsylvania County	110,000
241. VA	National Capital Region, VA, MD, DC Real-Time Drinking Water Distribution Security Monitoring	521,000
242. VA	Wastewater treatment infrastructure improvements project in the Town of Onancock, Virginia	500,000
243. VT	Wastewater treatment project in the Town of Pownal, Vermont	1,000,000
244. VT	Water treatment projects in the Town of Waitsfield, Vermont	1,000,000
245. WA	Carnation, WA City of Carnation Sewer Collection and Conveyance System	1,000,000
246. WA	Groundwater remediation project in North Clark County, Washington	500,000
247. WA	Hood Canal, WA Lower Hood Canal Wastewater Collection and Treatment System	5,000,000
248. WI	Metropolitan sewage district interceptor system program in the City of Milwaukee, Wisconsin	800,000
249. WI	Park Falls, WI Water and Wastewater Infrastructure Improvements (wells, pumphouse, water main)	1,000,000
250. WI	Pittsville, WI Wastewater Treatment Plant/Water and Wastewater Infrastructure Improvements	1,900,000
251. WI	Radionuclide standard drinking water project in the City of Waukesha, Wisconsin	800,000
252. WI	Rhinelander, WI Water and Wastewater Infrastructure Improvements (well, pumphouse, water main, storm sewer)	1,000,000
253. WV	Beckley, WV Piney Creek Interceptor Sewer Replacement Project	1,000,000
254. WV	Canaan Valley, WV Canaan Valley Decentralized Wastewater System	1,000,000
255. WV	Mineral County, WV Lakewood Wastewater Treatment Facility	720,000
256. WV	Spencer, WV Spencer Water and Wastewater Infrastructure Improvements	1,000,000
257. WY	Wastewater treatment plant improvements project in the City of Cheyenne, Wyoming	1,000,000
Total		200,000,000

Categorical Grants.—In categorical grants, there are increases of $1,000,000 for section 106 pollution control grants, $1,856,000 for targeted watershed grants, and $1,200,000 for wastewater operator training, and decreases of $934,000 for hazardous waste financial assistance, $1,772,000 for section 319 nonpoint source grants, $5,500,000 for section 106 water quality monitoring grants, $854,000 for public water system supervision, $600,000 for radon, $15,000,000 for water quality cooperative agreements, and $1,000,000 for wetlands program development.

Rescission.—The conference agreement modifies rescission language proposed by the House and the Senate and rescinds $80,000,000 from expired grants, contracts and interagency agreements instead of a rescission of $100,000,000 as proposed by the House and a rescission of $58,000,000 as proposed by the Senate. Although this language appears under the State and Tribal Assistance Grants heading, it applies to all EPA appropriation accounts. The conference agreement does not direct the rescinded funds to the clean water State revolving fund as proposed by the House nor does the language reference an April 2005 review by the Government Accountability Office as proposed by the House.

Other Bill Language.—Language is included making permanent the prohibition, proposed by the Senate, on the use of funds from the drinking water State revolving fund for health effects studies on drinking water contaminants. The managers note these studies are, and should continue to be, funded under the science and technology account.

Language is included, as proposed by the Senate, providing direction on the distribution of funds to address drinking water and wastewater infrastructure needs of Alaska Native villages.

Language proposed by the House referencing special project grants is included with a technical modification.

There is no earmark for the Fortuna Radar Site as proposed by the Senate.

Language is included making permanent the authority, proposed by the Senate, for States to transfer funds between the clean water and drinking water revolving funds.

Language is not included, which was proposed by the House, stipulating that special project funding from fiscal year 2000 or earlier that is not obligated on an approved grant by the end of fiscal year 2006 will be transferred to the appropriate State revolving fund. Instead, such funds that are not obligated on approved grants by September 1, 2006, are included in the rescission referenced above.

Language is not included, which was proposed by the House, providing for the transfer of excess funds after completion of special project grants to the appropriate State revolving fund. Instead such funds are included in the rescission referenced above.

Language is not included, which was proposed by the House, transferring funds from projects that are determined to be ineligible for a grant to the appropriate State revolving fund. The managers expect EPA to keep the House and Senate Committees on Appropriations apprised of grants that are determined to be ineligible.

Language is included making permanent the authority, proposed by the House, for EPA to make technical corrections to special project grants. The Senate had similar language but used the phrase "notwithstanding any other provision of law"; whereas the House language and the language adopted in the conference agreement uses the phrase "notwithstanding this or previous appropriations Acts".

The conference agreement includes a minor technical correction to the school bus retrofit language.

The managers agree to the following:

1. Within the funds provided for the United States-Mexico border program, $4,000,000 is for the El Paso Utilities Board and $3,000,000 is for the City of Brownsville water supply project.

2. Within the categorical grant targeted watersheds program, $6,000,000 is for a regional pilot program for the Chesapeake Bay as described in Senate Report 109–80.

ADMINISTRATIVE PROVISIONS

The conference agreement includes language proposed by the House regarding an exception to CERCLA relating to the qualifying date for brownfields grants or loans. The House had a single year provision. The Senate proposed to make this provision permanent.

Language is not included, which was proposed by the Senate, providing permanent authority for the use of brownfields grant funding for administrative expenses.

GENERAL PROVISIONS, ENVIRONMENTAL PROTECTION AGENCY

Section 201 modifies language, proposed by the Senate in sections 201 and 202 and by the House in section 434, dealing with human dosing studies. The managers note the many concerns expressed on both the House and Senate floors with respect to intentional human toxicity dosing studies relied upon by the EPA in reviewing applications for pesticide approvals. Concern is particularly acute for pregnant women, fetuses, and children. The managers believe this is a very serious issue that needs to be addressed by EPA as soon as possible. The managers have included statutory language that prohibits the EPA from accepting, considering, or relying on third party intentional dosing human toxicity studies for pesticides until EPA issues a final rulemaking addressing such studies. The language also requires EPA to provide for at least a 90-day public comment period on its proposed rule and to issue the final rule no later than 180 days after enactment of this Act. Such rule shall not permit the use of pregnant women, infants or children as subjects; shall be consistent with the principles proposed in the 2004 report of the National Academy of Sciences on intentional human dosing and the principles of the Nuremberg Code with respect to human experimentation; and shall establish an independent Human Subjects Review Board.

Section 202 includes the text of Senate section 435 prohibiting the use of funds in contravention of Executive Order 12898 dealing with environmental justice. The House had a similar provision in section 432 of the House bill. The Senate provision that is included in the conference agreement includes a reference to the date of the Executive Order and to the Federal Register notice in which it was published.

Section 203 includes the text of House section 433 prohibiting the use of funds to finalize, issue, implement, or enforce the existing EPA wastewater blending policy.

Section 204 includes the text of Senate section 436 prohibiting the use of funds in contravention of 15 U.S.C. 2682(c)(3), dealing with lead-based paint, or to delay implementation of that provision of law.

Section 205 includes language, as proposed by the Senate under Administrative Provisions for the EPA, prohibiting the use of funds to publish proposed or final regulations relating to certain small engines required by section 428(b) of division G of Public Law 108-199 until the Administrator has completed and published a technical study of safety issues, including the risk of fire and burn to consumers.

TITLE III—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

The conference agreement provides $283,094,000 for forest and rangeland research instead of $285,000,000 as proposed by the House and $280,892,000 as proposed by the Senate. The forest inventory and analysis program is provided $60,267,000 instead of $62,100,000 recommended by the House and $58,434,000 recommended by the Senate; this is an increase of $4,341,000 above the fiscal year 2005 level. The managers agree to the following changes to recommendations that were proposed by the House:

Project or activity	Conference recommendation:	
	Change from House	Project total
Fixed costs	−3,000,000	$3,177,000
Forest inventory and analysis	−1,833,000	60,267,000
Advanced wood structure research	0	1,500,000
Adelgid research NE station	0	1,600,000
Emerald ash borer research in Ohio	0	400,000
Southern pine beetle initiative	0	2,400,000
Coweeta, flood and landslide research	0	200,000
Coweeta, technology transfer, NC	−150,000	296,000
Bent Creek, technology transfer, NC	150,000	150,000
Joe Skeen Inst. Montana St. Univ.	350,000	350,000
Center for bottomlands hardwoods, MS	500,000	500,000
Forest Products Laboratory salvage lumber, WI	700,000	700,000
NE States research cooperative	350,000	2,322,000
Hydrology studies at Starkville, MS	500,000	500,000
Baltimore urban watershed, MD	100,000	197,000
Flood modeling, Fernow Expt. Forest, WV	227,000	227,000
NE Station land use decision models	200,000	200,000

The managers also agree to the following:

1. The funding provided for advanced wood structure research should be used for merit-based work by the Forest Products Laboratory and cooperators, including members of the advanced housing research consortium. This replaces recommendations made by both the House and the Senate.

2. The managers do not support the proposal to close the research work unit in Morgantown, WV and direct the Service to maintain funding near the fiscal year 2005 level for work unit RWU NE-4751.

3. The managers direct the Forest Service to continue working with the USDA Cooperative State Research, Education, and Extension Service to administer the program with the Joe Skeen Institute for Rangeland Restoration at Montana State University.

4. The Forest Service should ensure that all research facility managers understand how to comply fully with Congressional allocations in a timely manner.

5. The managers support efforts by the Forest Products Laboratory in Madison, Wisconsin, to prioritize its wood products research programs and urge the Forest Service to work with industry partners and research users to develop a comprehensive, agency-wide wood products research plan to guide future investment at the Laboratory.

STATE AND PRIVATE FORESTRY

The conference agreement provides $283,577,000 for State and private forestry instead of $254,875,000 as proposed by the House and $254,615,000 as proposed by the Senate. Funding levels for this appropriation should follow the House recommendations unless otherwise instructed herein.

Forest Health Management.—The conference agreement provides $54,236,000 for Federal lands forest health management instead of $55,000,000 as proposed by the House and $50,023,000 as proposed by the Senate. The conference agreement includes $47,629,000 for cooperative lands forest health management instead of $48,000,000 as proposed by the House and $22,608,000 as proposed by the Senate. The change from the House recommendation is the addition of $300,000 for the Vermont forest monitoring cooperative as proposed by the Senate, and a general reduction of $671,000.

Cooperative Fire Assistance.—The conference agreement includes $33,422,000 for State fire assistance instead of $35,422,000 as proposed by the House and $26,500,000 as proposed by the Senate. This allocation includes $2,500,000 as proposed by the House for urgent work near the San Bernardino National Forest, and a general program decrease of $2,000,000 below the House level.

The conference agreement includes $6,000,000 for volunteer fire assistance as proposed by both the House and the Senate. The conference agreement also includes additional funds for State fire and volunteer fire assistance as part of the national fire plan funding within the wildland fire management account.

Forest Stewardship.—The conference agreement includes $34,699,000 for forest stewardship instead of $37,399,000 as proposed by the House and $32,320,000 as proposed by the Senate. Changes from the House recommendations include a general decrease of $2,500,000 and a decrease of $200,000 for land use decision models. Funding for this last project is included within the research account.

Forest Legacy Program.—The conference agreement includes $57,380,000 for the forest legacy program instead of $25,000,000 as proposed by the House and $62,632,000 as proposed by the Senate. These funds are derived from the Land and Water Conservation Fund. The conference agreement includes the following distribution of funds for the forest legacy program:

State and Project	*Conference*
HI Wao Kele o Puna	$3,400,000
TN Walls of Jericho	1,900,000
MA Quabbin Corridor Connection	2,500,000
ME Katahdin Ironworks	4,500,000
WA Cedar Green Forest	2,000,000
PA History of Forestry	2,300,000
WA Carbon River Forest	1,630,000
CA Baxter Ranch	1,000,000
MT North Swan River Valley	2,800,000
DE Green Horizons	2,000,000
ME Machias River Project Phase II	1,500,000
CT Skiff Mountain	1,200,000
CA Six Rivers to the Sea Phase II	1,000,000
GA Altamaha River Corridor	2,000,000
NY Adirondack Working Forest Easement	1,000,000
UT Cedar Project #3	1,500,000
WV Potomac River Hills	1,300,000
VT Green Mountain Wildlife Corridor	700,000
NJ Sparta Mountain South	1,800,000
MT Nevada Creek-Blackfoot Phase II	1,400,000
ID Singleton Kilgore	650,000
MI Kamehameha School Land Conservation Easement	2,000,000
IN Land Bridge	550,000
KY Knobs State Forest and Wildlife Management Area	1,750,000
USVI Annaly Bay/Hermitage Valley	500,000
WI Wolf River	1,000,000
CO Banded Peaks Ranch Phase II	1,500,000
ID St. Joe Basin/Mica Creek	1,500,000
UT Range Creek/Rainbow Glass Ranch	750,000
NH Rossview	2,000,000
AK Agulowak River	600,000
NM Horse Springs	1,250,000
MN Brainerd Lakes Forest Legacy	800,000
VA New River Corridor	230,000
RI Bugnet Tract	600,000
MD Broad Creek	1,000,000
PR The Gutierrez Project	150,000
IA Monona	320,000
NH Willard Pond	550,000
GA Paulding County	250,000
Use of prior year funds	−3,000,000
Forest Legacy Program Administration, Acquisition Management, and Assessment of Need Planning	5,000,000
Total, Forest Legacy	57,380,000

The conference agreement retains bill language proposed by the House requiring notification of the Committees on Appropriations when the Forest Service makes funds available for specific forest legacy projects.

Urban and Community Forestry.—The conference agreement includes $28,875,000 for the urban and community forestry program instead of $28,175,000 as proposed by the House and $28,675,000 as proposed by the Senate. Changes from the House recommendation for this activity include Senate proposals of $350,000 for the Chicago, IL greenstreets program, $350,000 for the Milwaukee, WI tree planting program, a $150,000 for the urban watershed forestry research and demonstration cooperative in Baltimore, MD, and an $150,000 general program decrease.

Economic Action Programs.—The conference agreement includes $9,679,000 for the economic action programs instead of $7,979,000 as proposed by the House and $14,200,000 as proposed by the Senate. The conference agreement includes the funding recommended by the House, with the following changes: $1,500,000 for fuels in schools program in Montana; $500,000 for the Hinkle Creek watershed study in Oregon; $300,000 for the University of Idaho, Mica Creek study; $350,000 for the northern forests partnership program as recommended by the Senate; $500,000 for the Purdue University hardwood scanning center, IN; $400,000 for the wood enterprise agent in Montana; $500,000 for the private landowner database in Washington; $750,000 for the Hubbard Brook Foundation, NH; $400,000 for the Ketchikan, AK, wood technology center; $1,000,000 for Madison County, NC, forest recreation center; and $500,000 for the Folkmoot USA in Haywood County, NC for programs and outreach highlighting Appalachian forest folk crafts. The conference agreement includes bill language concerning direct payments for Madison County, NC and Folkmoot USA, NC. Funding for biomass utilization grants are not included under this activity; instead, the conference agreement follows the Senate recommendation to fund that activity within the wildland fire management appropriation.

Forest Resource Information and Analysis.—The conference agreement includes $4,657,000 for forest resource information and analysis as proposed by the Senate instead of $5,000,000 as proposed by the House.

International Program.—The conference agreement includes $7,000,000 for the International program as proposed by the Senate instead of $6,900,000 proposed by the House.

NATIONAL FOREST SYSTEM

(INCLUDING TRANSFERS OF FUNDS)

The conference agreement provides $1,424,348,000 for the national forest system instead of $1,417,920,000 as proposed by the House and $1,377,656,000 as proposed by the Senate.

Funds should be distributed as follows:

Land management planning	$59,057,000
Inventory and monitoring	170,179,000
Recreation, heritage & wilderness	265,200,000
Wildlife & fish habitat management	134,850,000
Grazing management	49,000,000
Forest products	284,297,000
Vegetation & watershed management	184,050,000
Minerals and geology management	85,865,000
Landownership management	93,000,000
Law enforcement operations	89,200,000
Vales Calderas National Preserve, NM	5,150,000
Centennial of Service challenge	4,500,000
Total	1,424,348,000

The following discussion describes funding changes from the House passed bill.

Land Management Planning.—The conference agreement provides funding as recommended by the House; funds are not provided for environmental training as recommended by the Senate.

Inventory and Monitoring.—The agreement includes the House recommendation, plus Senate recommendations of $1,000,000 for the Stennis Space Center, MS, and $170,000 for the Fernow experimental forest hydrology study, WV.

Recreation, Heritage, and Wilderness Management.—The conference agreement provides funding as recommended by the House.

Wildlife and Fish Habitat Management.—The conference agreement provides funding as recommended by the House plus an increase above the House level of $50,000 for the Batten Kill river project, VT, bringing the total for this project to $250,000. In addition, the managers direct the Forest Service to support the grizzly bear study in the Flathead NF and surrounding area with $125,000 out of base funds to be used for tracking collars.

Grazing Management.—The conference agreement provides funding as recommended by the House. The managers replace the Senate recommendations concerning grazing management to encourage the Forest Service and the BLM to modify stocking levels in a manner consistent with the local range conditions, considering that there have been improvements in moisture conditions in some western States. The Service and the BLM should use credible range condition monitoring data from professional range conservationists employed by State or county governments or universities.

Forest Products.—The conference agreement provides funding as recommended by the House with the addition of $1,000,000 above the House level for the Tongass NF, AK. The managers agree to the Senate proposed earmark in bill language of $5,000,000 for Tongass national forest timber sales preparation.

The managers replace the Senate recommendations concerning performance management systems with instructions included under the administrative provisions heading to clarify that the performance management system needs to include all Forest Service officials and programs.

The managers modify the Senate recommendations concerning a stewardship contract in New Mexico. The Service is expected to develop and begin implementing by June 1, 2006, one or more large stewardship contracts that are at least 10,000 acres, to be on the Lincoln NF, NM. The Service should work with the Mescalero Apache Tribe and the New Mexico State Forester to assure the stewardship contract is drafted so that lands on the Lincoln NF are treated, and the Service should work with this tribe to assist them at developing a stewardship proposal.

Vegetation and Watershed Management.—The conference agreement provides funding as recommended by the House with the addition of $350,000 above the House level for the leafy spurge eradication program in North Dakota.

Minerals and Geology Management.—The conference agreement provides funding as recommended by the House.

Landownership Management.—The conference agreement provides funding as recommended by the House.

Law Enforcement operations.—The conference agreement decreases the House recommendation for the Daniel Boone NF anti-drug effort by $100,000, leaving a total of $900,000. Similar work on the Mark Twain NF is reduced by $200,000, leaving a total of $500,000. In addition, $500,000 is provided for the Spring Mountains NRA, NV emergency warning system, and there is a general program decrease of $2,000,000 below the House recommendation. The managers note that the Administrative provisions include bill language recommended by the House and the Senate concerning the transfer of funds for various overhead charges affecting the law enforcement operations activity.

Valles Caldera National Preserve.—The managers have put all funding for the Valles Caldera National Preserve, NM, in the national forest system account to facilitate management of this activity; this includes the $3,650,000 the Senate recommended in this account plus an additional $1,500,000 the Senate recommended in the capital improvement and maintenance account.

Other.—The conference agreement provides that the Land Between the Lakes NRA, TN and KY, should be funded from various accounts at least at the budget request level of $8,400,000. The general reduction to the national forest system account passed on the House floor is not included.

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

The conference agreement provides $1,779,395,000 for wildland fire management instead of $1,790,506,000 as proposed by the House and $1,745,531,000 as proposed by the Senate.

Wildfire Preparedness.—The agreement includes $676,014,000 for preparedness as proposed by the Senate instead of $691,014,000 as proposed by the House. The managers reiterate the direction contained in the House and Senate reports regarding the need to maintain the level of fire readiness established in fiscal year 2005.

Wildfire Suppression Operations.—The conference agreement includes $700,492,000 for suppression operations as proposed by both the House and the Senate. The managers have provided the full amount of the ten year average cost of wildfire suppression increased for inflation, an increase of $51,633,000 above the fiscal year 2005 funding level.

The managers have modified bill language recommended by the House concerning assessing the suppression activity for indirect costs in a manner the same as all other Forest Service accounts and programs. The managers direct that all programs be treated similarly so they can contribute their fair share to the costs of administering and running the Service. The managers do not agree with the House recommendation concerning the second bullet in the budget appendix.

The conference agreement does not include bill language recommended by the Senate dealing with the transfer of unobligated balances to the national forest system account. The managers agree with the House recommendation that the Forest Service should not automatically allocate 50% of the wildland fire suppression funds to all the regions at the beginning of the year, and there should not be a transfer of any unobligated suppression funds for non-suppression activities. If the Service has a low-cost wildfire season, the unobligated funds should be carried over to pay for future seasons when it is likely that catastrophic wildfires will occur again.

The managers encourage the Forest Service to establish a suitable memorial for the two brave firefighters who lost their lives July 22, 2003, at the Cramer fire near Salmon, ID.

The managers direct the Forest Service to make available for public review the results of any feasibility study conducted for the purpose of determining whether to acquire specific models of aircraft for use as air tankers.

Other Wildfire Operations.—The conference agreement includes $402,889,000 for other fire operation activities instead of $399,000,000 as proposed by the House and $369,025,000 as proposed by the Senate. The allocation of this funding is as follows:

Program	*Amount*
Hazardous fuels	$286,000,000
Rehabilitation & restoration	6,281,000
Research & development	23,219,000
Joint fire science	8,000,000
Forest health management-Federal	15,000,000
Forest health management-cooperative	10,000,000
State and community fire assistance	46,500,000
Volunteer fire assistance	7,889,000
Total other wildfire operations	402,889,000

Hazardous fuels.—The conference agreement includes $286,000,000 for hazardous fuels treatments as proposed by the House, an increase of $23,461,000 over the fiscal year 2005 level. This allocation includes the House proposed $5,000,000 for the San Bernardino NF, CA, and the Senate proposed $1,500,000 for the

Santa Fe watershed, NM, and $5,000,000 as proposed by the Senate for biomass utilization grants. The House had recommended the biomass grants funding within the State and private forestry account.

The conference agreement includes the Senate recommended bill language concerning the use of $5,000,000 for the Community Forest Restoration Act and allowing a transfer for the biomass grants.

The managers direct the Secretary of Agriculture to report to the House and Senate Committees on Appropriations, the House Agriculture and Resources Committees, and the Senate Energy and Natural Resources Committee on the percentage of fuels reduction or restoration contracts that provide small diameter material to micro businesses, large commercial sawmills, or biomass facilities.

Rehabilitation.—The conference agreement includes $6,281,000 for rehabilitation and restoration activities. The managers direct that $2,000,000 be made available to the native plant materials program to be used in conjunction with the similar effort at the Department of the Interior under the joint guidance of the interagency plant conservation alliance.

Fire plan research and development.—The conference agreement includes $23,219,000 for research and development activities. Changes from the House proposal include an increase of $1,150,000 for the University of Montana landscape fire analysis center and $350,000 for the University of Idaho FRAMES project.

Federal and cooperative forest health management.—The conference agreement includes $15,000,000 for Federal forest health activities and $10,000,000 for cooperative forest health activities as proposed by the House.

State fire and volunteer fire assistance.—The agreement includes $46,500,000 for State and community fire assistance. Changes from the House recommendation include increases of $2,100,000 for the Alaska Kenai Peninsula Borough, $1,200,000 to the Municipality of Anchorage, $800,000 for Fairbanks North Star borough, AK, $1,100,000 for the Matanuska-Susitna Borough, AK, and $300,000 for the Alaska, Cook Inlet tribal council. Senate instructions on distribution of these funds should be followed by the Service.

The managers direct the Forest Service, working with the State foresters, to review the current State fire assistance allocation methodology for the funding provided under the wildland fire management appropriation and recommend appropriate changes. The State fire assistance under this heading should not be considered the same as the traditional funding in the State and private forestry account. Funding under this heading is intended to support the national fire plan. The managers encourage the Service and the States to focus this funding to those States and activities that the National fire plan suggests are most critically needed to reduce the danger of catastrophic wildfires, rewarding those States with demonstrated performance and cost share. Community wildfire protection planning and cooperative hazardous fuels reduction activities should be highlighted. The Forest Service shall prepare a report to the House and Senate Committees on Appropriations before implementing any new allocation methodology.

The volunteer fire assistance allocation is $7,889,000 as proposed by the Senate.

CAPITAL IMPROVEMENT AND MAINTENANCE

The conference agreement provides $441,178,000 for capital improvement and maintenance instead of $468,260,000 as proposed by the House and $409,751,000 as proposed by the Senate. This is a reduction of $73,523,000 below the fiscal year 2005 non-emergency funding level. The conference agreement provides for the following distribution of funds:

Activity/Project	*Amount*
Facilities:	
Maintenance	$51,522,000
Capital Improvement	56,194,000
Congressional Priorities:	
San Bernardino NF, CA	2,000,000
Redwood Science Lab seismic retrofit, CA	2,000,000
Meeks Bay campground, CA	778,000
Turtle Rock fire station relocation, CA	1,200,000
Cheoah ranger station, NC	900,000
Region 6 facility disposal, OR & WA	1,000,000
Allegheny NF recreation and admin sites, PA	2,600,000
Cherokee NF recreation and admin sites, TN	2,500,000
Forest Products Laboratory modernization, WI	2,000,000
Medicine Bow-Routt storage consolidation, WY & CO	1,035,000
Monongahela NF facilities, WV	950,000
Smith County lake, MS	1,000,000
Homochitto National Forest, Okhissa Lake Project, MS	1,000,000
Subtotal Facilities	126,679,000
Roads:	
Maintenance	148,066,000
Capital Improvement	68,133,000
Congressional Priorities:	
Monongahela NF road improvements, WV	2,300,000
Tongass NF, AK	4,000,000
Jarbidge Canyon road, NV	3,000,000
Subtotal Roads	225,499,000
Trails:	
Maintenance	42,000,000
Capital Improvement	30,500,000
Congressional Priorities:	
FL National scenic trail	500,000
Continental Divide Trail	1,000,000
Pacific Crest trail improvements, CA OR WA	1,000,000
Rio Sabana trail, PR	250,000
Midewin National Tallgrass Prairie, IL	750,000
Subtotal Trails	76,000,000
Infrastructure Improvement:	
Fish Passage Barriers, national program	2,000,000
Deferred Maintenance	11,000,000
Subtotal Infrastructure Improvement	13,000,000
Total, Capital Improvement and Maintenance	441,178,000

The managers agree with the overall program direction for this account provided by both the House and the Senate except funding levels and project descriptions are indicated in the table above. The conference agreement includes the bill language recommended by the Senate concerning the Jarbidge Canyon road which provides authority to transfer some funds to the Department of the Interior for certain portions of this project.

The managers are aware of the importance of modernizing the Forest Products Laboratory. As noted previously, the managers urge the Forest Service to develop an integrated wood products research plan that will guide capital investments. The managers believe that the Forest Service should also conduct a strategic review of facilities needs before modernization efforts begin. Therefore, the managers do not agree with the Senate proposal to fund the construction of a durability test facility at this time. Instead, the managers agree to the House proposal to provide $2,000,000 for the modernization effort at the Laboratory, pending completion of the recommended integrated, national planning effort for wood products research. Once this plan is completed, the managers will give full consideration to supporting the Laboratory's multi-year modernization effort.

The funds provided for the Allegheny NF include $1,000,000 for the Kiasutha campground, $500,000 for Kinzua Wolf Run Marina, $1,000,000 for the Bradford administrative site, and $100,000 for forest-wide signage improvements. The Cherokee NF funding is for the Ocoee Whitewater Center interpretive and facility upgrades, Nolichucky work center property acquisition, the Cherokee hot shot complex, and the Cleveland office relocation project.

The managers have provided $1,000,000 for environmental studies for a recreational lake in Smith County, Mississippi. The managers note, however, that a feasibility study of this project is currently underway in cooperation with the Forest Service and Mississippi State University. The managers note that conclusion of the ongoing studies regarding issues such as mineral rights and the need for condemnation of these rights is necessary to determine the feasibility of this project. If the study concludes that this project is not feasible, the managers expect that the funds provided for environmental studies will be reprogrammed for other high priority construction needs in Mississippi.

LAND ACQUISITION

The conference agreement provides $42,500,000 for land acquisition instead of $15,000,000 as proposed by the House and $44,925,000 as proposed by the Senate.

The managers agree to the following distribution of funds:

Area (State)	*Amount*
Arkansas Forests, multiple NFs (AR)	$1,000,000
Blackfoot River Community Project (Blackfoot Challenge), Helena & Lolo NFs: (MT)	6,000,000
Bonneville Shoreline Trail, multiple NFs (UT)	1,500,000
Columbia River Gorge NSA, multiple NFs (OR/WA)	1,500,000
Daniel Boone NF (KY)	750,000
Delta NF (MS)	1,500,000
Goose Creek-Smith River, Six Rivers NF (CA)	1,000,000
Greater Yellowstone Area, multiple NFs (MT/ID)	1,000,000

Area (State)	*Amount*
Green Mountain NF (VT) ..	500,000
High Elk Corridor, White River NF (CO)	500,000
High Uintas, Wasatch-Cache NF (UT)	700,000
Hoosier Unique Areas, Hoosier NF (IN)	250,000
I-90 Corridor, Mt. Baker-Snoqualmie NF (WA)	975,000
Illinois Disappearing Habitat, Shawnee NF (IL)	250,000
Lady C Ranch, Black Hills NF (SD)	750,000
Middle Yuba-Barker Pass, Tahoe NF (CA)	500,000
Minnesota Wilderness, Chippewa/Superior NF (MN)	125,000
Pacific Crest Trail, multiple NFs (CA/OR/WA)	500,000
Selway Valley Preserve, Beaverhead/Deerlodge NF (MT)	1,000,000
Spring Hill, Helena NF (MT)	600,000
Swan Valley, Flathead NF (MT)	3,000,000
Thunder Mountain, Payette NF (ID)	1,000,000
Wayne NF (OH)	600,000
Wisconsin Wild Waterways, Chequamegon-Nicolet NF (WI)	3,000,000
Subtotal	28,500,000
Acquisition Management ..	12,500,000
Cash Equalization	500,000
Critical Inholdings/Wilderness Protection	1,000,000
Total	42,500,000

Bill Language.—The conference agreement retains language proposed by the Senate withdrawing from mineral entry or appropriation certain mining claims on the Payette National Forest.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

The conference agreement provides $1,069,000 for the acquisition of lands for national forests special acts as recommended by both the House and the Senate.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

The conference agreement provides an indefinite appropriation estimated to be $234,000 for the acquisition of lands to complete land exchanges as proposed by both the House and the Senate.

RANGE BETTERMENT FUND

The conference agreement provides an indefinite appropriation estimated to be $2,963,000 for the range betterment fund as proposed by both the House and the Senate.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

The conference agreement provides $64,000 for gifts, donations and bequests for forest and rangeland research as proposed by both the House and the Senate.

MANAGEMENT OF NATIONAL FOREST LANDS FOR SUBSISTENCE USES

The conference agreement provides $5,067,000 for management of national forest system lands for subsistence uses in Alaska as proposed by the Senate instead of $5,467,000 as proposed by the House.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

The managers agree to the following changes to the House recommendations:

1. The Senate language is included which does not prohibit transfers for reimbursable agreements for the USDA National Information Technology center.

2. The Senate bill language allowing up to $2,500,000 for the Youth Conservation Corps projects is included.

3. The conference agreement allows up to $300,000 to be used by the National Forest Foundation for administrative expenses. The managers expect the Foundation to raise funds so this allocation can be reduced in the future.

4. The Senate language is included allowing certain authorized payments to the counties within the Columbia River Gorge National Scenic Area, WA & OR.

5. The Senate language is included allowing the Forest Service to reimburse the USDA Office of the General Counsel for certain travel expenses.

6. The Senate language is included which transfers certain land on Kodiak Island, AK, from the Forest Service to the U.S. Fish and Wildlife Service.

7. The conference agreement includes bill language not included by either the House or the Senate which allows the Forest Service to assess available funds to support the agency's needs for facilities maintenance for administrative and other buildings, but not recreation facilities.This replaces the Senate proposal within Title V which recommended establishing a working capital fund for all agency structures. The new provision allows the Forest Service to transfer up to $35,000,000 from various agency accounts, based on a fair measure of facilities maintenance needs. The managers expect that initially, the Forest Service will use the square feet of building space and the various programs use of this space as the index to establish the transfer levels. The Forest Service should devise a performance based system and need-based system to determine how to allocate assessed funds to the field. Before executing these transfers, the Forest Service shall report to the House and Senate Committees on Appropriations on the details of the proposed transfers and the methodology being used for both the assessment, and the field allocation. In addition, the Forest Service shall, as part of the normal budget justification, report on the anticipated transfers required in future fiscal years, and report on the previous year's transfers and proposed accomplishments. There should also be a display which indicates, by national forest, research station and area, the funding being allocated for facilities maintenance. The budget justification displays shall indicate, for every budget line item, the funding amount being assessed for facilities maintenance. This information should be readily visible along with each program description. The tables should also summarize the budget line item contribution to the other assessments.

8. This discussion replaces recommendations by both the House and the Senate concerning performance measures. The managers remain concerned about forest outputs and whether on-the-ground accomplishments remain a high priority for the Forest Service. The managers expect the Forest Service to maintain a performance management system that includes performance standards for line officers aggregated up to the Forest level so that forest-wide management goals can be measured against actual accomplishments for each forest. The performance standards should include clear annual measures for programs which are consistent with the output levels specified in the annual budget justification. The Forest Service needs to implement a system of internal data controls and data transparency consistent with the recommendations by the USDA/OIG March, 2005 audit. The Chief should hold agency line officers accountable for reporting accurate performance data in fiscal year 2006. The Forest Service should establish an independent review process to review the reported data. The Forest Service is directed to provide a report to the House and Senate Committees on Appropriations and the relevant House and Senate authorizing committees on this performance management system within 90 days of enactment. This report shall also be made available to the public following submission of the report to the committees noted above.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

The conference agreement provides $2,732,298,000 for Indian health services as proposed by the House instead of $2,732,323,000 as proposed by the Senate.

Bill Language.—The conference agreement modifies language included in both the House and the Senate bills concerning the Individuals with Disabilities Education Act. The two versions contained minor technical differences. The conference agreement includes language included in the Senate bill concerning the distribution of Alaska alcohol wellness funds.

The managers are aware of Indian health care needs in the state of Nevada and expect the Service to continue to meet with the 22 tribes in Nevada, as well as the Intertribal Council of Nevada and the Intertribal Health Board of Nevada, to discuss ways to improve the delivery and quality of their health services. The managers expect the Service to report to the House and Senate Committees on Appropriations by December 31, 2005 with recommendations on how to improve secondary and tertiary care in Nevada, including facility needs and the contract health services program that can be accomplished within current budgetary levels.

INDIAN HEALTH FACILITIES

The conference agreement provides $358,485,000 for Indian health facilities instead of $370,774,000 as proposed by the House and $335,643,000 as proposed by the Senate.

The managers agree to the following distribution of funds:

Project	*Amount*
Barrow Hospital, AK	$8,000,000
Fort Belknap, MT staff quarters	3,326,000
Kayenta, AZ health center	3,878,000
Mobile dental units	2,000,000
Phoenix Indian Medical Center, AZ	8,000,000
San Carlos, AZ Health Center	6,139,000
Small ambulatory facilities	7,000,000
Subtotal	38,343,000
Other:	
Maintenance and improvement	52,404,000
Sanitation facilities	93,519,000
Facilities and environmental health support	152,959,000
Equipment	21,260,000
Total	358,485,000

Bill Language.—The conference agreement includes language proposed by the Senate authorizing the construction of a replacement health facility in Nome, Alaska, on land owned by the Norton Sound Health Corporation. The House had no similar provision.

The managers consider the health facilities construction program to be a critical component in the provision of better health care to Native Americans and, therefore, expect that future budget submissions by the Service will include a much more aggressive schedule to fund these projects.

National Institutes of Health

National Institute of Environmental Health Sciences

The conference agreement provides $80,289,000 for the national institute of environmental health sciences as proposed by both the House and the Senate.

AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY

Toxic Substances and Environmental Public Health

The conference agreement provides $76,024,000 for toxic substances and environmental public health as proposed by both the House and the Senate.

The managers encourage the ATSDR to continue to support the minority health professions community under its cooperative agreement activities in fiscal year 2006.

OTHER RELATED AGENCIES

Executive Office of the President

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

The conference agreement provides $2,717,000 for the council on environmental quality and office of environmental quality as proposed by both the House and the Senate.

Chemical Safety and Hazard Investigation Board

SALARIES AND EXPENSES

The conference agreement provides $9,200,000 for salaries and expenses of the chemical safety and hazard investigation board as proposed by both the House and the Senate.

Office of Navajo and Hopi Indian Relocation

SALARIES AND EXPENSES

The conference agreement provides $8,601,000 for salaries and expenses of the Office of Navajo and Hopi Indian Relocation as proposed by both the House and the Senate.

Institute of American Indian and Alaska Native Culture and Arts Development

PAYMENT TO THE INSTITUTE

The conference agreement provides $6,300,000 for payment to the institute as proposed by both the House and the Senate.

Smithsonian Institution

SALARIES AND EXPENSES

The conference agreement provides $524,281,000 for salaries and expenses of the Smithsonian Institution instead of $524,381,000 as proposed by the House and $524,135,000 as proposed by the Senate. A reduction of $100,000 from the House level has been taken from the Tropical Research Institute's study of microorganisms in tropical soils. Other changes from the House proposal for activities within this account include an increase of $500,000 to restore base funding for key outreach programs such as the travel exhibition service, fellowships and affiliations, an additional $500,000 to meet the budget request of $1,000,000 for an institution-wide collections care and preservation initiative, and a reduction of $1,000,000 from facilities maintenance to fund that activity at the amount requested in the budget.

FACILITIES CAPITAL

The conference agreement provides $100,000,000 for the facilities capital account as proposed by the Senate instead of $90,900,000 as proposed by the House. Within this amount, $9,100,000 is provided for the Asia II Trail exhibit at the National Zoological Park as proposed by the House. While supportive of this project, the managers are concerned by the high initial cost estimates and encourage the Smithsonian to look at how the exhibit might be reduced in scope or in some way phased to achieve savings. The managers also understand that an aggressive fundraising effort will be required by the Smithsonian to secure private financing, without which this project cannot be successfully completed. The conference agreement also includes an additional $9,100,000 for the POD 5 museum support center storage facility as recommended by the Senate.

ADMINISTRATIVE PROVISIONS, SMITHSONIAN INSTITUTION

The conference agreement continues administrative provisions included in the House bill that place restrictions on the use of funds for the following: (1) unapproved changes to science programs; (2) the design of new or expanded facilities; (3) Holt House; and (4) the purchase of buildings. The House provision regarding reprogramming authority is included with a modification that deletes the requirement for written approval from the House and Senate Committees on Appropriations.

National Gallery of Art

SALARIES AND EXPENSES

The conference agreement provides $96,600,000 for salaries and expenses of the National Gallery of Art as proposed by the Senate instead of $97,100,000 as proposed by the House.

The managers note that language is included in Title IV—General Provisions raising the indemnity limit for art exhibitions as proposed by the Senate. The managers expect that future requests to alter the indemnity ceilings will be approved through the Office of Management and Budget and either included in the budget justification or, preferably, submitted as an official legislative proposal to, and acted upon by, the appropriate legislative committees of jurisdiction.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

The conference agreement provides $16,200,000 for repair, restoration and renovation of buildings as proposed by the House instead of $15,000,000 as proposed by the Senate.

John F. Kennedy Center for the Performing Arts

OPERATIONS AND MAINTENANCE

The conference agreement provides $17,800,000 for operations and maintenance of the Kennedy Center as proposed by both the House and Senate.

CONSTRUCTION

The conference agreement provides $13,000,000 for construction instead of $10,000,000 as proposed by the House and $15,200,000 as proposed by the Senate.

Woodrow Wilson International Center for Scholars

SALARIES AND EXPENSES

The conference agreement provides $9,201,000 for salaries and expenses of the Woodrow Wilson International Center for Scholars as proposed by the Senate instead of $9,085,000 proposed by the House.

National Foundation on the Arts and the Humanities

National Endowment for the Arts

GRANTS AND ADMINISTRATION

The conference agreement provides $126,264,000 for grants and administration of the National Endowment for the Arts as proposed by the Senate instead of $131,264,000 as proposed by the House.

The managers expect that the increase above the enacted level will be used to expand the American Masterpieces program by $2,000,000 and partially restore the Administration's proposed reduction to the Challenge America program by $3,000,000.

Bill Language.—The conference agreement retains bill language proposed by the Senate providing that funds appropriated for the National Endowment for the Arts be expended in accordance with sections 309 and 311 of Public Law 108–108. The House bill addressed this issue in the general provisions section.

National Endowment for the Humanities

GRANTS AND ADMINISTRATION

The conference agreement provides $127,605,000 for grants and administration of the National Endowment of the Humanities as proposed by both the House and the Senate.

MATCHING GRANTS

The conference agreement provides $15,449,000 for matching grants as proposed by both the House and the Senate.

Commission of Fine Arts

SALARIES AND EXPENSES

The conference agreement provides $1,893,000 for salaries and expenses of the Commission of Fine Arts as proposed by the House and the Senate.

National Capital Arts and Cultural Affairs

The conference agreement provides $7,250,000 for National Capital Arts and Cultural Affairs instead of $7,000,000 as proposed by the House and $7,492,000 as proposed by the Senate.

Advisory Council on Historic Preservation

SALARIES AND EXPENSES

The conference agreement provides $4,860,000 for salaries and expenses of the Advisory Council on Historic Preservation as proposed by the House instead of $4,943,000 as proposed by the Senate.

National Capital Planning Commission

SALARIES AND EXPENSES

The conference agreement provides $8,244,000 for salaries and expenses of the National Capital Planning Commission as proposed by the Senate instead of $8,177,000 as proposed by the House.

The managers do not object to the Commission's participation in the GIS mapping initiative to the extent it can be supported within base funding. The increase above the enacted level is provided to meet fixed cost adjustments such as pay and utilities.

United States Holocaust Memorial Museum

Holocaust Memorial Museum

The conference agreement provides $42,780,000 for the Holocaust Memorial Museum instead of $41,880,000 proposed by the House and $43,233,000 proposed by the Senate.

Presidio Trust

Presidio Trust Fund

The conference agreement provides $20,000,000 for the Presidio Trust Fund as proposed by the House instead of $19,722,000 as proposed by the Senate.

WHITE HOUSE COMMISSION ON THE NATIONAL MOMENT OF REMEMBRANCE

SALARIES AND EXPENSES

The conference agreement provides $250,000 for salaries and expenses of the White House Commission on the National Moment of Remembrance as proposed by the House and the Senate.

TITLE IV—GENERAL PROVISIONS

Sec. 401. The conference agreement retains the House recommendation; there was a minor technical difference between the House and Senate versions.

Sec. 402. The conference agreement retains the Senate recommendation; the Senate version included a reference to the U.S. code not included by the House.

Sec. 403 and Sec. 404 were identical in both the House and Senate bills.

Sec. 405. The conference agreement retains the Senate recommended language that was in Senate section 405 rather than similar language the House had included in section 423. Related language dealing with assessments, which was in House section 405, is not included in the conference agreement.

Sec. 406. The conference agreement retains the Senate recommended language that was in Senate section 406 rather than similar language the House had included in section 419.

Sec. 407. The conference agreement retains the Senate recommended language dealing with giant sequoia trees rather than similar language the House had included in section 406.

Sec. 408. The House and Senate bills had identical language dealing with patents for mining, although the House had included it as section 407.

Sec. 409. The conference agreement retains the House recommended language dealing with contract support costs for the Bureau of Indian Affairs and the Indian Health Service that was in House section 408. The Senate had no similar provision.

Sec. 410. The conference agreement retains the Senate recommended language permitting the collection and use of private funds by the National Endowment for the Arts and the National Endowment for the Humanities that was in Senate section 409 rather than similar language the House had included in section 410. The conference agreement now makes this authority permanent rather than one-year as recommended by the House.

Sec. 411. The House and Senate bills had identical language dealing with the Forest and Rangeland Renewable Resources Planning Act; it was in House section 412 and in Senate section 410.

Sec. 412. The conference agreement retains the Senate recommended language amending the Knutson-Vandenberg reforestation act, which was in Senate section 411. The House had no similar provision.

Sec. 413. The House and Senate bills had identical language dealing with Forest Service roads and trails; it was in House section 413 and in Senate section 410.

Sec. 414. The House and Senate bills had identical language dealing with telephone answering machines; it was in House section 414 and in Senate section 413.

Sec. 415. The House and Senate bills had identical language dealing with Forest Service land management planning.

Sec. 416. The conference agreement retains the Senate recommended language addressing timber sales involving Alaska western redcedar, which was in Senate section 414. The House had no similar provision.

Sec. 417. The House and Senate bills had identical language dealing with mineral leasing within national monuments; it was in section 416 of each bill.

Sec. 418. The House and Senate bills had identical language continuing a provision providing the Secretary of the Interior and the Secretary of Agriculture the authority to enter into reciprocal agreements with foreign nations concerning the personal liability of firefighters. It was in House section 418 and in Senate section 417.

Sec. 419. The conference agreement retains the Senate recommended language, which was in Senate section 418, allowing the Eagle Butte Service Unit of the Indian Health Service to utilize health care funding in a more efficient manner. The House had no similar provision.

Sec. 420. The conference agreement retains the Senate recommended language, which was in Senate section 419, allowing the Secretary of Agriculture and the Secretary of the Interior to consider local contractors when awarding contracts for certain activities on public lands. The House had a similar provision in section 420 of the House bill.

Sec. 421. The House and Senate bills had identical language continuing a provision that limits the use of funds for filing declarations of takings or condemnations. This provision does not apply to the Everglades National Park Protection and Environmental Act. It was in House section 421 and in Senate section 420.

Sec. 422. The conference agreement retains the Senate recommended language, which was in Senate section 421, limiting competitive sourcing studies by the Secretary of the Interior and the Forest Service. The House had a similar provision in section 422 of the House bill. The conference agreement now allows the Secretary of the Interior up to $3,450,000 and the Forest Service up to $3,000,000 for this work. In addition, the Secretary of Agriculture should consider the impact on wildland fire management activities when conducting competitive sourcing studies.

Sec. 423. The House and Senate bills had identical language prohibiting the transfer of funds for SAFECOM and Disaster Management projects; it was in section 424 of the House bill and section 422 of the Senate bill.

Sec. 424. The House and Senate bills had identical language requiring that contact centers associated with the national recreation reservation service be located within the United States; it was in section 425 of the House bill and section 423 of the Senate bill.

Sec. 425. The conference agreement modifies similar language extending a pilot program to enhance Forest Service administration of rights-of-way recommended by both the House and the Senate. It was in section 426 of the House bill and section 424 of the Senate bill. The language now is effective for one year.

Sec. 426. The conference agreement retains the Senate recommended language, which was in Senate section 425, extending the Forest Service's ability to enter into certain cooperative agreements with third parties that are of mutually significant benefit. The House had no similar provision.

Sec. 427. The conference agreement retains the Senate recommended language, which was in Senate section 426, amending the Arts and Artifacts Indemnity Act to raise the Federal indemnity ceilings on individual exhibitions from $600,000,000 to $1,200,000,000, and in the aggregate from $8,000,000,000 to $10,000,000,000. The House had no similar provision.

Sec. 428. The conference agreement modifies the House recommended language, which was in House section 427, extending the authority for the Service First program of the Department of the Interior and the Forest Service. The Senate had no similar provision. The authority now extends through fiscal year 2008 and also clarifies that the National Park Service and the Fish and Wildlife Service may participate, as well as the Bureau of Land Management and the Forest Service.

Sec. 429. The conference agreement retains the House recommended language concerning a land exchange in San Bernardino, CA, which was in House section 428. The Senate had no similar provision.

Sec. 430. The conference agreement retains the House recommended language continuing a previous provision concerning Finger Lakes National Forest, NY, oil and gas leasing, which was in House section 430. The Senate had no similar provision.

Sec. 431. The conference agreement modifies the Senate recommended provision, which was in Senate section 427, authorizing the Eastern Nevada Landscape Coalition to enter into agreements with the Departments of the Interior and Agriculture. The language now is effective for one year. The House had no similar provision.

Sec. 432. The conference agreement retains, with minor technical modifications, the Senate recommended language, which was in Senate section 426, amending the Valles Caldera Preservation Act. This provision requires the Secretary of Agriculture to develop a fire management plan and enter into a cooperative fire management agreement for the Valles Caldera National Preserve. The Forest Service shall also provide wildfire pre-suppression and non-emergency rehabilitation and restoration services for the Trust, which manages the Preserve, on a reimbursable basis. The House had no similar provision.

Sec. 433. The conference agreement retains the Senate recommended language, which was in Senate section 429, prohibiting the use of funds to demolish certain structures on the Zephyr Shoals property, Lake Tahoe, NV. The House had no similar provision.

Sec. 434. The conference agreement modifies the Senate recommended language, which was in Senate section 432, extending the Forest Service authority to conduct certain work on non-Forest Service land. The authority now extends for five years. The House had no similar provision.

Sec. 435. The conference agreement retains the Senate recommended language, which was in Senate section 433, setting certain conditions for the grant of a zoning variance for the property at 51 Louisiana Ave., NW, Washington D.C. The House had no similar provision.

Sec. 436. The conference agreement includes a new provision authorizing the acquisition of lands for the Chequamegon-Nicolet National Forest, WI, and directing the Secretary to maintain existing management practices on those lands.

Sec. 437. The conference agreement includes a new provision for a $5,000,000 grant to Kendall County, Illinois.

Sec. 438. Modifies section 344 of the Department of the Interior and Related Agencies Appropriations Act, 2005 regarding the lands to be acquired for the Kenai Fjords interagency visitor center and the use of funds not required for land acquisition.

Sec. 439. The conference agreement includes an across the board rescission of 0.476 percent. This reduction should be applied to each program, project, and activity, except for Miscellaneous Payments to Indians, which has a different application of the rescission as specified in the statutory language.

The conference agreement does not include a provision in section 405 of the House bill providing for restrictions on departmental assessments unless approved by the Committees on Appropriations.

The conference agreement does not include a provision in section 409 of the House bill specifying reforms and limitations dealing with the National Endowment for the Arts.

The conference agreement does not include a provision in section 411 of the House bill providing direction to the National Endowment for the Arts on funding distribution.

The conference agreement does not include a provision in section 417 of the House bill extending the Forest Service Conveyance Pilot Program.

The conference agreement does not include a provision in section 429 of the House bill requiring a report of the expenditure of funds pursuant to the Southern Nevada Public Lands Management Act.

The conference agreement does not include a provision in section 431 of the House bill prohibiting the Fish and Wildlife Service to use land acquisition funds for the purchase of water rights in the Klamath Basin, CA.

The conference agreement does not include a provision in section 435 of the House bill limiting the number of federal employees that can be sent to international conferences.

The conference agreement does not include a provision in section 437 of the House bill prohibiting the use of funds for the sale or slaughter of wild free roaming horses and burros.

The managers have not included language proposed by the Senate in section 434 dealing with the Biscuit fire recovery but the managers would like to have a report from the Forest Service on this issue. Accordingly, by March 1, 2006 the Forest Service should submit a report to the House and Senate Committees on Appropriations (and make this report publicly available on the agency website) which discusses the following issues concerning the Biscuit fire in southern Oregon:

1. The change in reforestation capabilities and costs between the date of the containment of the Biscuit Fire and the completion of the Biscuit Fire Recovery Project, as detailed in the Record of Decision.

2. The commercial value lost, as well as recovered, of fire-killed timber within the Biscuit Fire area.

3. All actions included in the Record of Decision for the Biscuit Fire Recovery Project, but forgone because of delay or funding shortfall.

4. The Forest Service original estimate of the acres that should be reforested and the cost in dollars and per acre, including planting stock and overhead and a summary of the original schedule to do the work.

5. A summary of the initial Forest Service plan to salvage timber: including a discussion of the acres which would have been harvested and the estimated volume and value of that salvage, as well as the cost to the Federal government to develop and administer the sale and the anticipated cost to the purchasers.

6. A similar summary for the final Forest Service salvage plan.

7. A presentation and list of all of the timber sales offered and planned, including the volume, and appraised value. The presentation should indicate sales offered but not sold, and sales not yet underway. It should also separate out sales by land management regime.

The conference agreement does not include a provision in section 437 of the Senate bill expressing the sense of the Senate with regard to the national debt and funding for the global war on terror.

TITLE V—FOREST SERVICE FACILITY REALIGNMENT AND ENHANCEMENT ACT

The conference report modifies legislation recommended by the Senate in Title V. This provision allows the Forest Service to dispose of administrative facilities that are no longer needed and use all of the revenue to reduce the administrative-site deferred maintenance backlog. This improves the Service's ability to realign facilities to meet the needs of the workforce and the Nation. The legislation authorizes the Secretary of Agriculture to sell, lease, exchange or combine a sale and exchange of certain administrative sites the Secretary determines are no longer needed for National Forest System purposes. The legislation incorporates new authorities for streamlining regulations to facilitate the timely disposal of administrative sites and to improve the marketability of the sites. All receipts derived from the conveyance of administrative sites and facilities shall be deposited in the Sisk Act fund and remain available to the Secretary until expended, without further appropriations. These funds will be used for the administrative costs incurred in conveying sites; the acquisition of land for administrative sites; and for the decommissioning, construction, maintenance, rehabilitation, and improvement of administrative sites.

The managers make the following recommendations:

1. The Service is allowed to dispose of up to 10 isolated, undeveloped sites per year which were acquired or used for administrative purposes, with certain limitations.

2. Certain lands are explicitly excluded, including any land within the national wilderness system, in the wild and scenic river system, lands specifically designated for natural area or recreation purposes, or in a national monument. In addition, it is the intent of the managers that the exclusions apply to undeveloped lands on historic trails and sites, national preserves, national recreation areas, national scenic areas, national conservation areas, national botanical areas, national forest primitive areas, research natural areas, national game refuges and wildlife preserve areas, and officially designated special interest areas.

3. The managers direct that the service should not dispose of lands needed for natural resource management, or lands which are important to provide public access to other lands or waters, such as recreational river corridors or sites with special recreational values.

4. The managers intend that disposal of lands will not create new non-Federal inholdings within larger areas of contiguous Federal or other publicly owned lands available for recreational activities.

5. The provision requires the Service to include detailed displays in the annual budget justification of the anticipated program under this authority and provide other details so the Congress and the public can evaluate the program and its impact. The Service should notify the Congress if changes to this plan are later necessary. The managers are concerned that future appropriation decisions concerning facility construction, reconstruction and maintenance being made will be fully informed by knowledge of the anticipated revenues derived from this new authority. The managers also understand that the revenue stream will be temporary, and that all areas of the Nation do not have a similar amount of excess facilities nor ability to generate revenue.

6. The authorities provided by this Title expire on September 30, 2008. However, the managers will closely monitor the implementation of this provision. The managers encourage the Congress to extend the authority if steady progress is demonstrated. As with the pilot conveyance authority, the Service is more likely to successfully plan and implement project planning if there continues to be no less than two or three years remaining on the authority.

7. The conference agreement repeals the previous pilot conveyance authority, which was established in the Department of the Interior and Related Agencies Appropriations Act, 2002. The repeal is effective as of September 30, 2006, and any project initiated under the pilot authority may be completed under that authority.

8. The agreement continues the Senate-recommended language concerning lead-based and asbestos abatement, but limits the exclusion only to laws affecting these matters.

9. The agreement clarifies that the Forest Service should follow the National Environmental Policy Act (NEPA) with the exception that the Service must analyze only the most reasonably foreseeable use of the site, and determine whether or not to reserve any right, title or interest in the sites. The managers expect that, consistent with the NEPA, the Service will evaluate the alternative of not disposing of the sites.

10. The agreement requires that the Forest Service consult with local governmental officials of the community in which the administrative site is located and provide public notice of the proposed conveyance.

11. The conference agreement does not include the Senate proposal concerning the working capital fund. However, the conference agreement includes, within the Administrative provisions section of the Forest Service, bill language which allows the Forest Service to assess all funds available to the agency to support maintenance of facilities other than recreation facilities. The managers expect that this assessment approach will provide field managers an incentive to carefully evaluate their space needs and help reduce the total amount of building space maintained. This should save money and reduce the tremendous backlog in deferred maintenance that has accumulated within the Forest Service.

TITLE VI—VETERANS HEALTH CARE

Sec. 601. Appropriated $1,500,000,000 to the Department of Veterans Affairs for Medical services for fiscal year 2005. The conferees agree that the amount provided will be available until September 30, 2006. The conferees note that the fiscal year 2006 budget amendment submitted to the Congress on July 14, 2005 included additional fiscal year 2005 requirements for Medical Services. The conferees agree, that prior to completion of the fiscal year 2006 appropriations Act for the Department of Veterans Affairs, the House and Senate subcommittees of jurisdiction will continue to evaluate and adjust the funding level required for fiscal year 2006 based upon most current information available.

DEPARTMENT OF INTERIOR, ENVIRONMENT, AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
TITLE I - DEPARTMENT OF THE INTERIOR				
BUREAU OF LAND MANAGEMENT				
Management of Lands and Resources				
Land Resources				
Soil, water and air management	34,738	33,343	34,343	-395
Range management	69,183	69,212	70,912	+1,729
Forestry management	8,895	10,559	10,559	+1,664
Riparian management	21,228	21,704	22,454	+1,226
Cultural resources management	14,925	15,240	15,240	+315
Wild horse and burro management	39,045	36,905	36,905	-2,140
Subtotal, Land Resources	188,014	186,963	190,413	+2,399
Wildlife and Fisheries				
Wildlife management	25,063	28,587	28,587	+3,524
Fisheries management	11,884	12,497	12,497	+613
Subtotal, Wildlife and Fisheries	36,947	41,084	41,084	+4,137
Threatened and endangered species	21,144	21,572	21,572	+428
Recreation Management				
Wilderness management	16,431	16,806	16,806	+375
Recreation resources management	44,158	47,798	49,298	+5,140
Subtotal, Recreation Management	60,589	64,604	66,104	+5,515
Energy and Minerals				
Oil and gas	87,360	87,291	90,291	+2,931
Coal management	9,311	9,296	9,296	-15
Other mineral resources	9,960	10,185	10,185	+225
Subtotal, Energy and Minerals	106,631	106,772	109,772	+3,141
Alaska minerals	3,944	2,297	2,297	-1,647
Realty and Ownership Management				
Alaska conveyance	41,975	33,599	40,599	-1,376
Cadastral survey	15,590	13,866	16,026	+436
Land and realty management	35,059	33,681	33,681	-1,378
Subtotal, Realty and Ownership Management	92,624	81,146	90,306	-2,318
Resource Protection and Maintenance				
Resource management planning	48,863	49,516	50,266	+1,403
Resource protection and law enforcement	16,788	17,974	19,224	+2,436
Hazardous materials management	15,850	16,126	16,126	+276
Subtotal, Resource Protection and Maintenance	81,501	83,616	85,616	+4,115
Transportation and Facilities Maintenance				
Operations	6,057	6,271	6,271	+214
Annual maintenance	30,564	31,293	32,043	+1,479
Deferred maintenance	41,192	38,727	39,477	-1,715
Subtotal, Transportation/Facilities Maintenance	77,813	76,291	77,791	-22
Land and resources information systems	16,062	16,217	16,217	+155
Mining Law Administration				
Administration	32,696	32,696	32,696	---
Offsetting fees	-32,696	-32,696	-32,696	---
Subtotal, Mining Law Administration	---	---	---	---
Workforce and Organizational Support				
Information systems operations	19,651	21,455	21,455	+1,804
Administrative support	50,164	51,437	51,437	+1,273
Bureauwide fixed costs	72,346	74,727	74,727	+2,381
Subtotal, Workforce and Organizational Support	142,161	147,619	147,619	+5,458

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Challenge cost share	7,396	13,996	10,000	+2,604
Cooperative Conservation Initiative	---	6,000	---	---
Subtotal, Challenge Cost Share	---	---	---	---
Total, Management of Lands and Resources	836,826	850,177	860,791	+23,965
Wildland Fire Management				
Preparedness	258,939	272,852	272,852	+13,913
Fire facilities	---	7,849	---	---
Joint fire science	---	6,000	---	---
Subtotal, Preparedness	258,939	286,701	272,852	+13,913
Fire suppression operations	218,445	234,167	234,167	+15,722
Additional appropriations, Title IV	98,611	---	---	-98,611
Subtotal, Fire suppression operations	317,056	234,167	234,167	-82,889
Other operations				
Hazardous fuels reduction	201,409	211,220	211,220	+9,811
Burned area rehabilitation	23,939	24,476	24,476	+537
State and local fire assistance	9,861	---	10,000	+139
Fire facilities	12,202	---	7,849	-4,353
Joint fire science	7,889	---	6,000	-1,889
Subtotal, Other operations	255,300	235,696	259,545	+4,245
Total, Wildland Fire Management	831,295	756,564	766,564	-64,731
Central Hazardous Materials Fund				
Bureau of Land Management	9,855	---	---	-9,855
Rescission of balances	-13,500	---	---	+13,500
Construction				
Construction	11,340	6,476	11,926	+586
Land Acquisition				
Land Acquisition				
Acquisitions	6,755	9,533	5,450	-1,305
Emergencies and hardships	1,479	1,500	1,000	-479
Acquisition management	2,958	2,317	2,300	-658
Total, Land Acquisition	11,192	13,350	8,750	-2,442
Oregon and California Grant Lands				
Western Oregon resources management	88,775	96,692	96,692	+7,917
Western Oregon information and resource data systems	2,151	2,173	2,173	+22
Western Oregon transportation & facilities maintenance	10,619	10,903	10,903	+284
Western Oregon construction and acquisition	291	302	302	+11
Jobs in the woods	5,661	---	---	-5,661
Total, Oregon and California Grant Lands	107,497	110,070	110,070	+2,573
Range Improvements				
Improvements to public lands	7,873	7,873	7,873	---
Farm Tenant Act lands	1,527	1,527	1,527	---
Administrative expenses	600	600	600	---
Total, Range Improvements	10,000	10,000	10,000	---
Service Charges, Deposits, and Forfeitures				
Rights-of-way processing	8,025	11,910	11,910	+3,885
Energy and minerals cost recovery	1,840	10,840	10,840	+9,000
Adopt-a-horse program	1,225	1,225	1,225	---
Repair of damaged lands	5,000	5,000	5,000	---
Cost recoverable realty cases	515	515	515	---
Timber purchaser expenses	50	50	50	---

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Commercial film and photography fees	200	200	200	---
Copy fees	3,200	3,200	3,200	---
Subtotal (gross)	20,055	32,940	32,940	+12,885
Offsetting fees	-20,055	-32,940	-32,940	-12,885
Total, Service Charges, Deposits & Forfeitures	---	---	---	---
Miscellaneous Trust Funds				
Current appropriations	12,405	12,405	12,405	---
TOTAL, BUREAU OF LAND MANAGEMENT	1,816,910	1,759,042	1,780,506	-36,404
UNITED STATES FISH AND WILDLIFE SERVICE				
Resource Management				
Ecological Services				
Endangered species				
Candidate conservation	9,255	8,252	8,852	-403
Listing	15,960	18,130	18,130	+2,170
Consultation	48,129	49,484	49,484	+1,355
Recovery	69,870	64,243	75,159	+5,289
Subtotal, Endangered species	143,214	140,109	151,625	+8,411
Habitat conservation	94,457	101,978	100,713	+6,256
Environmental contaminants	10,901	8,486	11,186	+285
Subtotal, Ecological Services	248,572	250,573	263,524	+14,952
Refuges and Wildlife				
Refuge operations and maintenance	381,019	393,894	393,394	+12,375
Migratory bird management	35,451	41,635	39,227	+3,776
Law enforcement operations	55,615	57,612	57,712	+2,097
Subtotal, Refuges and Wildlife	472,085	493,141	490,333	+18,248
Fisheries				
Hatchery operations and maintenance	56,755	57,971	57,971	+1,216
Fish and wildlife management	58,418	49,685	60,787	+2,369
Subtotal, Fisheries	115,173	107,656	118,758	+3,585
General Administration				
Science excellence	---	2,000	500	+500
Central office administration	27,120	27,827	27,827	+707
Regional office administration	39,992	40,807	40,807	+815
Administrative efficiencies	---	-2,025	---	---
Servicewide administrative support	25,625	30,736	30,736	+5,111
National Fish and Wildlife Foundation	7,761	7,470	7,770	+9
National Conservation Training Center	17,058	17,829	18,476	+1,418
International affairs	9,160	9,549	10,149	+989
Caddo Lake Ramsar Center	394	---	---	-394
Subtotal, General Administration	127,110	134,193	136,265	+9,155
Total, Resource Management	962,940	985,563	1,008,880	+45,940
Construction				
Construction and rehabilitation				
Line item construction	41,793	10,060	36,275	-5,518
Nationwide engineering services	10,865	9,616	9,616	-1,249
Emergency appropriations (P.L. 108-324)	40,552	---	---	-40,552
Total, Construction	93,210	19,676	45,891	-47,319

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Land Acquisition				
Fish and Wildlife Service				
Acquisitions - Federal refuge lands	22,593	26,029	13,695	-8,898
Inholdings	1,479	1,750	1,500	+21
Emergencies and hardships	986	1,750	1,500	+514
Exchanges	1,726	1,750	1,500	-226
Acquisition management	8,249	7,893	8,393	+144
Cost allocation methodology	1,972	1,820	1,820	-152
Total, Land Acquisition	37,005	40,992	28,408	-8,597
Landowner Incentive Program				
Grants to States	21,694	40,000	24,000	+2,306
Private Stewardship Grants Program				
Stewardship grants	6,903	10,000	7,386	+483
Cooperative Endangered Species Conservation Fund				
Grants to States	15,846	17,643	17,643	+1,797
Species recovery land acquisition	13,400	14,186	14,186	+786
HCP land acquisition	48,698	45,653	47,853	-845
Administration	2,518	2,518	2,518	---
Total, Cooperative Endangered Species Fund	80,462	80,000	82,200	+1,738
National Wildlife Refuge Fund				
Payments in lieu of taxes	14,214	14,414	14,414	+200
North American Wetlands Conservation Fund				
Wetlands conservation	35,973	47,949	38,400	+2,427
Administration	1,499	2,000	1,600	+101
Total, North American Wetlands Conservation Fund	37,472	49,949	40,000	+2,528
Neotropical Migratory Bird Conservation Fund				
Migratory bird grants	3,944	---	4,000	+56
Multinational Species Conservation Fund				
African elephant conservation	1,381	1,000	1,400	+19
Rhinoceros and tiger conservation	1,477	1,100	1,600	+123
Asian elephant conservation	1,381	1,000	1,400	+19
Great ape conservation	1,381	900	1,400	+19
Marine turtles	99	300	700	+601
Neotropical Bird Conservation	---	4,000	---	---
Total, Multinational Species Conservation Fund	5,719	8,300	6,500	+781
State and Tribal Wildlife Grants				
State and tribal wildlife grants	69,028	74,000	68,500	-528
TOTAL, U.S. FISH AND WILDLIFE SERVICE	1,332,591	1,322,894	1,330,179	-2,412
NATIONAL PARK SERVICE				
Operation of the National Park System				
Park Management				
Resource stewardship	348,036	354,116	354,141	+6,105
Visitor services	338,454	346,181	346,181	+7,727
Maintenance	582,739	595,586	594,686	+11,947
Park support	290,400	307,613	298,509	+8,109
Park base increase	---	---	20,000	+20,000
Subtotal, Park Management	1,559,629	1,603,496	1,613,517	+53,888
External administrative costs	123,935	130,557	130,557	+6,622
Total, Operation of the National Park System	1 683 564	1,734,053	1,744,074	+60,510

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs Enacted
United States Park Police				
Park Police	80,076	80,411	81,411	+1,335
National Recreation and Preservation				
Recreation programs	543	554	554	+11
Natural programs	10,865	9,545	9,845	-1,020
Cultural programs	19,933	17,722	20,028	+95
International park affairs	1,593	1,618	1,618	+25
Environmental and compliance review	391	399	399	+8
Grant administration	1,866	1,913	1,913	+47
Heritage Partnership Programs				
Commissions and grants	13,966	4,904	13,400	-566
Newly authorized areas	493	---	---	-493
Administrative support	120	122	100	-20
Subtotal, Heritage Partnership Programs	14,579	5,026	13,500	-1,079
Statutory or Contractual Aid	11,203	---	7,108	-4,095
Total, National Recreation and Preservation	60,973	36,777	54,965	-6,008
Historic Preservation Fund				
State historic preservation offices	35,500	35,500	36,250	+750
Tribal grants	3,205	3,205	4,000	+795
Save America's Treasures	29,583	15,000	30,000	+417
Preserve America	---	12,500	---	---
HBCUs	3,461	---	3,000	-451
Total, Historic Preservation Fund	71,739	66,205	73,250	+1,511
Construction				
Emergency and unscheduled	3,944	3,944	3,000	-944
Housing	7,889	7,889	7,000	-889
Equipment replacement	36,900	26,900	26,000	-10,900
Planning, construction	20,925	19,925	19,925	-1,000
General management plans	13,128	13,254	13,754	+626
Line item construction and maintenance	188,748	221,183	217,845	+29,097
Construction program management	26,984	28,605	28,105	+1,121
Dam safety	2,662	2,662	2,662	---
Emergency appropriations (P.L. 108-324)	50,802	---	---	-50,802
Subtotal, Construction	352,982	324,362	318,291	-34,691
Use of prior year balances	---	-17,000	-17,000	-17,000
Total, Construction	352,982	307,362	301,291	-51,691
Land and Water Conservation Fund				
(Rescission of contract authority)	-30,000	-30,000	-30,000	---
Land Acquisition and State Assistance				
Assistance to States				
State conservation grants	89,736	---	28,413	-61,323
Administrative expenses	1,479	1,587	1,587	+108
Total, Assistance to States	91,215	1,587	30,000	-61,215
National Park Service				
Acquisitions	39,839	35,131	30,075	-9,764
Emergencies and hardships	2,465	4,000	2,500	+35
Acquisition management	10,365	9,749	9,749	-616
Inholdings	2,465	4,000	2,500	+35
Use of prior year balances	---	---	-9,915	-9,915
Total, National Park Service	55,134	52,880	34,909	-20,225
Total, Land Acquisition and State Assistance	146,349	54,467	64,909	-81,440
TOTAL, NATIONAL PARK SERVICE	2,365,683	2,249,275	2,289,900	-75,783

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
UNITED STATES GEOLOGICAL SURVEY				
Surveys, Investigations, and Research				
Mapping, Remote Sensing, and Geographic Investigations				
Cooperative topographic mapping	71,393	71,882	71,882	+489
Land remote sensing	32,730	46,396	44,396	+11,666
Geographic analysis and monitoring	14,628	15,175	14,925	+297
Subtotal, National Mapping Program	118,751	133,453	131,203	+12,452
Geologic Hazards, Resource and Processes				
Geologic hazards assessments	75,979	82,209	82,209	+6,230
Geologic landscape and coastal assessments	76,253	77,228	78,914	+2,661
Geologic resource assessments	77,014	48,699	77,877	+863
Subtotal, Geologic Hazards, Resource & Processes	229,246	208,136	238,800	+9,554
Water Resources Investigations				
Hydrologic monitoring, assessments and research				
Ground water resources program	6,998	7,417	8,147	+1,149
National water quality assessment	61,645	63,132	63,132	+1,487
Toxic substances hydrology	14,476	13,120	14,600	+124
Hydrologic research and development	15,997	14,428	14,828	-1,169
National streamflow information program	13,814	14,152	14,152	+338
Hydrologic networks and analysis	29,524	28,152	29,797	+273
Subtotal, Hydrologic monitoring, assessments and research	142,454	140,401	144,656	+2,202
Federal-State program	62,337	63,770	63,770	+1,433
Water resources research institutes	6,409	---	6,500	+91
Subtotal, Water Resources Investigations	211,200	204,171	214,926	+3,726
Biological Research				
Biological research and monitoring	133,130	134,348	138,453	+5,323
Biological information management and delivery	23,999	24,149	24,149	+150
Cooperative research units	14,570	14,428	14,883	+313
Subtotal, Biological Research	171,699	172,925	177,485	+5,786
Enterprise Information				
Enterprise information security and technology	22,714	25,237	25,237	+2,523
Enterprise information resources	16,989	17,153	17,153	+164
Federal geographic data coordination	4,670	5,377	4,697	+27
Subtotal, Enterprise Information	44,373	47,767	47,087	+2,714
Science support	65,584	72,337	70,337	+4,753
Facilities	94,611	94,726	96,197	+1,586
Emergency appropriations (P.L. 108-324)	1,000	---	---	-1,000
Emergency appropriations (P.L. 109-13)	8,100	---	---	-8,100
TOTAL, UNITED STATES GEOLOGICAL SURVEY	944,564	933,515	976,035	+31,471
MINERALS MANAGEMENT SERVICE				
Royalty and Offshore Minerals Management				
OCS Lands				
Leasing and environmental program	37,224	37,768	37,943	+719
Resource evaluation	29,566	28,682	29,682	+116
Regulatory program	51,516	51,766	51,966	+450
Information management program	29,972	30,125	30,325	+353
Subtotal, OCS Lands	148,278	148,341	149,916	+1,638
Royalty Management				
Compliance and asset management	41,550	51,903	43,103	+1,553
Revenue and operations	33,867	35,426	35,426	+1,559
Subtotal, Royalty Management	75,417	87,329	78,529	+3,112

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
General Administration				
Executive direction	2,057	2,086	2,116	+59
Policy and management improvement	4,132	4,216	4,246	+114
Administrative operations	16,964	17,025	17,275	+311
General support services	23,702	24,149	24,299	+597
Subtotal, General Administration	46,855	47,476	47,936	+1,081
Subtotal (gross)	270,550	283,146	276,381	+5,831
Use of receipts	-103,730	-122,730	-122,730	-19,000
Total, Royalty and Offshore Minerals Management	166,820	160,416	153,651	-13,169
Oil Spill Research				
Oil spill research	7,006	7,006	7,006	---
TOTAL, MINERALS MANAGEMENT SERVICE	173,826	167,422	160,657	-13,169
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT				
Regulation and Technology				
Environmental restoration	158	159	159	+1
Environmental protection	79,821	79,566	79,566	-255
Technology development and transfer	13,300	15,126	15,126	+1,826
Financial management	485	488	488	+3
Executive direction	14,505	15,096	15,096	+591
Subtotal, Regulation and Technology	108,269	110,435	110,435	+2,166
Civil penalties	99	100	100	+1
Total, Regulation and Technology	108,368	110,535	110,535	+2,167
Abandoned Mine Reclamation Fund				
Environmental restoration	167,861	170,112	170,112	+2,251
Legislative proposal	---	58,000	---	---
Technology development and transfer	4,479	3,922	3,922	-557
Financial management	8,444	6,234	6,234	-2,210
Executive direction	7,421	7,746	7,746	+325
Total, Abandoned Mine Reclamation Fund	188,205	246,014	188,014	-191
TOTAL, OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT	296,573	356,549	298,549	+1,976
BUREAU OF INDIAN AFFAIRS				
Operation of Indian Programs				
Tribal Budget System				
Tribal Priority Allocations				
Tribal government	389,183	394,558	394,558	+5,375
Human services	147,387	141,561	148,731	+1,344
Education	48,300	39,466	48,304	+4
Public safety and justice	1,222	---	1,162	-60
Community development	40,412	40,789	40,789	+377
Resources management	61,999	63,149	63,149	+1,150
Trust services	56,115	56,038	56,038	-77
General administration	24,925	24,588	24,588	-337
Subtotal, Tribal Priority Allocations	769,543	760,149	777,319	+7,776

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Other Recurring Programs				
Education				
School operations				
Forward-funded	449,721	454,725	464,585	+14,864
Other school operations	67,926	66,908	66,908	-1,018
Subtotal, School operations	517,647	521,633	531,493	+13,846
Continuing education	53,141	43,375	56,375	+3,234
Subtotal, Education	570,788	565,008	587,868	+17,080
Resources management	42,131	37,293	46,927	+4,796
Subtotal, Other Recurring Programs	612,919	602,301	634,795	+21,876
Non-Recurring Programs				
Community development	3,452	---	2,750	-702
Resources management	36,225	32,348	35,244	-981
Trust services	36,308	32,977	33,377	-2,931
Subtotal, Non-Recurring Programs	75,985	65,325	71,371	-4,614
Total, Tribal Budget System	1,458,447	1,427,775	1,483,485	+25,038
BIA Operations				
Central Office Operations				
Tribal government	2,248	2,288	2,288	+40
Human services	887	912	912	+25
Community development	---	500	500	+500
Resources management	3,416	3,044	3,044	-372
Trust services	19,071	27,169	27,169	+8,098
General administration				
Education program management	2,348	2,411	2,411	+63
Personnel services	5,863	8,378	8,378	+2,515
Other general administration	106,188	106,832	106,832	+644
Subtotal, General administration	114,399	117,621	117,621	+3,222
Subtotal, Central Office Operations	140,021	151,534	151,534	+11,513
Regional Office Operations				
Tribal government	1,095	1,323	1,323	+228
Human services	3,038	3,019	3,019	-19
Community development	778	966	966	+188
Resources management	5,319	5,403	5,403	+84
Trust services	24,049	27,376	27,376	+3,327
General administration	7,083	3,503	3,503	-3,580
Subtotal, Regional Office Operations	41,362	41,590	41,590	+228

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Special Programs and Pooled Overhead				
Education	16,336	17,499	17,499	+1,163
Public safety and justice	180,063	192,265	196,265	+16,202
Community development	8,102	---	7,550	-552
Resources management	1,269	1,269	1,269	---
General administration	80,491	92,298	92,298	+11,807
Subtotal, Special Programs and Pooled Overhead	286,261	303,331	314,881	+28,620
Total, BIA Operations	467,644	496,455	508,005	+40,361
Total, Operation of Indian Programs	1,926,091	1,924,230	1,991,490	+65,399
BIA SPLITS				
Natural resources	(150,359)	(142,506)	(155,036)	(+4,677)
Forward-funding	(449,721)	(454,725)	(464,585)	(+14,864)
Education	(188,051)	(169,659)	(191,497)	(+3,446)
Community development	(1,137,960)	(1,157,340)	(1,180,372)	(+42,412)
Total, BIA splits	(1,926,091)	(1,924,230)	(1,991,490)	(+65,399)
Construction				
Education	263,372	173,875	209,875	-53,497
Public safety and justice	7,381	11,777	11,777	+4,396
Resources management	40,289	38,272	45,772	+5,483
General administration	2,126	2,136	2,136	+10
Construction management	5,961	6,077	6,077	+116
Total, Construction	319,129	232,137	275,637	-43,492
Indian Land and Water Claim Settlements and Miscellaneous Payments to Indians				
Cherokee, Choctaw, and Chickasaw settlement	9,833	10,167	10,167	+334
Colorado Ute Settlement	7,889	8,111	8,111	+222
Cuba Lake Settlement	1,726	---	---	-1,726
Hoopa-Yurok settlement fund	247	254	254	+7
Pyramid Lake water rights settlement	140	144	144	+4
Quinault Settlement	9,893	---	10,000	+107
White Earth Land Settlement Act (Admin)	616	634	634	+18
Zuni Water Settlement	13,806	5,444	5,444	-8,362
Total, Miscellaneous Payments to Indians	44,150	24,754	34,754	-9,396
Indian Guaranteed Loan Program Account				
Indian guaranteed loan program account	6,332	6,348	6,348	+16
TOTAL, BUREAU OF INDIAN AFFAIRS	2,295,702	2,187,469	2,308,229	+12,527
DEPARTMENTAL OFFICES				
Insular Affairs				
Assistance to Territories				
Territorial Assistance				
Office of Insular Affairs	6,472	6,881	7,381	+909
Technical assistance	11,716	8,561	10,681	-1,035
Maintenance assistance fund	2,268	2,300	2,300	+32
Brown tree snake	2,663	2,700	2,700	+37
Insular management controls	1,470	1,491	1,491	+21
Coral reef initiative	493	500	500	+7
Water and wastewater projects	---	1,000	1,000	+1,000
Subtotal, Territorial Assistance	25,082	23,433	26,053	+971
American Samoa				
Operations grants	22,779	23,110	23,110	+331
Northern Marianas				
Covenant grants	27,720	27,720	27,720	---
Total, Assistance to Territories	75,581	74,263	76,883	+1,302

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Compact of Free Association				
Compact of Free Association - Federal services	2,957	2,862	2,862	-95
Mandatory payments - program grant assistance	2,000	2,000	2,000	---
Enewetak support	493	---	500	+7
Total, Compact of Free Association	5,450	4,862	5,362	-88
Total, Insular Affairs	81,031	79,125	82,245	+1,214
Departmental Management				
Departmental direction	13,358	13,591	13,591	+233
Management and coordination	28,554	30,298	29,348	+794
Hearings and appeals	7,919	8,068	8,068	+149
Central services	27,696	34,387	33,865	+6,169
Bureau of Mines workers compensation/unemployment	629	653	653	+24
Take Pride in America	490	1,000	500	+10
Financial and business management system	14,160	23,655	22,555	+8,395
Indian Arts and Crafts Board	1,042	1,162	1,162	+120
Grant to Kendall County, Illinois	4,931	---	---	-4,931
Martin Luther King, Jr. Memorial	---	---	10,000	+10,000
General reduction	-2,958	---	---	+2,958
Appraisal services	---	7,441	7,441	+7,441
Emergency appropriations (P.L. 109-13)	3,000	---	---	-3,000
Total, Departmental Management	98,821	120,155	127,183	+28,362
Payments in Lieu of Taxes				
Payments to local governments	226,805	200,000	236,000	+9,195
Central Hazardous Materials Fund				
Central hazardous materials fund	---	9,855	9,855	+9,855
Office of the Solicitor				
Legal services	40,916	42,860	42,472	+1,556
General administration	9,701	12,020	11,901	+2,200
Ethics	1,039	1,072	1,067	+28
Total, Office of the Solicitor	51,656	56,752	55,440	+3,784
Office of Inspector General				
Audit	16,270	17,744	16,974	+704
Investigations	13,529	15,241	14,341	+812
Administrative services and information management	7,476	8,014	7,801	+325
Total, Office of Inspector General	37,275	40,999	39,116	+1,841
Office of Special Trustee for American Indians				
Federal Trust Programs				
Program operations, support, and improvements	191,324	267,165	189,361	-1,963
Executive direction	2,216	2,232	2,232	+16
Total, Federal Trust programs	193,540	269,397	191,593	-1,947
Indian Land Consolidation Program				
Indian land consolidation	34,514	34,514	34,514	---
Total, Office of Special Trustee for American Indians	228,054	303,911	226,107	-1,947

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Natural Resource Damage Assessment Fund				
Damage assessments	3,845	3,931	3,931	+86
Program management	1,526	1,592	1,592	+66
Restoration support	366	583	583	+217
Total, Natural Resource Damage Assessment Fund	5,737	6,106	6,106	+369
TOTAL, DEPARTMENTAL OFFICES	729,379	815,903	782,052	+52,673
TOTAL, TITLE I, DEPARTMENT OF THE INTERIOR	9,955,228	9,792,069	9,926,107	-29,121
Appropriations	(9,881,774)	(9,822,069)	(9,956,107)	(+74,333)
Emergency appropriations	(103,454)	---	---	(-103,454)
Rescission	(-30,000)	(-30,000)	(-30,000)	---
TITLE II - ENVIRONMENTAL PROTECTION AGENCY				
Science and Technology				
Air toxics and quality				
Clean air allowance trading programs (also EPM)	8,734	9,353	8,734	---
Federal support for air quality mgmt (also EPM)	10,521	10,016	10,016	-505
Federal support for air toxics program (also EPM)	2,562	2,265	2,265	-297
Federal vehicle and fuels standards/certification	57,436	66,567	59,567	+2,131
Radiation: Protection (also EPM; HSS)	3,069	2,121	2,121	-948
Radiation: Response preparedness (also EPM)	2,320	3,576	3,576	+1,256
Subtotal, Air toxics and quality	84,642	93,898	86,279	+1,637
Enforcement				
Forensics support (also HSS)	13,048	13,737	13,737	+689
Climate protection				
Climate protection program (also EPM)	19,006	17,732	19,032	+26
Homeland security				
Homeland security: Critical infrastructure protection				
Critical infrastructure protection (except water sentinel) (also EPM; HSS)	3,495	3,569	3,569	+74
Water sentinel and related training	---	44,000	9,000	+9,000
Subtotal, Homeland security: Critical infrastructure protection	3,495	47,569	12,569	+9,074
Homeland security: Preparedness, response, and recovery				
Preparedness, response, and recovery (other activities) (also HSS)	13,671	14,806	14,806	+1,135
Decontamination (also EPM; HSS)	13,609	24,710	16,710	+3,101
Laboratory preparedness & response (also EPM; HSS)	---	600	600	+600
Safe buildings	---	4,000	4,000	+4,000
(Transfer from Hazardous substance superfund)	(2,071)	(2,000)	(2,000)	(-71)
Subtotal, Homeland security: Preparedness, response, and recovery	27,280	44,116	36,116	+8,836
Homeland security: Protection of EPA personnel and infrastructure (also EPM; B&F; HSS)	2,024	2,100	2,100	+76
Subtotal, Homeland security	32,799	93,785	60,785	+17,986
IT / Data management / Security				
IT / Data management (also EPM; LUST; OSR; HSS)	4,345	4,251	4,251	-94
Indoor air				
Indoor air: Radon program (also EPM)	495	442	442	-53
Indoor air: Schools and workplace program (moved to reduce risks in FY06)	843	---	---	-843
Reduce risks from indoor air (also EPM)	---	832	832	+832
Subtotal, Indoor air	1,338	1,274	1,274	-64

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Operations and administration				
Facilities infrastructure and operations (also EPM; B&F; LUST; OSR; HSS)	8,466	8,716	8,716	+250
Pesticide licensing				
Pesticides: Registration of new pesticides (also EPM)	2,466	2,490	2,490	+24
Pesticides: Review/Reregistration of existing pesticides (also EPM)	2,478	2,506	2,506	+28
Subtotal, Pesticide licensing	4,944	4,996	4,996	+52
Research / Congressional priorities	65,665	---	33,275	-32,390
Research: Clean air				
Research: Air toxics	16,956	16,387	16,387	-569
Research: Global change	19,578	20,534	19,934	+356
Research: National ambient air quality standards (NAAQS)	---	71,451	69,451	+69,451
Research: Particulate matter (Moved to NAAQS in FY06)	60,863	---	---	-60,863
Research: Troposphere ozone	4,041	---	---	-4,041
Subtotal, Research: Clean air	101,438	108,372	105,772	+4,334
Research. Clean water				
Research: Drinking water	48,665	45,690	45,690	-2,975
Research: Water quality	44,993	55,900	51,100	+6,107
Subtotal, Research: Clean water	93,658	101,590	96,790	+3,132
Research: Human health and ecosystems				
Human health risk assessment	32,723	36,240	36,240	+3,517
(By transfer from Hazardous substance superfund)	(3,559)	(4,022)	(4,022)	(+463)
Research: Computational toxicology	11,994	13,832	12,632	+638
Research: Endocrine disruptor	10,392	8,705	10,392	---
Research: Fellowships	12,042	8,327	12,042	---
Research: Human health and ecosystems	167,356	169,632	172,256	+4,900
Subtotal, Research: Human health and ecosystems	234,507	238,736	243,562	+9,055
Research: Land protection				
Research: Land protection & restoration (also HSS)	9,065	13,698	11,398	+2,331
(By transfer from Hazardous substance superfund)	(22,994)	(23,099)	(23,099)	(+105)
(By transfer from Hazardous substance superfund)	(6,596)	(1,485)	(1,485)	(-5,111)
Subtotal, Research: Land protection	9,065	13,698	11,398	+2,331
Research: Sustainability				
Research: Economics and decision science (EDS)	---	2,645	2,645	+2,645
Research: Environmental technology verification (ETV)	3,181	3,203	3,203	+22
Research: Pollution prevention (also HSS)	37,232	---	---	-37,232
(By transfer from Hazardous substance superfund)	(588)	---	---	(-588)
Research: Sustainability (other activities)	---	23,188	23,188	+23,188
Subtotal, Research: Sustainability	40,413	29,036	29,036	-11,377
Toxic research and prevention				
Research: Pesticides and toxics	27,792	29,753	29,753	+1,961
Water: Human health protection				
Drinking water programs (also EPM)	2,935	3,068	3,068	+133
Total, Science and Technology	744,061	760,640	741,722	-2,339
(By transfer from Hazardous substance superfund)	(35,808)	(30,606)	(30,606)	(-5,202)
Environmental Programs and Management				
Air toxics and quality				
Clean air allowance trading programs (also S&T)	16,873	18,234	18,234	+1,361
Federal stationary source regulations	21,768	23,509	23,509	+1,741
Federal support for air quality management				
Federal support for air quality management (other activities) (also S&T)	88,192	95,891	90,891	+2,699
Clean diesel initiative	---	15,000	5,000	+5,000
Subtotal, Federal support for air quality management	88,192	110,891	95,891	+7,699

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Federal support for air toxics program (also S&T)...	24,590	25,431	25,431	+841
Radiation: Protection (also S&T; HSS)........	11,122	11,765	11,365	+243
Radiation: Response preparedness (also S&T)	2,624	2,636	2,636	+12
Stratospheric ozone: Domestic programs...........	5,013	3,969	5,013	---
Stratospheric ozone: Multilateral fund...........	9,920	13,500	8,900	-1,020
Subtotal, Air toxics and quality...............	180,102	209,935	190,979	+10,877
Brownfields..	24,301	29,638	25,000	+699
Climate protection program				
Climate protection program (other activities) (also S&T).......................	43,910	41,030	41,030	-2,880
Energy star..	46,700	50,500	50,500	+3,800
Methane to markets..................................	300	4,000	2,000	+1,700
Subtotal, Climate protection....................	90,910	95,530	93,530	+2,620
Compliance				
Compliance assistance and centers (also LUST; OSR, HSS)..	26,613	29,097	29,097	+2,484
Compliance incentives (also HSS)....................	8,963	9,622	9,622	+659
Compliance monitoring (also HSS) (Some of these funds were in IT/Data management in FY05).........	66,328	93,412	87,328	+21,000
Subtotal, Compliance.	101,904	132,131	126,047	+24,143
Enforcement				
Civil enforcement (also OSR; HSS)..................	112,463	117,462	115,962	+3,499
Criminal enforcement (also HSS)....................	39,101	37,326	38,226	-875
Enforcement training (also HSS)....................	3,428	2,499	2,999	-429
Environmental justice (also HSS)...................	5,883	3,980	5,883	---
NEPA implementation.................................	12,039	12,440	12,440	+401
Subtotal, Enforcement..........................	172,914	173,707	175,510	+2,596
Environmental protection / Congressional priorities...	92,326	---	50,543	-41,783
Geographic programs				
Geographic program: Chesapeake Bay................	22,756	20,746	22,746	-10
Geographic program: Great Lakes...................	21,287	21,519	21,519	+232
Geographic program: Gulf of Mexico................	3,895	4,468	5,000	+1,105
Geographic program: Lake Champlain................	2,480	955	1,955	-525
Geographic program: Long Island Sound.............	2,332	477	477	-1,855
Geographic program: Puget Sound...................	---	---	2,000	+2,000
Geographic program: Other				
Community action for a renewed environment (CARE).	1,984	9,000	3,000	+1,016
Other (other activities).........................	4,923	4,686	5,853	+930
Subtotal, Geographic program: Other..........	6,907	13,686	8,853	+1,946
Regional geographic initiatives.....................	7,687	8,682	7,762	+75
Subtotal, Geographic programs..................	67,344	70,713	70,312	+2,968
Homeland security				
Homeland security: Communication and information (also HSS)				
Communication and information (other activities).	5,133	5,450	5,450	+317
Laboratory preparedness and response (also S&T)...	---	1,230	1,230	+1,230
Subtotal, Homeland security: Communication and information.............................	5,133	6,680	6,680	+1,547
Homeland security: Critical infrastructure protection				
Critical infrastructure protection (except decontamination) (also S&T; HSS)................	6,896	6,847	6,847	-49
Decontamination (also S&T; EPM; HSS)..............	---	100	100	+100
Subtotal, Homeland security: critical infrastructure protection.....................	6,896	6,947	6,947	+51

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Homeland security: Preparedness, response, and recovery (also S&T; HSS)				
Decontamination (also S&T; EPM; HSS)	1,822	3,348	3,348	+1,526
Homeland security: Protection of EPA personnel and infrastructure (also S&T; B&F; HSS)	6,294	6,403	6,403	+109
Subtotal, Homeland security	20,145	23,378	23,378	+3,233
Indoor air				
Indoor air: Asthma program	10,468	---	---	-10,468
Indoor air: Environment tobacco smoke program	2,400	---	---	-2,400
Indoor air: Radon program (also S&T)	5,142	5,918	5,518	+376
Indoor air: Schools and workplace program	9,326	---	---	-9,326
Reduce risks from indoor air (also S&T)	---	23,496	23,496	+23,496
Subtotal, Indoor air	27,336	29,414	29,014	+1,678
Information exchange / Outreach				
Children and other sensitive populations: Agency coordination	5,970	6,890	6,890	+920
Congressional, intergovernmental, external relations (also HSS)	48,624	49,753	49,753	+1,129
Environmental education	8,957	---	9,000	+43
Exchange network (also HSS)	16,361	22,739	18,739	+2,378
Small business ombudsman	3,712	3,911	3,911	+199
Small minority business assistance	2,264	2,348	2,348	+84
State and local prevention and preparedness	11,855	12,328	11,928	+73
Toxics release inventory (TRI) / Right to know	14,310	14,754	14,754	+444
Tribal - Capacity building	10,640	11,049	11,049	+409
Subtotal, Information exchange / Outreach	122,693	123,772	128,372	+5,679
International programs				
Children and other sensitive populations: Agency coordination	244	---	---	-244
Commission for environmental cooperation	3,773	4,210	4,210	+437
Environment and trade	1,500	1,787	1,787	+287
International capacity building	5,751	6,450	6,200	+449
Persistent organic pollutants (POPs) implementation	1,627	2,806	1,806	+179
U.S. / Mexico border	5,612	5,975	5,975	+363
Subtotal, International programs	18,507	21,228	19,978	+1,471
IT / Data management / Security				
Information security (also HSS)	4,131	3,888	3,888	-243
IT / Data management (also S&T; LUST; OSR; HSS) ($22.59 million moved to EPM Compliance in FY06)	106,123	105,999	95,999	-10,124
Subtotal, IT / Data management / Security	110,254	109,887	99,887	-10,367
Legal/Science/Regulatory/Economic review				
Administrative law	4,890	5,109	5,109	+219
Alternative dispute resolution (also HSS)	931	1,051	1,051	+120
Civil rights / Title VI compliance	12,119	12,530	12,530	+411
Legal advice: Environmental program (also HSS)	34,644	36,314	36,314	+1,670
Legal advice: Support program	12,555	13,088	13,088	+533
Regional science and technology	3,245	3,643	3,643	+398
Regulatory innovation	20,014	25,021	22,518	+2,504
Regulatory/Economic-management and analysis	14,821	16,713	16,713	+1,892
Science advisory board	4,361	4,881	4,881	+520
Subtotal, Legal/Science/Regulatory/Economic review	107,580	118,350	115,847	+8,267
Operations and administration				
Acquisition management (also LUST; HSS)	22,714	23,055	23,055	+341
Central planning, budgeting, and finance (also LUST; HSS)	69,387	72,790	72,790	+3,403
Facilities infrastructure and operations (also S&T; B&F; LUST; OSR, HSS)	314,614	358,046	353,046	+38,432
Financial assistance grants / Interagency agreements (IAG) management (also HSS)	20,366	19,916	19,916	-450
Human resources management (also LUST; HSS)	39,461	38,872	38,872	-589
Subtotal, Operations and administration	466,542	512,679	507,679	+41,137

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Pesticide licensing				
Pesticides: Field programs	24,362	24,683	24,683	+321
Pesticides: Registration of new pesticides (also S&T)	39,159	41,472	41,472	+2,313
Pesticides: Review/Reregistration of existing pesticides (also S&T)	51,315	57,991	57,991	+6,676
Science policy and biotechnology	1,640	1,751	1,751	+111
Subtotal, Pesticide licensing	116,476	125,897	125,897	+9,421
Resource Conservation and Recovery Act (RCRA)				
RCRA: Corrective action	39,667	42,710	42,710	+3,043
RCRA: Waste management	66,696	68,228	68,228	+1,532
RCRA: Waste minimization and recycling	11,508	14,376	14,376	+2,868
RCRA: General reduction	---	---	-5,000	-5,000
Subtotal, Resource Conservation and Recovery Act (RCRA)	117,871	125,314	120,314	+2,443
Toxics risk review and prevention				
Toxic substances: Chemical risk management	8,341	9,058	9,058	+717
Toxic substances: Chemical risk review & reduction	44,814	44,523	46,879	+2,065
Endocrine disruptors	8,540	9,097	9,097	+557
Toxic substances: Lead risk reduction program	10,970	10,549	10,549	-421
Pollution prevention program	16,408	19,990	16,408	---
Subtotal, Toxics risk review and prevention	89,073	93,217	91,991	+2,918
Underground storage tanks (LUST / UST) (also LUST)	7,125	7,719	7,719	+594
Water: Ecosystems				
Great Lakes Legacy Act	22,320	50,000	30,000	+7,680
National estuary program / Coastal waterways	25,065	19,446	24,446	-619
Wetlands	20,085	20,375	20,375	+290
Subtotal, Water: Ecosystems	67,470	89,821	74,821	+7,351
Water: Human health protection				
Beach/Fish programs	3,210	3,264	3,264	+54
Drinking water programs (also S&T)	93,258	101,090	96,590	+3,332
Subtotal, Water: Human health protection	96,468	104,354	99,854	+3,386
Water quality protection				
Marine pollution	11,358	12,279	12,279	+921
Surface water protection				
Surface water protection (other activities)	179,503	185,501	185,501	+5,998
Water quality monitoring	6,700	9,300	7,300	+600
Subtotal, Surface water protection	186,203	194,801	192,801	+6,598
Subtotal, Water quality protection	197,561	207,080	205,080	+7,519
Subtotal, Environmental Programs and Management	2,294,902	2,403,764	2,381,752	+86,850
Offsetting receipts from toxics and pesticides fees	---	-50,000	---	---
Total, Environmental Programs and Management	2,294,902	2,353,764	2,381,752	+86,850
Office of Inspector General				
Audits, evaluations, and investigations	37,696	38,955	37,455	-241
(By transfer from Hazardous substance superfund)	(12,898)	(13,538)	(13,538)	(+640)
Buildings and Facilities				
Homeland security				
Homeland security: Protection of EPA personnel and infrastructure (also S&T; EPM; HSS)	11,408	11,500	11,500	+92
Operations and administration				
Facilities infrastructure and operations (also S&T; EPM; HSS; LUST; OSR)	27,280	28,718	28,718	+1,438
Subtotal, Buildings and Facilities	38,688	40,218	40,218	+1,530

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Emergency appropriations (P.L. 108-324)	3,000	---	---	-3,000
Total, Buildings and Facilities	41,688	40,218	40,218	-1,470
Hazardous Substance Superfund				
Air toxics and quality				
Radiation: Protection (also S&T; EPM)	2,031	2,387	2,212	+181
Audits, evaluations, and investigations	12,896	13,536	13,536	+640
(Transfer to Office of Inspector General)	(-12,896)	(-13,536)	(-13,536)	(-640)
Enforcement				
Civil enforcement (also EPM; OSR)	122	883	883	+761
Criminal enforcement (also EPM)	7,895	9,504	8,704	+809
Enforcement training (also EPM)	822	614	614	-208
Environmental justice (also EPM)	938	845	845	-93
Forensics support (also S&T)	4,112	3,840	3,840	-272
Superfund: Enforcement	153,266	164,258	160,258	+6,992
Superfund: Federal facilities enforcement	10,667	10,241	10,241	-426
Subtotal, Enforcement	177,822	190,185	185,385	+7,563
Compliance				
Compliance assistance and centers (also EPM; LUST; OSR)	---	23	12	+12
Compliance incentives (also EPM)	145	168	157	+12
Compliance monitoring (also EPM)	159	1,157	957	+798
Subtotal, Compliance	304	1,348	1,126	+822
Homeland security				
Homeland security: Communication and information (also EPM)				
Laboratory preparedness and response (also S&T; EPM; HSS)	---	300	300	+300
Homeland security: Critical infrastructure protection				
Critical infrastructure protection (other activities) (also S&T; EPM)	1,923	852	852	-1,071
Decontamination (also S&T; EPM; HSS)	---	200	200	+200
Subtotal, Homeland security: Critical infrastructure protection	1,923	1,052	1,052	-871
Homeland security: Preparedness, response, and recovery				
Decontamination (also S&T; EPM; HSS)	8,283	12,550	10,550	+2,267
Laboratory preparedness and response (also S&T; EPM; HSS)	---	9,500	---	---
Preparedness, response, and recovery (other activities) (also S&T)	25,996	26,915	26,915	+919
(Transfer to Science and Technology)	(-2,071)	(-2,000)	(-2,000)	(+71)
Subtotal, Homeland security: Preparedness, response, and recovery	34,279	48,965	37,465	+3,186
Homeland security: Protection of EPA personnel and infrastructure (also S&T; EPM; B&F)	672	600	600	-72
Subtotal, Homeland security	36,874	50,917	39,417	+2,543
Information exchange / Outreach				
Congressional, intergovernmental, external relations (also EPM)	155	161	155	---
Exchange network (also EPM)	2,235	1,676	1,676	-559
Subtotal, Information exchange / Outreach	2,390	1,837	1,831	-559
IT / Data management / Security				
Information security (also EPM)	406	409	406	---
IT / Data management (also S&T; EPM; LUST; OSR)	17,945	16,113	16,113	-1,832
Subtotal, IT / Data management / Security	18,351	16,522	16,519	-1,832

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Legal/Science/Regulatory/Economic review				
Alternative dispute resolution (also EPM)	845	985	985	+140
Legal advice: Environmental program (also EPM)	816	836	836	+20
Subtotal, Legal/Science/Regulatory/Economic review	1,661	1,821	1,821	+160
Operations and administration				
Financial assistance grants / Interagency agreements (IAG) management (also EPM)	2,943	2,579	2,579	-364
Facilities infrastructure and operations (also S&T; EPM; B&F; LUST; OSR)	67,080	72,726	70,226	+3,146
Acquisition management (also EPM; LUST)	18,888	20,367	20,367	+1,479
Human resources management (also EPM; LUST)	4,376	4,790	4,790	+414
Central planning, budgeting, and finance (also EPM; LUST)	20,379	22,445	22,445	+2,066
Subtotal, Operations and administration	113,666	122,907	120,407	+6,741
Research: Human health and ecosystems				
Human health risk assessment	3,559	4,022	4,022	+463
(Transfer to Science and Technology)	(-3,559)	(-4,022)	(-4,022)	(-463)
Research: Land protection				
Research: Land protection and restoration	22,994	23,099	23,099	+105
(Transfer to Science and Technology)	(-22,994)	(-23,099)	(-23,099)	(-105)
Research: Superfund innovative technology (SITE) program	6,596	1,485	1,485	-5,111
(Transfer to Science and Technology)	(-6,596)	(-1,485)	(-1,485)	(+5,111)
Subtotal, Research, Land protection	29,590	24,584	24,584	-5,006
Research: Sustainability				
Pollution prevention (also S&T)	588	---	---	-588
(Transfer to Science and Technology)	(-588)	---	---	(+588)
Superfund cleanup				
Superfund: Emergency response and removal	198,494	198,000	198,494	---
Superfund: EPA emergency preparedness	10,009	10,507	10,507	+498
Superfund: Federal facilities	31,512	31,611	31,611	+99
Superfund: Remedial	597,139	599,395	599,395	+2,256
Superfund: Support to other Federal agencies	10,591	9,754	9,754	-837
Subtotal, Superfund cleanup	847,745	849,267	849,761	+2,016
Total, Hazardous Substance Superfund	1,247,477	1,279,333	1,260,621	+13,144
(Transfer to Office of Inspector General)	(-12,896)	(-13,536)	(-13,536)	(-640)
(Transfer to Science and Technology)	(-35,808)	(-30,606)	(-30,606)	(+5,202)
Leaking Underground Storage Tanks (LUST)				
Compliance				
Compliance assistance and centers (also EPM; OSR; HSS)	855	774	774	-81
IT / Data management / Security				
IT / Data management (also S&T; EPM; HSS; OSR)	176	178	178	+2
Operations and administration				
Acquisition management (also EPM; HSS)	341	346	346	+5
Central planning, budgeting, and finance (also EPM; HSS)	866	936	936	+70
Facilities infrastructure and operations (also S&T; EPM; B&F; HSS; OSR)	872	884	884	+12
Human resources management (also EPM; HSS)	3	3	3	---
Subtotal, Operations and administration	2,082	2,169	2,169	+87
Research: Land protection				
Research: Land protection and restoration (also S&T; HSS; OSR)	624	646	646	+22

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Underground storage tanks (LUST / UST)				
Underground storage tanks (LUST / UST) (also EPM)...	9,279	10,584	10,584	+1,305
LUST Cooperative agreements........................	56,424	58,676	58,676	+2,252
Subtotal, Underground storage tanks (LUST / UST)	65,703	69,260	69,260	+3,557
Total, Leaking Underground Storage Tank Program.	69,440	73,027	73,027	+3,587
Oil Spill Response				
Enforcement				
Civil enforcement (also EPM; HSS).......	1,742	1,789	1,789	+47
Compliance				
Compliance assistance and centers (also EPM; HSS; LUST).	274	287	287	+13
IT / Data management / Security				
IT / Data management (also S&T; EPM; HSS; LUST).....	33	33	33	---
Oil				
Oil spill: Prevention, preparedness and response. .	12,465	12,344	12,344	-121
Operations and administration				
Facilities infrastructure and operations (also S&T; EPM; B&F; HSS; LUST).	463	504	504	+41
Research: Land protection				
Research: Land protection and restoration (also S&T, HSS; LUST)..................................	895	906	906	+11
Total, Oil Spill Response......................	15,872	15,863	15,863	-9
Pesticide registration fund..........................	19,245	15,000	15,000	-4,245
Pesticide registration fees..........................	-19,245	-15,000	-15,000	+4,245
State and Tribal Assistance Grants (STAG)				
Air toxics and quality				
Clean school bus initiative........................	7,440	10,000	7,000	-440
Brownfields				
Brownfields projects...............................	89,280	120,500	90,000	+720
Infrastructure assistance				
Infrastructure assistance: Alaska Native villages..	44,640	15,000	35,000	-9,640
Infrastructure assistance: Clean water state revolving fund (SRF).........................	1,091,200	730,000	900,000	-191,200
Infrastructure assistance: Drinking water state revolving fund (SRF)..............................	843,200	850,000	850,000	+6,800
Infrastructure assistance: Mexico border...........	49,600	50,000	50,000	+400
Infrastructure assistance: Puerto Rico............	3,849	4,000	---	-3,849
Subtotal, Infrastructure assistance............	2,032,489	1,649,000	1,835,000	-197,489
STAG infrastructure grants / Congressional priorities.	309,548	---	200,000	-109,548
Subtotal, State and Tribal Assistance Grants (excluding categorical grants)..........	2,438,757	1,779,500	2,132,000	-306,757
Categorical grants				
Categorical grant: Beaches protection............ .	9,920	10,000	10,000	+80
Categorical grant: Brownfields............	49,600	60,000	50,000	+400
Categorical grant: Environmental information.......	19,344	20,000	20,000	+656
Categorical grant: Hazardous waste financial assistance.	103,466	104,400	103,466	---
Categorical grant: Homeland security.......	4,960	5,000	5,000	+40
Categorical grant: Lead..........................	13,392	13,700	13,700	+308
Categorical grant: Nonpoint source (Sec. 319)......	207,328	209,100	207,328	---
Categorical grant: Pesticides enforcement..........	19,344	18,900	18,900	-444
Categorical grant: Pesticides program implementation...................................	12,896	13,100	13,100	+204

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Categorical grant: Pollution control (Sec. 106)				
Pollution control (Sec. 106) (other activities)...	168,620	177,900	170,900	+2,280
Water quality monitoring....................	39,700	54,000	48,500	+8,800
Subtotal, Categorical grant. Pollution control (Sec. 106)...............	208,320	231,900	219,400	+11,080
Categorical grant: Pollution prevention............	4,960	6,000	5,000	+40
Categorical grant: Public water system supervision (PWSS)...	99,746	100,600	99,746	---
Categorical grant: Radon............................	6,944	8,150	7,550	+606
Categorical grant: Sector program..................	2,232	2,250	2,250	+18
Categorical grant: State and local air quality management..	223,200	223,550	223,550	+350
Categorical grant: State and tribal performance fund...	---	23,000	---	---
Categorical grant: Targeted watersheds........... .	17,856	15,000	16,856	-1,000
Categorical grant: Toxics substances compliance....	5,007	5,150	5,150	+143
Categorical grant: Tribal air quality management...	10,743	11,050	11,050	+307
Categorical grant: Tribal general assistance program . . .. -	61,504	57,500	57,500	-4,004
Categorical grant: Underground injection control (UIC)	10,694	11,000	11,000	+306
Categorical grant: Underground storage tanks.......	11,904	11,950	11,950	+46
Categorical grant: Wastewater operator training. ..	1,488	---	1,200	-288
Categorical grant: Water quality cooperative agreements..............	16,884	---	---	-16,884
Categorical grant: Wetlands program development....	14,880	20,000	16,000	+1,120
Subtotal, Categorical grants.....................	1,136,592	1,181,300	1,129,696	-6,896
Subtotal, State and Tribal Assistance Grants....	3,575,349	2,960,800	3,261,696	-313,653
Rescission of expired contracts, grants, and interagency agreements (various EPA accounts).... ..	---	---	-80,000	-80,000
Total, State and Tribal Assistance Grants.......	3,575,349	2,960,800	3,181,696	-393,653
TOTAL, TITLE II, ENVIRONMENTAL PROTECTION AGENCY	8,026,485	7,520,600	7,732,354	-294,131
Appropriations..............................	(8,023,485)	(7,520,600)	(7,812,354)	(-211,131)
Emergency appropriations.........	(3,000)	---	---	(-3,000)
Rescissions....................	---	---	(-80,000)	(-80,000)
(Transfer out)....	(-48,704)	(-44,142)	(-44,142)	(+4,562)
(By transfer)...............................	(48,704)	(44,142)	(44,142)	(-4,562)
TITLE III - RELATED AGENCIES				
DEPARTMENT OF AGRICULTURE				
FOREST SERVICE				
Forest and Rangeland Research				
Forest inventory and analysis........................	55,926	68,714	60,267	+4,341
Research and development programs.....................	220,458	216,686	222,827	+2,369
Total, Forest and rangeland research............	276,384	285,400	283,094	+6,710
State and Private Forestry				
Forest Health Management				
Federal lands forest health management....	54,236	50,023	54,236	---
Cooperative lands forest health management..........	47,629	22,308	47,629	---
Subtotal, Forest Health Management............ .	101,865	72,331	101,865	---
Cooperative Fire Protection				
State fire assistance........................	32,920	20,919	33,422	+502
Volunteer fire assistance...........................	5,917	5,917	6,000	+83
Subtotal, Cooperative Fire Protection...........	38,837	26,836	39,422	+585

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Cooperative Forestry				
Forest stewardship	32,320	37,000	34,699	+2,379
Forest Legacy	57,134	80,000	57,380	+246
Urban and Community Forestry	31,950	27,475	28,875	-3,075
Economic action programs	19,032	---	9,679	-9,353
Forest resource information and analysis	4,958	4,657	4,657	-301
Subtotal, Cooperative Forestry	145,394	149,231	135,290	-10,104
International program	6,410	4,989	7,000	+590
Emergency appropriations (P.L. 108-324)	49,100	---	---	-49,100
Total, State and Private Forestry	341,606	253,387	283,577	-58,029
National Forest System				
Land management planning	63,167	59,057	59,057	-4,110
Inventory and monitoring	167,302	167,009	170,179	+2,877
Recreation, heritage and wilderness	257,343	257,344	265,200	+7,857
Wildlife and fish habitat management	134,749	124,951	134,850	+101
Grazing management	48,034	44,859	49,000	+966
Forest products	273,247	278,297	284,297	+11,050
Vegetation and watershed management	189,614	193,774	184,050	-5,564
Minerals and geology management	55,747	73,791	85,865	+30,118
Landownership management	92,129	84,157	93,000	+871
Law enforcement operations	86,014	86,326	89,200	+3,186
Valles Caldera National Preserve	3,599	992	5,150	+1,551
Centennial of Service challenge	9,861	---	4,500	-5,361
Hazardous fuels	---	281,000	---	---
Emergency appropriations (P.L. 108-324)	12,153	---	---	-12,153
Total, National Forest System	1,392,959	1,651,357	1,424,348	+31,389
Wildland Fire Management				
Preparedness	676,470	676,014	676,014	-456
Fire suppression operations	648,859	700,492	700,492	+51,633
Additional appropriations, Title IV	394,443	---	---	-394,443
Subtotal, Fire suppression operations	1,043,302	700,492	700,492	-342,810
Other operations				
Hazardous fuels	262,539	---	286,000	+23,461
Rehabilitation	12,819	2,000	6,281	-6,538
Fire plan research and development	21,719	16,885	23,219	+1,500
Joint fire sciences program	7,889	---	8,000	+111
Forest health management (federal lands)	14,792	6,974	15,000	+208
Forest health management (co-op lands)	9,861	4,598	10,000	+139
State fire assistance	40,179	29,415	46,500	+6,321
Volunteer fire assistance	7,889	7,889	7,889	---
Subtotal, Other operations	377,687	67,761	402,889	+25,202
Emergency appropriations (P.L. 108-324)	1,028	---	---	-1,028
Funded in Defense Bill (P.L. 108-287) (sec. 8098)	(30,000)	---	---	(-30,000)
Total, Wildland Fire Management	2,098,487	1,444,267	1,779,395	-319,092
Capital Improvement and Maintenance				
Facilities				
Maintenance	77,657	51,522	51,522	-26,135
Construction	121,112	66,194	75,157	-45,955
Subtotal, Facilities	198,769	117,716	126,679	-72,090
Roads				
Maintenance	148,066	131,357	148,066	---
Construction	78,330	58,202	77,433	-897
Subtotal, Roads	226,396	189,559	225,499	-897
Trails				
Maintenance	41,823	37,540	42,000	+177
Construction	33,884	26,252	34,000	+116
Subtotal, Trails	75,707	63,792	76,000	+293

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Infrastructure improvement	13,829	9,725	13,000	-829
Subtotal, Capital improvement and maintenance	514,701	380,792	441,178	-73,523
Emergency appropriations (P L. 108-324):				
Facilities	9,195	---	---	-9,195
Roads	33,204	---	---	-33,204
Trails	8,416	---	---	-8,416
Funded in Defense Bill (P.L. 108-287) (sec. 8098)	(10,000)	---	---	(-10,000)
Emergency appropriations (P L 109-13)	24,390	---	---	-24,390
Total, Capital Improvement and Maintenance	589,906	380,792	441,178	-148,728
Land Acquisition				
Forest Service				
Acquisitions	45,722	25,000	28,500	-17,222
Acquisition management	12,820	13,000	12,500	-320
Cash equalization	986	500	500	-486
Critical inholdings/wilderness protection	1,479	1,500	1,000	-479
Total, Land Acquisition	61,007	40,000	42,500	-18,507
Acquisition of lands for national forests, special acts	1,054	1,069	1,069	+15
Acquisition of lands to complete land exchanges	231	234	234	+3
Range betterment fund	3,021	2,963	2,963	-58
Gifts, donations and bequests for forest and rangeland research	64	64	64	---
Management of national forest lands for subsistence uses	5,879	5,467	5,067	-812
TOTAL, FOREST SERVICE	4,770,598	4,065,000	4,263,489	-507,109
DEPARTMENT OF HEALTH AND HUMAN SERVICES				
INDIAN HEALTH SERVICE				
Indian Health Services				
Clinical Services				
IHS and tribal health delivery				
Hospital and health clinic programs	1,289,418	1,359,541	1,359,541	+70,123
Dental health program	109,023	119,489	119,489	+10,466
Mental health program	55,060	59,328	59,328	+4,268
Alcohol and substance abuse program	139,073	145,336	145,336	+6,263
Contract care	480,318	507,021	507,021	+26,703
Catastrophic health emergency fund	17,750	18,000	18,000	+250
Subtotal, Clinical Services	2,090,642	2,208,715	2,208,715	+118,073
Preventive Health				
Public health nursing	45,015	49,690	49,690	+4,675
Health education	12,429	13,787	13,787	+1,358
Community health representatives program	51,365	53,737	53,737	+2,372
Immunization (Alaska)	1,572	1,645	1,645	+73
Subtotal, Preventive Health	110,381	118,859	118,859	+8,478
Urban health projects	31,816	33,233	33,233	+1,417
Indian health professions	30,392	31,503	31,503	+1,111
Tribal management	2,343	2,430	2,430	+87
Direct operations	61,649	63,123	63,123	+1,474
Self-governance	5,586	5,752	5,752	+166
Contract support costs	263,683	268,683	268,683	+5,000
Medicare/Medicaid Reimbursements				
Hospital and clinic accreditation (Est. collecting)	(598,662)	(648,208)	(648,208)	(+49,546)
Total, Indian Health Services	2,596,492	2,732,298	2,732,298	+135,806
(Non-contract services)	(2,098,424)	(2,207,277)	(2,207,277)	(+108,853)
(Contract care)	(480,318)	(507,021)	(507,021)	(+26,703)
(Catastrophic health emergency fund)	(17,750)	(18,000)	(18,000)	(+250)
Indian Health Facilities				
Maintenance and improvement	49,204	49,904	52,404	+3,200
Sanitation facilities	91,767	93,519	93,519	+1,752

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Construction facilities	88,597	3,326	38,343	-50,254
Facilities and environmental health support	141,669	150,959	152,959	+11,290
Equipment	17,337	17,960	21,260	+3,923
Total, Indian Health Facilities	388,574	315,668	358,485	-30,089
TOTAL, INDIAN HEALTH SERVICE	2,985,066	3,047,966	3,090,783	+105,717
NATIONAL INSTITUTES OF HEALTH				
National Institute of Environmental Health Sciences	79,842	80,289	80,289	+447
AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY				
Toxic substances and environmental public health	76,041	76,024	76,024	-17
TOTAL, DEPARTMENT OF HEALTH AND HUMAN SERVICES	3,140,949	3,204,279	3,247,096	+106,147
OTHER RELATED AGENCIES				
EXECUTIVE OFFICE OF THE PRESIDENT				
Council on Environmental Quality and Office of Environmental Quality	3,258	2,717	2,717	-541
CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD				
Salaries and expenses	9,027	9,200	9,200	+173
Emergency fund	397	---	---	-397
Total, Chemical Safety and Hazard	9,424	9,200	9,200	-224
OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION				
Salaries and expenses	4,930	8,601	8,601	+3,671
INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT				
Payment to the Institute	5,916	6,300	6,300	+384
SMITHSONIAN INSTITUTION				
Salaries and Expenses				
Museum and Research Institutes				
Anacostia Museum and Center for African American History and Culture	1,864	1,897	1,897	+33
Archives of American Art	1,806	1,843	1,843	+37
Arthur M. Sackler Gallery/Freer Gallery of Art	5,657	5,772	5,772	+115
Center for Folklife and Cultural Heritage	1,910	1,945	1,945	+35
Cooper-Hewitt, National Design Museum	3,054	3,118	3,118	+64
Hirshhorn Museum and Sculpture Garden	3,997	4,078	4,078	+81
National Air and Space Museum	16,262	16,596	16,596	+334
National Museum of African American History and Culture	3,944	5,088	3,944	---
National Museum of African Art	4,175	4,257	4,257	+82
Smithsonian American Art Museum	7,561	12,028	12,028	+4,467
National Museum of American History	19,962	20,441	20,441	+479
National Museum of the American Indian	31,739	30,540	30,540	-1,199
National Museum of Natural History	42,177	44,063	44,063	+1,886
National Portrait Gallery	4,957	8,409	8,409	+3,452
National Zoological Park	17,576	20,194	20,194	+2,618
Astrophysical Observatory	21,301	22,295	22,295	+994
Center for Materials Research and Education	3,184	3,251	3,251	+67
Environmental Research Center	3,006	3,065	3,065	+59
Tropical Research Institute	11,514	11,219	11,419	-95
Subtotal, Museums and Research Institutes	205,646	220,109	219,155	+13,509

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
Program Support and Outreach				
Outreach	10,050	9,200	9,700	-350
Communications	1,480	1,502	1,502	+22
Institution-wide programs	6,053	6,613	6,613	+560
Office of Exhibits Central	2,598	2,658	2,658	+60
Major scientific instrumentation	3,944	3,944	3,944	---
Museum Support Center	1,640	1,675	1,675	+35
Smithsonian Institution Archives	1,656	1,695	1,695	+39
Smithsonian Institution Libraries	8,611	8,779	8,779	+168
Subtotal, Program Support and Outreach	36,032	36,066	36,566	+534
Administration	63,903	65,929	65,529	+1,626
Facilities Services				
Facilities maintenance	39,371	45,680	46,680	+7,309
Facilities operations, security and support	144,083	156,351	156,351	+12,268
Subtotal, Facilities Services	183,454	202,031	203,031	+19,577
Total, Salaries and Expenses	489,035	524,135	524,281	+35,246
Facilities Capital				
Revitalization	110,355	72,900	73,900	-36,455
Construction	7,879	9,000	18,100	+10,221
Facilities planning and design	7,889	9,000	8,000	+111
Total, Facilities capital	126,123	90,900	100,000	-26,123
TOTAL, SMITHSONIAN INSTITUTION	615,158	615,035	624,281	+9,123
NATIONAL GALLERY OF ART				
Salaries and Expenses				
Care and utilization of art collections	32,110	34,023	34,023	+1,913
Operation and maintenance of buildings and grounds	21,958	23,268	23,268	+1,310
Protection of buildings, grounds and contents	19,437	20,675	20,675	+1,238
General administration	18,203	19,134	19,134	+931
General reduction	---	---	-500	-500
Total, Salaries and Expenses	91,708	97,100	96,600	+4,892
Repair, Restoration and Renovation of Buildings				
Base program	10,946	16,200	16,200	+5,254
TOTAL, NATIONAL GALLERY OF ART	102,654	113,300	112,800	+10,146
JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS				
Operations and maintenance	16,914	17,800	17,800	+886
Construction	16,107	15,200	13,000	-3,107
TOTAL, JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS	33,021	33,000	30,800	-2,221
WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS				
Salaries and expenses	8,863	9,201	9,201	+338
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES				
National Endowment for the Arts				
Grants and Administration				
Grants				
Direct grants	45,631	45,118	45,118	-513
Challenge America grants	12,857	8,966	8,966	-3,891
National Initiative: American Masterpieces	1,183	4,800	4,800	+3,617

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs. Enacted
State partnerships				
State and regional	23,942	23,691	23,691	-251
Underserved set-aside	6,480	6,417	6,417	-63
Challenge America grants	8,570	5,956	5,956	-2,614
National Initiative: American Masterpieces	789	3,200	3,200	+2,411
Subtotal, State partnerships	39,781	39,264	39,264	-517
Subtotal, Grants	99,452	98,148	98,148	-1,304
Program support	1,270	1,470	1,470	+200
Administration	20,542	21,646	21,646	+1,104
General increase in House and Senate action	---	---	5,000	+5,000
Total, Arts	121,264	121,264	126,264	+5,000
National Endowment for the Humanities				
Grants and Administration				
Grants				
Federal/State partnership	31,387	31,387	31,387	---
Preservation and access	18,643	18,643	18,643	---
Public programs	12,932	12,566	12,566	-366
Research programs	12,881	12,881	12,881	---
Education programs	12,449	12,449	12,449	---
Program development	392	381	381	-11
We The People Initiative grants	11,217	11,217	11,217	---
Subtotal, Grants	99,901	99,524	99,524	-377
Administrative Areas				
Administration	22,255	23,081	23,081	+826
General increase in House and Senate action	---	---	5,000	+5,000
Total, Grants and Administration	122,156	122,605	127,605	+5,449
Matching Grants				
Treasury funds	5,607	5,449	5,449	-158
Challenge grants	10,291	10,000	10,000	-291
Total, Matching Grants	15,898	15,449	15,449	-449
Total, Humanities	138,054	138,054	143,054	+5,000
TOTAL, NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES	259,318	259,318	269,318	+10,000
COMMISSION OF FINE ARTS				
Salaries and expenses	1,768	1,893	1,893	+125
NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS				
Grants	6,902	7,000	7,250	+348
ADVISORY COUNCIL ON HISTORIC PRESERVATION				
Salaries and expenses	4,536	4,988	4,860	+324
NATIONAL CAPITAL PLANNING COMMISSION				
Salaries and expenses	7,888	8,344	8,244	+356
UNITED STATES HOLOCAUST MEMORIAL MUSEUM				
Holocaust Memorial Museum	40,858	43,233	42,780	+1,922
PRESIDIO TRUST				
Operations	19,722	20,000	20,000	+278

DEPARTMENT OF INTERIOR AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Conference	Conference vs Enacted
WHITE HOUSE COMMISSION ON THE NATIONAL MOMENT OF REMEMBRANCE				
Operations	248	250	250	+2
TOTAL, TITLE III, RELATED AGENCIES	9,036,011	8,411,659	8,669,080	-366,931
Appropriations	(8,940,145)	(8,411,659)	(8,669,080)	(-271,065)
Emergency appropriations	(95,866)	---	---	(-95,866)
TITLE IV - GENERAL PROVISION				
Across-the-board cut (.476%) (rescission) (sec 437)	---	---	-126,000	-126,000
GRAND TOTAL, ALL TITLES	27,017,724	25,724,328	26,201,541	-816,183

CONFERENCE TOTAL--WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2006 recommended by the Committee of Conference, with comparisons to the fiscal year 2005 amount, the 2006 budget estimates, and the House and Senate bills for 2006 follow:

(In thousands of dollars)

New budget (obligational) authority, fiscal year 2005	$27,017,724
Budget estimates of new (obligational) authority, fiscal year 2006	25,724,328
House bill, fiscal year 2006	26,159,125
Senate bill, fiscal year 2006	26,256,625
Conference agreement, fiscal year 2006	26,201,541
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2005	-816,183
Budget estimates of new (obligational) authority, fiscal year 2006	+477,213
House bill, fiscal year 2006	+42,416
Senate bill, fiscal year 2006	-55,084

CHARLES H. TAYLOR,
JERRY LEWIS,
ZACH WAMP,
JOHN E. PETERSON,
DON SHERWOOD,
ERNEST J. ISTOOK, Jr.,
ROBERT ADERHOLT,
JOHN T. DOOLITTLE,
MICHAEL SIMPSON,
NORMAN D. DICKS,
JAMES P. MORAN,
MAURICE D. HINCHEY,
JOHN W. OLVER,
ALAN B. MOLLOHAN,
Managers on the Part of the House.
CONRAD BURNS,
TED STEVENS,
THAD COCHRAN,
PETE V. DOMENICI,
ROBERT F. BENNETT,
JUDD GREGG,
LARRY CRAIG,
WAYNE ALLARD,
BYRON L. DORGAN,
ROBERT C. BYRD,
PATRICK J. LEAHY,
HARRY REID,
DIANNE FEINSTEIN,
BARBARA A. MIKULSKI,
HERB KOHL,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 2985

Mr. LEWIS of California submitted the following conference report and statement on the bill (H.R. 2985) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes:

CONFERENCE REPORT (H. REPT. 109–189)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2985) "making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the matter inserted insert:

TITLE I—LEGISLATIVE BRANCH APPROPRIATIONS

SENATE

Expense Allowances

For expense allowances of the Vice President, $20,000; the President Pro Tempore of the Senate, $40,000; Majority Leader of the Senate, $40,000; Minority Leader of the Senate, $40,000; Majority Whip of the Senate, $10,000; Minority Whip of the Senate, $10,000; President Pro Tempore emeritus, $15,000; Chairmen of the Majority and Minority Conference Committees, $5,000 for each Chairman; and Chairmen of the Majority and Minority Policy Committees, $5,000 for each Chairman; in all, $195,000.

Representation Allowances for the Majority and Minority Leaders

For representation allowances of the Majority and Minority Leaders of the Senate, $15,000 for each such Leader; in all, $30,000.

Salaries, Officers and Employees

For compensation of officers, employees, and others as authorized by law, including agency contributions, $147,120,000, which shall be paid from this appropriation without regard to the following limitations:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $2,181,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, $582,000.

OFFICE OF THE PRESIDENT PRO TEMPORE EMERITUS

For the Office of the President Pro Tempore emeritus, $290,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $4,340,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $2,644,000.

COMMITTEE ON APPROPRIATIONS

For salaries of the Committee on Appropriations, $13,758,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $1,470,000 for each such committee; in all, $2,940,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $728,000.

POLICY COMMITTEES

For salaries of the Majority Policy Committee and the Minority Policy Committee, $1,524,000 for each such committee; in all, $3,048,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $354,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $20,866,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $56,700,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $1,584,000.

AGENCY CONTRIBUTIONS AND RELATED EXPENSES

For agency contributions for employee benefits, as authorized by law, and related expenses, $37,105,000.

Office of the Legislative Counsel of the Senate

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $5,437,000.

Office of Senate Legal Counsel

For salaries and expenses of the Office of Senate Legal Counsel, $1,306,000.

Expense Allowances of the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate, and Secretaries for the Majority and Minority of the Senate

For expense allowances of the Secretary of the Senate, $6,000; Sergeant at Arms and Doorkeeper of the Senate, $6,000; Secretary for the Majority of the Senate, $6,000; Secretary for the Minority of the Senate, $6,000; in all, $24,000.

Contingent Expenses of the Senate

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted under paragraph 1 of rule XXVI of the Standing Rules of the Senate, section 112 of the Supplemental Appropriations and Rescission Act, 1980 (Public Law 96–304), and Senate Resolution 281, 96th Congress, agreed to March 11, 1980, $119,637,000.

EXPENSES OF THE UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, $520,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $1,980,000.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $142,000,000, which shall remain available until September 30, 2010.

MISCELLANEOUS ITEMS

For miscellaneous items, $17,000,000, of which up to $500,000 shall be made available for a pilot program for mailings of postal patron postcards by Senators for the purpose of providing notice of a town meeting by a Senator in a county (or equivalent unit of local government) at which the Senator will personally attend: Provided, That any amount allocated to a Senator for such mailing shall not exceed 50 percent of the cost of the mailing and the remaining cost shall be paid by the Senator from other funds available to the Senator.

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, $350,000,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the Senate, $300,000.

ADMINISTRATIVE PROVISIONS

SEC. 1. GROSS RATE OF COMPENSATION IN OFFICES OF SENATORS. Effective on and after October 1, 2005, each of the dollar amounts contained in the table under section 105(d)(1)(A) of the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 61–1(d)(1)(A)) shall be deemed to be the dollar amounts in that table, as adjusted by law and in effect on September 30, 2005, increased by an additional $50,000 each.

SEC. 2. CONSULTANTS. With respect to fiscal year 2006, the first sentence of section 101(a) of the Supplemental Appropriations Act, 1977 (2 U.S.C. 61h–6(a)) shall be applied by substituting "nine individual consultants" for "eight individual consultants".

SEC. 3. UNITED STATES SENATE COLLECTION. Section 316 of Public Law 101–302 (2 U.S.C. 2107) is amended in the first sentence of subsection (a) by striking "2005" and inserting "2006".

SEC. 4. SENATE COMMISSION ON ART. Section 3(c)(2) of Public Law 108–83 (2 U.S.C. 2108(c)(2)) is amended by striking "and for any purposes" through the period and inserting "for any purposes for which funds from the contingent fund of the Senate may be used under section 316(a) of Public Law 101–302 (2 U.S.C. 2107(a)), and for expenditures, not to exceed $10,000 in any fiscal year, for meals and refreshments in Capitol facilities in connection with official activities of the Commission or other authorized programs or activities.".

SEC. 5. ABSENCES. Section 40 of the Revised Statutes (2 U.S.C. 39) is amended by—

(1) striking "Secretary of the Senate and the";

(2) striking ", respectively, shall" and inserting "shall";

(3) striking "Senate or"; and

(4) striking ", respectively, unless" and inserting ", unless".

SEC. 6. MODIFICATION OF CERTAIN CONSULTANT REQUIREMENT. Section 10(a)(5) of the Legislative Branch Appropriations Act, 1999 (2 U.S.C. 72d) is amended by inserting ", except that any approval (and related reporting requirement) shall not apply" after "May 14, 1975".

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, $1,100,907,000, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $19,844,000, including: Office of the Speaker, $2,788,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $2,089,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $2,928,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, including the Chief Deputy Majority Whip, $1,797,000, including $5,000 for official expenses of the Majority Whip; Office of the Minority Whip, including the Chief Deputy Minority Whip, $1,345,000, including $5,000 for official expenses of the Minority Whip; Speaker's Office for Legislative Floor Activities, $482,000; Republican Steering Committee, $906,000; Republican Conference, $1,548,000; Republican Policy Committee, $307,000; Democratic Steering and Policy Committee, $1,945,000; Democratic Caucus, $816,000; nine minority employees, $1,445,000; training and program development—majority, $290,000; training and program development—minority, $290,000; Cloakroom Personnel—majority, $434,000; and Cloakroom Personnel—minority, $434,000.

Members' Representational Allowances Including Members' Clerk Hire, Official Expenses of Members, and Official Mail

For Members' representational allowances, including Members' clerk hire, official expenses, and official mail, $542,109,000.

Committee Employees

Standing Committees, Special and Select

For salaries and expenses of standing committees, special and select, authorized by House resolutions, $117,913,000: Provided, That such amount shall remain available for such salaries and expenses until December 31, 2006.

Committee on Appropriations

For salaries and expenses of the Committee on Appropriations, $25,668,000, including studies and examinations of executive agencies and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act of 1946 and to be available for reimbursement to agencies for services performed: Provided, That such amount shall remain available for such salaries and expenses until December 31, 2006.

Salaries, Officers and Employees

For compensation and expenses of officers and employees, as authorized by law, $172,249,000, including: for salaries and expenses of the Office of the Clerk, including not more than $13,000, of which not more than $10,000 is for the Family Room, for official representation and reception expenses, $21,911,000; for salaries and expenses of the Office of the Sergeant at Arms, including the position of Superintendent of Garages, and including not more than $3,000 for official representation and reception expenses, $6,284,000; for salaries and expenses of the Office of the Chief Administrative Officer, $121,471,000, of which $7,806,000 shall remain available until expended; for salaries and expenses of the Office of the Inspector General, $3,991,000; for salaries and expenses of the Office of Emergency Planning, Preparedness and Operations, $5,000,000, to remain available until expended; for salaries and expenses of the Office of General Counsel, $962,000; for the Office of the Chaplain, $161,000; for salaries and expenses of the Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $1,767,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $2,453,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $6,963,000; for salaries and expenses of the Office of Interparliamentary Affairs, $720,000; for other authorized employees, $161,000; and for salaries and expenses of the Office of the Historian, $405,000.

Allowances and Expenses

For allowances and expenses as authorized by House resolution or law, $223,124,000, including: supplies, materials, administrative costs and Federal tort claims, $4,179,000; official mail for committees, leadership offices, and administrative offices of the House, $410,000; Government contributions for health, retirement, Social Security, and other applicable employee benefits, $214,422,000; supplies, materials, and other costs relating to the House portion of expenses for the Capitol Visitor Center, $3,410,000, to remain available until expended; and miscellaneous items including purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $703,000.

Child Care Center

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (2 U.S.C. 2112), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

Administrative Provision

Sec. 101. (a) Requiring Amounts Remaining in Members' Representational Allowances To Be Used for Deficit Reduction or To Reduce the Federal Debt. Notwithstanding any other provision of law, any amounts appropriated under this Act for "HOUSE OF REPRESENTATIVES—Salaries and Expenses—Members' Representational Allowances" shall be available only for fiscal year 2006. Any amount remaining after all payments are made under such allowances for fiscal year 2006 shall be deposited in the Treasury and used for deficit reduction (or, if there is no Federal budget deficit after all such payments have been made, for reducing the Federal debt, in such manner as the Secretary of the Treasury considers appropriate).

(b) Regulations.—The Committee on House Administration of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(c) Definition.—As used in this section, the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

JOINT ITEMS

For Joint Committees, as follows:

Joint Economic Committee

For salaries and expenses of the Joint Economic Committee, $4,276,000, to be disbursed by the Secretary of the Senate.

Joint Committee on Taxation

For salaries and expenses of the Joint Committee on Taxation, $8,781,000, to be disbursed by the Chief Administrative Officer of the House of Representatives.

For other joint items, as follows:

Office of the Attending Physician

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including: (1) an allowance of $2,175 per month to the Attending Physician; (2) an allowance of $725 per month each to four medical officers while on duty in the Office of the Attending Physician; (3) an allowance of $725 per month to two assistants and $580 per month each not to exceed 11 assistants on the basis heretofore provided for such assistants; and (4) $1,834,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $2,545,000, to be disbursed by the Chief Administrative Officer of the House of Representatives.

Capitol Guide Service and Special Services Office

For salaries and expenses of the Capitol Guide Service and Special Services Office, $4,098,000, to be disbursed by the Secretary of the Senate: Provided, That no part of such amount may be used to employ more than 58 individuals: Provided further, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than 120 days each, and not more than 10 additional individuals for not more than 6 months each, for the Capitol Guide Service.

Statements of Appropriations

For the preparation, under the direction of the Committees on Appropriations of the Senate and the House of Representatives, of the statements for the first session of the 109th Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $30,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

CAPITOL POLICE

Salaries

For salaries of employees of the Capitol Police, including overtime, hazardous duty pay differential, and Government contributions for health, retirement, social security, professional liability insurance, and other applicable employee benefits, $217,456,000, to be disbursed by the Chief of the Capitol Police or his designee.

General Expenses

For necessary expenses of the Capitol Police, including motor vehicles, communications and other equipment, security equipment and installation, uniforms, weapons, supplies, materials, training, medical services, forensic services, stenographic services, personal and professional services, the employee assistance program, the awards program, postage, communication services, travel advances, relocation of instructor and liaison personnel for the Federal Law Enforcement Training Center, and not more than $5,000 to be expended on the certification of the Chief of the Capitol Police in connection with official representation and reception expenses, $32,000,000, to be disbursed by the Chief of the Capitol Police or his designee: Provided, That, notwithstanding any other provision of law, the cost of basic training for the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 2006 shall be paid by the Secretary of Homeland Security from funds available to the Department of Homeland Security.

Administrative Provisions

(INCLUDING TRANSFER OF FUNDS)

Sec. 1001. Transfer Authority. Amounts appropriated for fiscal year 2006 for the Capitol Police may be transferred between the headings "SALARIES" and "GENERAL EXPENSES" upon the approval of the Committees on Appropriations of the Senate and the House of Representatives.

Sec. 1002. Mounted Horse Unit. (a) The United States Capitol Police may not operate a mounted horse unit during fiscal year 2006 or any succeeding fiscal year.

(b) Not later than 60 days after the date of the enactment of this Act, the Chief of the Capitol Police shall transfer to the Chief of the United States Park Police the horses, equipment, and supplies of the Capitol Police mounted horse

unit which remain in the possession of the Capitol Police as of such date.

SEC. 1003. ETHICS IN GOVERMENT ACT. (a) Section 103(h)(1)(A)(i)(I) of the Ethics in Government Act of 1978 (5 U.S.C. App. 103(h)(1)(A)(i)(I)) is amended by inserting "United States Capitol Police," after "Architect of the Capitol,".

(b) The amendment made by subsection (a) shall apply with respect to reports filed under the Ethics in Government Act of 1978 for calendar year 2005 and each succeeding calendar year.

SEC. 1004. INSPECTOR GENERAL FOR THE UNITED STATES CAPITOL POLICE. (a) ESTABLISHMENT OF OFFICE.—There is established in the United States Capitol Police the Office of the Inspector General (hereafter in this section referred to as the "Office"), headed by the Inspector General of the United States Capitol Police (hereafter in this section referred to as the "Inspector General").

(b) INSPECTOR GENERAL.—

(1) APPOINTMENT.—The Inspector General shall be appointed by, and under the general supervision of, the Capitol Police Board. The appointment shall be made in consultation with the Inspectors General of the Library of Congress, Government Printing Office, and the Government Accountability Office. The Capitol Police Board shall appoint the Inspector General without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(2) TERM OF SERVICE.—The Inspector General shall serve for a term of 5 years, and an individual serving as Inspector General may be reappointed for not more than 2 additional terms.

(3) REMOVAL.—The Inspector General may be removed from office prior to the expiration of his term only by the unanimous vote of all of the voting members of the Capitol Police Board, and the Board shall communicate the reasons for any such removal to the Committee on House Administration, the Senate Committee on Rules and Administration and the Committees on Appropriations of the House of Representatives and of the Senate.

(4) SALARY.—The Inspector General shall be paid at an annual rate equal to $1,000 less than the annual rate of pay in effect for the Chief of the Capitol Police.

(5) DEADLINE.—The Capitol Police Board shall appoint the first Inspector General under this section not later than 180 days after the date of the enactment of this Act.

(c) DUTIES.—

(1) APPLICABILITY OF DUTIES OF INSPECTOR GENERAL OF EXECUTIVE BRANCH ESTABLISHMENT.—The Inspector General shall carry out the same duties and responsibilities with respect to the United States Capitol Police as an Inspector General of an establishment carries out with respect to an establishment under section 4 of the Inspector General Act of 1978, (5 U.S.C. App. 4), under the same terms and conditions which apply under such section.

(2) SEMIANNUAL REPORTS.—The Inspector General shall prepare and submit semiannual reports summarizing the activities of the Office in the same manner, and in accordance with the same deadlines, terms, and conditions, as an Inspector General of an establishment under section 5 (other than subsection (a)(13) thereof) of the Inspector General Act of 1978, (5 U.S.C. App. 5). For purposes of applying section 5 of such Act to the Inspector General, the Chief of the Capitol Police shall be considered the head of the establishment. The Chief shall, within 30 days of receipt of a report, report to the Capitol Police Board, the Committee on House Administration, the Senate Committee on Rules and Administration, and the Committees on Appropriations of the House of Representatives and of the Senate consistent with section 5(b) of such Act.

(3) INVESTIGATIONS OF COMPLAINTS OF EMPLOYEES AND MEMBERS.—

(A) AUTHORITY.—The Inspector General may receive and investigate complaints or information from an employee or member of the Capitol Police concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety, including complaints or information the investigation of which is under the jurisdiction of the Internal Affairs Division of the Capitol Police as of the date of the enactment of this Act.

(B) NONDISCLOSURE.—The Inspector General shall not, after receipt of a complaint or information from an employee or member, disclose the identity of the employee or member without the consent of the employee or member, unless required by law or the Inspector General determines such disclosure is otherwise unavoidable during the course of the investigation.

(C) PROHIBITING RETALIATION.—An employee or member of the Capitol Police who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee or member as a reprisal for making a complaint or disclosing information to the Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(4) INDEPENDENCE IN CARRYING OUT DUTIES.—Neither the Capitol Police Board, the Chief of the Capitol Police, nor any other member or employee of the Capitol Police may prevent or prohibit the Inspector General from carrying out any of the duties or responsibilities assigned to the Inspector General under this section.

(d) POWERS.—

(1) IN GENERAL.—The Inspector General may exercise the same authorities with respect to the United States Capitol Police as an Inspector General of an establishment may exercise with respect to an establishment under section 6(a) of the Inspector General Act of 1978, (5 U.S.C. App. 6(a)), other than paragraphs (7) and (8) of such section.

(2) STAFF.—

(A) IN GENERAL.—The Inspector General may appoint and fix the pay of such personnel as the Inspector General considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, regarding appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no personnel of the Office (other than the Inspector General) may be paid at an annual rate greater than $500 less than the annual rate of pay of the Inspector General under subsection (b)(4).

(B) EXPERTS AND CONSULTANTS.—The Inspector General may procure temporary and intermittent services under section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title.

(C) INDEPENDENCE IN APPOINTING STAFF.—No individual may carry out any of the duties or responsibilities of the Office unless the individual is appointed by the Inspector General, or provides services procured by the Inspector General, pursuant to this paragraph. Nothing in this subparagraph may be construed to prohibit the Inspector General from entering into a contract or other arrangement for the provision of services under this section.

(D) APPLICABILITY OF CAPITOL POLICE PERSONNEL RULES.—None of the regulations governing the appointment and pay of employees of the Capitol Police shall apply with respect to the appointment and compensation of the personnel of the Office, except to the extent agreed to by the Inspector General. Nothing in the previous sentence may be construed to affect subparagraphs (A) through (C).

(3) EQUIPMENT AND SUPPLIES.—The Chief of the Capitol Police shall provide the Office with appropriate and adequate office space, together with such equipment, supplies, and communications facilities and services as determined by the Inspector General to be necessary for the operation of the Office, and shall provide necessary maintenance services for such office space and the equipment and facilities located therein.

(e) TRANSFER OF FUNCTIONS.—

(1) TRANSFER.—To the extent that any office or entity in the Capitol Police prior to the appointment of the first Inspector General under this section carried out any of the duties and responsibilities assigned to the Inspector General under this section, the functions of such office or entity shall be transferred to the Office upon the appointment of the first Inspector General under this section.

(2) NO REDUCTION IN PAY OR BENEFITS.—The transfer of the functions of an office or entity to the Office under paragraph (1) may not result in a reduction in the pay or benefits of any employee of the office or entity, except to the extent required under subsection (d)(2)(A).

(f) EFFECTIVE DATE.—This section shall be effective upon enactment of this Act.

(g) CONFORMING AMENDMENT.—Section 108(b)(2)(D) of the Legislative Branch Appropriations Act, 2001, Public Law 106–554 (2 U.S.C. §1903(b)(2)(D)) is amended to read as follows:

"(D) Prepare annual financial statements for the Capitol Police, and such financial statements shall be audited by the Inspector General of the Capitol Police or by an independent public accountant, as determined by the Inspector General.".

SEC. 1005. REPORT OF DISBURSEMENTS. (a) IN GENERAL.—Not later than 60 days after the last day of each semiannual period, the Chief of the Capitol Police shall submit to Congress, with respect to that period, a detailed, itemized report of the disbursements for the operations of the United States Capitol Police.

(b) CONTENTS.—The report required by subsection (a) shall include—

(1) the name of each person or entity who receives a payment from the Capitol Police and the amount thereof;

(2) a description of any service rendered to the Capitol Police, together with service dates;

(3) a statement of all amounts appropriated to, or received or expended by, the Capitol Police and any unexpended balances of such amounts for any open fiscal year; and

(4) such additional information as may be required by regulation of the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate.

(c) PRINTING.—Each report under this section shall be printed as a House document.

(d) EFFECTIVE DATE.—This section shall apply with respect to the semiannual periods of October 1 through March 31 and April 1 through September 30 of each year, beginning with the semiannual period in which this section is enacted.

SEC. 1006. CAPITOL POLICE AND TRANSFER OF LIBRARY OF CONGRESS POLICE. (a) LIMITATION ON CERTAIN HIRING AUTHORITY OF CAPITOL POLICE.—Section 1006(b)(3) of the Legislative Branch Appropriations Act, 2004 (Public Law 108–83; 117 Stat. 1023), as amended by section 1002 of the Legislative Branch Appropriations

Act, 2005 (2 U.S.C. 1901 note; Public Law 108–447; 118 Stat. 3179), is further amended by adding after subparagraph (D), the following:

"(E) Limitation for Fiscal Year 2006.—During fiscal year 2006, the number of individuals hired under this subsection may not exceed—

"(i) the number of Library of Congress Police employees who separated from service or transferred to a position other than a Library of Congress Police employee position during fiscal year 2005 for whom a corresponding hire was not made under this subsection; and

"(ii) the number of Library of Congress Police employees who separate from service or transfer to a position other than a Library of Congress Police employee position during fiscal year 2006.".

(b) Memorandum of Understanding.—The Memorandum of Understanding between the Library of Congress and the Capitol Police entered into on December 12, 2004, shall remain in effect through fiscal year 2006, subject to such modifications as may be made in accordance with the modification and dispute resolution provisions of the Memorandum of Understanding.

Sec. 1007. (a) Waiving Repayment of Certain Overtime Compensation Paid Incorrectly.—Except as provided in subsection (b), any individual to whom overtime compensation was paid under section 1009 of the Legislative Branch Appropriations Act, 2003 (Public Law 108–7; 117 Stat. 359), in violation of the restrictions applicable to the payment of such compensation under section 1009(b) of such Act shall not be required to repay the compensation, but only to the extent the compensation was paid for services provided prior to June 15, 2005.

(b) Exception.—Subsection (a) shall not apply with respect to any officer or employee of the United States Capitol Police whose annual rate of pay is specified in statute and is not established under the schedule of rates of basic pay established and maintained by the Capitol Police Board.

OFFICE OF COMPLIANCE

SALARIES AND EXPENSES

For salaries and expenses of the Office of Compliance, as authorized by section 305 of the Congressional Accountability Act of 1995 (2 U.S.C. 1385), $3,112,000, of which $780,000 shall remain available until September 30, 2007: Provided, That the Executive Director of the Office of Compliance may, within the limits of available appropriations, dispose of surplus or obsolete personal property by interagency transfer, donation, or discarding: Provided further, That not more than $500 may be expended on the certification of the Executive Director of the Office of Compliance in connection with official representation and reception expenses.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary for operation of the Congressional Budget Office, including not more than $3,000 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $35,450,000.

Administrative Provision

Sec. 1100. (a) Permitting Waiver of Claims for Overpayment of Pay and Allowances.—Section 5584(g) of title 5, United States Code, is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by inserting immediately after paragraph (6) the following new paragraph:

"(7) the Congressional Budget Office.".

(b) Effective Date.—The amendments made by this section shall apply with respect to fiscal year 2006 and each succeeding fiscal year.

ARCHITECT OF THE CAPITOL

General Administration

For salaries for the Architect of the Capitol, and other personal services, at rates of pay provided by law; for surveys and studies in connection with activities under the care of the Architect of the Capitol; for all necessary expenses for the general and administrative support of the operations under the Architect of the Capitol including the Botanic Garden; electrical substations of the Capitol, Senate and House office buildings, and other facilities under the jurisdiction of the Architect of the Capitol; including furnishings and office equipment; including not more than $5,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; for purchase or exchange, maintenance, and operation of a passenger motor vehicle, $76,812,000.

Capitol Building

For all necessary expenses for the maintenance, care and operation of the Capitol, $23,352,000, of which $8,300,000 shall remain available until September 30, 2010.

Capitol Grounds

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, $7,511,000.

Senate Office Buildings

For all necessary expenses for the maintenance, care and operation of Senate office buildings; and furniture and furnishings to be expended under the control and supervision of the Architect of the Capitol, $67,004,000, of which $15,745,000 shall remain available until September 30, 2010.

House Office Buildings

For all necessary expenses for the maintenance, care and operation of the House office buildings, $59,616,000, of which $20,922,000 shall remain available until September 30, 2010.

Capitol Power Plant

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office, and heating and chilled water for air conditioning for the Supreme Court Building, the Union Station complex, the Thurgood Marshall Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $58,685,000, of which $1,600,000 shall remain available until September 30, 2010: Provided, That not more than $6,600,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 2006.

Library Buildings and Grounds

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $68,763,000, of which $42,500,000 shall remain available until September 30, 2010.

Capitol Police Buildings and Grounds

For all necessary expenses for the maintenance, care and operation of buildings and grounds of the United States Capitol Police, $14,902,000, of which $5,000,000 shall remain available until September 30, 2010.

Botanic Garden

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $7,633,000: Provided, That this appropriation shall not be available for construction of the National Garden: Provided further, That of the amount made available under this heading, the Architect may obligate and expend such sums as may be necessary for the maintenance, care and operation of the National Garden established under section 307E of the Legislative Branch Appropriations Act, 1989 (2 U.S.C. 2146), upon vouchers approved by the Architect or a duly authorized designee.

Capitol Visitor Center

For an additional amount for the Capitol Visitor Center project, $41,900,000, to remain available until expended, and in addition, $2,300,000 for Capitol Visitor Center operation costs: Provided, That the Architect of the Capitol may not obligate any of the funds which are made available for the Capitol Visitor Center project without an obligation plan approved by the Committees on Appropriations of the Senate and House of Representatives.

Administrative Provisions

Sec. 1201. (a) Section 108 of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 1849), is amended in subsection (b), by striking "8 positions" and inserting "9 positions".

(b) The amendment made by subsection (a) shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.

Sec. 1202. (a) Section 905 of the 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States (2 U.S.C. 1819) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) In the case of a building or facility acquired through purchase pursuant to subsection (a), the Architect of the Capitol may enter into or assume a lease with another person for the use of any portion of the building or facility that the Architect of the Capitol determines is not required to be used to carry out the purposes of this section, subject to the approval of the entity which approved the acquisition of such building or facility under subsection (b).".

(b) The amendments made by subsection (a) shall apply with respect to leases entered into on or after the date of the enactment of this Act.

LIBRARY OF CONGRESS

Salaries and Expenses

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses of the Library of Congress not otherwise provided for, including development and maintenance of the Library's catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog records and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $395,754,000, of which not more than $6,000,000 shall be derived from collections credited to this appropriation during fiscal year 2006, and shall remain available until expended, under the Act of June 28, 1902 (chapter 1301; 32 Stat. 480; 2 U.S.C. 150) and not more *than $350,000 shall be derived from collections during fiscal year 2006 and shall remain available until expended for the development and maintenance of an international legal information database and activities related thereto: Provided, That the Library of Congress may not obligate or expend any funds derived from collections under the Act of June 28, 1902, in excess of the amount authorized for obligation or expenditure in appropriations Acts: Provided further, That the total amount available for obligation shall be reduced by the amount by which collections are less than $6,350,000: Provided further, That of the total amount appropriated, $13,972,000 shall remain available until expended for the partial acquisition of books, periodicals, newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: Provided further, That of the total amount appropriated, not more than $12,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Overseas Field Offices: Provided further, That of the total amount appropriated, $5,860,000 shall remain available until expended for the digital collections and educational curricula program under section 1306 of this Act: Provided further, That of the total amount appropriated, $600,000 shall remain available until expended, and shall be transferred to the Abraham Lincoln Bicentennial Commission for carrying out the purposes of Public Law 106–173, of which $10,000 may be used for official representation and reception expenses of the Abraham Lincoln Bicentennial Commission: Provided further, That of the total amount appropriated, $11,078,000 shall remain available until expended for partial support of the National Audio-Visual Conservation Center: Provided further, That of the total amount appropriated, $250,000 shall be used to provide a grant to the Middle Eastern Text Initiative for translation and publishing of middle eastern text: Provided further, That no funds made available under this heading may be expended inconsistently with the provisions and intent of section 1006 of the Legislative Branch Appropriations Act, 2004 (Public Law 108–83), as amended, and the memorandum of understanding between the Library of Congress and the Capitol Police entered into on December 12, 2004: Provided further, That of the total amount appropriated, $300,000 shall be available to the University of South Carolina for the Cooperative Preservation and Conservation project for the Movietone Newsreel collection: Provided further, That of the total amount appropriated, $400,000 shall be available to the University of Mississippi American Music Archives: Provided further, That of the amounts made available under this heading in chapter 9 of division A of the Miscellaneous Appropriations Act, 2001 (Public Law 106–554; 114 Stat. 2763A–194), $6,858,000 are rescinded.*

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, $58,601,000, of which not more than $30,481,000, to remain available until expended, shall be derived from collections credited to this appropriation during fiscal year 2006 under section 708(d) of title 17, United States Code: Provided, That the Copyright Office may not obligate or expend any funds derived from collections under such section, in excess of the amount authorized for obligation or expenditure in appropriations Acts: Provided further, That not more than $5,465,000 shall be derived from collections during fiscal year 2006 under sections 111(d)(2), 119(b)(2), 802(h), 1005, and 1316 of such title: Provided further, That the total amount available for obligation shall be reduced by the amount by which collections are less than $35,946,000: Provided further, That not more than $100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: Provided further, That not more than $4,250 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for activities of the International Copyright Institute and for copyright delegations, visitors, and seminars: Provided further, That notwithstanding any provision of chapter 8 of title 17, United States Code, any amounts made available under this heading which are attributable to royalty fees and payments received by the Copyright Office pursuant to sections 111, 119, and chapter 10 of such title may be used for the costs incurred in the administration of the Copyright Royalty Judges program.

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $100,916,000: Provided, That no part of such amount may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the Act of March 3, 1931 (chapter 400; 46 Stat. 1487; 2 U.S.C. 135a), $54,419,000, of which $16,231,000 shall remain available until expended: Provided, That of the total amount appropriated, $400,000 shall remain available until expended to reimburse the National Federation of the Blind for costs incurred in the operation of its "NEWSLINE" program.

ADMINISTRATIVE PROVISIONS

SEC. 1301. INCENTIVE AWARDS PROGRAM. Of the amounts appropriated to the Library of Congress in this Act, not more than $5,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the incentive awards program.

SEC. 1302. REIMBURSABLE AND REVOLVING FUND ACTIVITIES. (a) IN GENERAL.—For fiscal year 2006, the obligational authority of the Library of Congress for the activities described in subsection (b) may not exceed $109,943,000.

(b) ACTIVITIES.—The activities referred to in subsection (a) are reimbursable and revolving fund activities that are funded from sources other than appropriations to the Library in appropriations Acts for the legislative branch.

(c) TRANSFER OF FUNDS.—During fiscal year 2006, the Librarian of Congress may temporarily transfer funds appropriated in this Act, under the heading "LIBRARY OF CONGRESS" under the subheading "SALARIES AND EXPENSES" to the revolving fund for the FEDLINK Program and the Federal Research Program established under section 103 of the Library of Congress Fiscal Operations Improvement Act of 2000 (Public Law 106–481; 2 U.S.C. 182c): Provided, That the total amount of such transfers may not exceed $1,900,000: Provided further, That the appropriate revolving fund account shall reimburse the Library for any amounts transferred to it before the period of availability of the Library appropriation expires.

SEC. 1303. NATIONAL DIGITAL INFORMATION INFRASTRUCTURE AND PRESERVATION PROGRAM. The Miscellaneous Appropriations Act, 2001 (enacted into law by section 1(a)(4) of Public Law 106–554, 114 Stat. 2763A–194) is amended in the first proviso under the subheading "SALARIES AND EXPENSES" under the heading "LIBRARY OF CONGRESS" in chapter 9 of division A by adding at the end ", except that an amount not to exceed $10,000,000 of such additional $75,000,000 shall remain available until expended and may be used for competitive grants to State governmental entities, without regard to any matching contribution requirement, to work cooperatively to collect and preserve at-risk digital State and local government information".

SEC. 1304. UNITED STATES DIPLOMATIC FACILITIES. Funds made available for the Library of Congress under this Act are available for transfer to the Department of State as remittance for a fee charged by the Department for fiscal year 2006 for the maintenance, upgrade, or construction of United States diplomatic facilities only to the extent that the amount of the fee so charged is equal to or less than the unreimbursed value of the services provided during fiscal year 2006 to the Library of Congress on State Department diplomatic facilities.

SEC. 1305. PARLIAMENTARY DEVELOPMENT. (a) Section 208 of the Legislative Branch Appropriations Act, 1996 (Public Law 104–53; 109 Stat. 532), is hereby repealed.

(b) The amendment made by this section shall take effect on the date of the enactment of this Act or October 1, 2005, whichever occurs earlier.

SEC. 1306. INCORPORATION OF DIGITAL COLLECTIONS INTO EDUCATIONAL CURRICULA. (a) SHORT TITLE.—This section may be cited as the "Library of Congress Digital Collections and Educational Curricula Act of 2005".

(b) PROGRAM.—The Librarian of Congress shall administer a program to teach educators and librarians how to incorporate the digital collections of the Library of Congress into educational curricula.

(c) EDUCATIONAL CONSORTIUM.—In administering the program under this section, the Librarian of Congress may—

(1) establish an educational consortium to support the program; and

(2) make funds appropriated for the program available to consortium members, educational institutions, and libraries.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal year 2006 and each fiscal year thereafter.

SEC. 1307. INSPECTOR GENERAL OF THE LIBRARY OF CONGRESS. (a) SHORT TITLE.—This section may be cited as the "Library of Congress Inspector General Act of 2005".

(b) OFFICE OF INSPECTOR GENERAL.—There is an Office of Inspector General within the Library of Congress which is an independent objective office to—

(1) conduct and supervise audits and investigations (excluding incidents involving violence and personal property) relating to the Library of Congress;

(2) provide leadership and coordination and recommend policies to promote economy, efficiency, and effectiveness; and

(3) provide a means of keeping the Librarian of Congress and the Congress fully and currently informed about problems and deficiencies relating to the administration and operations of the Library of Congress.

(c) APPOINTMENT OF INSPECTOR GENERAL; SUPERVISION; REMOVAL.—

(1) APPOINTMENT AND SUPERVISION.—

(A) IN GENERAL.—There shall be at the head of the Office of Inspector General, an Inspector General who shall be appointed by the Librarian of Congress without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Inspector General shall report to, and be under the general supervision of, the Librarian of Congress.

(B) AUDITS, INVESTIGATIONS, AND REPORTS.—The Librarian of Congress shall have no authority to prevent or prohibit the Inspector General from—

(i) initiating, carrying out, or completing any audit or investigation;

(ii) issuing any subpoena during the course of any audit or investigation; or

(iii) issuing any report.

(2) REMOVAL.—The Inspector General may be removed from office by the Librarian of Congress. The Librarian of Congress shall, promptly upon such removal, communicate in writing the reasons for any such removal to each House of the Congress.

(d) DUTIES, RESPONSIBILITIES, AUTHORITY, AND REPORTS.—

(1) IN GENERAL.—Sections 4, 5 (other than subsections (a)(13)), 6(a) (other than paragraphs (7) and (8) thereof), and 7 of the Inspector General Act of 1978 (5 U.S.C. App.) shall apply to the Inspector General of the Library of Congress and the Office of such Inspector General and such sections shall be applied to the Library of Congress and the Librarian of Congress by substituting—

(A) "Library of Congress" for "establishment"; and

(B) "Librarian of Congress" for "head of the establishment".

(2) EMPLOYEES.—The Inspector General, in carrying out the provisions of this section, is authorized to select, appoint, and employ such officers and employees (including consultants) as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General subject to the provisions of law governing selections, appointments, and employment in the Library of Congress.

(e) TRANSFERS.—All functions, personnel, and budget resources of the Office of Investigations of the Library of Congress are transferred to the Office of Inspector General.

(f) INCUMBENT.—The individual who serves in the position of Inspector General of the Library of Congress on the date of enactment of this Act shall continue to serve in that position, subject to removal in accordance with this section.

(g) REFERENCES.—References in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Inspector General of the Library of Congress shall be deemed to refer to the Inspector General of the Library of Congress as set forth under this section.

(h) EFFECTIVE DATE.—This section shall be effective upon enactment of this Act.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

(INCLUDING TRANSFER OF FUNDS)

For authorized printing and binding for the Congress and the distribution of Congressional information in any format; printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (section 902 of title 44, United States Code); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $88,090,000: Provided, That this appropriation shall not be available for paper copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under section 906 of title 44, United States Code: Provided further, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years: Provided further, That notwithstanding the 2-year limitation under section 718 of title 44, United States Code, none of the funds appropriated or made available under this Act or any other Act for printing and binding and related services provided to Congress under chapter 7 of title 44, United States Code, may be expended to print a document, report, or publication after the 27-month period beginning on the date that such document, report, or publication is authorized by Congress to be printed, unless Congress reauthorizes such printing in accordance with section 718 of title 44, United States Code: Provided further, That any unobligated or unexpended balances in this account or accounts for similar purposes for preceding fiscal years may be transferred to the Government Printing Office revolving fund for carrying out the purposes of this heading, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $33,337,000: Provided, That amounts of not more than $2,000,000 from current year appropriations are authorized for producing and disseminating Congressional serial sets and other related publications for fiscal years 2004 and 2005 to depository and other designated libraries: Provided further, That any unobligated or unexpended balances in this account or accounts for similar purposes for preceding fiscal years may be transferred to the Government Printing Office revolving fund for carrying out the purposes of this heading, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

For payment to the Government Printing Office Revolving Fund, $2,000,000 for workforce retraining: Provided, That the Government Printing Office may make such expenditures, within the limits of funds available and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the Government Printing Office revolving fund: Provided further, That not more than $5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: Provided further, That the revolving fund shall be available for the hire or purchase of not more than 12 passenger motor vehicles: Provided further, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: Provided further, That the revolving fund shall be available for temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of such title: Provided further, That the revolving fund and the funds provided under the headings "OFFICE OF SUPERINTENDENT OF DOCUMENTS" and "SALARIES AND EXPENSES" together may not be available for the full-time equivalent employment of more than 2,621 workyears (or such other number of workyears as the Public Printer may request, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate): Provided further, That activities financed through the revolving fund may provide information in any format: Provided further, That not more than $10,000 may be expended from the revolving fund in support of the activities of the Benjamin Franklin Tercentenary Commission established by Public Law 107–202.

GOVERNMENT ACCOUNTABILITY OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Government Accountability Office, including not more than $12,500 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with section 3324 of title 31, United States Code; benefits comparable to those payable under sections 901(5), (6), and (8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), (6), and (8)); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries, $482,395,000: Provided, That not more than $5,104,000 of payments received under section 782 of title 31, United States Code, shall be available for use in fiscal year 2006: Provided further, That not more than $2,061,000 of reimbursements received under section 9105 of title 31, United States Code, shall be available for use in fiscal year 2006: Provided further, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of either Forum's costs as determined by the respective Forum, including necessary travel expenses of non-Federal participants: Provided further, That payments hereunder to the Forum may be credited as reimbursements to any appropriation from which costs involved are initially financed.

OPEN WORLD LEADERSHIP CENTER TRUST FUND

For a payment to the Open World Leadership Center Trust Fund for financing activities of the Open World Leadership Center under section 313 of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1151), $14,000,000.

JOHN C. STENNIS CENTER FOR PUBLIC SERVICE TRAINING AND DEVELOPMENT

For payment to the John C. Stennis Center for Public Service Development Trust Fund established under section 116 of the John C. Stennis Center for Public Service Training and Development Act (2 U.S.C. 1105), $430,000.

TITLE II—GENERAL PROVISIONS

SEC. 201. MAINTENANCE AND CARE OF PRIVATE VEHICLES. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities *for the House of Representatives issued by the Committee on House Administration and for the Senate issued by the Committee on Rules and Administration.*

Sec. 202. Fiscal Year Limitation. No part of the funds appropriated in this Act shall remain available for obligation beyond fiscal year 2006 unless expressly so provided in this Act.

Sec. 203. Rates of Compensation and Designation. Whenever in this Act any office or position not specifically established by the Legislative Pay Act of 1929 (46 Stat. 32 et seq.) is appropriated for or the rate of compensation or designation of any office or position appropriated for is different from that specifically established by such Act, the rate of compensation and the designation in this Act shall be the permanent law with respect thereto: Provided, That the provisions in this Act for the various items of official expenses of Members, officers, and committees of the Senate and House of Representatives, and clerk hire for Senators and Members of the House of Representatives shall be the permanent law with respect thereto.

Sec. 204. Consulting Services. The expenditure of any appropriation under this Act for any consulting service through procurement contract, under section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued under existing law.

Sec. 205. Awards and Settlements. Such sums as may be necessary are appropriated to the account described in subsection (a) of section 415 of the Congressional Accountability Act of 1995 (2 U.S.C. 1415(a)) to pay awards and settlements as authorized under such subsection.

Sec. 206. Costs of LBFMC. Amounts available for administrative expenses of any legislative branch entity which participates in the Legislative Branch Financial Managers Council (LBFMC) established by charter on March 26, 1996, shall be available to finance an appropriate share of LBFMC costs as determined by the LBFMC, except that the total LBFMC costs to be shared among all participating legislative branch entities (in such allocations among the entities as the entities may determine) may not exceed $2,000.

Sec. 207. Landscape Maintenance. The Architect of the Capitol, in consultation with the District of Columbia, is authorized to maintain and improve the landscape features, excluding streets and sidewalks, in the irregular shaped grassy areas bounded by Washington Avenue, SW on the northeast, Second Street SW on the west, Square 582 on the south, and the beginning of the I–395 tunnel on the southeast.

Sec. 208. Limitation on Transfers. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

TITLE III—CONTINUITY IN REPRESENTATION

Sec. 301. Section 26 of the Revised Statutes of the United States (2 U.S.C. 8) is amended—

(1) by striking "The time" and inserting "(a) In General.—Except as provided in subsection (b), the time"; and

(2) by adding at the end the following new subsection:

"(b) Special Rules in Extraordinary Circumstances.—

"(1) In General.—In extraordinary circumstances, the executive authority of any State in which a vacancy exists in its representation in the House of Representatives shall issue a writ of election to fill such vacancy by special election.

"(2) Timing of Special Election.—A special election held under this subsection to fill a vacancy shall take place not later than 49 days after the Speaker of the House of Representatives announces that the vacancy exists, unless, during the 75-day period which begins on the date of the announcement of the vacancy—

"(A) a regularly scheduled general election for the office involved is to be held; or

"(B) another special election for the office involved is to be held, pursuant to a writ for a special election issued by the chief executive of the State prior to the date of the announcement of the vacancy.

"(3) Nominations by Parties.—If a special election is to be held under this subsection, the determination of the candidates who will run in such election shall be made—

"(A) by nominations made not later than 10 days after the Speaker announces that the vacancy exists by the political parties of the State that are authorized by State law to nominate candidates for the election; or

"(B) by any other method the State considers appropriate, including holding primary elections, that will ensure that the State will hold the special election within the deadline required under paragraph (2).

"(4) Extraordinary Circumstances.—

"(A) In General.—In this subsection, 'extraordinary circumstances' occur when the Speaker of the House of Representatives announces that vacancies in the representation from the States in the House exceed 100.

"(B) Judicial Review.—If any action is brought for declaratory or injunctive relief to challenge an announcement made under subparagraph (A), the following rules shall apply:

"(i) Not later than 2 days after the announcement, the action shall be filed in the United States District Court having jurisdiction in the district of the Member of the House of Representatives whose seat has been announced to be vacant and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

"(ii) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives.

"(iii) A final decision in the action shall be made within 3 days of the filing of such action and shall not be reviewable.

"(iv) The executive authority of the State that contains the district of the Member of the House of Representatives whose seat has been announced to be vacant shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the announcement of such vacancy.

"(5) Protecting Ability of Absent Military and Overseas Voters to Participate in Special Elections.—

"(A) Deadline for Transmittal of Absentee Ballots.—In conducting a special election held under this subsection to fill a vacancy in its representation, the State shall ensure to the greatest extent practicable (including through the use of electronic means) that absentee ballots for the election are transmitted to absent uniformed services voters and overseas voters (as such terms are defined in the Uniformed and Overseas Citizens Absentee Voting Act) not later than 15 days after the Speaker of the House of Representatives announces that the vacancy exists.

"(B) Period for Ballot Transit Time.—Notwithstanding the deadlines referred to in paragraphs (2) and (3), in the case of an individual who is an absent uniformed services voter or an overseas voter (as such terms are defined in the Uniformed and Overseas Citizens Absentee Voting Act), a State shall accept and process any otherwise valid ballot or other election material from the voter so long as the ballot or other material is received by the appropriate State election official not later than 45 days after the State transmits the ballot or other material to the voter.

"(6) Application to District of Columbia and Territories.—This subsection shall apply—

"(A) to a Delegate or Resident Commissioner to the Congress in the same manner as it applies to a Member of the House of Representatives; and

"(B) to the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, and the United States Virgin Islands in the same manner as it applies to a State, except that a vacancy in the representation from any such jurisdiction in the House shall not be taken into account by the Speaker in determining whether vacancies in the representation from the States in the House exceed 100 for purposes of paragraph (4)(A).

"(7) Rule of Construction Regarding Federal Election Laws.—Nothing in this subsection may be construed to affect the application to special elections under this subsection of any Federal law governing the administration of elections for Federal office (including any law providing for the enforcement of any such law), including, but not limited to, the following:

"(A) The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.), as amended.

"(B) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.), as amended.

"(C) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.), as amended.

"(D) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), as amended.

"(E) The Americans With Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), as amended.

"(F) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), as amended.

"(G) The Help America Vote Act of 2002 (42 U.S.C. 15301 et seq.), as amended.".

And the Senate agree to the same.

Amendment Numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

Delete the matter stricken, delete the matter inserted, and strike all beginning on page 2, line 5, down through and including page 8, line 12 of the House engrossed bill, H.R. 2985.

And the Senate agree to the same.

Amendment Numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

Delete the matter stricken, delete the matter inserted, and strike all beginning on page 24, line 12, down through and including page 24, line 16 of the House engrossed bill, H.R. 2985.

And the Senate agree to the same.

Amendment Numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

Delete the matter stricken, delete the matter inserted, and strike all beginning on page 41, line 10, down through and including page 43, line 24 of the House engrossed bill, H.R. 2985.

And the Senate agree to the same.

Amendment Numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5.

And the Senate agree to the same.

JERRY LEWIS,
JACK KINGSTON,
KAY GRANGER,
JOHN T. DOOLITTLE,
RAY LAHOOD,
STENY H. HOYER,
JAMES P. MORAN,
Managers on the Part of the House.

WAYNE ALLARD,
THAD COCHRAN,
MIKE DEWINE,
TED STEVENS,
RICHARD DURBIN,
TIM JOHNSON,
ROBERT C. BYRD
(except Title III),
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2985) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amended the House bill with five numbered amendments. The conference agreement addresses all the differences contained in the five amendments in the disposition of the first numbered amendment. The first numbered amendment therefore includes a complete version of the Legislative Branch bill. An explanation of the resolution of the differences of the other four numbered amendments is included in the first numbered amendment. The disposition of the other four numbered amendments therefore is purely technical in nature to enable the complete bill text to be included in the first amendment.

Amendment numbered 1: Deletes the matter inserted and inserts complete bill text excluding the short title.

Many items in both House and Senate Legislative Branch Appropriations bills are identical and are included in the conference agreement without change. The conferees have endorsed statements of policy contained in the House and Senate reports accompanying the appropriations bills, unless amended or restated herein. With respect to those items in the conference agreement that differ between House and Senate bills, the conferees have agreed to the following with the appropriate section numbers, punctuation, and other technical corrections:

TITLE I

SENATE

The conferees agree to appropriate $785,549,000 for Senate operations. Inasmuch as these items relate solely to the Senate, and in accord with long practice under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the House, at the request of the managers on the part of the Senate, have receded to the amendment of the Senate.

HOUSE OF REPRESENTATIVES

The conferees agree to appropriate $1,100,907,000 for House operations. Inasmuch as these items relate solely to the House, and in accord with long practice under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the Senate, at the request of the managers on the part of the House, have receded to the amendments of the House.

JOINT ITEMS

JOINT ECONOMIC COMMITTEE

The conference agreement includes $4,276,000 as proposed by the House and the Senate.

JOINT COMMITTEE ON TAXATION

The conference agreement includes $8,781,000 as proposed by the House and the Senate.

OFFICE OF THE ATTENDING PHYSICIAN

The conference agreement includes $2,545,000 as proposed by the House and the Senate.

CAPITOL GUIDE SERVICE AND SPECIAL SERVICES OFFICE

The conference agreement includes $4,098,000 for the Capitol Guide Service and Special Services Office as proposed by the Senate instead of $4,268,000 as proposed by the House.

STATEMENTS OF APPROPRIATIONS

The conference agreement includes $30,000 as proposed by the House and the Senate.

CAPITOL POLICE

In fiscal year (FY) 2001, in response to pervasive management issues at the United States Capitol Police (USCP), the conferees directed the USCP to establish a Chief Administrative Officer (CAO) position with the overall responsibility for improving administrative operations of the USCP, including human resources, information technology, financial management and budgeting. In FY 2001 and subsequent years, the conferees also required the Government Accountability Office (GAO) to report periodically on the progress of the USCP in improving operations.

The conferees are disappointed with the slow pace of improvements and the broad range of management issues that continue to surface, including problems in procurements, project management, budget execution, and payroll and compensation issues. The conferees-believe that there has not been adequate management emphasis on improving administrative operations. The tone set by management influences the actions of staff throughout the organization in helping to ensure good management practices and effective operations.

The conferees direct the Chief, the Assistant Chief, and the CAO to place a renewed emphasis on implementing basic internal control throughout their operations, with an emphasis on instilling accountability for good internal control procedures and practices throughout the organization, while leading by example in this area and setting an appropriate tone at the top. Internal control represents the series of actions and activities that are put in place throughout an entity's operations on an ongoing basis and should be designed to provide reasonable assurance over (1) the effectiveness and efficiency of operations, (2) compliance with laws and regulations, (3) safeguarding of assets, and (4) the reliability of financial reporting and other types of reporting.

The conferees direct the Chief to implement a structured internal control program that meets the above objectives and includes the standard elements of internal control from basic management literature and GAO's Standards for Internal Control in the Federal Government. The conferees require the Chief to provide a written plan describing specific actions and timeframes required to address these objectives including how the USCP's new financial management system will improve the reliability of financial reporting, budget execution and reprogramming. The written plan is due on October 1, 2005, with quarterly reports on progress thereafter.

The conferees also direct the Comptroller General to undertake a review of USCP overtime usage. Specifically, the Comptroller General shall review (1) the requirements that necessitate the need for USCP overtime, (2) how USCP is managing and accounting for overtime use, and (3) the extent to which the deployment of technology might help defer the need for some USCP overtime.

Reprogramming Guidelines—The conferees direct that the United States Capitol Police may not carry out any reprogramming, transfer, or use of funds unless: (1) the Chief of the Capitol Police submits a request for the reprogramming, transfer, or use of funds to the Committees on Appropriations of the House and Senate on or before August 1 of the respective year, unless both such committees agree to accept the request at a later date because of extraordinary and emergency circumstances cited by the Chief; (2) the request contains clearly stated and detailed documentation presenting justifications for the reprogramming, transfer, or use of funds; (3) the request contains a declaration that, as of the date of the request, none of the funds included in the request have been obligated, and none will be obligated until both committees have approved the request; and (4) both committees approve the request.

A reprogramming, transfer, or use of unobligated balances request is required if (1) the amount to be shifted to or from any object class, approved budget, or program involved under the request, or the aggregate amount to be shifted to or from any object class, approved budget, or program involved during the fiscal year taking into account the amount contained in the request, is in excess of $250,000 or 10 percent, whichever is less, of the object class, approved budget, or program; (2) the reprogramming or use of funds would result in a major change to the program or item which is different than that presented to and approved by the Committees on Appropriations of the House and Senate; or (3) the funds involved were earmarked by either of the committees for a specific activity which is different that the activity proposed under the request, without regard to whether the amount provided in the earmark is less than, equal to, or greater than the amount required to carry out the activity.

In 2003, Public Law 108–83 extended the Capitol Police jurisdiction zone solely for truck interdiction. In the Spring of 2003, the House and Senate Committees on Appropriations were given assurances by the Capitol Police that technology existed for an integrated program to assist in truck interdiction and subsequently approved $18, 891,300 for the technology. In July of 2004, the Government Accountability Office voiced concerns about the contract for the program and the lack of procurement oversight of the project. In March of 2005, the Committees were informed that the technology did not exist to support this effort. The Conferees have serious concerns over the lack of stewardship of the taxpayer dollars and how this exemplifies pervasive management issues and lack of asset accountability within the Capitol Police. The conferees direct the GAO to report on this issue in their next semi-annual report. In addition, the conferees note that the effective date of this provision was to be upon approval of regulations prescribed by the Capitol Police Board for the sole implementation, execution and maintenance of the truck interdiction program by the Committee on Rules and Administration of the Senate and the Committee on House Administration. It is the conferees' understanding that to date this has not been accomplished.

The conferees have included an administrative provision (Section 1004) that establishes an Office of the Inspector General of the United States Capitol Police. The conferees direct the Capitol Police Board to enter into a contract with an executive employment search organization to perform a nation-wide recruitment for the Inspector General. The conferees further direct the formation of a panel comprised of the Inspectors General of the Government Accountability Office, the Government Printing Office, and the Library of Congress to review the applications, interview the top applicants, and forward a recommendation, including not less than three candidates, to the voting members of the Capitol Police Board for review and final selection within 180 days of enactment of this Act.

SALARIES

The conference agreement includes $217,456,000 for salaries of officers, members, and employees of the Capitol Police instead of $210,350,000 as proposed by the House and $222,600,000 as proposed by the Senate. This level will support the current staffing level of 1,592 officers and an additional 43 officers for the Library of Congress. Funding is provided for an additional 45 officers of the Capitol Visitor Center, as of August 2006. The conferees direct that these positions not be advertised until approved by the House Committee on Administration and the Senate Committee on Rules and Administration. This level of funding will also support 414 civilians as proposed by the House.

GENERAL EXPENSES

The conference agreement includes $32,000,000 for general expenses of the Capitol Police instead of $29,345,000 as proposed by the House and $42,000,000 as proposed by the Senate. In addition, $10,000,000 from prior year unobligated balances is available upon the approval of the Committees on Appropriations of the House and Senate.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

The conferees have included an administrative provision, section 1001, which authorizes transfers between various accounts upon the approval of the Committees on Appropriations of the House and Senate. Section 1002 terminates the mounted horse unit and transfers the horses, equipment, and supplies to the United States Park Police. Section 1003 requires Capitol Police employees to file annual reports under the Ethics in Government Act with the Clerk of the House of Representatives. Section 1004 establishes an Office of Inspector General. Section 1005 requires semiannual reports of disbursements. Section 1006 continues current authority of the USCP to fill Library of Congress police vacancies with Capitol Police officers. Section 1007 relates to certain overtime compensation.

The conferees are very concerned about problems recently raised by the GAO concerning the inappropriate payment of compensatory time and overtime to employees of the Capitol Police who are exempt from the Fair Labor Standards Act (FLSA). The conferees have included Section 1007, which waives the repayment of certain overtime compensation pair incorrectly, to minimize the impact of flawed management controls on Capitol Police officers. The conferees are aware that the Captiol Police Board has promulgated regulations to bring Capitol Police overtime and compensatory time for FLSA-exempt employees into compliance with all relevant laws, and that these regulations are awaiting approval from the authorizing committees. In its ruling on this issue, the GAO stated its intention to issue a second opinion that will address the authority to provide overtime pay and compensatory leave to non statutory civilian employees and FLSA-exempt members of the USCP. The conferees encourage the Capitol Police Board to work closely with the Committee on House Administration and the Senate Committee on Rules and Administration to address any further issues which may arise from GAO's second opinion.

OFFICE OF COMPLIANCE

SALARIES AND EXPENSES

The conference agreement includes $3,112,000 as proposed by the House and the Senate. The conferees have included an official representation and reception allowance as proposed by the House.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

The conference agreement includes $35,450,000 for salaries and expenses of the Congressional Budget Office as proposed by the rouse instead of $35,853,000 as proposed by the Senate.

ADMINISTRATIVE PROVISION

The conferees have agreed in Section 1100, as proposed by the House and the Senate, to provide authority for the Director of the Congressional Budget Office to permit waivers of claims for overpayments of pay and allowances.

ARCHITECT OF THE CAPITOL

GENERAL ADMINISTRATION

The conference agreement includes $76,812,000 for General Administration instead of $77,002,000 as proposed by the House and $76,522,000 as proposed by the Senate. The study for emergency power requirements is funded in the amount of $350,000 as proposed by the House, but will be funded on an annual instead of a multi-year basis, as agreed to by the conferees.

With respect to the operations and projects the House and Senate conferees have agreed to the following:

Operating Budget	$76,462,000
Project Budget:	
1. Study, Emergency Power Requirements ...	350,000
Total, General Administration	76,812,000

CAPITOL BUILDING

The conference agreement includes $23,352,000, of which $8,300,000 shall remain available until September 30, 2010, for maintenance, care and operation of the Capitol to the Architect of the Capitol, instead of $22,097,000, of which $6,580,000 would remain available until September 30, 2008 as proposed by the House, and $25,380,000, of which $10,055,000 would remain available until September 30,2010, as proposed by the Senate.

With respect to operations and projects the House and Senate conferees have agreed to the following:

Operating Budget	$14,259,000
Project Budget:	
1. Replacement of Minton Tile	225,000
2. Computer, Telecom, and Electrical Support	298,000
3. Restoration of East Front Bronze Doors	270,000
4. Emergency Power Upgrades, House Chamber	120,000
5. Minor Construction	2,500,000
6. Emergency Exit Signs and Lighting, CB	1,000,000
7. Emergency Electrical Service Upgrade, CB	2,980,000
8. West Terrace Egress Doors and Stairs, CB ...	1,700,000
Total, Capitol Building	23,352,000

CAPITOL GROUNDS

The conference agreement includes $7,511,000 to the Architect of the Capitol for the care and improvements of the grounds surrounding the Capitol, House and Senate office buildings, and the Capitol Power Plant, instead of $7,723,000, of which $740,000 would remain available until September 30, 2008 as proposed by the House, and $7,061,000, as proposed by the Senate.

With respect to operations and projects the House and Senate conferees have agreed to the following:

Operating Budget	$6,846,000
Project Budget:	
1. CVC Land Restoration	50,000
2. National Garden Sidewalks	165,000
3. East Front Plantings ..	450,000
Total, Capitol Grounds	7,511,000

SENATE OFFICE BUILDINGS

The conferees agree to appropriate $67,004,000, of which $15,745,000 would remain available until September 30,2010, for the maintenance, care and operation of the Senate office buildings to the Architect of the Capitol. Inasmuch as this item relates solely to the Senate, and in accord with long practice under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the House, at the request of the managers on the part of the Senate, have receded to the Senate.

Operating Budget	$49,274,000
Project Budget:	
1. Refinish Historic Woodwork	285,000
2. Seal Fire Wall Penetrations, HSOB & DSOB	300,000
3. Replace Carpet, HSOB	300,000
4. Point, Caulk, and Clean, RSOB	200,000
5. Legislative Call System Upgrade, Phase I ..	400,000
6. Electrical and Data Wire Management	40,000
7. Rotunda Electrical and Data Wire Management	75,000
8. Network Transformer Replacement	90,000
9. Fire Alarm replacement SCCC & SWPR	100,000
10. Tunnel Fire Protection Upgrades	250,000
11. Color Coded Egress	100,000
12. Egress Improvements	500,000
13. Smoke Management System Installation	150,000
14. Minor Construction ...	4,000,000
15. Emergency Lighting Upgrades, HSOB	3,600,000
16. Replace Modular Furniture, HSOB	3,900,000
17. Public Restroom Upgrades, South Stack, HSOB	2,400,000

18. High Voltage Switchgear Replacement, HSOB	540,000
19. Repair Marble Floors and Clean Arch Surfaces	500,000
Total, Senate Office Buildings	67,004,000

HOUSE OFFICE BUILDINGS

The conferees agree to appropriate $59,616,000, of which $20,922,000 would remain available until September 30, 2010, for the maintenance, care and operation of the House office buildings to the Architect of the Capitol. Inasmuch as this item relates solely to the House, and in accord with long practice under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the Senate, at the request of the managers on the part of the House, have receded to the House.

Operating Budget	$38,344,000
Project Budget:	
1. Repairs of Rayburn Garage Fire Doors	50,000
2. Fire Pump Installation, LHOB	120,000
3. Replace Sprinkler Valves and Drains, HOB	180,000
4. Minor Construction	4,960,000
5. Design, Parking Garage, Lot #9	4,000,000
6. Window Replacement, FHOB	3,710,000
7. Fiber Optics Pathway	1,050,000
8. Remodel/Refurbish Gift Shop	175,000
9. Carpet Replacement	502,000
10. House Campus Data Closets Environment Upgrade	100,000
11. Remodel/Refurbish Supply Store	100,000
12. Modification to House Barber Shop	75,000
13. Modification to House Beauty Salon	100,000
14. High Voltage Switchgear Replacement, RHOB	1,050,000
15. High Voltage Switchgear Replacement, FHOB	1,070,000
16. Emergency Lighting Upgrade, LHOB	2,700,000
17. Emergency Lighting Upgrade, FHOB	1,030,000
18. Interior Access Improvements	300,000
Total, House Office Buildings	59,616,000

CAPITOL POWER PLANT

In addition to the $6,600,000 made available from receipts credited as reimbursements to this appropriation, as proposed by the House, instead of $6,500,000 as proposed by the Senate, the conferees agree to appropriate $58,685,000 to the Architect of the Capitol for maintenance, care and operation of the Capitol Power Plant, instead of $58,585,000 as proposed by the House and $58,817,000 as proposed by the Senate. Of this amount, $1,600,000 would remain available until September 30, 2010, instead of $1,592,000 to remain available until September 30, 2008 as proposed by the House.

With respect to operations and project differences the House and Senate conferees have agreed to the following:

Operating Budget (net)	$56,405,000
Project Budget:	
1. Replace Air Compressors with Centrifugal Units	230,000
2. Replace Hotwell with Condensate Receiver	240,000
3. Heavy Equipment—Track Mobile	210,000
4. Design, CPP Beautification	1,000,000
5. Design, Egress Improvements	600,000
Total, Capitol Power Plant (net)	58,685,000

LIBRARY BUILDINGS AND GROUNDS

The conference agreement includes $68,763,000 for structural and mechanical care, Library buildings and grounds, instead of $31,318,000 as proposed by the House and $70,948,000 as proposed by the Senate. Of this amount, $42,500,000 would remain available until September 30, 2010, instead of $6,325,000 to remain available until September 30, 2008 as proposed by the House and $42,950,000 to remain available until September 30, 2010 as proposed by the Senate.

With respect to the construction of the Book Storage Modules, the conferees direct the Architect of the Capitol to engage the services of the Baltimore Corps of Engineers as project managers on this very important project.

With respect to operations and projects the House and Senate conferees have agreed to the following:

Operating Budget	$20,133,000
Project Budget:	
1. Painting of Interior Arches, TJB	240,000
2. Repair Life Safety Deficiencies	390,000
3. Copyright Office Reconfiguration	5,500,000
4. Book Storage Modules, 3 & 4	40,700,000
5. Redesign, Copyright Deposit Facility, Fort Meade	800,000
	1,000,000
Total, Library Buildings and Grounds	68,763,000

CAPITOL POLICE BUILDINGS AND GROUNDS

The conference agreement includes $14,902,000 instead of $16,830,000 as proposed by the House and $10,031,000 as proposed by the Senate. Of this amount, $5,000,000, as proposed by the House, would remain available until September 30, 2010.

With respect to operations and projects the conferees have agreed to the following:

Operating Budget	$9,786,000
Project Budget:	
1. HVAC Replacement, Crib	116,000
2. Vehicle Maintenance Facility Purchase	5,000,000
Total, Capitol Police Buildings and Grounds	14,902,000

BOTANIC GARDEN

The conference agreement includes $7,633,000 for salaries and expenses, Botanic Garden, as proposed by the Senate instead of $7,211,000 as proposed by the House.

The conferees direct the Architect to submit an obligation plan to the Committees on Appropriations of the House and Senate prior to obligating funds for improvements to the administration building.

With respect to operations and projects the conferees have agreed to the following:

Operating Budget:	$6,886,000
Project Budget:	
1. Partnership Support	300,000
2. Fire Alarm System Upgrade, Production Facility	187,000
3. Replacement of Delivery Truck	60,000
4. Administration Building Improvements	200,000
Total, Botanic Garden	7,633,000

CAPITOL VISITOR CENTER

The conference agreement includes $44,200,000 for the Capitol Visitor Center as proposed by the Senate instead of $36,900,000 as proposed by the House. Of this amount, $41,900,000 is appropriated on a no-year basis. The conferees direct the Architect of the Capitol to provide to the Committees on Appropriations of the House and Senate for approval a detailed plan on the hiring of all operational staffing by December 31, 2005.

Operating Budget	$2,300,000
Project Budget:	
1. CVC Cost to Complete	41,900,000
Total, Capitol Visitor Center	44,200,000

ADMINISTRATIVE PROVISIONS

The conference agreement includes two administrative provisions related to the operations of the Architect of the Capitol. Section 1201 provides for an additional senior level position for the executive director of the Botanic Garden. Section 1202 provides authority to the Architect to enter into certain lease agreements.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

(INCLUDING RESCISSION OF FUNDS)

The conference agreement includes $395,754,000 for salaries and expenses, Library of Congress instead of $388,144,000 as proposed by the House and $397,285,000 as proposed by the Senate. Of this amount $6,350,000 is made available from receipts collected by the Library of Congress and is to remain available until expended: and $13,972,000 is to remain available until expended for acquisition of books, periodicals, newspapers, and all other library materials as proposed by the House and Senate. The conference agreement provides $600,000 for the Abraham Lincoln Bicentennial Commission, $11,078,000 for partial support of the National Audio-Visual Conservation Center, $5,860,000 for the digital collections and educational curricula program, $250,000 for the Middle Eastern Text Initiative, $300,000 for the Movietone Newsreel Collection at the University of South Carolina, $400,000 for the American Music Archives at the University of Mississippi, $700,000 for facility modernization and a rescission of prior year funds in the amount of $6,858,000. This level funds 2,915 FTEs.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

The conference agreement includes $22,655,000, and an additional $35,946,000 made available from receipts, for salaries and expenses, Copyright Office, as proposed by the House instead of $22,700,000, and an additional $34,622,000 made available from receipts, as proposed by the Senate.

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

The conference agreement includes $100,916,000 for salaries and expenses, Congressional Research Service, Library of Congress, instead of $99,952,000 as proposed by the House and $101,755,000 as proposed by the Senate.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

The conference agreement includes $54,449,000, instead of $54,049,000 as proposed by the House and $64,172,000 as proposed by the Senate. Of this amount $16,231,000 is to remain available until expended instead of $15,831,000 as proposed by the House and $25,667,000 as proposed by the Senate. The conferees have provided $400,000 for reimbursement to the National Federation of the Blind for costs incurred in the operation of its "NEWSLINE" program.

ADMINISTRATIVE PROVISIONS

The conferees have agreed to include administrative provisions related to the incentive awards program, reimbursable and revolving fund activities, and funding limitations for the United States diplomatic facilities (Section 1304). In addition, the conferees have included a new administrative provision, Section 1303, related to the National Digital Information Infrastructure and Preservation Program. Section 1305 relates to assistance provided by the Congressional Research Service, Section 1306 authorizes the Library of Congress Digital Collections and Educational Curricula Program, and Section 1307 authorizes a statutory Inspector General for the Library of Congress.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $88,090,000 as proposed by the Senate instead of $82,690,000 as proposed by the House.

OFFICE OF THE SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $33,337,000 as proposed by the House instead of $33,837,000 as proposed by the Senate.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The conference agreement includes $2,000,000 for workforce retraining instead of $1,200,000 as proposed by the House and $5,000,000 as proposed by the Senate.

GOVERNMENT ACCOUNTABILITY OFFICE

SALARIES AND EXPENSES

The conference agreement includes $489,560,000, of which $7,165,000 is from offsetting collections, for salaries and expenses, Government Accountability Office as proposed by the House instead of $491,548,000 as proposed by the Senate.

The conferees remind the GAO that the core function of GAO is to provide quantified, authoritative reports to Congress on issues and questions that Members and the Standing Committees have identified as of interest and importance. It is important that this work be done in a manner that supports the legislative process by being timely and specific to the issues identified. Any activity beyond the core function and beyond GAO's core responsibility to Congress must have exceptional justification to merit pursuit.

OPEN WORLD LEADERSHIP CENTER TRUST FUND

The conference agreement includes $14,000,000 for payment to the Open World Leadership Center Trust Fund as proposed by the House and Senate.

JOHN C. STENNIS CENTER FOR PUBLIC SERVICE TRAINING AND DEVELOPMENT

The conference agreement includes $430,000 as proposed by the Senate. The House did not propose an amount for this program.

TITLE II—GENERAL PROVISIONS

In Title II, General Provisions the conferees have agreed to delete language proposed by both bodies relative to compensation limitation.

TITLE III

CONTINUITY IN REPRESENTATION

The conferees have agreed to include language relating to continuity in representation.

Amendment numbered 2: Deletes the matter stricken and deletes the matter inserted and deletes certain House matter not stricken by the Senate. The disposition of this amendment is purely technical so that the entire text of the conference agreement could be included in amendment numbered 1. The description of the resolution of the differences in this amendment can be found in the joint statement of the managers under amendment 1.

Amendment numbered 3: Deletes the matter stricken and deletes the matter inserted and deletes certain House matter not stricken by the Senate. The disposition of this amendment is purely technical so that the entire text of the conference agreement could be included in amendment numbered 1. The description of the resolution of the differences in this amendment can be found in the joint statement of the managers under amendment 1.

Amendment numbered 4: Deletes the matter stricken and deletes the matter inserted and deletes certain House matter not stricken by the Senate. The disposition of this amendment is purely technical so that the entire text of the conference agreement could be included in amendment numbered 1. The description of the resolution of the differences in this amendment can be found in the joint statement of the managers under amendment 1.

Amendment numbered 5: The House receeds to the Senate. The disposition of this amendment is purely technical so that the entire text of the conference agreement could be included in amendment numbered 1. The description of the resolution of the differences in this amendment can be found in the joint statement of the managers under amendment 1.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2006 recommended by the Committee of Conference, with comparisons to the fiscal year 2005 amount, the 2006 budget estimates, and the House and Senate bills for 2006 follows:

[In thousands of dollars]

New budget (obligational) authority, fiscal year 2005	$3,639,892
Budget estimates of new (obligational) authority, fiscal year 2006	4,028,477
House bill, fiscal year 2006	2,864,418
Senate bill, fiscal year 2006	3,833,765
Conference agreement, fiscal year 2006	3,803,500
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2005	+163,608
Budget estimates of new (obligational) authority, fiscal year 2006	-224,977
House bill, fiscal year 2006	+939,082
Senate bill, fiscal year 2006	-30,265

JERRY LEWIS,
JACK KINGSTON,
KAY GRANGER,
JOHN T. DOOLITTLE,
RAY LAHOOD,
STENY H. HOYER,
JAMES P. MORAN,
Managers on the Part of the House.

WAYNE ALLARD,
THAD COCHRAN,
MIKE DEWINE,
TED STEVENS,
RICHARD DURBIN,
TIM JOHNSON,
ROBERT C. BYRD
(except Title III),
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CRAMER (at the request of Ms. PELOSI) for today on account of a death in the family.

Mr. GIBBONS (at the request of Mr. DELAY) for today and July 25 on account of attending to business in his district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROWN of Ohio) to revise and extend their remarks and include extraneous material:)

Ms. PELOSI, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. WYNN, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. LEVIN, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. FARR, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mr. CASE, for 5 minutes, today.

(The following Members (at the request of Mr. JONES of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. HAYWORTH, for 5 minutes, July 27.

Mr. HENSARLING, for 5 minutes, today.

Mr. PAUL, for 5 minutes, July 27, 28, and 29.

Mr. SAXTON, for 5 minutes, today.

Mr. BRADY of Texas, for 5 minutes, today.

Mr. SHAW, for 5 minutes, today.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on July 21, 2005 he presented to the President of the United States, for his approval, the following bills.

H.R. 3377. To provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

Jeff Trandahl, Clerk of the House reports that on July 22, 2005 he presented to the President of the United States, for his approval, the following bills.

H.J. Res. 52. Approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

ADJOURNMENT

Mrs. MALONEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 46 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 27, 2005, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the fourth quarter 2003, second and third quarter 2004, first and second quarter of 2005, pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. MARGARET PETERLIN, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 14 AND APR. 19, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Margaret Peterlin	4/14	4/15	Honduras		213.00						213.00
	4/15	4/17	Nicaragua		904.00						904.00
	4/17	4/19	Jamaica		1,040.00						1,040.00
Committee total											1,185.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MARGARET PETERLIN.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. JOHN SCHELBLE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 15 AND MAY 16, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
John Schelble	5/15	5/16	Haiti		328.00		1,197.15		176.54		1,701.69
Committee total											

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN SCHELBLE, June 20, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, REV. DANIEL COUGHLIN, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 27 AND JUNE 2, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Rev. Daniel P. Coughlin	5/27	5/29	Norway		422.00						422.00
	5/29	5/31	Finland		710.00						710.00
	5/31	6/2	Russia		872.00						872.00
Committee total					2,004.00						2,004.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Rev. DANIEL P. COUGHLIN, June 21, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. ROBERT LAWRENCE AND MR. WILLIAM HARRIS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 29 AND JUNE 4, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Robert Lawrence	5/29	6/4	Georgia		1,770.00		8,306.94				10,076.94
William Harris	5/29	6/4	Georgia		1,770.00		8,306.94				10,076.94
Committee total					3,540.00		1,6613.88				20,153.88

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

J. DENNIS HASTERT, Chairman, June 8, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. BRIAN DIFFELL, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 30 AND JUNE 1, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Brian Diffell	5/30	6/1	Venezuela		466.00		2,763.66				3,229.66
Committee total					466.00		2,763.66				3,229.66

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ROY BLUNT, Chairman, May 1, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE NATO PARLIAMENTARY ASSEMBLY MEETING IN LJUBLJANA, SLOVENIA; AND NATO PARLIAMENTARY ASSEMBLY DELEGATION MEETINGS IN BERLIN, GERMANY AND RAMSTEIN AFB, GERMANY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 27 AND JUNE 5, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Joel Hefley	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Hon. Ralph Regula	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/2	Germany		475.50		(3)				2,870.50
Hon. John Tanner	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Hon. Paul Gillmor	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Hon. Jo Ann Emerson	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Hon. John Shimkus	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Hon. Dennis Moore	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Hon. John Boozman	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Hon. Mike Ross	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Hon. Ben Chandler	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Melissa Adamson	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Andrew Beck	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Kathy Becker	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Paul Gallis	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Kay King	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Susan Olson	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Marilyn Owen	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Hon. Patrick Prisco	5/27	6/1	Slovenia		2,395.00		(3)				
	6/1	6/5	Germany		1,690.50		(3)				4,085.50
Delegation Expenses: Representational Functions									9,450.65		9,450.65
Committee total					72,324.00				9,450.65		81,774.65

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

JOEL HEFLEY, Chairman, June 28, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON HOUSE ADMINISTRATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicated and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ROBERT W. NEY, Chairman, July 7, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicated and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DONALD A. MANZULLO, Chairman, July 12, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 2005

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Judy Biggert	3/3	4/2	France		887.09		[4] 3,770.44				4,657.53
	4/2	4/5	Amsterdam		1,905.02		(3)				1,905.02
	4/5	4/5	U.K.				(3)				
	4/7	4/12	Jordan		1,180.00		(3)				1,180.00
Hon. Jim Costa	5/29	5/30	Kyrgyzstan		239.00		[4] 6,272.88				6,511.88
	5/30	5/31	Uzbekistan				(3)				
	5/31	6/1	Afghanistan		90.00		(3)				90.00
	6/1	6/4	Pakistan		877.00		(3)				877.00
	6/4	6/5	U.K.				[4] 1,736.99				1,736.99
Hon. Lincoln Davis	5/29	5/30	Kyrgyzstan		239.00		[4] 6,272.88				6,511.88
	5/30	5/31	Uzberistan				(3)				
	5/31	6/1	Afghanistan		90.00		(3)				90.00
	6/1	6/4	Pakistan		877.00		(3)				877.00
	6/4	6/4	U.K.				[4] 1,736.99				1,736.99
Hon. Mike Sodrel	5/29	5/30	Kyrgyzstan		239.00		[4] 6,272.88				6,511.88
	5/30	5/31	Uzbekistan				(3)				
	5/31	6/1	Afghanistan		90.00		(3)				90.00
	6/1	6/4	Pakistan		877.00		(3)				877.00
	6/4	6/4	U.K.				[4] 1,736.99				1,736.99
Amy Chiang	4/3	4/11	China		2,009.00		[4] 8,192.10				10,201.10
	6/8	6/16	China		2,284.00		[4] 5,731.06				8,015.06
Hon. Shelia Jackson-Lee	6/25	6/25	Cuba, Guantanamo Bay				(3)				
Committee total					11,883.11		41,723.21				53,606.32

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] Commercial air transportation.

———July 8, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND WORKFORCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 2005

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. John Carter [3] [4]	1/11	1/18	Iraq and Afghanistan		762.00		337.93		4,222.84		5,322.77
Hon. Tom Osborne [4]	4/7	4/12	Jordan, Iraq and Germany		762.00		532.95		6,120.74		7,145.69
Hon. Kenny Marchant	4/22	4/26	Costa Rica and Colombia		1,006.00				36,837.38		37,843.38
Committee total					2,530.00		870.80		47,180.96		50,581.76

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Expenses not previously reported.
[4] Transportation and other purposes expenses are cumulative for entire CODEL.

JOHN A. BOEHNER, Chairman, July 11, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON TAXATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 2005

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WILLIAM A. THOMAS, Chairman, July 13, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON THE LIBRARY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 2005

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☑

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ROBERT W. NEY, Chairman, July 7, 2005.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Lara Alameh	1/11	1/16	Israel		1,445.00						1,445.00
Douglas Anderson	1/6	1/7	China		313.00						313.00

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	1/7	1/9	Indonesia		290.00						290.00
	1/9	1/10	Thailand		232.00						232.00
	1/10	1/12	Sri Lanka		412.00						412.00
	1/12	1/15	India		885.00						885.00
	1/6	1/15					[4]10,258.91				10,258.91
Renee Austell	1/26	1/28	Poland		502.00		6,286.66				6,788.86
Hon. Shelley Berkley	1/26	1/28	Poland		502.00		7,591.66				8,093.66
	3/11	3/13	Spain		965.00		5,906.25				6,871.25
Hon. Howard Berman	2/11	2/13	Germany		370.00		(3)				370.00
Hon. Earl Blumenauer	1/6	1/7	China		313.00						313.00
	1/7	1/9	Indonesia		290.00						290.00
	1/9	1/10	Thailand		232.00						232.00
	1/10	1/12	Sri Lanka		412.00						412.00
	1/12	1/14	India		590.00						590.00
	1/6	1/14					[4]7,691.29				7,691.29
Ted Brennan	1/10	1/13	Colombia		525.00						525.00
	1/13	1/16	Panama		558.00						558.00
	1/16	1/18	Honduras		496.00						496.00
	1/10	1/18					[4]2,798.62				2,798.62
Hon. Dan Burton	2/11	2/15	Costa Rica		900.00		1,687.85		343.00		2,930.85
Hon. Steve Chabot	1/12	1/15	Egypt		867.00		6,428.76				7,295.76
Malik Chaka	1/22	1/24	Chad		590.00						590.00
	1/24	1/25	Algeria		272.00		(3)				272.00
Joan Condon	3/26	3/30	Libya		1,002.00		7,554.85				8,556.85
Frank Cotter	3/18	3/20	Mexico		576.00						576.00
	3/20	3/23	Panama		708.00		(3)				708.00
Ninfa DeLuna	3/17	3/20	Mexico		864.00						864.00
	3/20	3/23	Panama		708.00		1,187.11				1,895.11
Hon. Eliot Engel	1/10	1/11	Russia		266.00						266.00
	1/11	1/14	North Korea		118.75						118.75
	1/14	1/15	South Korea		351.00						351.00
	1/15	1/16	China		291.00						291.00
	1/16	1/17	Hong Kong (Indonesia)		411.00						411.00
	1/17	1/18	Japan		408.00		(3)				408.00
Hon. Eni Faleomavaega	1/6	1/10	India		1,583.00				670.13		2,253.13
	1/10	1/13	Sri Lanka		618.00						618.00
	1/6	1/13					[4]6,901.09				6,901.09
	2/9	2/14	Tahiti				5,813.10				5,813.10
	3/18	3/20	Mexioco		576.00						576.00
	3/20	3/23	Panama		708.00		(3)				708.00
	3/30	4/1	New Zealand		1,261.80		1,341.50				2,603.30
James Farr	3/17	3/20	Mexico		864.00						864.00
	3/20	3/23	Panama		708.00		1,808.19				2,516.19
David Fite	1/14	1/16	Pakistan		789.00						789.00
	1/16	1/17	Afghanistan		90.00						90.00
	1/14	1/17					[4]8,425.86				8,425.86
Hon. Jeff Flake	1/7	1/9	Indonesia		290.00						290.00
	1/9	1/10	Thailand		232.00						232.00
	1/10	1/11	Sri Lanka		412.00						412.00
	1/7	1/11					[4]4,428.30				4,428.30
Hon. Jeff Fortenberry	3/4	3/7	Jordan		550.00		887.35				1,437.35
Kirsti Garlock	2/21	2/23	Turkey		390.00						390.00
	2/23	2/25	Italy		850.00						850
	2/21	2/25					[4]5,657.29				5,657.29
Dennis Halpin	3/23	3/27	South Korea		1,204.00						1,204.00
	3/27	3/29	Japan		656.00						656.00
	3/23	3/29					[4]9,278.42				9,278.42
Hon. Henry Hyde	3/18	3/20	Mexico		576.00				33,000.00		33,576.00
	3/20	3/23	Panama		708.00		(3)		5,035.00		5,743.99
Hon. Darrell Issa	3/12	3/12	Japan				(3)				
Jonathan Katz	1/11	1/15	Egypt		2,312.00		5,415.84				7,727.84
	2/23	2/25	Ukraine		614.00		5,933.49				6,547.49
Kay King	3/25	3/26	Holland		309.00						309.00
	3/26	3/30	Libya		1,002.00						1,002.00
	3/25	3/30					[4]7,577.47				7,577.47
Robert King	1/7	1/8	China		291.00						291.00
	1/8	1/11	North Korea		963.00						963.00
	1/11	1/13	China		582.00						582.00
	1/7	1/13					[4]5,551.06				5,551.06
	3/25	3/26	Holland		309.00						309.00
	3/26	3/30	Libya		1,002.00						1,002.00
	3/25	3/30					[4]7,577.47				7,577.47
Sheila Klein	3/18	3/20	Mexico		576.00						576.00
	3/20	3/23	Panama		708.00		(3)				708.00
Hon. Thomas Lantos	1/7	1/8	China		291.00						291.00
	1/8	1/11	North Korea		963.00						963.00
	1/11	1/13	China		582.00						582.00
	1/13	1/15	Hong Kong		822.00						822.00
	1/15	1/18	Taiwan		1,005.00						1,005.00
	1/7	1/18					[4]6,486.54				6,486.54
	3/25	3/26	Holland		381.00						381.00
	3/26	3/29	Libya		1,002.00						1,002.00
	3/25	3/29					[4]8,232.88				8,232.88
Hon. James Leach	1/6	1/7	China		313.00						313.00
	1/7	1/9	Indonesia		290.00				[5]8,971.51		9,261.51
	1/9	1/10	Thailand		232.00				[5]8,355.52		8,587.52
	1/10	1/12	Sri Lanka		412.00						412.00
	1/12	1/13	India		590.00						590.00
	1/13	1/16	Egypt		578.00						578.00
	1/16	1/18					[4]7,691.29				7,691.29
Hon. Barbara Lee	1/22	1/24	Chad		590.00						590.00
	1/24	1/25	Algeria		272.00		(3)				272.00
Caleb McCarry	1/10	1/13	Colombia		675.00						675.00
	1/13	1/16	Panama		708.00						708.00
	1/16	1/18	Honduras		396.00						396.00
	1/10	1/18					[4]2,798.65				2,798.65
	3/17	3/20	Mexico		864.00						864.00
	3/20	3/23	Panama		708.00		1,278.32				1,986.32
Hon. Betty McCollum	1/22	1/24	Chad		590.00						590.00
	1/24	1/25	Algeria		272.00		(3)				272.00
	2/25	3/1	Italy		520.00		6,163.07		[5]355.20		7,038.20

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	3/18	3/20	Mexico		576.00						576.00
	3/20	3/23	Panama		633.00		(3)				633.00
James McCormick	1/6	1/7	China		313.00						313.00
	1/7	1/9	Indonesia		240.00						240.00
	1/9	1/10	Thailand		232.00						232.00
	1/10	1/12	Sri Lanka		362.00						362.00
	1/12	1/13	India		590.00						590.00
	1/13	1/16	Egypt		478.00						478.00
	1/6	1/18					[4] 7,691.29				7,691.29
Hon. Thaddeus McCotter	1/26	1/28	Poland		502.00		6,441.74		[5] 1,252.00		8,195.74
	3/13	3/11	Spain		965.00		5,096.25		[5] 3,312.90		9,374.15
Matthew McLean	1/3	1/5	Botswana		290.00						290.00
	1/5	1/9	South Africa		772.00						772.00
	1/9	1/11	Madagascar		343.00						343.00
	1/11	1/14	Mozambique		576.00						576.00
	1/3	1/14					[4] 10,270.67				10,270.67
	2/20	2/23	Indonesia		648.00						648.00
	2/23	2/26	Sri Lanka		652.00						652.00
	2/20	2/26					[4] 11,169.95				11,169.95
John Mackey	1/10	1/12	Turkey		552.00						552.00
	1/12	1/15	Pakistan		1,052.00						1,052.00
	1/16	1/17	Afghanistan		90.00						90.00
	1/10	1/17					[4] 8,849.72				8,849.72
	2/21	2/26	Colombia		1,125.00		1,752.15				2,877.15
Alan Makovsky	1/11	1/15	Egypt		2,312.00		5,415.84				7,727.84
	3/25	3/26	Holland		381.00						381.00
	3/26	3/30	Libya		1,002.00						1,002.00
	3/25	3/30					[4] 7,577.47				7,577.47
Pearl Alice Marsh	1/22	1/24	Chad		590.00						590.00
	1/24	1/25	Algeria		272.00		(3)				272.00
Richard Mereu	3/11	3/13	Spain		945.50		3,533.50				4,479.00
	3/21	3/23	Belgium		648.50		5,908.13				6,556.63
Thomas Mooney	3/18	3/20	Mexico		576.00						576.00
	3/20	3/23	Panama		708.00		1,792.61				2,500.61
Paul Oostburg-Sanz	1/5	1/8	El Salvador		475.00						475.00
	1/8	1/11	Madagascar		334.00						334.00
	1/11	1/14	Mozambique		551.00						551.00
	1/5	1/14					[4] 14,499.46				14,499.46
	3/18	3/20	Mexico		526.00						526.00
	3/20	3/23	Panama		437.00		(3)				437.00
Hon. Donald Payne	1/8	1/9	Kenya		0.0		9,588.01				9,588.01
Hon. Ted Poe	1/29	2/1	Jordan		762.00		6,353.77				7,115.77
Amy Porter	1/22	1/24	Chad		590.00						590.00
	1/24	1/25	Algeria		272.00		(3)				272.00
Patrick Prisco	2/18	2/21	Belgium		1,185.00						1,185.00
	2/21	2/23	France		924.00						924.00
	2/23	2/25	Austria		596.00						596.00
	2/18	2/25					[4] 3,284.25				3,284.25
John Walker Roberts	3/19	3/23	Belgium		1,035.00		6,496.13				7,531.13
Rotem Roizman	2/22	2/23	Turkey		226.00						226.00
	2/23	2/25	Italy		566.00						566.00
	2/22	2/25					[4] 5,657.29				5,657.29
Hon. Edward Royce	1/22	1/24	Chad		590.00						590.00
	1/24	1/25	Algeria		272.00		(3)				272.00
Susan Schiesser	3/17	3/20	Mexico		864.00						864.00
	3/20	3/23	Panama		708.00		1,187.11				1,895.11
Douglas Seay	3/18	3/20	Mexico		576.00						576.00
	3/20	3/23	Panama		708.00		(3)				708.00
Thomas Sheehy	1/22	1/24	Chad		590.00						590.00
	1/24	1/25	Algeria		272.00		(2)				272.00
Hon. Christopher Smith	1/8	1/9	Indonesia		121.00						121.00
	1/9	1/10	Thailand		232.00						232.00
	1/10	1/13	Sri Lanka		412.00						412.00
	1/8	1/13					[4] 10,369.89				10,369.89
Sam Stratman	1/14	1/15	Thailand		232.00		5,770.05				6,002.05
	3/17	3/20	Mexico		864.00						864.00
	3/20	3/23	Panama		708.00		1,744.32				2,452.32
Sarah Tillemann	1/7	1/8	China		291.00						291.00
	1/8	1/11	North Korea		963.00						963.00
	1/7	1/11					1,796.87				1,796.87
Mark Walker	3/17	3/20	Mexico		814.00						814.00
	3/20	3/23	Panama		658.00		1,682.32				2,340.32
Hon. Diane Watson	1/8	1/10	Thailand		463.99						463.99
	1/10	1/12	Sri Lanka		412.00						412.00
	1/12	1/13	India		590.00						590.00
	1/8	1/13					[4] 6,339.83				6,339.83
	1/22	1/24	Chad		590.00						590.00
	1/24	1/25	Algeria		272.00		(3)				272.00
Lynne Weil	1/7	1/8	China		291.00						291.00
	1/8	1/11	North Korea		963.00						963.00
	1/11	1/13	China		582.00						582.00
	1/13	1/15	Hong Kong		822.00						822.00
	1/15	1/18	Taiwan		1,005.00						1,005.00
	1/7	1/18					[4] 7,342.87				7,342.87
Hillel Weinberg	3/20	3/23	Belgium		1,184.00						1,184.00
	3/23	3/25	United Kingdom		755.00						755.00
	3/25	3/30	Egypt		1,145.00						1,145.00
	3/20	3/30					[4] 7,889.45				7,889.45
Hon. Gerald Weller	1/10	1/13	Colombia		318.00						318.00
	1/13	1/16	Panama		708.00						708.00
	1/16	1/18	Honduras		496.00						496.00
	1/10	1/18					[4] 2,879.65				2,879.65
Hon. Robert Wexler	1/11	1/13	Egypt		578.00		5,415.84				5,993.84
	2/23	2/25	Ukraine		614.00		5,933.49		[5] 475.00		7,022.59
Lisa Williams	1/16	1/13	India		2,073.00		5,887.07				7,960.07
Judy Wolverton	3/18	3/20	Mexico		576.00						576.00
	3/20	3/23	Panama		708.00		(3)				708.00
Peter Yeo	1/7	1/8	China		291.00						291.00
	1/8	1/11	North Korea		963.00						963.00
	1/11	1/13	China		582.00						582.00
	1/13	1/15	Hong Kong		822.00						822.00

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	1/15	1/17	Taiwan		335.00						335.00
	1/7	1/17					[4]6,646.79				6,646.70
Committee total					107,373.54		358,902.92		61,771.35		528,047.81

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] Roundtrip airfare.
[5] Cost of entire delegation.

HENRY J. HYDE, Chairman.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 2004

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Douglas Anderson	5/18	5/21	Taiwan		923.00						923.00
	5/21	5/22	Philippines		244.00						244.00
	5/22	5/24	Malaysia		358.00						358.00
	5/24	5/26	Indonesia		169.00						169.00
	5/26	5/27	Singapore		261.00						261.00
	5/18	5/27					[4]6,216.42				6,216.42
Renee Austell	4/4	4/8	Switzerland		1,801.15		5,743.12				7,544.27
	5/24	5/28	France		1,768.00		5,968.30				7,736.30
Hon. Cass Ballenger	4/12	4/13	Honduras		137.00						137.00
	4/13	4/14	El Salvador		23.00						23.00
	4/14	4/16	Nicaragua		182.00						182.00
	4/12	4/16					[4]2,670.00				2,670.00
Hon. Howard Berman	6/18	6/22	Israel		1,349.00						1,349.00
	6/22	6/25	Egypt		651.00						651.00
	6/18	6/22					[4]6,167.00				6,167.00
Patrick Brennan	4/12	4/13	Honduras		137.00						137.00
	4/13	4/14	El Salvador		78.00						78.00
	4/14	4/16	Nicaragua		447.75						447.75
	4/12	4/16					[4]2,006.50				2,006.50
	6/10	6/12	Dominican Republic		341.00		1,500.00				1,841.00
Hon. Steve Chabot	5/26	5/28	Taiwan		394.39		4,200.43				4,594.82
Malik Chaka	4/4	4/9	Tanzania		1,130.00				[5]139.19		1,269.19
	4/9	4/13	Malawi		276.00						276.00
	4/13	4/17	Botswana		693.00						693.00
	4/4	4/17					[4]10,649.43				10,649.43
Joan Condon	5/23	5/23	United Kingdom		135.00						135.00
	5/24	5/25	Uganda		188.60						188.60
	5/25	5/26	Sudan		216.80						216.80
	5/26	5/31	Uganda		809.60						809.60
	5/23	5/31					[4]7,902.28				7,902.28
Hon. Joseph Crowley	4/3	4/6	Ireland		1,377.00		(3)				1,377.00
Hon. Jo Ann Davis	4/3	4/6	Ireland		1,377.00						1,377.00
	4/6	4/9	Hungary		762.00		(3)				762.00
Jim Farr	4/3	4/6	Ireland		1,377.00						1,377.00
	4/6	4/9	Hungary		762.00		(3)				762.00
Daniel Freeman	4/6	4/12	Thailand		1,092.00		5,885.50		* * * 234.22		7,211.72
Kirsti Garlock	4/3	4/6	Ireland		1,377.00						1,377.00
	4/6	4/9	Hungary		762.00		(3)				762.00
Dennis Halpin	4/4	4/8	Switzerland		1,416.00		5,743.12				7,159.12
Hon. Henry Hyde	4/3	4/6	Ireland		1,377.00						1,377.00
	4/6	4/9	Hungary		762.00		(3)				762.00
Jonathan Katz	4/28	4/29	Germany		331.30		6,493.28				6,824.58
	5/24	5/31	France		2,598.96		5,964.30				8,563.26
	6/9	6/11	Turkey		634.00		6,234.94				6,868.94
David Killion	4/4	4/9	Switzerland		1,770.00		5,762.96				7,532.96
	5/21	5/24	Jordan		564.00		564.00				564.00
	5/24	5/27	United Kingdom		1,371.00						1,371.00
	5/21	5/27					[4]6,387.76				6,387.76
Kay King	4/3	4/6	Ireland		1,377.00						1,377.00
	4/6	4/12	Hungary		1,524.00		(3)				1,524.00
	4/12	4/15	Russia		537.00						537.00
	4/15	4/17	Czech Republic		303.00						303.00
	4/12	4/17					[4]5,201.48				5,201.48
Robert King	4/3	4/6	Ireland		413.00						413.00
	4/6	4/12	Hungary		1,524.00		(3)				1,524.00
	4/12	4/15	Russia		1,092.00						1,092.00
	4/15	4/17	Czech Republic		636.00						636.00
	4/12	4/17					[4]5,201.48				5,201.48
	5/22	5/25	Israel		1,086.00						1,086.00
	5/25	5/28	Latvia		783.00						783.00
	5/21	5/28					[4]7,591.20				7,591.20
Sheila Klein	4/3	4/6	Ireland		1,377.00						1,377.00
	4/6	4/9	Hungary		762.00		(3)				762.00
Hon. Thomas Lantos	4/3	4/6	Hungary		1,377.00						1,377.00
	4/12	4/15	Russia		1,092.00						1,092.00
	4/15	4/16	Hungary		254.00						254.00
	4/3	4/16					[4]5,830.04				5,830.04
	5/22	5/25	Israel		1,086.00						1,086.00
	5/25	5/28	Latvia		783.00						783.00
	5/22	5/28					(4) 8,294.67				8,294.67
Hon. James Leach	5/21	5/22	Philippines		194.00						194.00
	5/22	5/24	Malaysia		258.00						258.00
	5/24	5/26	Indonesia		168.00						168.00
	5/26	5/27	Singapore		261.00						261.00
	5/21	5/27					[4]4,415.72				4,415.72
Jessica Lewis	6/10	6/12	Dominican Republic		326.00		1,500.40				1,826.40
James McCormick	5/18	5/21	Taiwan		905.00						905.00

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 2004—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	5/21	5/22	Philippines		194.00						194.00
	5/22	5/24	Malaysia		258.00						258.00
	5/24	5/26	Indonesia		168.00						168.00
	5/26	5/27	Singapore		261.00						261.00
	5/18	5/27					[4]6,216.42				6,216.42
Hon. Thaddeus McCotter	4/3	4/6	Ireland		1,377.00						1,377.00
	4/6	4/9	Hungary		762.00		(3)				762.00
Caleb McCarry	5/7	5/9	El Salvador		219.00		(3)				219.00
John Mackey	3/30	4/7	Ireland		3,345.00		5,093.54				8,438.54
	5/23	5/29	Colombia		1,575.00		1,700.50				3,275.50
Alan Makovsky	5/21	5/26	Israel		1,086.00						1,086.00
	5/26	5/28	Cyprus		927.00						927.00
	5/21	5/28					[4]5,391.43				5,391.43
	6/11	6/13	United Kingdom		400.00		7,216.26				7,616.26
	5/21	5/28					[4]8,877.60				8,877.60
Hillel Weinberg	4/3	4/6	Ireland		1,227.00						1,227.00
	4/6	4/9	Hungary		612.00		(3)				612.00
	4/9	4/13	Saudi Arabia		414.00						414.00
	4/13	4/17	Israel		1,710.00						1,710.00
	4/18	4/20	United Kingdom		914.00						914.00
	4/9	4/20					[4]6,603.31				6,603.31
Hon. Gerald Weller	5/7	5/9	El Salvador		269.00		(3)				269.00
Hon. Robert Wexler	4/28	4/29	Germany		331.30		6,493.28				6,824.58
	5/24	5/31	France		2,598.96		5,964.30				8,563.26
	6/9	6/11	Turkey		634.00		6,234.94				6,868.94
Judy Wolverton	4/3	4/6	Ireland		1,377.00						1,377.00
	4/6	4/9	Hungary		762.00		(3)				762.00
Committee total						104,913.81		234,578.58		373.41	339,865.80

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] Roundtrip airfare.
[5] Cost of entire Delegation.

HENRY J. HYDE, Chairman.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Douglas Anderson	8/12	8/24	Indonesia		1,980.90		6,904.50				8,885.40
Renee Austell	8/11	8/17	Chad		1,650.00		6,753.04				8,403.04
	9/19	9/21	Russia		1,100.00						1,100.00
	9/21	9/22	United Kingdom		457.00						457.00
	9/19	9/22					[4]7,075.93				7,075.93
Hon. Cass Ballenger	8/3	8/4	Venezuela		150.00		(3)				150.00
Patrick Brennan	7/18	7/19	Canada		259.00		1,052.00				1,311.00
	8/1	8/4	Venezuela		549.00		2,616.54				3,165.54
	8/14	8/16	Venezuela		416.00						416.00
	8/16	8/17	Ecuador		238.00						238.00
	8/17	8/19	Bolivia		312.00						312.00
	8/19	8/22	Peru		539.00		(3)				539.00
Candace Bryan	6/26	6/30	South Korea		980.00						980.00
	6/30	7/3	Hong Kong		961.00						961.00
	6/26	7/3					[4]7,240.45				7,240.45
Jean Carroll	8/14	8/16	Venezuela		491.00						491.00
	8/16	8/17	Ecuador		213.00						213.00
	8/17	8/19	Bolivia		287.00						287.00
	8/19	8/22	Peru		694.00		(3)				694.00
Malik Chaka	6/26	6/30	DRC		1,132.00						1,132.00
	6/30	7/5	Tanzania		1,415.00						1,415.00
	6/26	7/5					[4]8,600.59				8,600.59
	8/10	8/15	Togo		786.00						786.00
	8/15	8/20	Benin		703.00						703.00
	8/20	8/23	Niger		763.00						763.00
	8/10	8/23					[4]6,544.12				6,544.12
Joan Condon	6/29	7/5	Zimbabwe		942.00		8,907.84				9,849.84
	8/11	8/18	Chad		1,350.00		6,753.04				8,103.04
Ted Dagne	7/31	8/2	Kenya		590.00						590.00
	8/2	8/4	Ethiopia		708.00						708.00
	8/4	8/6	Chad		552.00						522.00
	8/6	8/8	Ethiopia		202.00						202.00
	8/8	8/10	Djibouti		566.00						566.00
	8/10	8/11	Eritrea		430.00						430.00
	7/31	8/11					[4]11,024.85				11,024.85
Hon. Eni Faleomavaega	7/10	7/12	French Polynesia		571.00						571.00
	7/12	7/13	Samoa, Apia		129.00						129.00
	7/12	7/13					[4]4,240.21				4,240.21
	8/9	8/11	Western Samoa		267.21		62.68				329.89
Kristen Gilley	6/26	6/30	South Korea		1,080.00						1,080.00
	6/30	7/3	Hong Kong		987.00						987.00
	6/26	7/3					[4]7,449.55				7,449.55
Dennis Halpin	6/26	6/30	South Korea		1,062.00						1,062.00
	6/30	7/3	Hong Kong		866.00						866.00
	6/26	7/3					[4]7,240.45				7,240.45
	8/3	8/12	India		1,532.00						1,532.00
	8/9	8/10	Nepal		188.00						188.00
	8/3	8/12					[4]7,652.10				7,652.10
Hans Hogrefe	8/12	8/20	Indonesia		1,270.00		7,521.81				8,791.81
Rep. Amo Houghton	9/16	9/19	Jordan		635.00						635.00
	9/19	9/20	Germany		44.00		(3)				44.00
Jonathan Katz	6/30	7/4	Israel		1,448.00		5,963.34				7,411.34

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
David Killion	6/26	6/28	Italy		420.00						420.00
	6/28	7/1	UAE		1,045.00						1,045.00
	6/26	7/1					[4] 9,631.72				9,631.72
	7/24	7/27	Jordan		564.00						564.00
	7/27	8/2	Turkey		1,438.00						1,438.00
	7/24	8/2					[4] 5,706.47				5,706.47
	8/13	8/16	Libya		1,038.00						1,038.00
	8/16	8/17	Egypt		217.00						217.00
	8/17	8/19	Syria		536.00						536.00
	8/19	8/25	Israel		2,184.00						2,184.00
	8/13	8/25					[4] 5,856.58				5,856.58
Young Kim	6/26	6/30	South Korea		1,080.00						1,080.00
	6/30	7/3	Hong Kong		987.00						987.00
	6/26	7/3					[4] 6,110.45				6,110.45
Hon. Thomas Lantos	8/13	8/16	Libya		1,038.00						1,038.00
	8/16	8/17	Egypt		217.00						217.00
	8/17	8/19	Syria		536.00						536.00
	8/19	8/22	Israel		728.00						728.00
	8/13	8/22					[4] 5,830.00				5,830.00
Jessica Lewis	8/12	8/4	Venezuela		680.00		2,494.54				3,174.54
Noelle LuSane	7/10	7/12	Netherlands		327.00		6,296.61				6,623.61
	7/31	8/2	Kenya		295.00						295.00
	8/2	8/4	Ethiopia		708.00						708.00
	8/4	8/6	Chad		552.00						552.00
	8/6	8/8	Ethiopia		202.00						202.00
	7/31	8/8					[4] 10,996.28				10,996.28
	9/16	9/19	Jordan		714.00						714.00
	9/19	9/20	Germany		154.00		(3)				154.00
John Mackey	8/25	9/2	Colombia		1,800.00		1,710.50				3,510.50
Alan Makovksy	7/24	7/27	Jordan		564.00						564.00
	7/27	8/2	Turkey		1,479.00						1,479.00
	7/24	8/2					[4] 6,136.40				6,136.40
	8/13	8/16	Libya		1,038.00						1,038.00
	8/16	8/17	Egypt		217.00						217.00
	8/17	8/19	Syria		536.00						536.00
	8/19	8/25	Israel		2,184.00						2,184.00
	8/13	8/25					[4] 5,856.58				5,856.58
Pearl-Alice Marsh	6/29	7/6	Zimbabwe		942.00		8,907.84				9,849.84
	8/10	8/14	Togo		825.00						825.00
	8/15	8/18	Benin		517.00						517.00
	8/10	8/18.					[4] 5,088.30				5,088.30
Hon. Gregory Meeks	8/14	8/16	Venezuela		516.00						516.00
	8/16	8/17	Ecuador		238.00		1,186.30				1,424.30
Caleb McCarry	8/1	8/4	Venezuela		649.00		2,616.54				3,265.54
James McCormick	8/8	8/12	Philippines		693.00						693.00
	8/12	8/15	Malaysia		490.20				[5] 278.25		768.45
	8/8	8/12					[4] 5,542.00				5,542.00
Paul Oostburg Sanz	8/25	9/1	Colombia		1,237.00		2,557.54				3,794.54
Hon. Donald Payne	7/10	7/12	Netherlands		367.00		5,916.11				6,283.11
	8/2	8/4	Ethiopia		708.00						708.00
	8/4	8/6	Chad		552.00						552.00
	8/6	8/8	Ethiopia		202.00						202.00
	8/8	8/10	Djibouti		566.00						566.00
	8/10	8/11	Eritrea		430.00						430.00
	8/2	8/11					[4] 11,007.65				11,007.65
	9/16	9/19	Jordan		714.00						714.00
	9/19	9/20	Germany		154.00		(3)				154.00
Gregg Rickman	6/26	6/28	Italy		770.00						770.00
	6/28	7/1	UAE		836.00						836.00
	6/26	7/1					[4] 8,824.93				8,824.93
	7/24	7/27	Jordan		564.00						564.00
	7/27	7/29	Turkey		1,212.00						1,212.00
	7/24	7/29					[4] 6,136.40				6,136.40
Robin Roizman	7/25	8/1	China		1,477.00		[4] 7,221.00				8,698.00
Hon. Edward Royce	6/26	6/30	DRC		1,132.00						1,132.00
	6/30	7/5	Tanzania		1,415.00						1,415.00
	6/26	7/5					[4] 8,600.59				8,600.59
Jonathan Scharfen	6/26	6/28	Italy		840.00						840.00
	6/28	7/1	UAE		836.00						836.00
	6/26	7/1					[4] 8,824.93				8,824.93
	7/26	7/27	Jordan		376.00				[5] 693.59		1,069.59
	7/27	7/31	Turkey		991.00						991.00
	7/26	7/31					[4] 6,978.26				6,978.26
Hon. Adam Schiff	8/20	8/21	Pakistan		227.00						227.00
	8/21	8/22	Bahrain		99.00		3,684.09				3,783.09
Thomas Sheehy	6/26	6/30	DRC		1,132.00						1,132.00
	6/30	7/05	Tanzania		1,415.00						1,415.00
	6/26	7/5					[4] 8,600.59				8,600.59
Hon. Thomas Tancredo	9/18	9/21	Russia		1,100.00						1,100.00
	9/21	9/22	United Kingdom		457.00						457.00
	9/18	9/22					[4] 7,075.93				7,075.93
Sarah Tillemann	6/26	6/30	South Korea		980.00						980.00
	6/30	7/3	Hong Kong		767.00						767.00
	6/26	7/3					[4] 7,240.45				7,240.45
	8/3	8/12	India		646.00						646.00
	8/9	8/10	Nepal		188.00						188.00
	8/3	8/12					[4] 7,652.10				7,652.10
Lynne Weil	6/26	6/30	South Korea		937.00						937.00
	6/30	7/3	Hong Kong		816.00						816.00
	6/26	7/3					[4] 8,095.55				8,095.55
Hon. Jerry Weller	7/18	7/19	Canada		259.00		1,016.58				1,275.58
	8/14	8/16	Venezuela		516.00						516.00
	8/16	8/17	Ecuador		238.00						238.00
	8/17	8/19	Bolivia		312.00						312.00
	8/19	8/21	Peru		739.00		(3)				739.00
Hon. Robert Wexler	6/30	7/4	Israel		1,448.00		5,963.34				7,411.34
Committee total					87,498.31		318,966.19		971.84		407,436.34

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.
[4] Roundtrip airfare.
[5] Cost of entire delegation.

HENRY J. HYDE, Chairman.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
David Adams	10/22	10/28	Egypt		969.00		5,906.00				6,875.00
Hon. Cass Ballenger	10/22	10/29	Venezuela		268.00		(3)				268.00
	11/29	12/1	Venezuela		496.00		2,880.90				3,376.90
Hon. Chris Bell	10/24	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Patrick Brennan	10/22	10/24	Venezeula		496.00		(3)				496.00
	11/29	12/01	Venezuela		496.00		2,496.40				2,992.40
Hon. Steve Chabot	10/22	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Hon. Jo Ann Davis	10/9	10/13	Italy		1,784.00						1,784.00
	10/13	10/14	Poland		88.00		(3)				88.00
Hon. William Delahunt	10/22	10/24	Venezuela		596.00		(3)				596.00
Hon. Jeff Flake	12/15	12/18	Israel		915.50						915.50
	12/18	12/19			255.00		(3)				255.00
Hon. Elton Gallegly	11/29	11/30	Japan		194.00						194.00
	11/30	12/12	Thailand		2,640.00						2,640.00
	11/29	12/12					[4] 4,902.13				4,902.13
Kirsti Garlock	12/15	12/19	Greece		928.00		4,625.07				5,553.07
Kristen Gilley	12/15	12/19	Greece		903.00		3,753.04				4,656.04
Hon. Mark Green	10/22	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Hon. Peter King	10/22	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Robert King	10/22	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Hon. Thomas Lantos	10/23	10/24	Israel		362.00						362.00
	10/24	10/27	Jordan		952.00						952.00
	10/27	10/28	Turkey		281.00		(3)				281.00
David Lee	12/10	12/11	United Kingdom		742.00						742.00
	12/11	12/13	Austria		486.00						486.00
	12/13	12/17	Turkey		914.00						914.00
	12/10	12/17					[4] 6,912.00				6,912.00
Jessica Lewis	11/29	12/01	Venezuela		339.00		2,496.00				2,835.00
Noelle Lusane	12/11	12/13	Ghana		416.00		5,909.92				6,325.92
Caleb McCarry	10/22	10/24	Venezuela		481.00		(3)				481.00
Hon. Betty McCollum	10/22	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Hon. Thaddeus McCotter	12/5	12/7	Italy		922.00		3,612.15				4,534.15
John Mackey	11/10	11/16	Colombia		225.00		1,966.90				2,191.90
	12/10	12/11	United Kingdom		742.00						742.00
	12/11	12/13	Austria		486.00						486.00
	12/13	12/17	Turkey		914.00						914.00
	12/10	12/17					[4] 6,912.00				6,912.00
Alan Makovsky	10/23	10/24	Israel		362.00						362.00
	10/24	10/27	Jordan		952.00						952.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Hon. Gregory Meeks	10/22	10/24	Venezuela		596.00		(3)				596.00
Paul Oostburg-Sanz	10/22	10/24	Venezuela		390.00		(3)				390.00
	11/7	11/11	Brazil		605.00		7,069.31				7,674.31
Hon. Donald Payne	12/11	12/13	Ghana		416.00		6,073.42				6,489.42
Patrick Prisco	10/08	10/12	Italy		1,584.00		5,589.09				7,173.09
Hon. Edward Royce	10/22	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Jonathan Scharfen	12/10	12/11	United Kingdom		742.00				[5] 1,384.82		2,126.82
	12/11	12/13	Austria		486.00				[5] 429.95		915.95
	12/13	12/17	Turkey		914.00						914.00
	12/10	12/17					[4] 6,912.00				6,912.00
Doug Seay	11/21	11/23	United Kingdom		972.26		5,865.30				6,837.56
Thomas Sheehy	10/22	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Paula Sheil	11/29	11/30	Japan		194.00						194.00
	11/30	12/12	Thailand		2,640.00						2,640.00
	11/29	12/12					(4)				4,902.13
Sam Stratman	10/24	10/27	Jordan		1,190.00						1,190.00
	10/27	10/28	Turkey		281.00		(3)				281.00
Hon. Diane Watson	11/29	12/01	Venezuela		596.00		3,284.40				3,880.40
Hillel Weinberg	10/22	10/28	Egypt		1,002.00		5,906.00				6,908.00
Hon. Robert Wexler	12/2	12/4	Romania		540.00						540.00
	12/4	12/5	Bulgaria		250.00						250.00
	12/2	12/5					[4] 5,595.27				5,595.27
Committee total					46,051.76		103,569.43		1,814.77		151,435.96

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] Round trip airfare.
[5] Cost of entire delegation.

HENRY J. HYDE, Chairman.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3236. A letter from the Architect of the Capitol, transmitting a report of expenditures of appropriations during the period October 1, 2004 through March 31, 2005, pursuant to 40 U.S.C. 162b; to the Committee on Appropriations.

3237. A letter from the Under Secretary, Department of Defense, transmitting certification with respect to the Chemical Demilitarization — Chemical Materials Agency and Chem Demil — CMA Newport major defense acquisition program, pursuant to 10 U.S.C. 2433(e)(1); to the Committee on Armed Services.

3238. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Lieutenant General Norton A. Schwartz, United States Air Force, to wear the insignia of the grade of general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

3239. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General John F. Kimmons, United States Army, to wear the insignia of the grade of lieutenant general in accordance with title 10 United States Code, section 777; to the Committee on Armed Services.

3240. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General Terry L. Gabreski, United States Air Force, to wear the insignia of the grade of lieutenant general in accordance with title 10 United States Code, section 777; to the Committee on Armed Services.

3241. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to Ireland, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

3242. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to New Zealand, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

3243. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance to Bahrain defense articles and services (Transmittal No. 05-40), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3244. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance to Thailand for defense articles and services (Transmittal No. 05-32), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3245. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Israel for defense articles and services (Transmittal No. 05-31), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3246. A letter from the Inspector General, Department of Commerce, transmitting a copy of the interagency report entitled, "the Interagency Review of the Licensing Process for Chemical and Biological Commodities," pursuant to section 1402(b)(3) of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106-65); to the Committee on International Relations.

3247. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2005-26, Waiving Prohibition on United States Military Assistance with Respect to the Dominican Republic, pursuant to 22 U.S.C. 7421 et seq.; to the Committee on International Relations.

3248. A letter from the Secretary, Department of Health and Human Services, transmitting a copy of the Government National Mortgage Association (Ginnie Mae) management report for the fiscal year ended September 30, 2004, pursuant to 31 U.S.C. 9106; to the Committee on Government Reform.

3249. A letter from the Chairman, Federal Accounting Standards Advisory Board, transmitting a copy of the report entitled, "Statement of Federal Financial Accounting Standard 29, Heritage Assets and Stewardship Land"; to the Committee on Government Reform.

3250. A letter from the Architect of the Capitol, transmitting a report discussing the AOC's activities to improve worker safety during the second quarter of FY05, pursuant to the directives issued in the 107th Congress First Session, House of Representatives Report Number 107-169; to the Committee on House Administration.

3251. A letter from the Secretary, Department of the Interior, transmitting notification of payments to eligible governments in the State of Illinois for Fiscal Year 2005 under the Payments in Lieu of Taxes (PILT) program; to the Committee on Resources.

3252. A letter from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting the 2004 Annual Report of the National Institute of Justice (NIJ); to the Committee on the Judiciary.

3253. A letter from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting the annual report for 2003 on the STOP Violence Against Women Formula Grant Program; to the Committee on the Judiciary.

3254. A letter from the Chairperson, National Council on Disability, transmitting a report entitled, "Saving Lives: Including People with Disabilities in Emergency Planning"; to the Committee on Transportation and Infrastructure.

3255. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting an extension of the Department's Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of El Salvador Concerning the Imposition of Import Restrictions on Certain Categories of Archaeological Material from the Prehispanic Cultures of the Republic of El Salvador, pursuant to 19 U.S.C. 2602(g)(1); to the Committee on Ways and Means.

3256. A letter from the Acting Chief Counsel, FAC, Department of the Treasury, transmitting the Department's final rule — Reporting, Procedures and Penalties Regulations Sudanese Sanctions Regulations — received June 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3257. A letter from the Administrator, ONP, Department of Labor, transmitting the Department's final rule — Indian and Native American Welfare-to-Work Program (RIN: 1205-AB16) received July 7, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3258. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Return of Property in Certain Cases [TD 9213] (RIN: 1545-AV01) received July 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3259. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Credit for Increasing Research Activities [TD 9205] (RIN: 1545-BE17) received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3260. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Deemed Election to be an Association Taxable as a Corporation for a Qualified Electing S Corporation (RIN: 1545-BC32) received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3261. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Assumption of Partner Liabilities [TD 9207] (RIN: 1545-AX93) received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3262. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Predeceased Parent Rule [TD 9214] (RIN: 1545-BC60) received July 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3263. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Substitute for Return [TD 9215] (RIN: 1545-BC4 6) received July 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3264. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Source of Compensation for Labor or Personal Services [TD 9212] (RIN: 1545-AO72) received July 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3265. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Election Out of Section 1400L(c) (Rev. Proc. 2005-43) received July 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3266. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Section 179 Elections [TD 9209] (RIN: 1545-BC69) received July 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3267. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Allocation and Apportionment of Deductions for Charitable Contributions [TD 9211] (RIN: 1545-AP30) (RIN: 1545-BD47) received July 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3268. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Limitations Applicable to Dividends received from Regulated Investment Company (Rev. Rul. 2005-31) received May 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3269. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Automatic Consent to Change to the Alternative Tax Book Value Method of Valuing Assets for Expense Apportionment Purposes (Rev. Proc. 2005-28) received May 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3270. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Gross Income Defined (Rev. Rul. 2005-46) received July 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3271. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Rules and Regulations (Rev. Proc. 2005-30) received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3272. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Appeals Functions (Rev. Proc. 2005-33) received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A): to the Committee on Ways and Means.

3273. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2005-32) received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3274. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability (Rev. Proc. 2005-36) received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3275. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability. Procedures for Section 482 Setoffs (Rev. Proc. 2005-46) received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3276. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability (Rev. Proc. 2005-36) received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3277. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Last-in, First-out Inventories (Rev. Rul. 2005-26) received April 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3278. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Rulings and Determination Letters (Rev. Proc. 2005-48) received July 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3279. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments for Property (Rev. Rul. 2005-54) received July 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3280. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Low-Income Housing Credit (Rev. Rul. 2005-44) received July 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3281. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Income Affected by Treaty (Rev. Proc. 2005-44) received July 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3282. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Qualification of certain arrangements as insurance [Notice 2005-49] received June 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3283. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Termination of Tobacco Quotas and Price Support Programs [Notice 2005-57] received July 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3284. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Foreign Bank Interest Expense Allocation to Effectively Connected Income [Notice 2005-53] received July 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A): to the Committee on Ways and Means.

3285. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rates Update [Notice 2005-39] received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3286. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Electronic Submission of Lists Identifying Contracts Subject to Closing Agreements Under Rev. Rul. 2005-6 [Notice 2005-6] received May 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3287. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Gross Income Derived from Business (Rev. Rul. 2005-28) received April 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3288. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Collection Functions (Rev. Proc. 2005-34) received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3289. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability (Rev. Proc. 2005-32) received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3290. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Guidance Regarding Qualified Intellectual Property Contributions [Notice 2005-41] received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3291. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Mortgage Revenue Bonds [TD 9204] (RIN: 1545-BC59) received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3292. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Regulations Governing Practice Before the Internal Revenue Service [TD 9201] (RIN: 1545-BA70) received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A): to the Committee on Ways and Means.

3293. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Additional Rules for Exchanges of Personal Property Under Section 1031(a) [TD 9202] (RIN: 1545-BD25) received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3294. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Rules and Determination Letters (Rev. Proc. 2005-20) received April 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3295. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Amounts received Under Accident and Health Plans (Rev. Rul. 2005-24) received April 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3296. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Deductions for Entertainment Use of Business Aircraft [Notice 2005-45] received June 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3297. A letter from the Acting chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Insurance Company Taxable Income (Rev. Rul. 2005-33) received May 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3298. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Golden Parachute Payments (Rev. Rul. 2005-39) received June 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3299. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Tax on Insurance Companies Other Than Life Insurance Companies (Rev. Rul. 2005-40) received June 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3300. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Coordinated Issue Paper All Industries: Notice 2002-50 Tax Shelter [UIL 9300.21-00] received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3301. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Transfer or Sale of Compensatory Options or Restricted Stock to Related Persons [UIL: 9300.28.0] received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3302. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — All Industries Losses Claimed and Income to be Reported from Sale In/Lease Out (SILO) Transactions [UIL 9300.38-00] received July 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3303. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Like-Kind Exchanges Involving Federal Communications Commission Licenses [UIL: 1031.02-00] received June 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3304. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Abandonment Losses for Intangible Assets

[UIL: 165.13-00] received June 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3305. A letter from the Regulations Officer, OR, Social Security Administration, transmitting the Administration's final rule — Amendments to Annual Earnings Test for Retirement Benficiaries [Regulation No. 4] (RIN: 0960-AF62) received June 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GINGREY: Committee on Rules. House Resolution 385. Resolution providing for consideration of the bill (H.R. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system (Rept. 109–185). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Resolution 386. Resolution providing for consideration of the bill (H.R. 3045) to implement the Dominican Republic-Central America-United States Free Trade Agreement (Rept. 109–186). Referred to the House Calendar.

Mr. PUTNAM: Committee on Rules. House Resolution 387. Resolution providing for consideration of the bill (H.R. 3283) to enhance resources to enforce United States trade rights (Rept. 109–187). Referred to the House Calendar.

Mr. TAYLOR of North Carolina: Committee of Conference. Conference report on H.R. 2361. A bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–188). Ordered to be printed.

Mr. LEWIS of California: Committee of Conference. Conference report on H.R. 2985. A bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–189). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. GUTIERREZ (for himself, Mr. FRANK of Massachusetts, Ms. LEE, and Mrs. McCARTHY):

H.R. 3426. A bill to clarify the applicability of State law to national banks and Federal savings associations, and for other purposes; to the Committee on Financial Services.

By Mr. SMITH of New Jersey (for himself and Mrs. KELLY):

H.R. 3427. A bill to provide for the expansion of Federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne diseases, including the establishment of a Tick-Borne Diseases Advisory Committee; to the Committee on Energy and Commerce.

By Ms. HART (for herself and Mr. ROSS):

H.R. 3428. A bill to amend the Internal Revenue Code of 1986 to repeal the medicine and drugs limitation on the deduction for medical care; to the Committee on Ways and Means.

By Mr. MANZULLO (for himself and Mr. RAMSTAD):

H.R. 3429. A bill to amend the Small Business Investment Act of 1958 to establish a participating debenture program; to the Committee on Small Business.

By Mr. JONES of North Carolina (for himself and Ms. BORDALLO):

H.R. 3430. A bill to ensure by law the ability of the military service academies to include the offering of a voluntary, nondenominational prayer as an element of their activities; to the Committee on Armed Services.

By Mr. DENT (for himself, Mr. EHLERS, Mr. PITTS, Mr. ROGERS of Michigan, Mr. AKIN, Mr. PLATTS, Mr. WOLF, Mr. GERLACH, Mr. SCHWARZ of Michigan, and Mr. CANTOR):

H.R. 3431. A bill to amend the Indian Gaming Regulatory Act to limit casino expansion; to the Committee on Resources.

By Mr. ANDREWS:

H.R. 3432. A bill to create a system of background checks for certain workers who enter people's homes, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ANDREWS:

H.R. 3433. A bill to amend the Federal Rules of Evidence to establish a parent-child privilege; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 3434. A bill to amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with Hepatitis C, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. BLACKBURN:

H.R. 3435. A bill to amend title II of the Social Security Act to establish a Social Security Surplus Protection Account in the Federal Old-Age and Survivors Insurance Trust Fund to hold the Social Security surplus, to provide for suspension of investment of amounts held in the Account until enactment of legislation providing for investment of the Trust Fund in investment vehicles other than obligations of the United States, and to establish a Social Security Investment Commission to make recommendations for alternative forms of investment of the Social Security surplus in the Trust Fund; to the Committee on Ways and Means.

By Mr. BOUSTANY (for himself and Mr. WILSON of South Carolina):

H.R. 3436. A bill to withhold funding from the United Nations if the United Nations abridges the rights provided by the Second Amendment to the Constitution, and for other purposes; to the Committee on International Relations.

By Mr. CAMP:

H.R. 3437. A bill to amend titles XVIII and XIX of the Social Security Act with respect to reform of Federal survey and certification process of nursing facilities under the Medicare and Medicaid Programs; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CUMMINGS:

H.R. 3438. A bill to provide that the Secretary of Education may give preference, in the distribution of certain grants under the Individuals with Disabilities Education Act, to local educational agencies and certain public or private nonprofit organizations that provide training to regular education personnel to meet the needs of children with disabilities; to the Committee on Education and the Workforce.

By Mr. ETHERIDGE (for himself, Mr. PRICE of North Carolina, Mr. McINTYRE, Mr. MILLER of North Carolina, Mr. BUTTERFIELD, Mr. WATT, Mr. JONES of North Carolina, Mr. HAYES, Ms. FOXX, Mr. COBLE, Mr. McHENRY, Mrs. MYRICK, and Mr. TAYLOR of North Carolina):

H.R. 3439. A bill to designate the facility of the United States Postal Service located at 201 North 3rd Street in Smithfield, North Carolina, as the "Ava Gardner Post Office"; to the Committee on Government Reform.

By Mr. FORTUÑO:

H.R. 3440. A bill to designate the facility of the United States Postal Service located at 100 Avenida RL Rodriguez in Bayamon, Puerto Rico, as the "Dr. Jose Celso Barbosa Post Office Building"; to the Committee on Government Reform.

By Mr. GARRETT of New Jersey (for himself, Mr. PAUL, Mr. HOSTETTLER, Mr. BACHUS, and Mr. SMITH of New Jersey):

H.R. 3441. A bill to amend the Internal Revenue Code of 1986 to apply the child tax credit with respect to a taxable year to a child born within 9 months after the close of the taxable year and to a child who is stillborn or dies in utero during the taxable year; to the Committee on Ways and Means.

By Mrs. LOWEY (for herself, Mr. SHAYS, Mr. VAN HOLLEN, Mr. FARR, Mr. MORAN of Virginia, Mr. NADLER, Mr. FRANK of Massachusetts, Mr. McDERMOTT, Mr. ENGEL, Mr. GEORGE MILLER of California, Mr. OWENS, Mr. SABO, Mr. CROWLEY, Mr. UDALL of Colorado, Mr. GALLEGLY, Ms. BORDALLO, Mr. KILDEE, Mr. SHERMAN, Mr. HOLT, Mr. BLUMENAUER, Ms. DeLAURO, Mr. LANTOS, Mr. KUCINICH, Mr. LARSON of Connecticut, Mr. HONDA, Mr. McNULTY, Mr. EVANS, Ms. NORTON, Mr. COSTELLO, Mrs. MALONEY, Mrs. TAUSCHER, Ms. SCHAKOWSKY, Mr. GUTIERREZ, Mr. ACKERMAN, Ms. SLAUGHTER, Mr. DeFAZIO, and Mr. ROTHMAN):

H.R. 3442. A bill to end the use of conventional steel-jawed leghold traps on animals in the United States; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, International Relations, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MUSGRAVE (for herself and Mr. UDALL of Colorado):

H.R. 3443. A bill to direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District; to the Committee on Resources.

By Mr. PAUL:

H.R. 3444. A bill to amend the Internal Revenue Code of 1986 to provide credits against income tax for qualified stem cell research, the storage of qualified stem cells, and the donation of umbilical cord blood; to the Committee on Ways and Means.

By Mr. PORTER:

H.R. 3445. A bill to direct the Attorney General of the United States, upon request of the chief executive officer of a State, to provide officers of local educational agencies and the State educational agency in that State with certain access to the national crime information databases, and for other purposes; to the Committee on the Judiciary.

By Mr. RAHALL (for himself and Mrs. CHRISTENSEN):

H.R. 3446. A bill to amend the National Historic Preservation Act to provide appropriation authorization and improve the operations of the Advisory Council on Historic Preservation; to the Committee on Resources.

By Mr. UDALL of Colorado:

H.R. 3447. A bill to provide a means of resolving claims regarding the continued existence of rights-of-way under former section 2477 of the Revised Statutes, for the benefit of private landowners, State and local governments, and the public; to the Committee on Resources.

By Mr. UDALL of Colorado:

H.R. 3448. A bill to authorize and direct the Secretary of the Department of Commerce to acquire a professional services building and property adjacent to the Department of Commerce's Boulder research campus; to the Committee on Science.

By Mr. CASE (for himself, Mr. Abercrombie, Mr. Burton of Indiana, Mr. Filner, Mr. McCaul of Texas, Mr. Serrano, Mr. Scott of Virginia, Mr. Schiff, Mr. McDermott, Mrs. Napolitano, Mr. Smith of Washington, Ms. Harman, Ms. Matsui, Mr. Pallone, Mr. Dicks, Ms. Roybal-Allard, Mr. Crowley, Ms. Zoe Lofgren of California, Mr. Grijalva, Mr. Farr, Ms. Bordallo, Mr. Honda, Mr. George Miller of California, Mr. Becerra, Mr. Berman, Mr. Al Green of Texas, Ms. Schakowsky, Ms. Watson, Mr. Issa, and Mr. Faleomavaega):

H. Con. Res. 218. Concurrent resolution recognizing the centennial of sustained immigration from the Philippines to the United States and acknowledging the contributions of our Filipino-American community to our country over the last century; to the Committee on Government Reform.

By Ms. GRANGER (for herself, Ms. Ros-Lehtinen, Mrs. Tauscher, and Mr. Osborne):

H. Res. 383. A resolution encouraging the Transitional National Assembly of Iraq to adopt a constitution that grants women equal rights under the law and to work to protect such rights; to the Committee on International Relations, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISSA (for himself, Mr. Tom Davis of Virginia, Mr. Hyde, Mr. Lantos, Ms. Ros-Lehtinen, Mr. Wexler, Mr. Chabot, Mr. Dingell, Mr. Rahall, Mr. LaHood, Ms. Ginny Brown-Waite of Florida, Mrs. Miller of Michigan, Mr. Pearce, Mr. McCaul of Texas, Mr. Renzi, Mr. Conaway, Mr. Flake, Mr. Frank of Massachusetts, Mr. Waxman, Mr. Shays, Mr. Cunningham, Mr. Kolbe, Mr. Daniel E. Lungren of California, Mr. Rohrabacher, Mr. Boustany, Mr. Foley, Mr. Jindal, and Mr. Moran of Virginia):

H. Res. 384. A resolution condemning in the strongest terms the terrorist attacks in Sharm el-Sheikh, Egypt, on July 23, 2005, and for other purposes; to the Committee on International Relations.

By Mr. LINCOLN DIAZ-BALART of Florida (for himself, Ms. Ros-Lehtinen, Mr. Menendez, Ms. Wasserman Schultz, Mr. Mario Diaz-Balart of Florida, Mr. Engel, Mr. Burton of Indiana, Mr. Mack, Mr. McHenry, Mr. Feeney, and Mr. Cuellar):

H. Res. 388. A resolution expressing the sense of the House of Representatives regarding the July, 2005, measures of extreme repression on the part of the Cuban Government against members of Cuba's prodemocracy movement, calling for the immediate release of all political prisoners, the legalization of political parties and free elections in Cuba, urging the European Union to reexamine its policy toward Cuba, and calling on the representative of the United States to the 62d session of the United Nations Commission on Human Rights to ensure a resolution calling upon the Cuban regime to end its human rights violations, and for other purposes; to the Committee on International Relations.

By Ms. SLAUGHTER (for herself and Mr. Shays):

H. Res. 389. A resolution supporting the goals and ideals of The Year of the Museum; to the Committee on Government Reform.

By Mr. SMITH of Texas (for himself, Mr. Doggett, Mr. Carter, and Mr. McCaul of Texas):

H. Res. 390. A resolution congratulating Lance Armstrong on his seventh Tour de France victory and his retirement and recognizing his dedication to helping others; to the Committee on Government Reform.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

36. The SPEAKER presented a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 35 memorializing the Congress of the United States and the United States Department of Agriculture to provide assistance, including additional emergency funding, in the effort to mitigate the infestation of the Emerald Ash Borer; to the Committee on Agriculture.

37. Also, a memorial of the Legislature of the State of Tennessee, relative to Senate Joint Resolution No. 277 urging the Congress of the United States to stop cuts in agriculture-related programs and initiatives in the Fiscal Year 2006 federal budget; to the Committee on Agriculture.

38. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 154 memorializing the Congress of the United States to review and consider the National Governors Association recommendations which would allow states to utilize greater flexibility in their provision of Medicaid services; to the Committee on Armed Services.

39. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 145 urging the Congrees of the United States and the members of the 2005 BRAC Commission to remove the Pittsburgh International Airport Air Reserve Station and the Charles E. Kelly Support Center from the list of proposed military base closures and to remove the 99th Regional Readiness Command from the list of proposed base realignments; to the Committee on Armed Services.

40. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resultion No. 167 urging the Base Realignment and Closure Commission to reject the Defense Department's recommendation to close the Defense Information Systems Agency (DISA) site in Slidell; to the Committee on Armed Services.

41. Also, a memorial of the Senate of the State of Pennsylvania, relative to Senate Resolution No. 130 urging the President of the United States and the Congress of the United States and all members of the BRAC Commission to remove the Naval Air Station Joint Reserve Base Willow Grove from the list of military base closures recommended by the Department of Defense; to the Committee on Armed Services.

42. Also, a memorial of the Legislature of the State of Missouri, relative to Senate Concurrent Resolution No. 7 urging the Congress of the United States to authorize and appropriate full funding required to establish the proposed Chiropractic Center for Military Research at Logan College of Chiropractic at its campus in Chesterfield, Missouri; to the Committee on Armed Services.

43. Also, a memorial of the General Assembly of the State of Tennessee, relative to House Joint Resolution No. 146 memorializing the Congress of the United States to enact legislation to posthumously award First Lieutenant Garlin Murl Conner, United States Army, a much deserved Medal of Honor; to the Committee on Armed Services.

44. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 208 urging the President of the United States, the Congress of the United States, and the United States of the Department of Education to continue funding for the Even Start Family Literacy Program; to the Committee on Education and the Workforce.

45. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 10 memorializing the Congress of the United States to enact the Breast Cancer Patient Protection Act; to the Committee on Energy and Commerce.

46. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 6 memorializing the Congress of the United States to require revisions to Weekly Natural Gas Storage Report procedures in order to mandate immediate disclosure of corrections to erroneous information; to the Committee on Energy and Commerce.

47. Also, a memorial of the Senate of the State of Pennsylvania, relative to Senate Resolution No. 125 encouraging the Congress of the United States and the United States Environmental Protection Agency to take the steps necessary to redistribute more of the $2 billion in the Leaking Underground Storage Tank Fund to states to offset administrative costs of the federally mandated fund; to the Committee on Energy and Commerce.

48. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 120 memorializing the Congress of the United States to establish a domestic energy policy that will ensure an adequate supply of energy and the necessary infrastructure; to the Committee on Energy and Commerce.

49. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 96 urging the President and the Congress of the United States to enact legislation to provide additional funding ALS research; to the Committee on Energy and Commerce.

50. Also, a memorial of the Senate of the State of Rhode Island, relative to Senate Resolution No. 220 memorializing the Congress of the United States to provide domestic energy policy that ensures an affordable supply of natural gas and embraces a concerted national effort to promote greater efficiency and environmental responsible natural gas production; to the Committee on Energy and Commerce.

51. Also, a memorial of the Senate of the State of Ohio, relative to Senate Resolution No. 35 memorializing the Congress of the United States to amend the Energy Policy Act of 1992 to specify that an electric-hybrid vehicle must receive credit as being an alternative fueled vehicle for purposes of the requirement that 75% of new light duty motor vehicles acquired annually for state government fleets by alternative fueled vehicles; to the Committee on Energy and Commerce.

52. Also, a memorial of the House of Representatives of the State of Ohio, relative to House Resolution No. 21 urging the Congress of the United States to enact the Clear Skies Act of 2005; to the Committee on Energy and Commerce.

53. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 277 urging the President of the United States and the Congress of the United States to enact legislation to provide additional funding for ALS research; to the Committee on Energy and Commerce.

54. Also, a memorial of the Senate of the State of Indiana, relative to Senate Resolution No. 25 memorializing the Congress of the United States to give due consideration to the readiness of the Republic of China on Taiwan for membership in the United Nations; to the Committee on International Relations.

55. Also, a memorial of the House of Representatives of the State of Minnesota, relative to House File No. 2143 memorializing the President of the United States and the Congress of the United States and the United States Postal Service to maintain current levels of service; to the Committee on Government Reform.

56. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 117 memorializing the Congress of the United States to direct the U.S. Maritime Administration to require that the environmental impacts of offshore liquefied natural gas terminals be fully investigated and considered before these facilities are licensed, especially in regards to the individual and cumulative impacts of open rack vaporization systems on marine species and marine habitat; to the Committee on Resources.

57. Also, a memorial of the Legislature of the State of Nevada, relative to Senate Joint Resolution No. 1 urging the Congress of the United States to take certain action concerning wilderness areas and wilderness study areas; to the Committee on Resources.

58. Also, a memorial of the Senate of the State of West Virginia, relative to Senate Resolution No. 46 urging the Congress of the United States to review provisions in the federal PATRIOT Act; to the Committee on the Judiciary.

59. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 84 memorializing the Congress of the United States and the Louisiana congressional delegation to approve funding for deepening the Houma Navigation Canal, including funding efforts to make beneficial use of the dredge material for embankment stabilization; to the Committee on Transportation and Infrastructure.

60. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 71 memorializing the Congress of the United States to direct the New Orleans District of the United States Army Corps of Engineers to cease using Section 10 of the Rivers and Harbors Act to stop sustainable forestry practices in areas that have no impact on actual navigation except in the parishes of Terrebonne, Lafourche, and St. Charles; to the Committee on Transportation and Infrastructure.

61. Also, a memorial of the Legislature of the State of Arizona, relative to House Concurrent Memorial 2003 urging the Congress of the United States to protect the citizens of the State of Arizona by enacting legislation to ensure reasonable rates; to the Committee on Transportation and Infrastructure.

62. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 61 memorializing the Congress of the United States to enact the Coastal Restoration Tax Credit Act of 2005; to the Committee on Ways and Means.

63. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 84 urging the Congress of the United States to direct the Internal Revenue Service to rescind its ruling that certain emergency grant payments be subject to Federal income tax; to the Committee on Ways and Means.

64. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 177 memorializing the members of the United States Senate from Louisiana, Senator Mary Landrieau and Senator David Vitter, to continue to work toward enacting federal legislation to ensure that deserving victims of asbestos exposure receive compensation; jointly to the Committees on the Judiciary and Energy and Commerce.

65. Also, a memorial of the Legislature of the State of Montana, relative to Senate Joint Resolution No. 27 urging the Montana Congressional Delegation to oppose any federeal asbestos legislation that reduces the amount of compensation that Libby tremolite asbestos disease victims would otherwise receive; jointly to the Committees on the Judiciary and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mrs. MYRICK, Ms. FOXX, Mr. THOMAS, Mr. SHUSTER, Mr. MCHENRY, Mr. CANNON, Mr. HOSTETTLER, Mr. MATHESON, and Mr. MURTHA.

H.R. 97: Mr. TERRY and Mr. BERRY.

H.R. 98: Mr. WELLER.

H.R. 147: Mr. SULLIVAN, Mr. MEEKS of New York, Mr. CANTOR, Mr. FORTUÑO, Mr. FITZPATRICK of Pennsylvania, Mr. MARCHANT, Mr. GERLACH, and Mr. LEACH.

H.R. 328: Mr. WEINER.

H.R. 363: Mr. LARSEN of Washington, Mr. CUELLAR, and Ms. HOOLEY.

H.R. 425: Mr. OWENS, Mrs. NAPOLITANO, and Ms. NORTON.

H.R. 503: Mr. GUTIERREZ.

H.R. 519: Mr. PORTER, Mr. WELDON of Florida, Mr. BILIRAKIS, Mr. THORNBERRY, Mr. REICHERT, Mr. HINOJOSA, Mr. MCDERMOTT, and Mr. SMITH of Washington.

H.R. 586: Mr. GOODLATTE.

H.R. 602: Mr. WU.

H.R. 713: Mr. BARROW.

H.R. 758: Mr. AKIN and Mr. EDWARDS.

H.R. 759: Mr. HASTINGS of Florida, Ms. CARSON, and Mr. GUTIERREZ.

H.R. 769: Mrs. MALONEY and Mr. LARSEN of Washington.

H.R. 819: Mr. NEAL of Massachusetts.

H.R. 881: Mr. CHANDLER, Mr. JONES of North Carolina, and Ms. WASSERMAN SCHULTZ.

H.R. 897: Mr. NADLER.

H.R. 916: Mr. DOGGETT, Mr. DAVIS of Tennessee, Mr. MCCOTTER, and Mr. MENENDEZ.

H.R. 923: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 937: Ms. SCHAKOWSKY and Mr. BACA.

H.R. 983: Mr. ANDREWS and Mr. OLVER.

H.R. 986: Mr. FOLEY and Mr. GERLACH.

H.R. 997: Mr. NUSSLE.

H.R. 998: Mr. BARTLETT of Maryland and Mr. HOLT.

H.R. 1000: Mr. CULBERSON.

H.R. 1071: Mr. GARY G. MILLER of California.

H.R. 1083: Mr. SCHIFF and Mr. ALEXANDER.

H.R. 1108: Mrs. DAVIS of California and Mr. LARSON of Connecticut.

H.R. 1120: Mr. MOORE of Kansas and Mr. RYAN of Ohio.

H.R. 1124: Mrs. JOHNSON of Connecticut.

H.R. 1125: Mr. KUCINICH.

H.R. 1131: Mr. EMANUEL, Mr. BONNER, Mr. SMITH of Washington, Mr. BLUMENAUER, Mr. TERRY, Mr. DELAHUNT, and Mr. DOYLE.

H.R. 1167: Mr. GREEN of Wisconsin and Mr. NEUGEBAUER.

H.R. 1175: Mr. LEACH.

H.R. 1192: Mr. COSTA.

H.R. 1204: Mr. MCINTYRE.

H.R. 1216: Mr. CRAMER and Mr. SODREL.

H.R. 1219: Mr. GOHMERT, MR. CRAMER, Mr. HOLDEN, Mr. COOPER, and Mr. GUTKNECHT.

H.R. 1227: Mr. MCNULTY and Ms. MCCOLLUM of Minnesota.

H.R. 1232: Mrs. NAPOLITANO.

H.R. 1245: Mrs. CAPPS.

H.R. 1259: Mr. SKELTON.

H.R. 1262: Ms. BALDWIN.

H.R. 1298: Mr. RYAN of Wisconsin and Mr. FILNER.

H.R. 1306: Ms. BORDALLO.

H.R. 1323: Mr. MEEKS of New York.

H.R. 1373: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1402: Mr. BECERRA, Mr. CARDOZA, Mr. COSTA, Mr. CUELLAR, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. ORTIZ, Mr. PASTOR, Mr. REYES, Mr. SALAZAR, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Mr. SERRANO, Ms. SOLIS, Ms. VELÁZQUEZ, Mr. WEXLER, and Mr. MICA.

H.R. 1405: Mr. MCCAUL of Texas.

H.R. 1409: Mr. FITZPATRICK of Pennsylvania, Mr. MATHESON, and Mr. LYNCH.

H.R. 1417: Mrs. JOHNSON of Connecticut

H.R. 1424: Mr. DOYLE and Mr. WEINER.

H.R. 1441: Mrs. LOWEY, Mr. MCGOVERN, Mr. BRADY of Pennsylvania, Mr. STRICKLAND, and Mr. RUSH.

H.R. 1471: Mr. REICHERT.

H.R. 1498: Mr. DAVIS of Alabama and Mr. HOLT.

H.R. 1554: Mr. WEXLER.

H.R. 1558: Mrs. DAVIS of California.

H.R. 1575: Mr. HOLT.

H.R. 1591: Mr. LANTOS and Mr. SHAW.

H.R. 1592: Mr. LANTOS.

H.R. 1632: Mrs. MCCARTHY and Mr. JENKINS.

H.R. 1636: Mr. BERMAN.

H.R. 1667: Mr. WEXLER.

H.R. 1668: Mr. MEEHAN, Mr. MICHAUD, and Ms. BALDWIN.

H.R. 1671: Mr. GRIJALVA.

H.R. 1704: Mrs. CHRISTENSEN, Mr. GUTIERREZ, Mr. MEEKS of New York, Mr. MCDERMOTT, and Mr. WEXLER.

H.R. 1722: Mr. PLATTS.

H.R. 1736: Mr. LEWIS of Georgia, Mr. LATOURETTE, and Mr. HALL.

H.R. 1789: Ms. JACKSON-LEE of Texas.

H.R. 1806: Mr. CAPUANO.

H.R. 1871: Mr. FERGUSON.

H.R. 1872: Mr. HYDE.

H.R. 1898: Mr. TAYLOR of North Carolina.

H.R. 1986: Mrs. Blackburn.

H.R. 2012: Mr. Reichert, Mr. Lynch, and Mr. Dent.

H.R. 2037: Mr. Menendez and Mr. Smith of New Jersey.

H.R. 2045: Mr. Kind and Mr. Ryan of Wisconsin.

H.R. 2048: Mr. Moran of Virginia, Mr. Owens, and Mr. Smith of New Jersey.

H.R. 2061: Mr. Bilirakis, Mr. Neugebauer, Ms. Loretta Sanchez of California, Mr. Bonilla, Mr. McCaul of Texas, and Mr. Schiff.

H.R. 2098: Mr. McGovern and Mr. Nadler.

H.R. 2218: Ms. Bordallo.

H.R. 2231: Mr. Sabo, Mr. Weller, Mr. Oberstar, Mr. King of Iowa, Mr. Jackson of Illinois, Mr. Green of Wisconsin, and Mr. Crowley.

H.R. 2234: Ms. Hart, Mr. Price of North Carolina, and Mr. Emanuel.

H.R. 2258: Mr. Boren.

H.R. 2305: Mr. McHugh.

H.R. 2308: Mr. Holden, Mr. Lynch, and Mr. Wexler.

H.R. 2351: Mr. Conyers and Ms. Eddie Bernice Johnson of Texas.

H.R. 2363: Mr. Reichert.

H.R. 2409: Mr. Farr.

H.R. 2471: Mr. Gordon.

H.R. 2533: Mr. Menendez, Mr. Gerlach, and Ms. Bean.

H.R. 2553: Mr. Larsen of Washington.

H.R. 2567: Mr. McDermott and Mr. Smith of New Jersey.

H.R. 2588: Mr. Goodlatte.

H.R. 2617: Mr. Frank of Massachusetts and Mr. Allen.

H.R. 2620: Ms. Carson.

H.R. 2642: Mr. Engel, Mr. Gingrey, Mr. Gordon, Mr. Larson of Connecticut, Mr. Abercrombie, and Ms. Eshoo.

H.R. 2716: Mr. Hinchey, Mr. Davis of Illinois, Mr. Lantos, and Mr. Simmons.

H.R. 2717: Mr. Udall of New Mexico.

H.R. 2720: Ms. Herseth.

H.R. 2737: Mr. Brady of Pennsylvania.

H.R. 2794: Mr. Kennedy of Minnesota, Mr. Ryun of Kansas, Mr. Doyle, Mr. Berry, and Mr. Ross.

H.R. 2799: Mr. Foley.

H.R. 2801: Mr. Price of North Carolina and Mr. Ruppersberger.

H.R. 2803: Mr. Mollohan, Mr. Rogers of Michigan, and Mr. Goode.

H.R. 2835: Mr. Gerlach.

H.R. 2842: Mr. Kennedy of Minnesota.

H.R. 2943: Mr. Baker.

H.R. 2963: Mr. Wexler, Mr. McDermott, and Mr. Pallone.

H.R. 2964: Mr. Smith of Texas and Mr. Ortiz.

H.R. 2989: Mr. Garrett of New Jersey, Mr. Gerlach, and Mr. Wu.

H.R. 2990: Mr. Akin.

H.R. 3006: Mr. Larson of Connecticut, Mr. Emanuel, Mr. Hastings of Florida, Mr. Langevin, Ms. DeGette, Ms. Zoe Lofgren of California, Ms. Watson, Mr. Baird, Mr. Neal of Massachusetts, Mr. Markey, and Mr. Wu.

H.R. 3079: Ms. Ginny Brown-Waite of Florida and Mr. Wilson of South Carolina.

H.R. 3083: Mr. Calvert, Mr. Peterson of Minnesota, Mr. Kuhl of New York, and Mr. Bachus.

H.R. 3127: Mr. Olver, Mr. Al Green of Texas, Mr. Fortenberry, Mr. Meeks of New York, Mr. Holt, Mr. Pallone, Mr. Cardin, Mr. McNulty, and Mr. Weiner.

H.R. 3128: Mr. Wu.

H.R. 3132: Mr. Reynolds, Mrs. Capito, and Mr. Rehberg.

H.R. 3146: Mr. McHugh and Mr. Mollohan.

H.R. 3147: Mr. McCaul of Texas.

H.R. 3167: Mr. Sensenbrenner.

H.R. 3174: Mr. Bishop of Georgia, Mr. Payne, and Mr. Davis of Illinois.

H.R. 3187: Mr. Larsen of Washington, Mr. McDermott, Mr. Gerlach, and Mr. Gilchrest.

H.R. 3192: Mr. Hinchey, Ms. Lee, Mr. Kucinich, Mr. Brady of Pennsylvania, Ms. Matsui, Mr. McGovern, and Mr. Wexler.

H.R. 3195: Ms. Carson.

H.R. 3205: Mr. McDermott.

H.R. 3274: Mr. Green of Wisconsin.

H.R. 3283: Mr. Weller, Mr. Green of Wisconsin, Mr. Bachus, Mr. Wicker, Mr. Kennedy of Minnesota, Mr. Sodrel, Mr. Burgess, and Mrs. Jo Ann Davis of Virginia.

H.R. 3300: Mr. Miller of Florida.

H.R. 3304: Mr. Kline, Mr. Gerlach, and Mr. Marchant.

H.R. 3306: Mr. Holt.

H.R. 3317: Mr. McHenry, Mr. Chabot, Mr. Barrett of South Carolina, Mr. Flake, Mr. Feeney, Mr. Gohmert, Mr. Wicker, Mr. Sessions, Mr. Tiahrt, Mr. Paul, and Mr. Kuhl of New York

H.R. 3323: Ms. Wasserman Schultz, Mr. Wolf, Mr. Butterfield, Mr. Bishop of New York, Ms. Linda T. Sánchez of California, Mr. Crowley, Mr. Israel, Mrs. Tauscher, Ms. Harman, Ms. Eshoo, Mr. Hastings of Florida, Ms. Eddie Bernice Johnson of Texas, Ms. Watson, Mr. Hinchey, Mr. Pascrell, Mr. Bonner, Mr. Shays, Mr. Poe, Mr. Ackerman, Mr. Murtha, Mr. Larson of Connecticut, Mr. Davis of Illinois, Mrs. Maloney, Ms. Woolsey, Mr. Rothman, and Mr. Blumenauer.

H.R. 3352: Mr. Davis of Kentucky, Mr. Hastings of Florida, Mr. Matheson, Mr. Filner, Mr. Meek of Florida, Mr. Ryan of Ohio, and Mr. Grijalva.

H.R. 3361: Mr. Garrett of New Jersey and Mr. Kirk.

H.R. 3369: Mr. McGovern, Ms. Berkley, Mr. Owens, and Mr. Rothman.

H.R. 3402: Ms. Zoe Lofgren of California and Mr. Poe.

H.R. 3405: Mr. Cannon, Mr. Carter, Mr. Goode, Mr. Moran of Kansas, and Mrs. Emerson.

H.R. 3423: Mr. Inslee.

H.J. Res. 55: Ms. Jackson-Lee of Texas and Mr. Owens.

H.J. Res. 61: Ms. McCollum of Minnesota, Ms. Berkley, Ms. Foxx, Mr. Pence, Mr. Conaway, and Mr. Green of Wisconsin.

H. Con. Res. 40: Mr. Stupak.

H. Con. Res. 42: Mr. Gordon.

H. Con Res. 90: Mr. Calvert, Ms. Berkley, and Mr. Davis of Kentucky.

H. Con. Res. 138: Mr. Menendez.

H. Con. Res. 174: Ms. Wasserman Schultz, Mr. Weiner, Ms. Schwartz of Pennsylvania, Ms. .Ginny Brown-Waite of Florida, Mrs. Maloney, and Mr. Simpson.

H. Con. Res. 213: Ms. Schakowsky, Mr. Pascrell, Ms. Berkley, Mr. Rush, Mr. Towns, Mr. Gene Green of Texas, Mr. Baca, Ms. Schwartz of Pennsylvania, and Ms. Moore of Wisconsin.

H. Con. Res. 215: Ms. Schakowsky, Mr. Pascrell, Ms. Berkley, Mr. Rush, Mr. Towns, Mr. Gene Green of Texas, Mr. Baca, Ms. Schwartz of Pennsylvania, and Ms. Moore of Wisconsin.

H. Con. Res. 216: Mr. Gonzalez, Mr. Al Green of Texas, Mr. Crowley, Mr. Serrano, and Ms. Watson.

H. Res. 246: Mr. Peterson of Minnesota and Mr. McDermott.

H. Res. 316: Mr. Neal of Massachusetts, Mr. Udall of Colorado, Mr. Lincoln Diaz-Balart of Florida, Ms. Lee, Mr. Davis of Illinois, Mr. Al Green of Texas, and Mr. Fitzpatrick of Pennsylvania.

H. Res. 317: Mr. McDermott.

H. Res. 323: Mr. Berman and Mr. Doolittle.

H. Res. 325: Mr. Young of Florida.

H. Res. 327: Mrs. Jones of Ohio and Mr. McDermott.

H. Res. 336: Mr. Conaway.

H. Res. 360: Mr. Poe, Mr. Terry, Mr. McCotter, and Mr. Kennedy of Minnesota.

H. Res. 363: Mr. Doyle.

H. Res. 375: Mr. Olver.

H. Res. 381: Mr. Pascrell, Mrs. Capps, and Mr. Meehan.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolution as follows:

H.R. 515: Mr. Boyd.

HOUSE OF REPRESENTATIVES—*Wednesday, July 27, 2005*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. BONILLA).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 27, 2005.

I hereby appoint the Honorable HENRY BONILLA to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Lawrence Hargrave, Colgate Rochester Crozer Divinity School, Rochester, New York, offered the following prayer:

God, we thank You for this new day before us, the gift of the days past, and the grace that has brought us thus far. We in this place are blessed beyond measure. We who have been created in Your image have the charge to love You and love our neighbors. You have given us the ability to end hunger, eradicate disease, eliminate poverty, and emulate peace.

God, we pray for the will to do so. Help us to remember the least, the lost, and the left out. Please give us the courage to stand for justice for all. God, please let our love for one another be our witness to who You are. God, let justice roll down like water and righteousness like an ever-flowing stream. You have told us to "do justice, love mercy, and walk humbly with our God." Let us begin again with You today. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Florida (Mr. WELDON) come forward and lead the House in the Pledge of Allegiance.

Mr. WELDON of Florida led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNIZING AND WELCOMING THE REVEREND LAWRENCE HARGRAVE

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute.)

Ms. SLAUGHTER. Mr. Speaker, it is my great pleasure to recognize and welcome Reverend Lawrence Hargrave, one of my constituents but, moreover, a friend and a mentor to be the guest chaplain in the House of Representatives today.

I am extremely proud of Reverend Hargrave, not only for his heartfelt prayer service this morning, but for his continued commitment to the Rochester community.

Lawrence Hargrave completed his degree in sociology from SUNY Buffalo in 1969. Remarkably, after working for almost 30 years in the private sector, he answered the call for service and completed a Master's of Divinity from Colgate Rochester Crozer Divinity School. Reverend Hargrave is currently the acting dean of Black Church Studies at the school and is the associate minister at Mt. Olivet Baptist Church in Rochester.

As a dedicated community servant, Reverend Hargrave is committed to interfaith discussion and dialogue. Specifically, he serves on the Rochester Interfaith Jail Ministry Board of Directors and is a member of the Commissions on Christian-Muslim and Christian-Jewish Relations.

On behalf of the House of Representatives, I thank Reverend Hargrave for being here with us this morning, and I ask my colleagues to join me in honoring Reverend Hargrave for his years of faithful service to the people of New York and to his God.

URGING SUPPORT FOR THE EMPLOYER VERIFICATION ACCOUNTABILITY ACT

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, I am rising this morning to talk about a piece of legislation that I have recently introduced. It is H.R. 3262; and it is called EVAA, the Employer Verification Accountability Act.

Mr. Speaker, one of the things we are hearing in our district that is such a problem is illegal immigration, the impact that illegal immigration has on jobs, on the economy, on our district. And this is one of those pieces of legislation that is designed to help us have another tool to fight illegal immigration.

Very simply, what it does is this: The 1986 Immigration Enforcement Act puts in place fines for employers who knowingly and willingly hire illegal immigrants to work in their businesses. This act would prohibit them from negotiating those fines down and require them to pay the $10,000 fine per violation.

I would like to commend this legislation to the body and invite the Members to join me cosponsoring H.R. 3262.

CAFTA: A RAW DEAL FOR AMERICA

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LINDA T. SANCHEZ of California. Mr. Speaker, I rise today because CAFTA is a raw deal for America, and opposition to this agreement is so strong that the pushers of CAFTA are resorting to lies, deceptions, and backdoor deals.

We all know that CAFTA means exporting American jobs because of access to cheap labor markets with almost nonexistent environmental and labor standards.

All week long we have heard from the supporters of this badly negotiated trade agreement that they have the votes they need to pass it. But I do not want anybody to be fooled and buy this lie. The truth is that the overwhelming majority of House Members have already indicated that they oppose this bill because it is a bad deal for American workers.

They will not even tell us when CAFTA will come to the floor for a vote. Instead, we come to see CAFTA come deceptively to the floor in the middle of the night when they think the American public is not watching.

I urge my colleagues to vote their conscience, to not accept backdoor deals, to stand their ground. Vote for what they already know is best for the people of their district. Vote to send CAFTA back to the drawing board.

SALUTING NASA ON A SUCCESSFUL LAUNCH OF SPACE SHUTTLE "DISCOVERY"

(Mr. WELDON of Florida asked and was given permission to address the

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, I rise today to salute the men and women of NASA and the contractor community for a successful launch of the Space Shuttle *Discovery* following a 2½ year hiatus in the operations of our space shuttle program.

Yesterday morning I had the pleasure of witnessing the launch at the Banana Creek viewing site along with First Lady Laura Bush, and it was truly a beautiful sight to see our space shuttle flying again.

As shuttle commander Eileen Collins and the crew of *Discovery* work to complete their mission, we here in the House of Representatives, and I am sure every American can join me in this, wish them Godspeed and a safe return to planet Earth.

PRESCRIPTION DRUG REIMPORTATION

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, the stars have aligned. Senator FRIST has agreed to a vote on drug reimportation. That is how we recognize health care reform and Health Care Week and make a dent in skyrocketing health care costs. Now we are getting somewhere.

I should not have to remind Members of this body that in the last Congress here in the House we passed reimportation with a bipartisan majority. It is time now for an up-or-down vote in this House. In the very week we are debating health care reform, only 1 week, I might add, what is conspicuously absent? The one item which actually would help control costs of drugs and pharmaceutical products, the reimportation, providing Americans with a 50 percent reduction in the price of their prescription drugs.

Springfield, Massachusetts saved $6 million in the first year they began importing prescription drugs. But we cannot have any of that here in the people's House. No. We get to vote on protecting drug companies like Merck, who make Vioxx, from any public redress for misleading the public. George Orwell would appreciate that.

Americans can no longer afford double-digit increases in prescription drugs. Mr. Speaker, it is time we give them a break and a vote on reimportation of pharmaceutical products. That is the right way to make progress on controlling health care costs.

IN SUPPORT OF THE ENERGY CONFERENCE REPORT

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I am very proud to report that sometime this morning we are going to file the energy conference report. This is a piece of legislation that both parties can take pride in. A majority of the House Committee on Energy and Commerce Democrats have signed the conference report, including the gentleman from Michigan (Mr. DINGELL), distinguished ranking minority member. All of the Republicans have signed it in the Senate. Thirteen of the 14 Senate conferees have signed it.

This bill is going to transform our Nation's energy economy. It is going to breathe new life into clean coal technology, nuclear technology, renewable technology, and the ethanol industry. It is going to create tens of thousands of jobs for the American economy. It is going to lessen dependence on foreign sources of energy.

Regardless of what part of the country or what part of the economy each American is in, this energy bill will be a good deal for all Americans; and I would urge a "yes" vote when it comes to the floor sometime tomorrow afternoon.

IN OPPOSITION TO CAFTA

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, I take my 1 minute today to discuss CAFTA because there will be little meaningful debate on the most important trade bill of this Congress. CAFTA is important less because of what is in it than what is not and because what it has come to represent.

I come from a trade-oriented community, and I believe in honest trade. I personally asked President Bush to insist upon bipartisan trade legislation that would command at least 250 votes in this Chamber. This is possible if we are fair to workers at home and abroad and more sensitive to the environment.

Instead, CAFTA has been crafted to be the lowest common denominator calculated to pass. By pandering to special interests, it reminds one of the old television show "Let's Make a Deal."

This is a lost opportunity. I will no longer support suboptimal trade agreements and await the day when we put principle and people before raw political calculation, pretending that it is trade policy.

A THREAT TO QUALITY HEALTH CARE

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, 20 States including my home State of Georgia are experiencing a medical liability crisis. Hospitals are shutting their doors, doctors are leaving the profession, and patients are the ones left out in the cold.

OB-GYN doctors and some surgeons are paying hundreds of thousands of dollars a year in insurance premiums. One-third of the OB doctors in my State no longer deliver babies because delivering a baby is defined as a "high-risk procedure." Other specialists no longer cover emergency procedures.

One tragic story I am reminded of is a man who came to the emergency room after a fall with a subdural hematoma, or "bleeding on the brain." What is required to treat this is a relatively simple procedure performed by a neurosurgeon to relieve pressure on the brain. Instead of being saved, he died: and he died because there were no neurosurgeons at the hospital due to frivolous lawsuits and skyrocketing insurance rates.

Mr. Speaker, court rooms are interfering with our operating rooms and are threatening health care quality and raising the cost of health care for all Americans.

The HEALTH Act puts patients first and will protect our health care system for us and for our children and for our grandchildren. I urge my colleagues to support H.R. 5. Vote for the HEALTH Act.

CAFTA

(Mr. PASCRELL asked and was given permission to address the House for 1 minute.)

Mr. PASCRELL. Mr. Speaker, NAFTA is the template on which this CAFTA agreement has been forged. Let us use the documented results of NAFTA to predict what will happen if Congress passes this latest flawed trade agreement.

Workers will see a decrease in real wages. The statistics are very clear.

☐ 1015

Number 2, CAFTA cannot reduce the number of immigrants. In fact, quite the contrary. What we have had in Mexico, for instance, as our prime example is 1.3 million agricultural jobs were lost to NAFTA. Look at the commitments, look at the promises by the past administration, by this administration, and what we have done is increased immigration across the borders. Some of our friends are talking out of both sides of their mouths.

The gap between the rich and the poor will increase. The redistribution of wealth upward will be exacerbated here in the United States under CAFTA, because more family wage jobs will be sent overseas, replaced by low-wage, Wal-Mart-type service jobs. Get it?

Those who ignore history are doomed to repeat it. If CAFTA passes, doom will be the operative function of this Congress.

MYTHS AND FACTS ON REPUBLICAN MEDICAL MALPRACTICE LEGISLATION

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, I would like to debunk a couple of myths that we will probably hear today driving the debate over medical malpractice, H.R. 5.

Myth number 1: There is an explosion of malpractice lawsuits that are driving up premiums. Not true. A study by Kaiser Family Foundation found that lawsuits are not the cause of doctors' high premiums. In fact, another recent study found that insurers increased their premiums while claims went down.

Myth number 2: Malpractice lawsuits are the cause of rising health care costs. Not true. According to the CBO, malpractice costs amount to less than 2 percent of overall health care spending. Thus, even a reduction of 25 to 30 percent in malpractice costs would lower health care costs by a minuscule 5 percent.

Myth number 3: The malpractice bill is about weeding out frivolous lawsuits. Not true. The proposed limits on damages would apply to all cases, no matter how serious the injury was or how egregious by the doctor, hospital, nursing home, or drug manufacturer.

Any time we are talking about taking away the rights of Americans, you have to be measured and cautious, something House Republicans are unwilling to do.

I urge my colleagues to vote "no" on H.R. 5.

GOP SOCIAL SECURITY PLAN CUTS BENEFITS AND CONTINUES TO RAID THE SOCIAL SECURITY TRUST FUND

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, last month a few congressional Republicans unveiled a Social Security privatization plan that cuts guaranteed Social Security benefits and continues to raid the Social Security Trust Fund.

The Republican majority's Social Security plan includes a privatization tax that would cut guaranteed benefits for the people who need it most. This effectively replaces part of our guaranteed benefit with a private account and leaves us worse off, depending on the whims of the stock market. And anybody who has had stock during the last 2 years knows what that is.

Then, instead of protecting the Social Security Trust Fund, the Republican majority plans to take money out of the trust fund to pay for private accounts. The same congressional Republicans will raid $670 billion more from the Social Security Trust Fund to pay for tax breaks for the wealthy.

Mr. Speaker, we cannot continue this same type of abuse. We urge all of the Members to look twice at Social Security and save it for the people.

INSURANCE COMPANIES RESPONSIBLE FOR HUGE MALPRACTICE INSURANCE PREMIUMS, NOT INJURED PATIENTS

(Mrs. CHRISTENSEN asked and was given permission to address the House for 1 minute.)

Mrs. CHRISTENSEN. Mr. Speaker, today the House will vote on legislation Republicans claim will help doctors and help reduce the cost of health care. As a family doctor, I know their rhetoric could not be further from the truth.

Republicans say that capping what an injured patient can receive in compensation is a cure-all to our health care woes, but they ignore one essential fact, that it is the insurance industry, not payments to patients, that is chasing doctors out of their offices.

A report released in May shows that the 15 leading malpractice insurers increased their premiums on doctors by 120 percent. No surprise there. What is surprising is that the insurance companies' own documents show that payouts over this same period stayed flat, increasing by less than 6 percent, and some companies' payouts went down.

This just confirms what every reliable study has shown: There is no explosion of malpractice claims or payouts. They are not the cause of rising premiums. It appears insurance rates are the major problem.

The Republicans refuse to talk about insurance reform. There is not one word in H.R. 5 about the insurance industry. Rather than really addressing the problem, Republicans would rather limit the rights of injured patients.

Vote "no" on H.R. 5.

SPECIAL PROSECUTOR WIDENS INVESTIGATION INTO CIA AGENT IDENTITY SCANDAL

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, for 2 years now, the White House has engaged in a cover-up of who leaked the identity of an undercover CIA agent. Two years ago, President Bush said he wanted to know who had leaked Valerie Plame's identity to reporters, and he said whoever it was would be fired.

Today we learned the special prosecutor has widened his investigation to see if any laws were broken when the White House tried to discredit allegations that President Bush used faulty intelligence to justify the Iraq war.

Now, this entire investigation centers around national security. White House officials jeopardized our national security when they outed a CIA agent's name. They also jeopardized our national security when they tried to discredit anyone who did not support their faulty intelligence that took us to war in Iraq.

Mr. Speaker, this investigation should never have been needed in the first place. If the President's words had meant something, this would have been completed a long time ago.

KEEPING AMERICAN IDEALS ALIVE THROUGH CAFTA

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, 20 years ago, the Caribbean and Central America were inflamed with a virus that we called communism. It was in its ascendancy. Thanks to the courageous vision and leadership of President Ronald Reagan and many on both sides of the aisle in this Congress, the people of the United States of America invested in freedom.

Now, 20 years hence, we see fledgling democracies, even democracies that have sent soldiers to stand with our soldiers in Operation Iraqi Freedom. It is that nightmare turned into a dream of democracy that is at stake today in the vote on the Central American Free Trade Agreement.

Having stood with those who stood for freedom 20 years ago, let us not in this Congress and in this Nation turn our backs today on those same fledgling democracies that are embracing our principles of free market economics and freedom. Say yes to freedom in Central America. Vote "yes" on CAFTA, and keep the dream of ever-expanding democracy and American ideals in our hemisphere alive.

ENERGY BILL IS SUBSIDY FEST

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, the Wall Street Journal yesterday: It is bad enough that the energy bill has become a subsidy fest that will raise gasoline prices in more places than it reduces them, and they go on from there.

The so-called energy policy to be adopted tomorrow will raise prices at the pump for American consumers, it will increase our dependence, and this is from the Bush administration's own projections over the next 20 years on foreign oil, on Saudi Arabia and those other wonderful folks in the Middle East.

It will do nothing to mandate increases in fuel efficiency so American consumers will have better choices. It will not fund any significant amount of money for alternative fuel research or alternative technologies, or transitional technologies to move us to energy self-sufficiency.

Finally, guess what? We are going to write the American people a bill for this piece of work. The American people are going to be asked to borrow $15 billion and give it as a gift to the suffering oil, gas, and coal industry, those who have cash reserves that exceed the subsidy that they are about to get.

SMALL BUSINESSES NEED HEALTH COVERAGE

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I rise to applaud the House for passing H.R. 525, the Small Business Health Fairness Act of 2005 yesterday, which will help provide better access to health care coverage for small businesses.

Small businesses and self-employed citizens have long been an integral and valuable part of the American economy. We should assist in their growth and improvement in whatever ways we can.

The primary achievement of this bill will be the establishment of certified Federal Association Health Plans, or AHPs. AHPs will increase small business bargaining power with health care providers and allow them to offer the kind of health care coverage that big business has long been able to provide.

Second, AHPs will give employers freedom from costly State-mandated benefit packages. Taken together, these features of the new AHPs will enlarge the number of insured Americans up to 8 million people.

As Republicans, we are working to increase the number of insured Americans, since as many as one in seven Americans is uninsured. Moreover, the most recent U.S. census statistics show that increases in the number of uninsured employees comes solely from declining coverage in the small business sector.

The Small Business Health Fairness Act is a strong step in the right direction, and I am pleased to have passed it.

CAFTA WILL CAUSE LOSS OF MANUFACTURING JOBS IN THE UNITED STATES

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, the House of Representatives today or tonight will vote on ratifying the Central American-Dominican Republican Free Trade Agreement, also known as CAFTA. This treaty will follow earlier free trade agreements. These agreements caused the poor in all countries to do worse and the wealthy and the rich to do better.

I have traveled, not as a Member of Congress, in a lot of these other countries, particularly Costa Rica, which is a beautiful country with great and friendly people. This CAFTA follows NAFTA and will cause loss of jobs in manufacturing in our country as well as the CAFTA–DR countries, just like it hurt the average folks in Mexico and in our own country.

This CAFTA is not a dream, as it is called; it is really going to be a nightmare if you are a blue-collar worker in our country or in one of these countries.

HEALTH CARE WEEK

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, I rise today in honor of Health Care Week.

Access to affordable health care is one of the most pressing issues facing America today. I applaud our leadership for bringing important legislation to the floor this week that will strengthen access to care for all Americans.

Mr. Speaker, there is no one-size-fits-all solution for America's health care needs. Instead, we must give our citizens the access and ability to choose from a range of health care options.

This week we are voting on legislation to help small businesses provide their workers with affordable health insurance. We are voting on legislation that limits the frivolous medical malpractice lawsuits that are driving doctors out of practice and making it harder for Americans to find care. We are voting on legislation to improve patient safety and a resolution pledging our support for the community health centers that so many rely on for their care.

Mr. Speaker, all of these initiatives speak volumes to the importance congressional Republicans have placed on health care. For us, every week is Health Care Week, and I am proud of our accomplishments on this important issue.

CAFTA WILL ENSLAVE THE CHILDREN OF CENTRAL AMERICA

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, CAFTA or NAFTA? Most of the American people are confused about this debate on the floor of the House, and I say to my colleagues who will engage in a very limited debate somewhere toward midnight that this may be one of the more challenging votes of this Congress. It is a vote that calls upon your conscience, and I will simply say these few words: Once we vote for CAFTA, we will reinforce the child labor standards and laws and lack of laws in Central America. You will be sending the 3-year-olds, the 4-year-olds, the 5-year-olds into the hard labor of picking agricultural products with no supervision and no regulations whatsoever.

My heart, my conscience refuses to allow me to vote for CAFTA, a free trade bill that will enslave the children of Central America. I will vote a resounding "no," and I ask my corporate leaders in America to stand alongside of those of us who want the kind of trade bill that addresses the child slavery in Central America, forcing girls and boys to work without any, without any, hope and aspirations and the ability to survive.

Vote "no" on CAFTA.

□ 1030

THE HEALTH ACT, COMMON SENSE REFORM

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, as insurance premiums continue to rise, doctors, hospitals and other health care providers across the country have been forced to severely limit their practices or close their doors. Until we address this issue with commonsense reforms, many doctors will be unable to afford to serve their communities, and patients will find it increasingly difficult to obtain needed health care.

Today, thanks to the strong leadership of my colleague, the gentleman from Georgia (Mr. GINGREY), Congress has the unique opportunity to address the medical liability crisis occurring throughout our Nation.

The HEALTH Act of 2005 safeguards patients' rights to care through commonsense reforms. First, it promotes the speedy resolution of claims and fairly allocates damages. Second, the HEALTH Act accurately compensates patient injuries and maximizes patient recovery. Finally, this legislation places reasonable limits on punitive damages and ensures the payment of medical expenses and respects States' rights.

By passing the HEALTH Act of 2005, we will help ensure that doctors spend their time addressing the real needs of American patients.

In conclusion, God bless our troops, and we will never forget September 11.

CAFTA

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, America must build relationships with our neighbors, relationships that benefit both our future and theirs. But CAFTA is one more example of the White House agenda that does neither. It benefits multinational corporations while it devalues workers and communities, putting corporations on equal footing with democratically elected governments. What is this about?

Trade agreements should reflect our national values and our character. CAFTA fails on both measures. Labor and environmental standards must be an integral part of any trade and negotiation, and CAFTA fails. By failing to protect minimum labor rights, including protection for female workers against discrimination, and failing to enforce environmental standards, CAFTA not only benefits the multinational corporations against our communities, our families, and our environment, but it also works against our trading partners. We know that this is wrong.

We must get CAFTA back on track. We must scrap this version, and we must start over. Trade agreements that promise jobs in the U.S. as well as advancing the economies of our neighbors, that is how we must go. Vote against this dog today.

CAFTA GOOD FOR WORKERS AND CONSUMERS OVER THE LONG RUN

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, CAFTA has received a lot of criticism from many on the other side, but sometimes critics can be wrong. Does free trade present challenges to consumers and workers? Absolutely. Is it the death knell for manufacturers or textile makers? By no means.

I believe American workers, American products, American ingenuity can compete with any other nation on the planet, and free trade enables us to do it. In so doing, it lowers costs for consumers here and actually creates jobs. That is right, hundreds of thousands of jobs are insourced to this country.

We have all dealt with the pain of local factories shutting down and businesses closing, and it is tragic whenever it happens. But the fact is that even without free trade, businesses close. Free trade makes sure we have a flow of capital and jobs coming into the Nation.

So should we compete in the global economy or let it pass by? I think we should compete. I choose more and better jobs for our constituents. And, Mr. Speaker, this is also a matter of national security. Vote for CAFTA.

PRESIDENT PUTTING POLITICS ABOVE NATIONAL SECURITY

(Ms. WATSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON. Mr. Speaker, 2 years ago, President Bush told the American people, if there were a leak out of my administration, I would want to know who it is. That was 2 years ago. It clearly was not a top priority, because if the President really wanted an answer to that question, he would have it by now.

When someone in the White House leaked Plame's identity, they compromised hundreds of intelligence investigations that are now taking place around the world; this at a time when our intelligence-gathering plays a critical component to our national security.

The outing of a CIA agent should be a concern to us all. The President's own father realized the serious implications of outing covert agents. He went as far as to call them almost actions that are treasonous. Now his son refuses to find out who leaked Valerie Plame's name.

President Bush can continue to state that he wants to wait for the grand jury to finish its investigation; but if this was indeed a top priority for the President, he would have an answer by now.

DR–CAFTA

(Ms. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARRIS. Mr. Speaker, I rise today to encourage my colleagues to pass the Dominican Republic-Central American Free Trade Agreement. I have spoken here many times on the benefits of this bill and what it would bring to our Nation and to the State of Florida, but let us remember also the benefits of free trade flow both ways.

Not only would expanded trade opportunities help American businesses, agricultural products, ranchers, and workers by removing expensive trade impediments and leveling the trade playing field; but also with improved conditions, we can look forward to a time when the threat of illegal narcotics, human smuggling, illegal immigration, and other criminal activities is no longer part of the fabric of life in Central America, Mexico, and our southern United States border.

Such a development would contribute to the security of the United States and all of our partners in this hemisphere and would greatly benefit the people of Central America. With greater development, it will contribute to more political stability and a strengthened rule of law for our partners in the DR-CAFTA region, a region that has suffered under the heels of civil war and political corruption for far too long.

With expanded trade, the people of the Central American region will enjoy a higher standard of living and greatly improved work conditions. In the 1980s, Congress cast difficult votes to militarily assist these nations to foster fledgling democracies. Today, these efforts have proven successful, and we are voting to expand our trade opportunities.

Mr. Speaker, I urge my colleagues to support this critical politically stabilizing act.

CONGRATULATIONS ON CONFERENCE REPORTS

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, it has indeed been an incredible week in this Congress, where we have seen the conference reports for the energy bill and the highway bill both completed, and likely they will come to this House this week.

I want to thank the chairman on the Committee on Energy and Commerce, the gentleman from Texas (Mr. BARTON), who worked so hard on the energy bill. The chairman was fair and listened to all sides of every argument, and I believe he has produced a balanced bill.

The fact is, Mr. Speaker, we can neither drill nor conserve our way to energy independence, and indeed this bill addresses that fact and also applies significant attention to alternative energy sources as well as hybrid technology.

I want to thank the chairman of the Committee on Transportation and Infrastructure, the gentleman from Alaska (Mr. YOUNG), for pushing so long on a process that was frequently derailed by politics in the highway bill. I believe he also has got a good product and a product that we can afford. On the 50th anniversary of the interstate highway system, I believe it is appropriate we will be voting to extend the highway reauthorization act this week.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 47. An act to provide for the exchange of certain Federal land in the Santa Fe National Forest and certain non-Federal land in the Pecos National Historical Park in the State of New Mexico.

S. 52. An act to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah.

S. 54. An act to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, and for other purposes.

S. 55. An act to adjust the boundary of Rocky Mountain National Park in the State of Colorado.

S. 56. An act to establish the Rio Grande Natural Area in the State of Colorado, and for other purposes.

S. 97. An act to provide for the sale of bentonite in Big Horn County, Wyoming.

S. 101. An act to convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation.

S. 128. An act to designate certain public land in Humboldt, Del Norte, Mendocino, Lake, and Napa Counties in the State of California as wilderness, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, and for other purposes.

S. 136. An act to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes.

S. 152. An act to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness, and for other purposes.

S. 153. An act to direct the Secretary of the Interior to conduct a resource study of the Rim of the Valley Corridor in the State of California to evaluate alternatives for protecting the resources of the Corridor, and for other purposes.

S. 156. An act to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes.

S. 161. An act to provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership.

S. 176. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.

S. 178. An act to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes.

S. 182. An act to provide for the establishment of the Uintah Research and Curatorial Center for Dinosaur National Monument in the States of Colorado and Utah, and for other purposes.

S. 205. An act to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers.

S. 207. An act to adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes.

S. 212. An act to amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes.

S. 214. An act to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes.

S. 225. An act to direct the Secretary of Agriculture to undertake a program to reduce the risks from and mitigate the effects of avalanches on recreational users of public land.

S. 229. An act to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, and for other purposes.

S. 231. An act to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes.

S. 232. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purposes.

S. 244. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming.

S. 252. An act to direct the Secretary of the Interior to convey certain land in Washoe County, Nevada, to the Board of Regents of the University and Community College System of Nevada.

S. 253. An act to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community.

S. 263. An act to provide for the protection of paleontological resources on Federal lands, and for other purposes.

S. 264. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii.

S. 272. An act to designate certain National Forest System land in the Commonwealth of Puerto Rico as a component of the National Wilderness Preservation System.

S. 276. An act to revise the boundary of the Wind Cave National Park in the State of South Dakota.

S. 279. An act to amend the Act of June 7, 1924, to provide for the exercise of criminal jurisdiction.

S. 301. An act to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont.

S. 706. An act to convey all right, title, and interest of the United States in and to the land described in this Act to the Secretary of the Interior for the Prairie Island Indian Community in Minnesota.

S. 1480. An act to establish the treatment of actual rental proceeds from leases of land acquired under an Act providing for loans to Indian tribes and tribal corporations.

S. 1481. An act to amend the Indian Land Consolidation Act to provide for probate reform.

S. 1482. An act to amend the Act of August 9, 1955, to provide for binding arbitration for Gila River Indian Community Reservation Contracts.

S. 1483. An act to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to modify the definition of "Indian student count".

S. 1484. An act to amend the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990.

S. 1485. An act to amend the Act of August 9, 1955, to extend the authorization of certain leases.

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PROVIDING FOR CONSIDERATION OF H.R. 3283, UNITED STATES TRADE RIGHTS ENFORCEMENT ACT

Mr. PUTNAM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 387 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 387

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 3283) to enhance resources to enforce United States trade rights. The bill shall be considered as read. The amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. BONILLA). The gentleman from Florida (Mr. PUTNAM) is recognized for 1 hour.

Mr. PUTNAM. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. PUTNAM. Mr. Speaker, House Resolution 387 is a closed rule that provides 1 hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule waives all points of order against consideration of the bill and provides that the amendment in the nature of a substitute printed in the Committee on Rules report accompanying the resolution shall be considered as adopted. H. Res. 387 also provides one motion to recommit.

Mr. Speaker, I rise today in support of this rule and the underlying bill, H.R. 3283, the United States Trade Rights Enforcement Act. The legislation passed the House of Representatives yesterday by a majority vote of 240 to 186, but did not garner the necessary two-thirds vote to pass under suspension of the rules.

Over the past 25 years, U.S.-China trade has risen from $5 billion to $231 billion, and China is now our third largest trading partner. In 2001, China joined the World Trade Organization by notifying the WTO they had formally ratified the WTO agreements. However, a report released in December of 2004 by the U.S. Trade Representative stated that while China has worked hard to comply with its WTO commitments, they have not always been satisfactory.

Major areas of concern identified in the report included intellectual property rights, agricultural services, industrial policies, trading rights and distribution, and transparency of trade laws. This legislation addresses these concerns by creating concrete mechanisms to ensure that China abides by its previous commitments and that we renew our efforts to level the playing field for American manufacturers competing against subsidized Chinese goods.

Specifically, the bill would establish a monitoring system to track China's compliance with its trade obligations on intellectual property rights, market access for U.S. goods, services, and agriculture, and accounting of Chinese subsidies so that we open it up and have that transparency that has been lacking to date. The system would require that the President issue semiannual reports to Congress on China's progress in meeting these commitments.

Mr. Speaker, our domestic goods manufacturers are currently at a disadvantage because they are forced to compete with imported goods subsidized by foreign governments or public entities that can be sold at lower prices. H.R. 3283 would apply U.S. countervailing duty law to exports from nonmarket economies, such as China, to give our manufacturers the tools they need here in America to compete with nonmarket economies in those countries.

The bill also tightens the rules on antidumping duties by requiring cash deposits, and suspending for 3 years the availability of bonds for new shippers in antidumping cases in order to prevent those shippers from defaulting on their obligations.

H.R. 3283 increases funding for the U.S. Trade Representative to improve the monitoring and enforcement of U.S. trade agreements, something that we hear about an awful lot on this floor, the lack of enforcement of prior trade agreements. This directs the trade representative to make that a priority.

The bill also authorizes funding for the U.S. International Trade Commission and requires the commission to conduct a comprehensive study on the sensitivity of U.S. trade and jobs to current policies.

Mr. Speaker, in today's global marketplace, it is vital that trade obligations be enforced and that our manufacturers and producers be allowed to fairly compete in our markets here at home and those abroad. I urge my colleagues to support this rule and support the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I want to thank my friend, the gentleman from Florida (Mr. PUTNAM), for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, yesterday, the House decided that this time it would not accept the practice of approving bills that materialize out of nowhere. This time, the House decided it wanted a real debate on China's unfair trade practices and how best to remedy them.

□ 1045

So the House did not approve the two-thirds majority needed for passage under suspension of H.R. 3283, a bill that has never gone before committee, never had a hearing, never had the benefit of expert testimony, never had a markup, and has never been open to amendment. Instead, this House demanded that the bill be taken up under regular procedure. That is why we are here today. But even under regular order, the Republican majority has done all it can to stifle debate.

Last night the Republican majority on the Rules Committee reported out a closed rule for H.R. 3283, a closed rule that only allows for 1 hour of debate and no amendments; well, except for the one amendment offered by the back room author of this bill in the first place, the gentleman from California (Mr. THOMAS), the distinguished chairman of the Committee on Ways and Means.

Last night the Committee on Rules heard testimony on three amendments that would seriously address some of the major challenges facing U.S. trade with China and other nonmarket economy nations. First, there was the amendment modeled on the bipartisan bill originally introduced by the gentleman from Ohio (Mr. RYAN), the gentleman from California (Mr. HUNTER) and the gentleman from Alabama (Mr. DAVIS). This amendment might actually provide needed remedies to tackling China's currency manipulation.

Then there was a amendment offered by the distinguished ranking member of the Committee on Ways and Means, the gentleman from New York (Mr. RANGEL), a comprehensive amendment that addresses the real problems facing America in its trade with China, currency manipulation, export surges, barriers to U.S. export of goods and services, and the right of American private sector companies and workers to challenge China's agricultural and manufacturing subsidies.

Finally, there was an amendment offered by the gentleman from Maryland (Mr. CARDIN) which would have shut down the loopholes in the countervailing duties in the Thomas bill. Each of these concrete proposals presented to the Committee on Rules last night deserve debate, and would significantly enhance the underlying do-nothing legislation. But the Republican leadership shut them out and shut down debate.

Sadly, Mr. Speaker, the Committee on Rules has become a place where democracy comes to die. Heaven forbid that this House might take up amendments that actually address the real issue surrounding China's unfair trade practices and provide genuine remedies. Heaven forbid that this House might actually have a real debate on these matters, and heaven forbid that the Republican majority might actually allow votes on these serious unfair trade practices.

What is the majority afraid of, a straight up-or-down vote?

Mr. Speaker, I have sat in this Chamber and heard over and over Members on the other side of the aisle give 1-minute speeches demanding that the Senate have up-or-down votes on judicial nominations. Well, Mr. Speaker, if up-or-down votes are good for the Senate, why are they not good for the House of Representatives?

This House has had enough time this week to provide 40 minutes of debate each to the naming of half a dozen post offices, but we do not have enough time or interest to give the Ryan-Hunter-Davis amendment 10 or 15 minutes, or the courtesy to give the ranking member of the Committee on Ways and Means 10 or 15 minutes to offer a substitute amendment?

The Chinese Government must be laughing with glee at the Republican leadership's blatant abuse of power in their lock-step rejection of democratic debate. Instead, we are forced to settle for the Thomas bill, a bill that fails to offer solutions and fails to take action. Instead, it calls for more reports, more studies and more dialogue. In fact, when the Thomas bill does take action, it actually opens up more loopholes for China to exploit, more ways for China to hide its subsidies, and more opportunities for China to manipulate and falsify its trade and economic data.

Mr. Speaker, standing up for American businesses and workers against America's unfair trade practices should be one of our top trade priorities. The growth of China's economy and its trade with the rest of the world is one of the most significant developments of the 21st century, and the Bush administration and the Republican leadership of this House have no effective policy for dealing with it.

Last year the U.S. trade gap with China was $162 billion. This year it is expected to climb to $225 billion. And China continues to engage in unfair trade practices, with billions lost to Chinese piracy of U.S. intellectual property, Chinese subsidies for its manufacturers, and Chinese currency manipulation harming U.S. exports.

I urge my colleagues to oppose this rule and let this House debate the thoughtful, meaningful amendments that have been offered. That is how democracy is supposed to work.

Mr. Speaker, I reserve the balance of my time.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

One of the items that the gentleman from Massachusetts (Mr. McGOVERN) mentioned that I agree wholeheartedly with is the rise of China is one of the most significant developments of the 21st century, and that is why it is so critically important that we make sure that the trade agreements that exist between our country and theirs are enforced and are monitored. That is what this bill does.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. ROGERS), a man from a heavy industry and manufacturing State who understands well the challenges imposed by the lack of enforcement of these agreements.

Mr. ROGERS of Michigan. Mr. Speaker, George Washington in his Farewell Address warned of some of the problems that would be created with two strong party systems, and today I see it. It is unfortunate that my colleagues would spend so much of their time both yesterday and today debating about how they did not have time to debate the issue that is so important.

This bill for the first time will change trade policy toward somebody like China, who is cheating our economy and stealing our jobs. We have the ability today to make a statement, to stand up for every worker in America who gets up, plays by the rules, goes to work and tries to build the best products in the world, and they do. Given a level playing field, we will compete with any Nation on the face of the Earth. Our workers are that good. You should have the faith and confidence in them to stand up today and say, we are going to help you by leveling the playing field.

Trade is important. It is the engine of prosperity. Commerce is our best diplomat, and today we send that very clear message to places like China that are cheating. It is amazing, and I want to talk just a minute about counterfeit goods, because in this bill for the first time we say you have to have a trade enforcement officer who gets up in the morning, and her whole job for the whole day is going to make sure that countries like China are living up to their WTO and the world trade arrangements and agreements and the rule of law, the protection of intellectual property.

Mr. Speaker, 750,000 jobs are lost every year to counterfeit products, mainly from China. This product right here, you cannot tell the difference in these two products except what is on the inside. This product steals one job. It steals the opportunity for a company here to compete. It takes tax revenues away from us. This is our chance to give our workers the ability to do this. But is not just about an oil filter. This puts our jobs at risk, cheats our economy and puts Americans at risk. The FAA estimates that 2 percent of all airline parts are counterfeit.

This is the day that we stand up for America and say, We will not take it anymore.

Windshields in China, a group of auto companies went together and said you cannot counterfeit these things, it puts Americans at risk. There are no safety factors in your glass. After three convictions in China, that company is still producing automobile glass.

Brake pads, there was a woman killed in Saudi Arabia because they put formed grass in brake pads and sold them as a counterfeit part; and, unfortunately, took her life. This is awfully important stuff.

Mr. Speaker, I urge my colleagues to get over the partisanship and get over the debate about debating, and for the first time send a very clear message that we will stand up for American workers, we will stand behind their products, stand for the future of trade and prosperity, and we will not allow countries like China to cheat our economy and steal our jobs.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just respond to the gentleman from Michigan (Mr. ROGERS) by saying we are very concerned about the fact that China is cheating and not keeping its word with its trade obligations. Our problem with this bill is it is largely symbolic. It does not do what we want it to do.

In fact, if press reports are to be believed, this bill is being brought to the floor today, as ineffective as it is, so Members on the other side of the aisle can have some cover to vote for CAFTA later on today. This bill is largely symbolic. This bill is not tough. It is ineffective.

The gentleman complains that those on our side are criticizing the way this rule has been put together. We are criticizing because we have amendments that will actually make this bill tough and will strengthen this bill.

We are sending a great message to China about democracy when the Committee on Rules last night shut off all debate, when it says to Members who have legitimate amendments that have bipartisan cosponsorship on amendments, by the way, you cannot have an opportunity to offer your amendments on the floor.

We have spent an entire week debating naming of post offices, but we do not have the time to have a serious debate on this. It is ridiculous.

Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Ms. SLAUGHTER), the ranking member of the Committee on Rules.

Ms. SLAUGHTER. Mr. Speaker, I rise in strong opposition to the rule before us this morning because, as was pointed out yesterday, the Republican leadership, in a clear attempt to circumvent the democratic process, tried to sneak the United States Trade Rights Enforcement Act through the House under suspension of the House rules.

Now, suspension rules are supposed to be reserved for noncontroversial measures. They are most often employed for renaming post offices and honoring sports teams, but not for bills which attempt to alter America's trade policy. But this leadership wanted to force this bill through the House without a proper hearing in the committee, without the appropriate debate, and without any opportunity for amendment or improvement.

Fortunately for all Americans, that plot failed, and the measure was defeated on the floor. But to no one's surprise, they are back at it again this morning. The leadership once more has shut the door on the delivery of democracy by providing just 1 hour of debate on this measure. And more importantly, on a party-line vote, the Republicans voted to prevent any amendment by any Member of Congress from even being considered on the House floor today which would strengthen this bill.

That means they want all 435 Members of the House to accept the leadership's version of the bill; no changes, no arguments, no additions, no recommendations for improvement, just yes or no. This is like being given an opportunity to vote in an election with only one candidate on the ballot. It is a stretch to call that democracy.

The question is what is the House leadership afraid of? They do not want the membership of the body to have an opportunity to strengthen trade policies for American companies. This China trade bill is merely a public relations effort, and it is part of a last-ditch attempt to pick up votes for CAFTA which will come up later today, and nothing more.

It has no teeth, and that is exactly how the majority wants it: Long on rhetoric and short on substance. Even though it is called the United States Trade Rights Enforcement Act, the bill provides little for those concerned about the ballooning trade deficit with the China and the destruction of U.S. jobs. It fails to include real solutions proposed by Members on both sides of the aisle.

It fails to include solutions such as strengthening remedies for American industries that were hurt by China's unfair trade practices. This is a very serious issue that the leadership is trivializing as a protection for a vote for CAFTA. But real American jobs are hanging in the balance, and a perfect example of this can be found in Buffalo, New York.

After 100 years of business, the Buffalo Color Company, the last domestic producer of indigo dye used to make blue jeans, is in the final throes, to quote the vice president, of bankruptcy. Buffalo Color is the victim, and it has already been adjudicated, of illegal Chinese dumping of indigo dye on the American market. For 2 years, we have been asking for help from the administration to stop the Chinese companies from circumventing our trade laws by shipping their cheap dye to the

United States through Korea and Mexico. I have tried repeatedly to personally discuss this case with Commerce Secretary Gutierrez, and have yet to even hear back from him.

I want Members to understand that the unfair trade practices are going on because this administration will not stop them. The Secretary has been so busy going to China to give away more jobs and working up here to get CAFTA passed, he cannot even answer a letter. We have called, we have written, we have issued press releases, but we cannot get the Bush Commerce Department to lift one finger to save an iconic American industry from annihilation at the hands of Chinese price dumping, which is already illegal.

The bottom line is that, much like the Bush administration, this bill will do nothing to help Buffalo Color Company or its employees. As a result, the only remaining producer of the dye for blue jeans, a powerful American icon, will be driven into bankruptcy by illegal price dumping, and more American jobs will be lost. Let me repeat that they have already won their case against China. The Commerce Department simply refuses to allow it to survive.

□ 1100

I hope the sad irony of this is not going to be lost on anybody here today, because Buffalo Color should be able to count on its Federal Government to provide protection from unfair trade practices. With this bill, the Republican leadership is failing to meet that responsibility.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just take one moment to correct something that was said by my friend from Massachusetts about this week being filled with renaming of post offices. We have also managed to find time this week to pass the first comprehensive postal reform in years. There is the strong likelihood of at least a couple of appropriations conference reports; the Central American Free Trade Agreement; a highway conference report; an energy conference report; and a bill to get strict with China about enforcing our trade agreements.

The gentlewoman from New York is correct. This bill was up for a vote yesterday on the suspension calendar. Under House rules it requires a two-thirds vote to be passed. It garnered 240 votes, shy of two-thirds, but a clear majority, with 19 Democrats also believing that it was important to enforce trade agreements with China. It was our mistake, apparently, to believe that there would be even broader bipartisan support, to believe that there would be more than 19 Democrats who would want to enforce our trade agreements with China. So it is back today where it requires a majority vote to pass. So for the second day, we will have an opportunity to devote the time and resources to debate the need for our country to enforce trade agreements with China; to keep our commitments that have been negotiated and passed in the Congress; to make sure that the resources are in the Department of Commerce and the resources are in the ITC, the International Trade Commission, and the resources are in the Trade Representative's Office to make sure that we are monitoring the compliance of the Chinese Government with preexisting laws, with preexisting trade agreements so that our manufacturers, our employers, our jobs in America do not suffer. That is why we are back here today.

I am happy to yield, Mr. Speaker, 5 minutes to the gentleman from Indiana (Mr. SOUDER), another leader on this issue.

Mr. SOUDER. Mr. Speaker, I would like to address a few questions on process and some on policy. There is a big difference between talk and actually getting something done. This is not an ideal bill. I would have liked to have had a lot more in this bill. I wish we could have had more. I hope we can get some additional provisions in as it moves through the Senate. But the fact is, with all due respect, the most powerful lobby, or at least one of the most powerful lobbies, in this Congress is the China lobby, with quotes around that, those people who believe that trade with China and expanding trade with China is absolutely essential. They rolled us on vote after vote, and we cannot get their attention.

Some people have alleged that the only reason this bill is coming up is because of CAFTA. Well, big shock. It is hard to get different bills up unless you can use your leverage at different times when the majority of Congress, of the leadership, President Clinton when he was President, President Bush when he was President, the leadership of both political parties, has not been willing to aggressively confront China. They view it as a paper dragon. This bill is not perfect.

If I can move into policy for a few minutes, because it is very difficult to figure out how to deal with a country that is cheating in their currency manipulation. If they do not float the manipulation, is it 20, 40, 80 percent? We do not know. It is not floating. So how do you peg it? If you do not have any data like this bill is asking us to collect, when I went in and worked with the gentleman from Pennsylvania (Mr. ENGLISH) and others to try to put this bill together in the beginning, the main problem is that most of the proposals on the table are not workable. They are not workable under WTO because we do not have the functional data with which to match it up to try to prove that there is currency manipulation. We know there is currency manipulation because they are propping it up, but that is very difficult to prove in a world court.

Furthermore, as I worked with Ambassador Zoellick and with now Ambassador Portman and Josette Shiner and others who are working and lobbying China is that as you confront them on these issues, it was questionable whether they had the power to invoke countervailing duties.

This bill incorporates the English bill that I was an original cosponsor of and helped in drafting with the modifications of the Ways and Means Committee, with the numbers collection, so that we can have the first steps to be able to not just be a paper dragon.

Now, for all the rhetoric that comes through, and we come down here on the floor and we pound on China and lose another vote, and pound on China and lose another vote, the fact is they have reevaluated their currency this past week. Sure, 2.1 percent. If they are cheating by 80 percent, 2.1 percent is not much. But it is a step. All the rhetoric of Congress got nothing, but when we leveraged on CAFTA, which, quite frankly, is a little tiny peanut compared to a great big elephant when we are talking about China, very important in Central America, very important to those democracies, important to a few people in our country and certain trading agreements, but just a little tiny trade thing, and China is a huge trade thing, but they will not talk to me or others about China, either party, unless you leverage your vote when it becomes a critical time.

China, as I talked to the DCM a few weeks ago, says, we are not going to reevaluate. The pressure was so great out of Congress on the markets and manipulation that they made a small concession. They need to make more.

The plain truth is that for all my criticism of China, they have been helping to prop up our currency. As Arab countries back out of our currency and move to the euro because of our support for Israel and other elements in the Middle East, China has helped prop it up. If they suddenly float it, it is uncertain what would happen to our economy from interest rates and inflation, but they need to reevaluate. American industry cannot compete with environmental standards, clean air, clean water, parental leave, the minimum wage, ADA and all this type of stuff, then add to that a currency manipulation of 20 to 80 percent. We cannot compete. It is not a matter of putting tariffs up and us asking for trade advantages. We cannot compete when other people cheat.

Now, we appreciate the Chinese Government moving 2 percent. They need to move faster. This bill gives us a tool.

It was shocking to me last night when this bill went down. It should have been a unanimous vote. Yes, there was not normal participation. Normal participation going through the Ways and Means Committee means it would have been buried so deep, we would not have even seen the letters with the H.R. on it. It would not have ever come out to the House floor. It took leverage to come out. It is not a perfect bill, but we had a bill. Quite frankly, when I first saw that bill go down last night, I thought the China lobby won again, the China lobby on our side that wanted to bury it and the China lobby on the other side that wanted to bury it. I am thankful to our leadership that they agreed to come back today with a rule so we could pass it with a clear bipartisan majority. I appreciate them moving forth. I believe this incrementally, and that is politics. It is not some dramatic speech. It is not denouncing China. It is actually making incremental policy changes. We just got the double. With this bill and the currency reevaluation, we have made the first progress with China that we have had in years. I think we should be commended, and I think we should try to get a unanimous vote after the politics are done.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Let me just say to the gentleman from Indiana that I share his anguish over the process. I share his frustration over the fact that many of us, we want to have more of a policy debate here. I would suggest to the gentleman from Indiana if he really wants a policy debate, that he will join with us on this side and vote "no" on the previous question so we can bring up some very reasonable, thoughtful amendments that will put some teeth into this bill.

I bet we will get bipartisan support for these amendments. I think one of the reasons why they are not being made in order is because the leadership on your side believes that, in fact, these amendments will actually carry the day.

I would say to the gentleman from Florida that just to make it clear that one of the reasons why so many of us voted against this bill yesterday, one is because it does not have any teeth in it. That does not mean it does not have reports; reports and dialogue, and that is it. We have had enough of that. We wanted something that had some teeth in it, that was actually going to send China the message we want to be sending.

But we also objected to the fact that this bill has never gone before a committee, never had a hearing, never had the benefit of expert testimony, never had a markup, has never been open to amendment. That is not the way this process is supposed to work. This is supposed to be a deliberative body. Flawed legislation like this can be made better. At least we should be given the chance to let the majority in this House work its will.

Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, the gig is up. On both sides of the aisle, regardless of how trade bills, and this is trade day, I guess, on the floor of the House, regardless of how these bills go up or down, the American public knows who is exposing and who is extending and who is sending jobs overseas. Both parties. We have had two administrations now that have given the store away, one Democrat and one Republican administration, and you come on this floor and want us to believe that you are going to pass this legislation and teach China a lesson.

I rise, and I rise to oppose this fig leaf, which is pathetic. The majority is using this fig leaf to cover the growing crisis of our trade relationship with China years after the horse is out of the barn. China is obviously not playing by the rules. You tell me whether they are or they are not. The American people want to know where you stand. They want to know in your district where they stand. It has nothing to do with Democrat and Republican. The resulting imbalance is destroying family wage production jobs here in this United States. This bill does not contain the answers. It should be defeated again. That it is even being considered on this floor to buy a few votes is an embarrassment to the House of Representatives.

Let us look at the facts. Let us look at the data. Our trade deficit with China is rapidly growing. It reached $162 billion last year. It was $16 billion in the month of May alone. China is buying huge chunks of our Nation's growing debt. Do you know how much debt China owns of ours? Is that not embarrassing enough?

Human rights abuses continue to be a problem in China. People from both sides of the aisle have stated on the record what those abuses are. They are not hidden. They are exposed. Yet God knows what we do not know.

China continues its piracy of U.S. goods and products unabated. Unabated. Many factories in China still utilize child and prison labor. We cannot even get in to see what is going on in those factories.

China has only made a minor change in disconnecting its currency from the dollar. Another fig leaf. It is on the front page of the Financial Times and the Wall Street Journal and the New York Times. Who are those trade people kidding? They are not kidding the American people at all. Our Nation's manufacturing sector and the manufacturing capability throughout the world is being decimated by China's use of these low-wage, no-regulation, nonmarket conditions.

This free trade gig is up. It is exposed. Just today, 9:30 this morning, I can report to the Congress of the United States in New Jersey where the U.S. Chamber of Commerce has said, we are going to gain all of these jobs from this trade, we are going to gain all of these jobs from CAFTA. We did a survey of 180 small New Jersey manufacturers. One hundred four small manufacturing business owners told us they did not think CAFTA would have any impact on their business. One-quarter of the entire sample told us that CAFTA would have a negative impact and lead to job losses, and they were willing to document it. We will bring that up for another debate.

I ask you, taking such minor action today like this bill and the resolution condemning the Unocal bid, ho-ho-ho. And the majority thinks it can show American manufacturers and American workers that it is concerned about China at this stage? You are not fooling anybody.

This is a fig leaf, Mr. Speaker.

Mr. PUTNAM. Mr. Speaker, before I respond to the figs and the gigs, may I inquire as to the time remaining?

The SPEAKER pro tempore (Mr. BONILLA). The gentleman has 15½ minutes remaining.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

The gentleman on the other side of the aisle, for whom I have a great deal of respect, from New Jersey represents a major industrial State, lots of manufacturers. I would just say that this is clearly a bill that is more than a fig leaf. Application of U.S. countervailing duty law to exports from nonmarket economies is more than an empty gesture: $6 million per year in additional money to USTR beyond the President's request, up to $45 million and earmarked for the General Counsel, Office of Monitoring and Compliance; the suspension for 3 years of bonding authority; increased teeth, increased enforcement, increased compliance to make the Chinese follow the law and agreements that we have already signed and agreed to.

Mr. Speaker, I yield 3½ minutes to the gentleman from Pennsylvania (Mr. ENGLISH), the sponsor of this legislation, and someone who has worked for years very diligently on all the issues relating to China.

□ 1115

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me say I do not look particularly becoming in a fig leaf; and the gentleman from New Jersey, who is hanging his hat on the fig leaf that has been introduced by the other side, which is not taken seriously by anyone, does not look particularly becoming hanging back behind that either.

I would urge everyone who in this Chamber is as concerned as I am about the problems of China trade to vote for this rule and to vote for this bill. This bill should be allowed to move forward today. It got 240 votes yesterday, and I thank all of those involved who have made it possible.

This, I believe, is the key trade vote of the year. And contrary to the propaganda we have heard from elsewhere, it is not largely symbolic. Yet yesterday, over 270 of our colleagues from the other side of the aisle voted "no." Let me tell the Members what the significance was of their vote. They voted against extending countervailing duties to China and other nonmarket economies that we regularly apply to other market countries that we trade with.

They voted against closing the bond loophole under antidumping. They voted against a comprehensive audit system for China, how they follow their trade obligations. They voted against authorizing new funds for trade cops. They also voted against clarifying Congress's opposition to efforts to water down our domestic trade law protections in the current WTO rules negotiations.

And, finally, they voted against requiring the Treasury to clarify its definition of currency manipulation in the context of the very modest change that the Chinese have now put forward.

This is commonsense legislation. It was intended as consensus legislation, and it certainly did not materialize out of nowhere because all of these components we have been familiar with for years. It is just that the minority in the Committee on Ways and Means never had much interest in issues like CVD before.

The rule underlying this debate is consistent with Ways and Means traditions, sought and supported by both parties when they were in the majority. So this is not about stifling debate. This is about moving a bill forward.

Simply by offering silly process arguments like the other side did yesterday is not enough. Offering a fig leaf alternative, a bill dropped in the same day that we announced the consensus we had worked forward, is not enough. The truth was blurted out, may I tell the Members, Mr. Speaker, today in The Hill magazine in which it quoted a spokesman for the Committee on Ways and Means Democrats as saying: "The minority's near unified opposition to the bill stemmed as much from its role in the CAFTA battle as from the strength of its content."

This is all about cynicism. This is all about politics being played by their side of the aisle. They would rather stop a significant first step in dealing with China if it inconveniences their strategy on CAFTA. In other words, they are more worried about dealing with another trade agreement, dealing with five countries whose combined economy is smaller than that of the Czech Republic, than dealing with the real problem and the real threat in Beijing.

This is cynical. This is outrageous. And I urge all of my colleagues, including those intrepid Democrats who supported us on this bill yesterday, to join with us to get it through today; and if they want to vote "no," let them do it. That is democracy, but the voters will hold them accountable.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Florida just commended the gentleman from Pennsylvania for being the author of the bill. This is the bill that the gentleman from Pennsylvania introduced, and then, mysteriously, this is the bill that came out of nowhere out of the Committee on Ways and Means, no hearings, no markup, nothing. So we are talking about two different pieces of legislation. This bill that mysteriously has appeared before us weakens the countervailing duty section. It makes this bill that the gentleman from Pennsylvania introduced originally worse. So that is what we are concerned about here.

Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am very disturbed that the gentleman from Pennsylvania, the last speaker, has introduced partisanship in this. I chastised both administrations, Democrat and Republican, as giving away the kitchen sink. We gave it away. We gave it away in the Free China deal. We gave up article I, section 8 of the Constitution, what we learn in the eighth grade: commerce belongs in the House of Representatives, not on the President's desk. And, second of all, the jobs that we have gained and the jobs that we have lost in our dealings with China make very interesting reading because we have lost high-wage jobs, and we have gained those jobs that pay far less. Look at the data.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN), the ranking member on the Trade Subcommittee.

Mr. CARDIN. Mr. Speaker, as I listen to my Republican colleagues talk about this rule, I understand why the Republican leadership is bringing forward a closed rule, because if we had an open rule, we would end up with a very good bill that would do something about enforcing our laws against China.

I listened to the gentleman from Pennsylvania (Mr. ENGLISH) talk about this being the key trade vote of the year, and I think we should understand that the Committee on Rules is responsible to make sure that we have a fair and open debate by the manner in which they propose rules. There has never been an opportunity to offer a single amendment to this bill anywhere along the process, whether in the subcommittee, the full committee, or here on the floor.

Mr. Speaker, I understand that Trade Promotional Authority gives the right of the administration to submit a trade-negotiated bill to the Congress after consultation and after a mock markup on an up-or-down vote. I just did not know that we had given the Republican leadership the right to bring out any bill they wanted to with an up-or-down vote without having democracy work. That is what this rule represents, and it is shameful.

The gentleman from Pennsylvania (Mr. ENGLISH) talks about the tradition. The minority normally gets an opportunity to offer a substitute on a major bill. They do not even give us the right to offer a substitute. That is just wrong, and that is not a democratic process.

Let me just talk for a moment or two about substance. I heard my colleagues talk about the manipulation of currency by China. No action is taken in this legislation in that regard. China undervalues its currency between 15 to 40 percent. We know that. Nothing is done in this bill to bring action against China for currency manipulation. Another study by Treasury? Excuse me, they just came back and told us there is no manipulation. What do we expect to get from that?

My friends talk about intellectual property. They are absolutely correct. China does not adhere to international standards on protecting intellectual property. No action is provided in this bill against China in regards to their infringement of intellectual property. My friends talk about the textile issues and the flooding of the market after the quotas were finished. We have certain safeguards. Nothing is done in this legislation for action against China in regards to the flooding of markets.

So what does this bill do? Does it deal with countervailing duties? Yes, it does. That is where we have illegally subsidized products coming into the U.S. market. But what does it do? It provides some relief on one hand, but makes it more difficult on the other. It is hard to figure out whether it is a plus or a minus.

Then my friends talk about more money. It does not provide any more money. We have already done that through the appropriation bills. We do not need this bill to do it. There is nothing new in this bill.

Then my friends talked about other issues that are not in this bill. Read the bill. We have missed an opportunity to deal with China by this rule.

I hope we will listen to what the gentleman from the Committee on Rules is saying on the Democratic side. Give us a chance to have a full debate on China. That is the tradition of this body.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

As the gentleman is aware, House rules allow for the motion to recommit and sets aside time for debate on the Democratic alternative to the legislation that we are considering here.

Mr. Speaker, I yield 3½ minutes to the gentleman from Ft. Lauderdale, Florida (Mr. SHAW), the chairman of the Trade Subcommittee of the Committee on Ways and Means.

Mr. SHAW. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

I do want to respond to several items that have been made. I think the gentleman from Florida (Mr. PUTNAM) just simply pointed out that the motion to recommit can certainly be with instructions to incorporate the amendments that the minority is speaking of.

But let us take a look at what this bill does. The gentleman from Massachusetts was pointing out that there was more to this bill than the original bill filed by the gentleman from Pennsylvania (Mr. ENGLISH). I might say it, too, that he is absolutely correct because there is a substantial provision in there that was written by the gentleman from New York (Mr. RANGEL), the ranking Democrat on the Committee on Ways and Means. There was also a provision by the gentleman from Michigan (Mr. ROGERS), the gentleman from Mississippi (Mr. PICKERING), the gentleman from Michigan (Mr. KNOLLENBERG) dealing with different aspects.

So this was a conglomeration of a number of bills brought together under the leadership of the gentleman from Pennsylvania (Mr. ENGLISH) and brought directly to the floor.

Let us talk about an open rule on a trade bill, something coming out of the Committee on Ways and Means. If we bring a bill like this to the floor, there is going to be a feeding frenzy. There will be more China bashing than we can ever imagine, and that is not a proper way to bring any trade bill to the floor of the House of Representatives. I do not recall any trade bill of this sort that has been brought directly to the House with an open rule so that every Member can throw in everything and every political speech, as we are hearing today.

There is another provision that I think we need to really take a close look at. The Democrats are talking about unilateral sanctions being brought against China. That is a violation of the World Trade Organization. And is it not strange that we would be asked to violate the World Trade Organization provisions by unilateral sanctions, which are in violation of the World Trade Organization?

Also, we were talking about intellectual property rights. This does require the trade representative to build a case under intellectual property rights.

This is all being done under the rule of law. It is all being done properly. It is all being done through the World Trade Organization. This bill addresses many of the problems, if not all of the problems, that we have heard come from the other side of the aisle. But it does it in an orderly manner. It does it in accordance with law, and it does stick to the principles of the World Trade Organization, which is something that we subscribe to.

So I would urge all the Members to vote for this rule, vote for the underlying bill. The House is not going to close down. As chairman of the Trade Subcommittee, I am sure we are going to be talking about more things having to do with China, and the fact that the minority party does not get all that it wants out of this bill does not mean that they should trash it or that they should vote against it. This is an incremental process.

Mr. CARDIN. Mr. Speaker, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Speaker, I thank the gentleman for yielding to me.

I just want to clarify the record. The provision that we have in our legislation on China currency is to direct that a claim be brought within the WTO, not inconsistent with the WTO, so that we would use the dispute settlement resolution process within the WTO, which is certainly within the rights that we have.

I just really wanted to clarify the record on currency manipulation.

Mr. SHAW. Mr. Speaker, reclaiming my time, I would say to the gentleman that we do not waive any of those rights in the bill that is before the House today.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am a little perplexed here. The gentleman from Florida talks about Democrats offering all kinds of amendments and discussing all kinds of things if we had an open rule. Well, that is called debate. We do that here. At least we are supposed to do that here. We have not been doing it lately. And I should also add that we are not here calling for an open rule. We are asking for right now that they give us at least three amendments.

□ 1130

Three thoughtful amendments have been offered, that is it. There are not thousands of amendments, three; and we cannot even discuss those. We cannot even have a debate on those. We cannot have an up-or-down vote on it. My colleagues talk about how the Senate should vote up or down on judicial nominees. Why can we not vote up or down on these thoughtful amendments? We are being denied that.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me this time.

Because the Central American Free Trade Agreement cannot pass on its merits, its supporters are attempting a last-minute bid to win desperately needed votes later this evening, probably very late this evening, on the Central American Free Trade Agreement.

This bill before us purports to address the imbalanced trade relationship with China. We all know it will not do that. But what it is is just another cynical attempt to buy what is very well documented in this Nation's pro-free trade, pro-CAFTA media, very well documented in the media; this is just another cynical attempt to buy votes on CAFTA, among other cynical attempts to buy votes on CAFTA. This fails, as the gentleman from Maryland (Mr. CARDIN) said, as the gentleman from New Jersey (Mr. PASCRELL) said, and as the gentleman from Massachusetts (Mr. McGOVERN) said, fails to effectively address remedies for our trade deficit with China: the destruction of U.S. manufacturing jobs, and we know how many jobs we have lost: hundreds and hundreds and hundreds and hundreds of thousands as a result of China's trade policy.

Members of Congress should be troubled that this bill has been introduced only in order to push through another trade priority. We should not have to approve a job-killing trade deal with Central America in order to get the chance to vote on a toothless China bill. I will say that again: We should not have to approve a job-killing trade deal with Central America in order to get a chance to vote on this toothless China bill.

There are no assurances even that the Senate has plans to consider this half measure, and it is surely unlikely to ever become law. Aggressively counteracting China's unfair trade practices should be a top trade priority. The gentleman from Michigan (Mr. LEVIN) and the gentleman from Maryland (Mr. CARDIN), members of the Committee on Ways and Means, they want it to be, but it should have nothing to do with CAFTA.

Unfortunately, for the past 5 years, the administration has done nothing to curb China's illegal trade activities. It is always words over action. In the past 5 years, our government has refused to enforce domestic trade laws with regard to China, failed to take advantage of WTO mechanisms to challenge China's violations of international trade rules, balked at taking any concrete action on China's manipulation of its currency; what I hear from my manufacturers in Akron, in Lorain, and in Elyria almost every week.

Our government has proposed eliminating funding for China enforcement activities and our government's proposed congressional efforts to address China's unfair trade practices through legislation. This bill fails to resolve these problems. Instead of demanding action, it calls for more reports and more studies to tell us what we already know, that China is simply not playing fair.

Congress may get only one chance, Mr. Speaker, to act on China trade this year. Wasting that opportunity on this ineffective bill is a betrayal of America's working families, of our small manufacturers, and of our long-term economic security. Congress should not be fooled by this lose-lose proposition.

A toothless bill on China will not make CAFTA any better.

Mr. PUTNAM. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman from Florida for yielding to me at this time.

I will tell my colleagues, if you want to know about defense or intelligence reorganization, education or medical research, I am your guy to tell you what to do. Trade issues is an interest, but I do not know the ins and outs, but I want to speak as someone who is not on the committee that sees it in a little different way.

Mr. Speaker, the vote that we are voting on today, when we talk about amendments, this is the same exact bill that we voted on yesterday in suspension. So the same bill, not amendments, the same bill as yesterday, and we are bringing it up today, we had 240 votes.

China policy. I understand while many of my colleagues on the other side, and some on our side, have difficulty with China, it is a very difficult policy. Is it an opportunity or a threat? China is both. They are building Su-30s, a Russian fighter that destroys our best fighters 90 percent of the time, and the Taiwan problem with the submarines and the different trade issues.

But I would tell my colleagues that spoke against, both Republican and Democrat Presidents, seven Presidents supported trade with China. Are there some jobs in some sectors that are lost? Yes. And that is where the administration and Republicans and Democrats need to come together to try and help those sectors that have lost jobs, because in other sectors, jobs have increased, and those Presidents, like many Members on the floor, feel that the overall policy is good.

Thirdly, there is no magic bill. If you look at Northern Ireland, you look at the Middle East, look back when Jimmy Carter and President Clinton started peace talks in the Middle East. It takes incrementalism, and it is going to take years of working what other Presidents started to negotiate and to make this sound policy. I do not think they will ever be totally sound, but this is one step, not a magic bill, to make sure that some of those trade agreements are enforced.

That is a good thing, and that is why we are here today, to vote on the same bill that we voted on yesterday. I know my colleagues want amendments, but this is the same bill that 240 people voted for hours ago.

I would remind people that I went to Hanoi, and Pete Peterson, who is a Democrat. He invited us to go to Vietnam. When I was in Hanoi, to the Minister I said, why will you not get involved with President Clinton and trade in Vietnam, and he pointed at thousands of bicycles outside his window and he said, Congressman, I am a Communist. He said, if those people have things, I will be out of office. So maybe trade is good as a fight against communism, as one small increment.

That is why these small bills that go forward are impotant. My colleagues who have legitimate concerns, especially in their own districts, and we need to work those things out, but this is an important bill, and I ask my colleagues to support the rule and the bill.

Mr. PUTNAM. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, at this time I yield 3½ minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, quickly on process, we are not asking for an open rule; we are asking for the ability to bring up a substitute and three specific amendments, number one.

Number two, as to the connection with CAFTA, the gentleman from Pennsylvania (Mr. ENGLISH) was not in favor of CAFTA until there was an agreement to bring up his bill, and then he said he was for CAFTA.

Number three, what you are doing is limiting debate on this and also on CAFTA. We have major trade issues, and you do not want to discuss them.

Here is a reason why we need to have long debate on this issue and on CAFTA. We have been limited to 2 hours on CAFTA. Will all the facts get out? I am afraid not.

For example, there was discussion in the media about commitments that were made by this administration regarding pocketings and linings, and that there had been an agreement reached with the CAFTA countries. We need a long time to debate so we can show that things are not true sometimes that are said to be true.

I just saw an article from La Nacion in Costa Rica about this alleged agreement on textiles, and here is a quote from the Minister, the Trade Minister of Costa Rica. I am quoting: "It is not true that those consultations, that negotiation, has occurred, and it is not at all true that we in Costa Rica and the rest of Central America have sat down yet for that process of consultations."

So we need a full airing of CAFTA and of the China bill.

Quickly, on the China bill, the gentleman from Florida (Mr. SHAW) said that the Rangel substitute calls for unilateral sanctions. That is not true. That is simply not true. There is a provision relating to currency allowing an action under 301. If that action is taken, we go to the WTO. So you get up here and say things that are just not correct. That is why we need more time.

The currency thing, I heard another colleague on the Republican side say we need more information. The Treasury report comes out every 6 months. It is loaded with information, data just coming out of the ears of the Treasury Department. The trouble is, there is never any action. We have in our substitute provisions that say, let us have an avenue for action rather than simply more talk. So we should turn down this rule and, really, this bill.

The gentleman from Pennsylvania (Mr. ENGLISH) does not like the word "fig leaf." It is a smoke screen; maybe that is more polite. It is a smoke screen. It is an effort to say we are doing something when we are really not in order to give some people, I guess, an excuse to vote for another bill.

That will not work. This is such a weak bill. We can do better. We should turn it down and have time to consider the substitute that was put together by the gentleman from New York (Mr. RANGEL) and myself and others.

Mr. PUTNAM. Mr. Speaker, I continue to reserve my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I am going to urge my colleagues to vote "no" on the previous question so that I can amend the rule to allow the House to consider the Rangel substitute. The substitute was offered in the Committee on Rules last night, but was blocked on a straight party-line vote.

Mr. Speaker, I ask unanimous consent to print the text of the amendment immediately prior to the vote on the previous question.

The SPEAKER pro tempore (Mr. BONILLA). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. McGOVERN. Mr. Speaker, whatever position Members have on this legislation, they should vote against the previous question so we can consider another and, I believe, a better approach to our trade troubles with China. We have only had a short time to examine this bill, but from what we can tell, H.R. 3238 is a bill that is all bark and no bite. It calls for more reports and studies, but it does not give American businesses a real tool to fight China's companies that receive unfair subsidies from the Chinese Government.

The Rangel proposal contains a countervailing duty mechanism that American businesses could actually use to fight these unfair trade practices, and, at the very least, the House deserves a debate on the Rangel proposal, but it is not going to get one here today unless we defeat the previous question.

We all read the papers. We all know that the purpose of this bill is not to have a serious debate over China policy. We know it is part of a desperate effort to win a few more votes for our trade agreement called DR-CAFTA that even supporters do not particularly like. Allowing this House a chance to debate and consider the Rangel alternative to this bill would turn a purely rhetorical exercise into a meaningful, badly needed debate about our Nation's trade relations with China.

Three closed rules were reported from the Committee on Rules last night. That is three major pieces of legislation that have absolutely no opportunity for amendment or alternative points of view. That is not how this House should operate. We have a chance to change that right now by voting against the previous question and allowing the Rangel substitute to be part of the legislation.

So vote "no" on the previous question so we can include this important amendment. I want to make it clear that a no vote will not stop us from considering the legislation, but it will enable us to consider the Rangel substitute.

Finally, Mr. Speaker, I would urge my colleagues not to be fooled. This bill is a toothless response to a very serious problem. My friends on the other side of the aisle supporting this bill rightly have stated that China is stealing our jobs, but this bill and CAFTA later is going to give our jobs away.

Again, vote "no" on the previous question; let us make this flawed bill significantly better.

Mr. Speaker, I yield back the balance of my time.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a huge week for the Congress, a big week for the House of Representatives. We are passing out major postal reform for the first time in years, a highway bill that has been in the making for over 2 Congresses now, an energy conference report that has also been in the making for over 2 Congresses now; the opportunity to have at least one and perhaps as many as three appropriations conference reports behind us as we enter the August district work period; and a Central American Free Trade Agreement, as well as a bill that gets tough with China, that finally holds our administration's feet and the feet of, either party's feet to the fire, and requires that they monitor and enforce the existing trade agreements that have been enacted by this Congress.

□ 1145

This bill has been called a smoke screen, it has been called a fig leaf, it has been called a number of demeaning terms. But at the end of the day, this is a real worthwhile enforcement tool that gives Members the opportunity to show the folks back home where they are on fair level trade with China.

The application of U.S. countervailing duty law on nonmarket economies is not an empty gesture.

A system of comprehensive monitoring of Chinese compliance with their trade obligations on intellectual property rights; market access for our American goods, services, and agriculture; an accounting of the Chinese subsidies; increased transparency so that we know what the government ownership is, we know what they are subsidizing, we know how much. Those are more than fig leaves, Mr. Speaker.

It requires reporting by Treasury to define the currency manipulation and to analyze the effect of what the Chinese did with their new exchange rate mechanism this week. That is not a smoke screen.

A $6 million a year increase above the President's request, up to almost $45 million a year for the general counsel and an office of monitoring and compliance. That is not an empty promise. That is a real meaningful resource to improve our ability to track the Chinese subsidy and the potential manipulation of the global marketplace that is out of compliance with our trade agreements.

The suspension for 3 years of the availability of bonds for new shippers in antidumping cases. Meaningful, meaningful reform. And funding for the ITC and an ITC report on the sensitivity of U.S. trade and jobs to the currency policy, something that on a bipartisan basis we have heard a great deal of angst about from Members of Congress. That is a reflection of what is going on in the countryside that there are genuine fears out there about currency manipulation. This bill gives us an opportunity to get our arms around how extensive that is and what effect the reforms and the step forward the Chinese Government made this week will have on our economy and our employment base.

This is an outstanding bill, Mr. Speaker. We have debated it now, this is the second day, first on the suspension calendar, admittedly with the belief that it would garner two-thirds support from this Chamber in the belief that everyone would share in the need to crack down on Chinese abuse of trade agreements, that everyone would agree that we need to put as many tools in the tool kit as possible to enforce and monitor their compliance, to bring about that transparency so that the world community can see what is going on, can see where there are distortions, can see where there is manipulation; and now it is back today for a straight up-or-down vote.

Yesterday, it got 240 votes. Today, I hope it gets even more. Yesterday there were 19 Democrats who supported it. There were five Republicans who opposed it. It is a bipartisan effort, bipartisan angst, bipartisan support. I urge the Members to pass the rule and the underlying bill.

The material previously referred to by Mr. McGovern is as follows:

Previous Question for H. Res. 387, H.R. 3283—United States Trade Rights Enforcement Act

In the resolution strike "and (2)" and insert the following:

"(2) the amendment in the nature of a substitute printed in Section 2 of this resolution if offered by Representative Rangel of New York or a designee, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read, and shall be separately debatable for 60 minutes equally divided and controlled by the proponent and an opponent; and (3)"

At the end of the resolution add the following new section:

"Sec. 2. The amendment by Representative Rangel referred to in Section 1 is as follows:

Amendment in the Nature of a Substitute to H.R. 3283

Offered by Mr. Rangel of New York

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Trade with China Act of 2005".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) The growth of the economy of the People's Republic of China is one of the most important developments of the 21st century.

(2) The bilateral trade relationship between the United States and China is heavily imbalanced and is undermining the long-term economic health of the United States.

(3) The United States trade deficit with China has doubled since 2000, reaching $162,000,000,000 in 2004, the largest bilateral trade deficit in the world.

(4) As a consequence of the trade deficit, the United States has had to borrow massive amounts of money from foreign governments.

(5) The United States has accumulated more debt to foreign countries since 2000 than in the first 220 years of the country's history.

(6) China has become a major purchaser of United States Treasury bonds, and United States indebtedness to the Government of China has grown by more than $100,000,000,000 since 2000.

(7) The large amounts of United States dollars accumulated by the Government of China contribute to China's acquisitions of United States companies, such as the proposed acquisition of Unocal Corporation by the China National Offshore Oil Corporation.

(8) China continues to violate many of the commitments it made when it joined the World Trade Organization in 2001.

(9) China's inadequate enforcement of intellectual property rights is resulting in infringement levels of 90 percent or more for nearly all forms of intellectual property, and cost American companies more than $2,500,000,000 in lost sales in 2004.

(10) China's industrial policies discriminate against foreign firms and products.

(11) The Government of China continues to heavily subsidize its manufacturing sector through tax incentives, preferential access to credit and capital, subsidized utilities, and other measures.

(12) Since 1994, China has kept its currency pegged at approximately 8.3 renminbi to the United States dollar, which has caused the renminbi to become undervalued against the dollar by as much as 40 percent, harming exports of United States goods and services to China and providing an unfair advantage to Chinese exports to the United States.

(13) Current policies of the United States have failed to advance and protect the interests of American workers, farmers, and businesses in the United States-China trade relationship, failed to address effectively China's unfair trade practices and market access barriers to goods and services and its poor record at protecting intellectual property rights, and failed to stem or reverse the unsustainable United States trade deficit with China.

(14) It is critical that the United States develop and implement a comprehensive and coherent set of policies to address China's unfair trading practices and failure to abide by its commitments as a member of the World Trade Organization.

SEC. 3. APPLICATION OF COUNTERVAILING DUTIES TO NONMARKET ECONOMY COUNTRIES.

(a) IN GENERAL.—Section 701(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(a)(1)) is amended by inserting "(including a nonmarket economy country)" after "country" each place it appears.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to petitions filed under section 702 of the Tariff Act of 1930 on or after the date of the enactment of this Act.

(c) ANTIDUMPING PROVISIONS NOT AFFECTED.—The amendments made by subsection (a) shall not affect the status of a country as a nonmarket economy country for purposes of any matter relating to antidumping duties under the Tariff Act of 1930.

SEC. 4. TREATMENT OF CURRENCY MANIPULATION.

(a) DEFINITION OF UNJUSTIFIABLE ACTS, POLICIES, AND PRACTICES.—Section 301(d)(4)(B) of the Trade Act of 1974 (19 U.S.C. 2411(d)(4)(B)) is amended to read as follows:

"(B)(i) Acts, policies, and practices that are unjustifiable include, but are not limited to, any act, policy, or practice described in subparagraph (A) which involves currency manipulation, or denies national or most-favored nation treatment or the right of establishment or protection of intellectual property rights.

"(ii) In this subparagraph, the term 'currency manipulation' means the protracted large-scale intervention by an authority to undervalue its currency in the exchange market that prevents effective balance of payments adjustment or gains an unfair competitive advantage over the United States.".

(b) INVESTIGATION INTO CURRENCY MANIPULATION BY THE PEOPLE'S REPUBLIC OF CHINA.—

(1) INVESTIGATION, DETERMINATIONS, ACTIONS.—The United States Trade Representative shall—

(A) conduct an investigation, under sections 302 and 303 of the Trade Act of 1974, of the currency practices of the People's Republic of China;

(B) make the applicable determinations under section 304 of that Act pursuant to that investigation; and

(C) implement any action, under section 305 of that Act, in accordance with such determinations.

(2) INITIATION OF INVESTIGATION.—The United States Trade Representative shall initiate the investigation required by paragraph (1) not later than 90 days after the date of the enactment of this Act.

SEC. 5. CLARIFICATION OF STANDARD FOR PRESIDENTIAL ACTION ON ITC FINDING OF MARKET DISRUPTION.

(a) AMENDMENTS TO STANDARD FOR TRADE REPRESENTATIVE'S RECOMMENDATION TO THE PRESIDENT.—Section 421(h)(2) of the Trade Act of 1974 (19 U.S.C. 2451(h)(2)) is amended—

(1) by striking "(2) Within" and inserting "(2)(A) Within"; and

(2) by adding at the end the following:

"(B) In making a recommendation to the President under subparagraph (A), the Trade Representative shall consider the facts found, or conclusions drawn, by the Commission as they are reported to the Trade Representative, and the Trade Representative may not conduct an additional review or reconsideration of the facts found or conclusions reached by the Commission.

"(C) If the Commission in its report makes an affirmative finding of market disruption, the Trade Representative shall apply a presumption in favor of relief to prevent or remedy the market disruption.

"(D) The following factors may not be used as the basis of a recommendation by the Trade Representative to recommend denying relief under this section:

"(i) The presence or absence (whether actual or potential) of third-country imports of the product under investigation.

"(ii) Any results of the econometric model known as the Commercial Policy Analysis System (COMPAS) or equivalent model.".

(b) AMENDMENTS TO STANDARD FOR PRESIDENTIAL ACTION.—Section 421(k) of the Trade Act of 1974 (19 U.S.C. 2451(k)) is amended by adding at the end the following:

"(3) The President's determination shall be based on the facts found, or conclusions drawn, by the Commission as they are reported to the Trade Representative under subsection (g).

"(4) If the Commission in its report makes an affirmative finding of market disruption, the President shall apply a presumption in favor of relief to prevent or remedy the market disruption.

"(5) Any determination by the President under paragraph (1) that providing import relief is not in the national economic interest of the United States may not be based on the following factors:

"(A) The presence or absence (whether actual or potential) of third-country imports of the product under investigation.

"(B) Any results of the econometric model known as the Commercial Policy Analysis System (COMPAS) or equivalent model.".

SEC. 6. IDENTIFICATION OF TRADE EXPANSION PRIORITIES.

(a) IDENTIFICATION OF TRADE EXPANSION PRIORITIES.—Section 310 of the Trade Act of 1974 is amended to read as follows:

"SEC. 310. IDENTIFICATION OF TRADE EXPANSION PRIORITIES.

"(a) IDENTIFICATION.—

"(1) IDENTIFICATION AND REPORT.—Within 30 days after the submission in each calendar year of the report required by section 181(b), the Trade Representative shall—

"(A) review United States trade expansion priorities;

"(B) identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent; and

"(C) submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives and publish in the Federal Register a report on the priority foreign country practices so identified.

"(2) FACTORS.—In identifying priority foreign country practices under paragraph (1), the Trade Representative shall take into account all relevant factors, including—

"(A) the major barriers and trade distorting practices described in the National Trade Estimate Report required under section 181(b);

"(B) the trade agreements to which a foreign country is a party and its compliance with those agreements;

"(C) the medium- and long-term implications of foreign government procurement plans; and

"(D) the international competitive position and export potential of United States products and services.

"(3) CONTENTS OF REPORT.—The Trade Representative may include in the report, if appropriate—

"(A) a description of foreign country practices that may in the future warrant identification as priority foreign country practices; and

"(B) a statement about other foreign country practices that were not identified because they are already being addressed by provisions of United States trade law, by existing bilateral trade agreements, or as part of trade negotiations with other countries, and because progress is being made toward the elimination of such practices.

"(b) INITIATION OF CONSULTATIONS.—By no later than the date that is 21 days after the date on which a report is submitted to the appropriate congressional committees under subsection (a)(1), the Trade Representative shall seek consultations with each foreign country identified in the report as engaging in priority foreign country practices for the purpose of reaching a satisfactory resolution of such priority practices.

"(c) INITIATION OF INVESTIGATION.—If a satisfactory resolution of priority foreign country practices has not been reached under subsection (b) within 90 days after the date on which a report is submitted to the appropriate congressional committees under subsection (a)(1), the Trade Representative shall initiate under section 302(b)(1) an investigation under this chapter with respect to such priority foreign country practices.

"(d) AGREEMENTS FOR THE ELIMINATION OF BARRIERS.—In the consultations with a foreign country that the Trade Representative is required to request under section 303(a) with respect to an investigation initiated by reason of subsection (c), the Trade Representative shall seek to negotiate an agreement that provides for the elimination of the practices that are the subject of the investigation as quickly as possible or, if elimination of the practices is not feasible, an agreement that provides for compensatory trade benefits.

"(e) REPORTS.—The Trade Representative shall include in the semiannual report required by section 309 a report on the status of any investigations initiated pursuant to subsection (c) and, where appropriate, the extent to which such investigations have led to increased opportunities for the export of products and services of the United States.".

(b) INITIAL REPORT ON CHINESE PRACTICES.—Not later than 90 days after the date of the enactment of this Act, the United States Trade Representative shall identify, and report to the Congress on, priority foreign trade practices of the People's Republic of China, in accordance with section 310 of the Trade Act of 1974, as amended by subsection (a) of this section.

(c) Conforming Amendment.—The item relating to section 310 in the table of contents of the Trade Act of 1974 is amended to read as follows:

"Sec. 310. Identification of trade expansion priorities.".

SEC. 7. REQUIREMENT OF CASH DEPOSITS.

Section 751(a)(1)(B) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(2)(B)) is amended—

(1) by striking clause (iii); and

(2) by redesignating clause (iv) as clause (iii).

SEC. 8. ITC INVESTIGATION.

(a) Investigation.—The United States International Trade Commission shall conduct a study, under section 332 of the Tariff Act of 1930 (19 U.S.C. 1332), regarding how the People's Republic of China uses government intervention to promote investment, employment, and exports. The study shall comprehensively catalog, and when possible quantify, the practices and policies that central, provincial, and local government bodies in the People's Republic of China use to support and to attempt to influence decisionmaking in China's manufacturing enterprises and industries. Chapters of this study shall include, but not be limited to, the following:

(1) Privatization and private ownership.
(2) Price coordination.
(3) Targeting of industries.
(4) Banking and finance.
(5) Utility rates.
(6) Infrastructure development.
(7) Taxation.
(8) Restraints on imports and exports.
(9) Research and development.
(10) Worker training and retraining.
(11) Rationalization and closure of uneconomic enterprises.

(b) Timing of Reports on Investigation.—The Congress requests that—

(1) not later than 9 months after the date of the enactment of this Act, the International Trade Commission complete its investigation under subsection (a) and submit a report on the investigation to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(2) not later than 1 year after the report under paragraph (1) is submitted, and annually thereafter through 2016, the International Trade Commission prepare and submit to the committees referred to in paragraph (1) an update of the report.

SEC. 9. AMENDMENTS RELATING TO INTERNATIONAL FINANCIAL POLICY.

(a) Bilateral Negotiations.—Section 3004(b) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5304(b)) is amended in the second sentence by striking "(1) have material global account surpluses; and (2)".

(b) Definition of Manipulation.—Section 3006 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5306) is amended by adding at the end the following:

"(3) Manipulation of rate of exchange.—A country shall be considered to be manipulating the rate of exchange between its currency and the United States dollar if there is a protracted large-scale intervention by an authority to undervalue its currency in the exchange market that prevents effective balance of payments adjustment or gains an unfair competitive advantage over the United States.".

(c) Report.—Section 3005(b) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5305(b)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following:

"(9) a detailed explanation of the test the Secretary uses to determine whether or not a country is manipulating the rate of exchange between that country's currency and the dollar for purposes of preventing effective balance of payments adjustment or gaining an unfair competitive advantage over the United States.".

SEC. 10. WITHDRAWAL OF NORMAL TRADE RELATIONS TREATMENT FROM THE PEOPLE'S REPUBLIC OF CHINA.

Notwithstanding the provisions of title I of Public Law 106–286, title IV of the Trade Act of 1974, or any other provision of law, effective on the date of the enactment of this Act, normal trade relations treatment shall not apply to the products of the People's Republic of China, and normal trade relations treatment may not thereafter be extended to the products of that country.

Mr. PUTNAM. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. Bonilla). The question is on ordering the previous question.

The questions was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McGOVERN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

STATE HIGH RISK POOL FUNDING EXTENSION ACT OF 2005

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3204) to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools, as amended.

The Clerk read as follows:

H.R. 3204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State High Risk Pool Funding Extension Act of 2005".

SEC. 2. EXTENSION OF FUNDING FOR ESTABLISHMENT AND OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.

(a) Authorization of Appropriations.—Subsection (c) of section 2745 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended to read as follows:

"(c) Authorization of Appropriations.—

"(1) Seed grants.—For the purpose of carrying out subsection (a), there is authorized to be appropriated $15,000,000 for fiscal year 2005.

"(2) Operation of pools.—For the purpose of carrying out subsection (b), there is authorized to be appropriated $50,000,000 for each of the fiscal years 2005 through 2009.

"(3) Availability; rule of construction.—Funds appropriated under this subsection for a fiscal year shall remain available for obligation through the end of the following fiscal year. Nothing in this section shall be construed as providing a State with an entitlement to a grant under this section.".

(b) Change in Requirements for Qualified High Risk Pools.—

(1) Change in requirement for operational grants.—Subsection (b) of such section is amended—

(A) in paragraph (1)(A), by inserting "(or 200 percent in the case of a State that meets the requirements of paragraph (3))" after "150 percent";

(B) in paragraph (1)(C), by striking "after the end of fiscal year 2004" and inserting "after the end of the last fiscal year for which a grant is provided under this paragraph"; and

(C) by adding at the end the following new paragraph:

"(3) Special rule for pools charging higher premiums.—In the case of a qualified high risk pool of a State which charges premiums that exceed 150 percent of the premium for applicable standard risks, the State shall use at least 50 percent of the amount of the grant provided to carry out this subsection to reduce premiums for enrollees. ".

(2) Change in definition of qualified high risk pool.—Subsection (d) of such section is amended to read as follows:

"(d) Definitions.—In this section:

"(1) Qualified high risk pool.—The term 'qualified high risk pool' has the meaning given such term in section 2744(c)(2), except that a State may elect to meet the requirement of subparagraph (A) of such section (insofar as it requires the provision of coverage to all eligible individuals) through providing for the enrollment of eligible individuals through an acceptable alternative mechanism (as defined for purposes of section 2744) that includes a high risk pool as a component.

"(2) Standard risk rate.—The term 'standard risk rate' means a rate that—

"(A) is determined under the State high risk pool by considering the premium rates charged by other health insurers offering health insurance coverage to individuals in the insurance market served;

"(B) is established using reasonable actuarial techniques; and

"(C) reflects anticipated claims experience and expenses for the coverage involved.

"(3) State.—The term 'State' means any of the 50 States and the District of Columbia.".

(3) Effective date.—The amendments made by this subsection shall apply to grants for fiscal years beginning with fiscal year 2005.

(c) Change in Allotment Formula for Operational Grants.—Subsection (b)(2) of such section is amended—

(1) by inserting "(before fiscal year 2005)" after "for a fiscal year"; and

(2) by adding at the end the following: "The amount appropriated under subsection (c)(2) for a fiscal year beginning with fiscal year 2005

(less the portion of such amount amount made available to carry out subsection (f)) shall be made available to the States (including entities that operate the high risk pool under applicable State law in a State) that qualify for a grant under subsection (b) as follows

"(A) An amount equal to ⅓ of such amount shall be allocated in equal amounts among such qualifying States.

"(B) An amount equal to ⅓ of such amount shall be allocated among such States so that the amount provided to a State bears the same ratio to such available amount as the number of uninsured individuals in the State bears to the total number of uninsured individuals in all such States (as determined by the Secretary).

"(C) An amount equal to ⅓ of such amount shall be allocated among such States so that the amount provided to a State bears the same ratio to such available amount as the number of individuals enrolled in health care coverage through the qualified high risk pool of the State bears to the total number of individuals so enrolled through qualified high risk pools in all such States (as determined by the Secretary).".

(d) ADMINISTRATIVE PROVISIONS; ANNUAL REPORT.—Such section is amended by adding at the end the following new subsection:

"(e) ADMINISTRATIVE PROVISIONS; ANNUAL REPORT.—

"(1) APPLICATIONS.—To be eligible for a grant under this section, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(2) NO ENTITLEMENT.—Nothing in this section shall be construed as providing a State with an entitlement to a grant under this section.

"(3) ANNUAL REPORT.—The Secretary shall submit to Congress an annual report on grants provided under this section. Each such report shall include information on the distribution of such grants among the States and the use of grant funds by States.".

(e) BONUS GRANTS FOR SUPPLEMENTAL CONSUMER BENEFITS.—Such section is further amended—

(1) in subsection (c)(2), as added by subsection (a), by adding at the end the following: "Of the amount appropriated under the preceding sentence for fiscal year 2005, up to 50 percent shall be available for the purpose of carrying out subsection (f)."; and

(2) by adding at the end the following new subsection:

"(f) BONUS GRANTS FOR SUPPLEMENTAL CONSUMER BENEFITS.—

"(1) IN GENERAL.—In the case of each State that has established a qualified high risk pool, the Secretary shall provide, from the funds made available under subsection (c)(2) to carry out this subsection, a grant to be used to provide supplemental consumer benefits to enrollees or potential enrollees (or defined subsets of such enrollees or potential enrollees) in qualified high risk pools.

"(2) BENEFITS.—Funds provided to a State under paragraph (1) may be used only to provide one or more of the following benefits:

"(A) Low-income premium subsidies.

"(B) A reduction in premium trends, actual premiums, or other cost-sharing requirements.

"(C) An expansion or broadening of the pool of individuals eligible for coverage, such as through eliminating waiting lists, increasing enrollment caps, or providing flexibility in enrollment rules.

"(3) LIMITATION.—In no case shall the amount of a grant under this subsection to a State, from the amount made available under subsection (c)(2) for a fiscal year to carry out this subsection, exceed 10 percent of the amount so made available.

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit a State that, on the date of enactment of this subsection, is in the process of implementing programs to provide benefits of the type described in paragraph (2), from being eligible for a grant under this subsection.

"(5) FUNDING.—

"(A) AVAILABILITY.—Funds appropriated under this subsection for a fiscal year shall remain available for obligation through the end of the following fiscal year.

"(B) REALLOTMENT.—If, on June 30 of a fiscal year for which funds are made available under this subsection, the Secretary determines that the full amounts will not be made available for grants under this subsection, such remaining amounts shall be made available and allotted among qualifying States under subsection (b) for the fiscal year in accordance with the formula under subsection (b)(2).".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. DEAL).

GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BARTON), the chairman of the Committee of Energy and Commerce.

Mr. BARTON of Texas. Mr. Speaker, I apologize to the Speaker. There is some confusion. I have tried several times today to file the energy conference report. Because of technical glitches, every time we get right to the lip of the cliff, we have to do one little more thing. So I apologize for any confusion.

Mr. Speaker, I am here today multihatted. In addition to working on energy, my committee has also been working on health care. The bills that are under suspension, the five bills in the House and the Senate, are all moving to make health care better and more affordable and also more understandable for the American people.

My excellent subcommittee chairman, the gentleman from Georgia (Mr. DEAL), has worked very hard on this on a bipartisan fashion. The ranking member, the gentleman from Michigan (Mr. DINGELL) of the full committee level, and the gentleman from Ohio (Mr. BROWN), the ranking member of the subcommittee, have worked to make the bills that we are going to consider today very, very good bills as well as very bipartisan bills.

So, Mr. Speaker, I am simply saying that the first bill that we are going to consider is very worthy of consideration, and I hope the House will pass it expeditiously and then move to the next four.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I am pleased that we are on the verge of passing H.R. 3204, the State High Risk Pool Funding Extension Act. Simply put, this bill will help more people get health insurance. People with preexisting conditions or high health care expenses face major difficulties when they seek to purchase health insurance.

This is especially true for workers in small businesses or those who are self-employed. So they often go without health insurance and turn to government programs like Medicaid when they become sick or disabled.

This bill authorizes Federal grant money to help fund the initial start-up and operation of State high-risk pools. Risk pools allow eligible individuals to purchase health insurance, pay premiums, and receive health coverage through private insurers. This grant money will allow States with those pools to cover more individuals and reduce the premiums they must pay.

It will also allow States like my home State of Georgia that do not have a qualified high-risk pool to simply start one. This bill will help to reduce the number of uninsured and provide affordable health insurance for more Americans.

Mr. Speaker, I want to thank the bill's sponsors, the gentleman from Arizona (Mr. SHADEGG), who I will recognize in a few moments, and his Democratic counterpart, the gentleman from New York (Mr. TOWNS), and their staffs for their hard work on this bill.

I would also like to thank the staff of the Energy and Commerce Committee, including Bill O'Brien of the majority staff, and Amy Hall on the ranking member, the gentleman from Michigan's (Mr. DINGELL), staff for their efforts to come up with a bipartisan proposal that will help States to ensure that individuals who do not otherwise have health insurance are able to purchase it.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 4 minutes.

I am pleased to join the gentleman from Georgia (Mr. DEAL) in supporting H.R. 3204, which reauthorizes funding for State high-risk insurance pools. I commend my colleagues, the gentleman from Arizona (Mr. SHADEGG) and the gentleman from New York (Mr. TOWNS), for their work on this legislation.

In many States, high-risk insurance pools are the only option for individuals who have been denied access to coverage in the commercial insurance system. The legislation before us is intended not only to strengthen existing high-risk pools, but to help States without such pools, my home State of Ohio is one of them, to help States without such pools to establish them.

But as we reauthorize this legislation, it is important to place high-risk insurance pools in context. These pools are a symptom of a troubled insurance system, not a cure for it.

The fact is, health insurance itself is supposed to serve as a high-risk pool. It used to be that health insurance was offered to everyone at the same premium, because any one of us could be the unlucky one to need the health care we cannot afford.

By spreading risk broadly, good health insurance can be affordable for everyone regardless of their health needs, regardless of their health status. But commercial insurers did what businesses do, they figured out how to maximize profits. You can hardly blame them for that.

You can, however, blame policymakers in this body and other places. You can blame policymakers for letting the insurance industry get away with that. The best way to earn profits in the health insurance industry, of course, is to avoid insuring people who may actually use the coverage.

And health insurers use every trick in the book to do that, to avoid those people. To the extent they can get away with it, commercial insurers underwrite and price people who need coverage right out of the insurance market. Private health insurance used to be a community; now it is almost a country club. So we are left with stopgap mechanisms like high-risk insurance pools.

They are far from ideal, but our most vulnerable citizens certainly would be worse off without them. We should make sure high-risk insurance pools are available. We should also keep working until we render them unnecessary.

I appreciate the author's willingness, the gentleman from Arizona (Mr. SHADEGG), and the gentleman from Texas (Chairman BARTON) to accept an amendment I offered during committee consideration to ensure that States use at least 50 percent of the bill's funding to expand access to the pool or to improve the high-risk coverage.

As it stands, States can and have used Federal risk-pool funding to replace dollars collected for the pool from private insurers, leaving the risk pools themselves no better off. That is a subversion of the bill's purposes and a questionable use of Federal funding. My amendment that the committee accepted reminds the States that Federal high-risk pool funding is intended to expand the quality and reach of high-risk pools, not to let commercial insurers off the hook for making those pools unnecessary.

Mr. Speaker, I urge my colleagues to support this legislation on behalf of individuals disenfranchised from private health insurance because they are not in perfect health. That hardly makes sense.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my counterpart as the ranking member of the health subcommittee for what I perceive to be his unqualified endorsement of this legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. SHADEGG), the author of the legislation.

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this piece of legislation addresses a concern which touches literally every single American life. A number of areas ago, in 2002, this Congress looked at the issue of health care in America and recognized that, sadly, there are those in this country who as a result of some form of health condition cannot acquire affordable health insurance.

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That is a reflection of the medical conditions they suffer, whatever it might be, and it drives the cost of the health insurance they need to acquire beyond their means.

We have decided as a Nation that no one in this country should go without a basic level of health care; and recognizing these high-risk individuals, the Congress in 2002 passed legislation to encourage each of States across the country to establish a high-risk pool; that is, to create a pool of money sponsored by the State where individuals with serious illnesses, individuals in this high-risk category, could go and could acquire insurance at a more affordable rate, indeed, at a rate they could afford as opposed to going uninsured. I think this is a charitable thing to do, I think it is a compassionate thing to do, and I think it is important.

This legislation today extends that principle. I am extremely encouraged that 33 States across this country have taken advantage of the prior legislation enacted in 2002 and have established these high-risk pools to help individuals in their State who are in the high-risk category and cannot find available to them insurance at an affordable rate.

In carrying those principles forward, this legislation first and foremost encourages additional States to create high-risk pools. To accomplish that goal it provides $15 million in seed grants available to any State which does not currently have a high-risk pool. Each State is eligible for up to $1 million to found and begin its high-risk pool. So I hope that that money is taken advantage of by as many States as possible that do not currently have high-risk pools so that they can create a high-risk pool so those in our society who have the kinds of illnesses that make it impossible for them to acquire affordable health insurance will have that opportunity available to them in their State.

The legislation also assists those States who have already established high-risk pools. It provides $50 million a year each year from fiscal year 2005 through fiscal year 2009 to offset operational losses for high-risk pools. These high-risk pools are funded by everyone in the State that has insurance. That is, a tax is levied on every single person that has insurance, and that tax is contributed to the high-risk pool. By having additional money from the Federal Government to help offset operating losses, we are lowering the cost of health insurance for every single insured American.

This is vitally important legislation. I want to thank the chairman of the subcommittee, the ranking chairman of the subcommittee, the chairman of the full committee and the ranking member of the full committee for their assistance in bringing this important legislation to the floor.

Mr. BROWN of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I thank my friend from Georgia (Mr. DEAL), my chairman, for yielding me time.

Mr. Speaker, I rise in strong support of H.R. 3204, which would extend seed grant money as well as provide $50 million for the next 4 years for the creation and operation of high-risk pools.

Mr. Speaker, this is a nonpartisan issue. As we all well know, the increasing cost of health care has affected millions of Americans. The number of uninsured Americans is obviously too high. It underscores the needs for a change in the way we think about delivering health insurance. Congress must act in a way that will increase the affordability and the accessibility of health care for our citizens. We must also be mindful of those who are hard to insure or are simply uninsurable due to their preexisting conditions or chronic illness.

In that light, high-risk pools have quietly become an important part of our Nation's public/private patchwork of health care coverage for individuals with costly health conditions. These folks are oftentimes employed and paying their taxes, but cannot get coverage under a normal insurance plan in the individual market. Pools are already covering thousands of people who through no fault of their own do not have access to group health insurance and simply cannot afford coverage in the individual market.

Thirty-one States thankfully are already operating high-risk pools. The coverage they offer is good coverage. Oftentimes it is as good as what is offered in the private insurance market in that State. However, enrollees are charged more for that coverage. This makes sense because pool members are by definition those who are considered to be uninsurable. However, we limit how much can be charged, generally between 125 and 150 percent of the base individual market rate.

One of the important provisions of H.R. 3204 is that it requires States that charge premiums that exceed 150 percent to use at least 250 percent of their Federal grant to reduce their premiums.

Mr. Speaker, this legislation takes us a step closer to making sure that everyone can purchase the health insurance protection they need. I understand the worries associated with serious health conditions, and my constituents know the danger that catastrophic health care costs can pose to working families, especially in rural families and the self-employed.

High-risk pools reduce costs on the government in the long term by providing those with serious conditions a private safety net of coverage. I hope that all States, and that includes my home State of Georgia, will soon have high-risk pools. I urge everyone to support this legislation.

Mr. DEAL of Georgia. Mr. Speaker, I want to thank my colleague from Georgia (Mr. NORWOOD) for taking time out on his birthday to be with us, and I congratulate him on his birthday.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for the purposes of engaging in a colloquy.

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman from Georgia (Mr. DEAL) for yielding me time and for entering into a colloquy.

Mr. Speaker, residents of the U.S. territories face many obstacles to obtaining affordable health insurance. The cost of providing health care in the territories is relatively high, and corresponding insurance rates are high due to a number of factors, including the high level of chronic disease in small populations over which to spread risk.

The State's high-risk pool model is an innovative manner of addressing the need for health insurance for high-risk populations. H.R. 3204 authorizes Federal seed funding and additional grants in the 50 States and the District of Columbia for the purpose of initiating and operating high-risk pools, but unfortunately fails to include the U.S. territories.

H.R. 3204 is a good approach to decreasing the number of uninsured. In fact, it makes coverage accessible to people who, often through no fault of their own, suffer from these chronic diseases. It can be very helpful to my constituents and the constituents of my fellow delegates, especially given the limitations the cap on Medicaid imposes on health care delivery in the territories.

I am sure that the exclusion of the territories was an oversight, and I respectfully request your assistance and the assistance from the gentleman from Ohio (Mr. BROWN) in working to add the territories as eligible recipients of this funding as this bill moves through the rest of the legislative process and in any conference with the Senate on this reauthorization.

Mr. DEAL of Georgia. Mr. Speaker, will the gentlewoman yield?

Mrs. CHRISTENSEN. I yield to the gentleman from Georgia.

Mr. DEAL of Georgia. Mr. Speaker, I thank the gentlewoman. I want to assure her that we will work with her and the other Representatives from the territories in conference to try to make sure that they are included in this reauthorization of the State high-risk pool. I thank her for her comments. I think they were well taken. And I have already spoken to the author of the legislation, and he assures me that he is in agreement with the proposition that the gentlewoman has brought to our attention.

Mrs. CHRISTENSEN. I thank the gentleman for agreeing to take this up in conference.

Mr. DINGELL. Mr. Speaker, this bill extends Federal grant funding for State high risk pools first authorized under the Trade Adjustment Assistance Act of 2005. High risk pools provide coverage for those who are otherwise medically uninsurable, for example, individuals with preexisting conditions or catastrophic illnesses such as cancer or multiple sclerosis. Today, 32 States operate high risk pools but these pools are far from an ideal solution. Many pools exclude coverage for certain benefits such as prescription drugs or maternity care. Other pools have waiting lists or closed enrollment. Still others exclude pre-existing conditions from coverage.

Because of these limitations, Congress established parameters around eligibility for Federal grant funding of high risk pools. The intent was to ensure that Federal funding was used to improve access and coverage under these pools. Unfortunately, in the first round of grants, half of the States that received funding used the money solely to lower insurance company assessments that fund high risk pools rather than to actually improve the pools for individual beneficiaries.

I am particularly pleased that H.R. 3204 includes bonus grants for supplemental consumer benefits. This legislation would require States to use up to 50 percent of their grant funds to improve the risk pools for consumers by lowering premiums, reducing waiting lists, or improving benefits.

Many of the bills relating to health insurance coverage and access in this Congress—such as Association Health Plans—are partisan and have little chance of passage. But I am pleased to support this legislation which is the product of a bipartisan effort to improve access to coverage under high risk pools.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and pass the bill, H.R. 3204, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONTROLLED SUBSTANCES EXPORT REFORM ACT OF 2005

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1395) to amend the Controlled Substances Import and Export Act to provide authority for the Attorney General to authorize the export of controlled substances from the United States to another country for subsequent export from that country to a second country, if certain conditions and safeguards are satisfied.

The Clerk read as follows:

S. 1395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REEXPORTATION OF CONTROLLED SUBSTANCES.

(a) SHORT TITLE.—This Act may be cited as the "Controlled Substances Export Reform Act of 2005".

(b) IN GENERAL.—Section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953) is amended by adding at the end the following:

"(f) Notwithstanding subsections (a)(4) and (c)(3), the Attorney General may authorize any controlled substance that is in schedule I or II, or is a narcotic drug in schedule III or IV, to be exported from the United States to a country for subsequent export from that country to another country, if each of the following conditions is met:

"(1) Both the country to which the controlled substance is exported from the United States (referred to in this subsection as the 'first country') and the country to which the controlled substance is exported from the first country (referred to in this subsection as the 'second country') are parties to the Single Convention on Narcotic Drugs, 1961, and the Convention on Psychotropic Substances, 1971.

"(2) The first country and the second country have each instituted and maintain, in conformity with such Conventions, a system of controls of imports of controlled substances which the Attorney General deems adequate.

"(3) With respect to the first country, the controlled substance is consigned to a holder of such permits or licenses as may be required under the laws of such country, and a permit or license to import the controlled substance has been issued by the country.

"(4) With respect to the second country, substantial evidence is furnished to the Attorney General by the person who will export the controlled substance from the United States that—

"(A) the controlled substance is to be consigned to a holder of such permits or licenses as may be required under the laws of such country, and a permit or license to import the controlled substance is to be issued by the country; and

"(B) the controlled substance is to be applied exclusively to medical, scientific, or other legitimate uses within the country.

"(5) The controlled substance will not be exported from the second country.

"(6) Within 30 days after the controlled substance is exported from the first country to the second country, the person who exported the controlled substance from the United States delivers to the Attorney General documentation certifying that such export from the first country has occurred.

"(7) A permit to export the controlled substance from the United States has been issued by the Attorney General.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. DEAL).

GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 1395.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1395, the Controlled Substances Export Reform Act of 2005, is simply about allowing companies to better compete in the global marketplace.

Under the Controlled Substances Import and Export Act, a company is not allowed to export controlled substances to one country and then send it to a third country. Companies that export controlled substances must make a large number of long-distance, small shipments to individual countries, incurring large shipping costs. Due to this restriction, American manufacturers are less competitive than their foreign competitors, which results in high-paying U.S. jobs being sent overseas.

S. 1395 will enable U.S. companies to export products more efficiently by allowing them to send a large shipment to one nation overseas and from there to distribute smaller shipments to other countries. All subsequent transfers of controlled substances would still be subject to strict oversight by the DEA and will require a permit from the Attorney General to prevent any potential abuse.

Both the Committee on Energy and Commerce and the Committee on the Judiciary have reported the House companion legislation to this bill earlier this year. I would like to thank the gentleman from Pennsylvania (Mr. PITTS), a member of the Committee on Energy and Commerce, for his work on this issue.

I urge my colleagues to support this needed legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before yielding to my friend from Guam, I would like to make a couple of opening comments. The Controlled Substances Import and Export Reform Act is commonsense legislation that would lift unnecessary barriers to the export of controlled substances.

I was pleased to join my colleague on the Committee on Energy and Commerce, the gentleman from Pennsylvania (Mr. PITTS), as a sponsor of this legislation.

Our bill expands the U.S. role in an important export while maintaining safeguards to prevent illegal diversion of controlled substances. The key provisions of this bill create a regulatory mechanism by which U.S. exporters can ship controlled substances efficiently from one country to another, enabling those companies to compete on a global scale.

The Drug Enforcement Administration worked with us on this legislation to ensure sufficient protections for consumers and safeguards against illegal activity. I thank the gentleman from Pennsylvania (Mr. PITTS) and his staff for their work on this bill. I am pleased to support its passage.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Guam (Ms. BORDALLO).

Ms. BORDALLO. Mr. Speaker, I wish to speak very briefly on H.R. 3204.

The cost of providing health care in the territories is relatively high, and corresponding insurance rates are high due to the number of factors, including high levels of chronic disease in small populations over which to spread risk.

H.R. 3204 authorizes Federal seed funding and additional grants to the 50 States and the District of Columbia for the purposes of initiating and operating high-risk pools, but, Mr. Speaker, unfortunately, it fails to include the U.S. territories. I want to thank my colleague, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), who was here speaking on my behalf earlier. I also want to thank the gentleman from Georgia (Mr. DEAL) and the gentleman from Ohio (Mr. BROWN).

I respectfully request the gentleman's assistance and the attention of our colleague, the gentleman from Ohio (Mr. BROWN) in working to add the territories as eligible recipients of this funding as this bill moves through the rest of the legislative process and in any conference with the Senate on this reauthorization.

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Mr. BROWN of Ohio. Mr. Speaker, I thank the gentlewoman from Guam, and I will work with the gentleman from Georgia (Mr. DEAL) and the gentlewoman from Guam (Ms. BORDALLO) and the congressional Representatives from other U.S. territories to secure the inclusion of U.S. territories in the conference report on the prior legislation reauthorizing the State high-risk pool grant funding; and I thank the gentlewoman from Guam and also the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) in joining us on the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS), the author of the House companion bill to the legislation that we are considering now.

Mr. PITTS. Mr. Speaker, as a sponsor of this legislation in the House, I rise in strong support of S. 1395. This bipartisan legislation would reform laws that govern the export of American-made pharmaceutical products, which our chairman, the gentleman from Georgia (Mr. DEAL), has explained.

This really is a jobs bill that will benefit small businesses, particularly small pharmaceutical companies employing between 100 and 250 highly paid workers. Current law puts U.S. companies, particularly these small manufacturers, at significant disadvantage with their foreign competitors. Larger manufacturers, with an established foreign presence, may choose to manufacture offshore. Foreign firms do not have to worry about it. They readily export approved medical products between international drug control treaty countries without limit or restriction.

To compete, smaller U.S. companies, or those requiring specialized manufacturing plants for niche pharmaceuticals, are forced to choose between spending millions of dollars on export costs or spending millions of dollars in establishing overseas manufacturing facilities. This cost hurts smaller companies like Cephalon, back home in Pennsylvania.

The bottom line is our law ties the hands of American companies, forces them to do business elsewhere or not to do business at all. This legislation would authorize the Attorney General to permit carefully regulated pharmaceutical exports to international drug convention partner companies. The DEA would retain full authority over all shipments of controlled substances, and the bill establishes strict procedures to ensure these products are used solely for legitimate medical purposes.

Mr. Speaker, this legislation keeps jobs and capital right here at home, and removes one of the barriers to prevent the success of these small companies. I urge support of the bill; and I thank my colleague, the gentleman from Ohio (Mr. BROWN), for the bipartisan effort, and I thank Chairman Deal for his leadership on the issue.

Mr. Speaker, as the sponsor of this legislation in the House I rise in strong support of S. 1395, the Controlled Substances Export Reform Act of 2005.

This bipartisan legislation would reform laws that govern the export of American-made pharmaceutical products.

This is a jobs bill that will benefit small businesses, particularly small pharmaceutical companies employing between 100 and 250 highly paid workers.

Current law allows U.S. companies to export most controlled substances only to the immediate country where the products will be consumed.

Shipment to central sites for further distribution across national boundaries is currently prohibited.

Current law puts U.S. companies, particularly small manufacturers, at a significant disadvantage with their foreign competitors.

Larger manufacturers with an established foreign presence may choose to manufacture off-shore using existing facilities.

Foreign firms don't have to worry about it.

They readily export approved medical products between international drug control treaty countries without limit or restriction.

To compete, smaller U.S. companies and those requiring specialized manufacturing plants for niche pharmaceuticals are forced to choose between spending millions, of dollars on export costs or spending millions of dollars in establishing overseas manufacturing facilities.

This cost harms smaller companies, like Cephalon, back home in Pennsylvania.

The bottom line: Our law ties the hands of American companies and forces them to do business elsewhere—or to not do business at all.

This legislation authorizes the Attorney General to permit carefully regulated pharmaceutical exports to international drug convention partner countries.

The Drug Enforcement Administration (DEA) would retain its full authority over all shipments of controlled substances.

It establishes strict procedures to ensure these products are used solely for legitimate medical purposes.

Once enacted it would save small companies nearly 75 percent on export costs.

It would enable them to compete in the long-term in the global market. And it would help them keep jobs and capital right here at home.

An informal review of impacted U.S. exporters indicates that current law, with the cost of compliance, jeopardizes between 100–250 new U.S. jobs each time a covered product is introduced in foreign markets.

Small businesses create new jobs; they strengthen communities; they drive innovation.

The law should help them thrive, not put them at a disadvantage with foreign competitors or large corporations.

We need to make sure that we treat them fairly and give them every opportunity to succeed.

This bill removes just one of the barriers that prevent their success.

I urge support for this bill.

And continued support for our Nation's small businesses.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. NORWOOD) for closing.

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding me this time, and I think it is pretty obvious that all is said that needs to be said, so I will be very, very brief.

I just simply want to rise in support of the Controlled Substances Export Reform Act of 2005. This is very commonsense legislation; and I thank my good friend, the gentleman from Pennsylvania (Mr. PITTS), for spearheading this in the House and would hope that all Members would vote for it.

Mr. CANNON. Mr. Speaker, as America strives to adapt to a world of rapidly changing international trade, preserving and expanding U.S. manufacturing and production capabilities becomes ever more important. This is particularly true in Utah where current restrictions on exports of the medicines we produce have discouraged industry growth and threatened workers' jobs.

The Controlled Substances Export Reform Act currently allows U.S. pharmaceutical companies to export most controlled substances only to the exact country where their product will be used. Shipment of U.S. medicines to central sites for further cross-border distribution, even when conducted under the watchful eyes of the U.S. Drug Enforcement Administration and Department of Justice, is prohibited for U.S. exporters. This contrasts with the freedom of drug manufacturers throughout the rest of the world to readily move their products among and between international drug control treaty countries without limit or restriction.

These limitations put U.S. manufacturers at a disadvantage by requiring more frequent and costly shipments to each individual country of use. We are effectively discouraging domestic manufacturing while encouraging U.S. drug exporters to move production overseas.

Utah, with a small but growing pharmaceutical manufacturing industry, is committed to maintaining a strong domestic base so that U.S. businesses can compete on a level playing field with our international competitors. But this industry faces an uncertain future unless we do something.

S. 1395, the Controlled Substances Export Reform Act of 2005, is the companion legislation to H.R. 184 that Rep. JOE PITTS and I introduced in the House, and that passed the House Judiciary and Energy and Commerce Committees. This legislation advances that goal by permitting the carefully regulated international transshipment of exported U.S. pharmaceuticals. The bill retains full DEA control over all drug exports and establishes strict permitting requirements to ensure drug safety while removing an unnecessary barrier to U.S. production and the growth of well-paid jobs.

Mr. Speaker, on behalf of the 500 Utah workers whose jobs may be endangered by current law, and on behalf of the many more workers we stand to gain by updating an outdated statute, I am pleased to support S. 1395 and I urge the measure's immediate adoption.

Mr. DEAL of Georgia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and pass the Senate bill, S. 1395.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

PATIENT SAFETY AND QUALITY IMPROVEMENT ACT OF 2005

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 544) to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely effect patient safety.

The Clerk read as follows:

S. 544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Patient Safety and Quality Improvement Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to Public Health Service Act.

"PART C—PATIENT SAFETY IMPROVEMENT

"Sec. 921. Definitions.
"Sec. 922. Privilege and confidentiality protections.
"Sec. 923. Network of patient safety databases.
"Sec. 924. Patient safety organization certification and listing.
"Sec. 925. Technical assistance.
"Sec. 926. Severability.

SEC. 2. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(1) in section 912(c), by inserting ", in accordance with part C," after "The Director shall";

(2) by redesignating part C as part D;

(3) by redesignating sections 921 through 928, as sections 931 through 938, respectively;

(4) in section 938(1) (as so redesignated), by striking "921" and inserting "931"; and

(5) by inserting after part B the following:

"PART C—PATIENT SAFETY IMPROVEMENT

"SEC. 921. DEFINITIONS.

"In this part:

"(1) HIPAA CONFIDENTIALITY REGULATIONS.—The term 'HIPAA confidentiality regulations' means regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033).

"(2) IDENTIFIABLE PATIENT SAFETY WORK PRODUCT.—The term 'identifiable patient safety work product' means patient safety work product that—

``(A) is presented in a form and manner that allows the identification of any provider that is a subject of the work product, or any providers that participate in activities that are a subject of the work product;

``(B) constitutes individually identifiable health information as that term is defined in the HIPAA confidentiality regulations; or

``(C) is presented in a form and manner that allows the identification of an individual who reported information in the manner specified in section 922(e).

``(3) NONIDENTIFIABLE PATIENT SAFETY WORK PRODUCT.—The term `nonidentifiable patient safety work product' means patient safety work product that is not identifiable patient safety work product (as defined in paragraph (2)).

``(4) PATIENT SAFETY ORGANIZATION.—The term `patient safety organization' means a private or public entity or component thereof that is listed by the Secretary pursuant to section 924(d).

``(5) PATIENT SAFETY ACTIVITIES.—The term `patient safety activities' means the following activities:

``(A) Efforts to improve patient safety and the quality of health care delivery.

``(B) The collection and analysis of patient safety work product.

``(C) The development and dissemination of information with respect to improving patient safety, such as recommendations, protocols, or information regarding best practices.

``(D) The utilization of patient safety work product for the purposes of encouraging a culture of safety and of providing feedback and assistance to effectively minimize patient risk.

``(E) The maintenance of procedures to preserve confidentiality with respect to patient safety work product.

``(F) The provision of appropriate security measures with respect to patient safety work product.

``(G) The utilization of qualified staff.

``(H) Activities related to the operation of a patient safety evaluation system and to the provision of feedback to participants in a patient safety evaluation system.

``(6) PATIENT SAFETY EVALUATION SYSTEM.—The term `patient safety evaluation system' means the collection, management, or analysis of information for reporting to or by a patient safety organization.

``(7) PATIENT SAFETY WORK PRODUCT.—

``(A) IN GENERAL.—Except as provided in subparagraph (B), the term `patient safety work product' means any data, reports, records, memoranda, analyses (such as root cause analyses), or written or oral statements—

``(i) which—

``(I) are assembled or developed by a provider for reporting to a patient safety organization and are reported to a patient safety organization; or

``(II) are developed by a patient safety organization for the conduct of patient safety activities;

and which could result in improved patient safety, health care quality, or health care outcomes; or

``(ii) which identify or constitute the deliberations or analysis of, or identify the fact of reporting pursuant to, a patient safety evaluation system.

``(B) CLARIFICATION.—

``(i) Information described in subparagraph (A) does not include a patient's medical record, billing and discharge information, or any other original patient or provider record.

``(ii) Information described in subparagraph (A) does not include information that is collected, maintained, or developed separately, or exists separately, from a patient safety evaluation system. Such separate information or a copy thereof reported to a patient safety organization shall not by reason of its reporting be considered patient safety work product.

``(iii) Nothing in this part shall be construed to limit—

``(I) the discovery of or admissibility of information described in this subparagraph in a criminal, civil, or administrative proceeding;

``(II) the reporting of information described in this subparagraph to a Federal, State, or local governmental agency for public health surveillance, investigation, or other public health purposes or health oversight purposes; or

``(III) a provider's recordkeeping obligation with respect to information described in this subparagraph under Federal, State, or local law.

``(8) PROVIDER.—The term `provider' means—

``(A) an individual or entity licensed or otherwise authorized under State law to provide health care services, including—

``(i) a hospital, nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, renal dialysis facility, ambulatory surgical center, pharmacy, physician or health care practitioner's office, long term care facility, behavior health residential treatment facility, clinical laboratory, or health center; or

``(ii) a physician, physician assistant, nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, psychologist, certified social worker, registered dietitian or nutrition professional, physical or occupational therapist, pharmacist, or other individual health care practitioner; or

``(B) any other individual or entity specified in regulations promulgated by the Secretary.

"SEC. 922. PRIVILEGE AND CONFIDENTIALITY PROTECTIONS.

``(a) PRIVILEGE.—Notwithstanding any other provision of Federal, State, or local law, and subject to subsection (c), patient safety work product shall be privileged and shall not be—

``(1) subject to a Federal, State, or local civil, criminal, or administrative subpoena or order, including in a Federal, State, or local civil or administrative disciplinary proceeding against a provider;

``(2) subject to discovery in connection with a Federal, State, or local civil, criminal, or administrative proceeding, including in a Federal, State, or local civil or administrative disciplinary proceeding against a provider;

``(3) subject to disclosure pursuant to section 552 of title 5, United States Code (commonly known as the Freedom of Information Act) or any other similar Federal, State, or local law;

``(4) admitted as evidence in any Federal, State, or local governmental civil proceeding, criminal proceeding, administrative rulemaking proceeding, or administrative adjudicatory proceeding, including any such proceeding against a provider; or

``(5) admitted in a professional disciplinary proceeding of a professional disciplinary body established or specifically authorized under State law.

``(b) CONFIDENTIALITY OF PATIENT SAFETY WORK PRODUCT.—Notwithstanding any other provision of Federal, State, or local law, and subject to subsection (c), patient safety work product shall be confidential and shall not be disclosed.

``(c) EXCEPTIONS.—Except as provided in subsection (g)(3)—

``(1) EXCEPTIONS FROM PRIVILEGE AND CONFIDENTIALITY.—Subsections (a) and (b) shall not apply to (and shall not be construed to prohibit) one or more of the following disclosures:

``(A) Disclosure of relevant patient safety work product for use in a criminal proceeding, but only after a court makes an in camera determination that such patient safety work product contains evidence of a criminal act and that such patient safety work product is material to the proceeding and not reasonably available from any other source.

``(B) Disclosure of patient safety work product to the extent required to carry out subsection (f)(4)(A).

``(C) Disclosure of identifiable patient safety work product if authorized by each provider identified in such work product.

``(2) EXCEPTIONS FROM CONFIDENTIALITY.—Subsection (b) shall not apply to (and shall not be construed to prohibit) one or more of the following disclosures:

``(A) Disclosure of patient safety work product to carry out patient safety activities.

``(B) Disclosure of nonidentifiable patient safety work product.

``(C) Disclosure of patient safety work product to grantees, contractors, or other entities carrying out research, evaluation, or demonstration projects authorized, funded, certified, or otherwise sanctioned by rule or other means by the Secretary, for the purpose of conducting research to the extent that disclosure of protected health information would be allowed for such purpose under the HIPAA confidentiality regulations.

``(D) Disclosure by a provider to the Food and Drug Administration with respect to a product or activity regulated by the Food and Drug Administration.

``(E) Voluntary disclosure of patient safety work product by a provider to an accrediting body that accredits that provider.

``(F) Disclosures that the Secretary may determine, by rule or other means, are necessary for business operations and are consistent with the goals of this part.

``(G) Disclosure of patient safety work product to law enforcement authorities relating to the commission of a crime (or to an event reasonably believed to be a crime) if the person making the disclosure believes, reasonably under the circumstances, that the patient safety work product that is disclosed is necessary for criminal law enforcement purposes.

``(H) With respect to a person other than a patient safety organization, the disclosure of patient safety work product that does not include materials that—

``(i) assess the quality of care of an identifiable provider; or

``(ii) describe or pertain to one or more actions or failures to act by an identifiable provider.

``(3) EXCEPTION FROM PRIVILEGE.—Subsection (a) shall not apply to (and shall not be construed to prohibit) voluntary disclosure of nonidentifiable patient safety work product.

``(d) CONTINUED PROTECTION OF INFORMATION AFTER DISCLOSURE.—

``(1) IN GENERAL.—Patient safety work product that is disclosed under subsection (c) shall continue to be privileged and confidential as provided for in subsections (a) and (b), and such disclosure shall not be treated as a waiver of privilege or confidentiality, and the privileged and confidential nature of such work product shall also apply to such work product in the possession or control of a person to whom such work product was disclosed.

“(2) Exception.—Notwithstanding paragraph (1), and subject to paragraph (3)—

“(A) if patient safety work product is disclosed in a criminal proceeding, the confidentiality protections provided for in subsection (b) shall no longer apply to the work product so disclosed; and

“(B) if patient safety work product is disclosed as provided for in subsection (c)(2)(B) (relating to disclosure of nonidentifiable patient safety work product), the privilege and confidentiality protections provided for in subsections (a) and (b) shall no longer apply to such work product.

“(3) Construction.—Paragraph (2) shall not be construed as terminating or limiting the privilege or confidentiality protections provided for in subsection (a) or (b) with respect to patient safety work product other than the specific patient safety work product disclosed as provided for in subsection (c).

“(4) Limitations on actions.—

“(A) Patient safety organizations.—

“(i) In general.—A patient safety organization shall not be compelled to disclose information collected or developed under this part whether or not such information is patient safety work product unless such information is identified, is not patient safety work product, and is not reasonably available from another source.

“(ii) Nonapplication.—The limitation contained in clause (i) shall not apply in an action against a patient safety organization or with respect to disclosures pursuant to subsection (c)(1).

“(B) Providers.—An accrediting body shall not take an accrediting action against a provider based on the good faith participation of the provider in the collection, development, reporting, or maintenance of patient safety work product in accordance with this part. An accrediting body may not require a provider to reveal its communications with any patient safety organization established in accordance with this part.

“(e) Reporter Protection.—

“(1) In general.—A provider may not take an adverse employment action, as described in paragraph (2), against an individual based upon the fact that the individual in good faith reported information—

“(A) to the provider with the intention of having the information reported to a patient safety organization; or

“(B) directly to a patient safety organization.

“(2) Adverse employment action.—For purposes of this subsection, an ‘adverse employment action’ includes—

“(A) loss of employment, the failure to promote an individual, or the failure to provide any other employment-related benefit for which the individual would otherwise be eligible; or

“(B) an adverse evaluation or decision made in relation to accreditation, certification, credentialing, or licensing of the individual.

“(f) Enforcement.—

“(1) Civil monetary penalty.—Subject to paragraphs (2) and (3), a person who discloses identifiable patient safety work product in knowing or reckless violation of subsection (b) shall be subject to a civil monetary penalty of not more than $10,000 for each act constituting such violation.

“(2) Procedure.—The provisions of section 1128A of the Social Security Act, other than subsections (a) and (b) and the first sentence of subsection (c)(1), shall apply to civil money penalties under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A of the Social Security Act.

“(3) Relation to hipaa.—Penalties shall not be imposed both under this subsection and under the regulations issued pursuant to section 264(c)(1) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note) for a single act or omission.

“(4) Equitable relief.—

“(A) In general.—Without limiting remedies available to other parties, a civil action may be brought by any aggrieved individual to enjoin any act or practice that violates subsection (e) and to obtain other appropriate equitable relief (including reinstatement, back pay, and restoration of benefits) to redress such violation.

“(B) Against state employees.—An entity that is a State or an agency of a State government may not assert the privilege described in subsection (a) unless before the time of the assertion, the entity or, in the case of and with respect to an agency, the State has consented to be subject to an action described in subparagraph (A), and that consent has remained in effect.

“(g) Rule of Construction.—Nothing in this section shall be construed—

“(1) to limit the application of other Federal, State, or local laws that provide greater privilege or confidentiality protections than the privilege and confidentiality protections provided for in this section;

“(2) to limit, alter, or affect the requirements of Federal, State, or local law pertaining to information that is not privileged or confidential under this section;

“(3) except as provided in subsection (i), to alter or affect the implementation of any provision of the HIPAA confidentiality regulations or section 1176 of the Social Security Act (or regulations promulgated under such section);

“(4) to limit the authority of any provider, patient safety organization, or other entity to enter into a contract requiring greater confidentiality or delegating authority to make a disclosure or use in accordance with this section;

“(5) as preempting or otherwise affecting any State law requiring a provider to report information that is not patient safety work product; or

“(6) to limit, alter, or affect any requirement for reporting to the Food and Drug Administration information regarding the safety of a product or activity regulated by the Food and Drug Administration.

“(h) Clarification.—Nothing in this part prohibits any person from conducting additional analysis for any purpose regardless of whether such additional analysis involves issues identical to or similar to those for which information was reported to or assessed by a patient safety organization or a patient safety evaluation system.

“(i) Clarification of Application of HIPAA Confidentiality Regulations to Patient Safety Organizations.—For purposes of applying the HIPAA confidentiality regulations—

“(1) patient safety organizations shall be treated as business associates; and

“(2) patient safety activities of such organizations in relation to a provider are deemed to be health care operations (as defined in such regulations) of the provider.

“(j) Reports on Strategies To Improve Patient Safety.—

“(1) Draft report.—Not later than the date that is 18 months after any network of patient safety databases is operational, the Secretary, in consultation with the Director, shall prepare a draft report on effective strategies for reducing medical errors and increasing patient safety. The draft report shall include any measure determined appropriate by the Secretary to encourage the appropriate use of such strategies, including use in any federally funded programs. The Secretary shall make the draft report available for public comment and submit the draft report to the Institute of Medicine for review.

“(2) Final report.—Not later than 1 year after the date described in paragraph (1), the Secretary shall submit a final report to the Congress.

“SEC. 923. NETWORK OF PATIENT SAFETY DATABASES.

“(a) In General.—The Secretary shall facilitate the creation of, and maintain, a network of patient safety databases that provides an interactive evidence-based management resource for providers, patient safety organizations, and other entities. The network of databases shall have the capacity to accept, aggregate across the network, and analyze nonidentifiable patient safety work product voluntarily reported by patient safety organizations, providers, or other entities. The Secretary shall assess the feasibility of providing for a single point of access to the network for qualified researchers for information aggregated across the network and, if feasible, provide for implementation.

“(b) Data Standards.—The Secretary may determine common formats for the reporting to and among the network of patient safety databases maintained under subsection (a) of nonidentifiable patient safety work product, including necessary work product elements, common and consistent definitions, and a standardized computer interface for the processing of such work product. To the extent practicable, such standards shall be consistent with the administrative simplification provisions of part C of title XI of the Social Security Act.

“(c) Use of Information.—Information reported to and among the network of patient safety databases under subsection (a) shall be used to analyze national and regional statistics, including trends and patterns of health care errors. The information resulting from such analyses shall be made available to the public and included in the annual quality reports prepared under section 913(b)(2).

“SEC. 924. PATIENT SAFETY ORGANIZATION CERTIFICATION AND LISTING.

“(a) Certification.—

“(1) Initial certification.—An entity that seeks to be a patient safety organization shall submit an initial certification to the Secretary that the entity—

“(A) has policies and procedures in place to perform each of the patient safety activities described in section 921(5); and

“(B) upon being listed under subsection (d), will comply with the criteria described in subsection (b).

“(2) Subsequent certifications.—An entity that is a patient safety organization shall submit every 3 years after the date of its initial listing under subsection (d) a subsequent certification to the Secretary that the entity—

“(A) is performing each of the patient safety activities described in section 921(5); and

"(B) is complying with the criteria described in subsection (b).

"(b) Criteria.—

"(1) In general.—The following are criteria for the initial and subsequent certification of an entity as a patient safety organization:

"(A) The mission and primary activity of the entity are to conduct activities that are to improve patient safety and the quality of health care delivery.

"(B) The entity has appropriately qualified staff (whether directly or through contract), including licensed or certified medical professionals.

"(C) The entity, within each 24-month period that begins after the date of the initial listing under subsection (d), has bona fide contracts, each of a reasonable period of time, with more than 1 provider for the purpose of receiving and reviewing patient safety work product.

"(D) The entity is not, and is not a component of, a health insurance issuer (as defined in section 2791(b)(2)).

"(E) The entity shall fully disclose—

"(i) any financial, reporting, or contractual relationship between the entity and any provider that contracts with the entity; and

"(ii) if applicable, the fact that the entity is not managed, controlled, and operated independently from any provider that contracts with the entity.

"(F) To the extent practical and appropriate, the entity collects patient safety work product from providers in a standardized manner that permits valid comparisons of similar cases among similar providers.

"(G) The utilization of patient safety work product for the purpose of providing direct feedback and assistance to providers to effectively minimize patient risk.

"(2) Additional criteria for component organizations.—If an entity that seeks to be a patient safety organization is a component of another organization, the following are additional criteria for the initial and subsequent certification of the entity as a patient safety organization:

"(A) The entity maintains patient safety work product separately from the rest of the organization, and establishes appropriate security measures to maintain the confidentiality of the patient safety work product.

"(B) The entity does not make an unauthorized disclosure under this part of patient safety work product to the rest of the organization in breach of confidentiality.

"(C) The mission of the entity does not create a conflict of interest with the rest of the organization.

"(c) Review of Certification.—

"(1) In general.—

"(A) Initial certification.—Upon the submission by an entity of an initial certification under subsection (a)(1), the Secretary shall determine if the certification meets the requirements of subparagraphs (A) and (B) of such subsection.

"(B) Subsequent certification.—Upon the submission by an entity of a subsequent certification under subsection (a)(2), the Secretary shall review the certification with respect to requirements of subparagraphs (A) and (B) of such subsection.

"(2) Notice of acceptance or non-acceptance.—If the Secretary determines that—

"(A) an entity's initial certification meets requirements referred to in paragraph (1)(A), the Secretary shall notify the entity of the acceptance of such certification; or

"(B) an entity's initial certification does not meet such requirements, the Secretary shall notify the entity that such certification is not accepted and the reasons therefor.

"(3) Disclosures regarding relationship to providers.—The Secretary shall consider any disclosures under subsection (b)(1)(E) by an entity and shall make public findings on whether the entity can fairly and accurately perform the patient safety activities of a patient safety organization. The Secretary shall take those findings into consideration in determining whether to accept the entity's initial certification and any subsequent certification submitted under subsection (a) and, based on those findings, may deny, condition, or revoke acceptance of the entity's certification.

"(d) Listing.—The Secretary shall compile and maintain a listing of entities with respect to which there is an acceptance of a certification pursuant to subsection (c)(2)(A) that has not been revoked under subsection (e) or voluntarily relinquished.

"(e) Revocation of Acceptance of Certification.—

"(1) In general.—If, after notice of deficiency, an opportunity for a hearing, and a reasonable opportunity for correction, the Secretary determines that a patient safety organization does not meet the certification requirements under subsection (a)(2), including subparagraphs (A) and (B) of such subsection, the Secretary shall revoke the Secretary's acceptance of the certification of such organization.

"(2) Supplying confirmation of notification to providers.—Within 15 days of a revocation under paragraph (1), a patient safety organization shall submit to the Secretary a confirmation that the organization has taken all reasonable actions to notify each provider whose patient safety work product is collected or analyzed by the organization of such revocation.

"(3) Publication of decision.—If the Secretary revokes the certification of an organization under paragraph (1), the Secretary shall—

"(A) remove the organization from the listing maintained under subsection (d); and

"(B) publish notice of the revocation in the Federal Register.

"(f) Status of Data After Removal from Listing.—

"(1) New data.—With respect to the privilege and confidentiality protections described in section 922, data submitted to an entity within 30 days after the entity is removed from the listing under subsection (e)(3)(A) shall have the same status as data submitted while the entity was still listed.

"(2) Protection to continue to apply.—If the privilege and confidentiality protections described in section 922 applied to patient safety work product while an entity was listed, or to data described in paragraph (1), such protections shall continue to apply to such work product or data after the entity is removed from the listing under subsection (e)(3)(A).

"(g) Disposition of Work Product and Data.—If the Secretary removes a patient safety organization from the listing as provided for in subsection (e)(3)(A), with respect to the patient safety work product or data described in subsection (f)(1) that the patient safety organization received from another entity, such former patient safety organization shall—

"(1) with the approval of the other entity and a patient safety organization, transfer such work product or data to such patient safety organization;

"(2) return such work product or data to the entity that submitted the work product or data; or

"(3) if returning such work product or data to such entity is not practicable, destroy such work product or data.

"SEC. 925. TECHNICAL ASSISTANCE.

"The Secretary, acting through the Director, may provide technical assistance to patient safety organizations, including convening annual meetings for patient safety organizations to discuss methodology, communication, data collection, or privacy concerns.

"SEC. 926. SEVERABILITY.

"If any provision of this part is held to be unconstitutional, the remainder of this part shall not be affected.".

(b) Authorization of Appropriations.—Section 937 of the Public Health Service Act (as redesignated by subsection (a)) is amended by adding at the end the following:

"(e) Patient Safety and Quality Improvement.—For the purpose of carrying out part C, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010.".

(c) GAO Study on Implementation.—

(1) Study.—The Comptroller General of the United States shall conduct a study on the effectiveness of part C of title IX of the Public Health Service Act (as added by subsection (a)) in accomplishing the purposes of such part.

(2) Report.—Not later than February 1, 2010, the Comptroller General shall submit a report on the study conducted under paragraph (1). Such report shall include such recommendations for changes in such part as the Comptroller General deems appropriate.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. Deal) and the gentleman from Ohio (Mr. Brown) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. Deal).

GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 544, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume, and I rise today in support of S. 544, the Patient Safety and Quality Improvement Act of 2005.

This bill reflects the bipartisan and bicameral agreement of the leadership of the Committee on Energy and Commerce and the Senate Committee on Health, Education, Labor, and Pensions. The bill is identical to H.R. 3205, which was passed by the Committee on Energy and Commerce last week.

In 1999, the Institute of Medicine first identified that up to 98,000 Americans die every year as a result of preventable medical errors. In the report, entitled "To Err is Human," the IOM recommended that Congress pass legislation to protect the development and analysis of information related to improving safety and quality. The Patient Safety and Quality Improvement

Act of 2005 codifies the principal recommendations made in the IOM report.

This bill will assist in promoting a culture of safety and quality; and, more important, it will save lives. The bill encourages providers, such as hospitals and physicians, to share information with HHS-certified patient safety organizations to assess ways in which to improve the delivery of health care and reduce medical errors. Information regarding patients, providers, and reporters, called patient safety work product, would now remain confidential and protected.

Mr. Speaker, the bill fosters open and honest communications among providers and patient safety organizations to achieve an environment where providers are able to discuss errors openly and learn from them. The bill also provides a privilege from disclosing patient safety work product in most court or administrative proceedings.

In addition to enjoying bipartisan support, this bill is also supported by providers and consumer groups. These include the American Medical Association, the American Hospital Association, the American College of Surgeons, and the AARP.

This new language builds directly on the work of our colleague, the gentleman from Florida (Mr. BILIRAKIS), who worked to develop a bipartisan patient safety bill that passed by over 400 votes in the last Congress.

I also want to recognize Senators ENZI and KENNEDY; our House ranking member, the gentleman from Michigan (Mr. DINGELL); and the ranking member of the Subcommittee on Health, the gentleman from Ohio (Mr. BROWN), for their leadership in this effort. They, along with the staffs of the House Committee on Energy and Commerce and the Senate HELP Committee, deserve our thanks for producing this important bipartisan bill.

I also specifically would like to recognize Andrew Patzman and David Bowen from the Senate HELP Committee, along with Bridgett Taylor, Purvee Kempf, Nandan Kenkermath, Melissa Bartlett, and Brandon Clark for their important help on this bill.

Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. BILIRAKIS), the original sponsor of this legislation in the past Congress and one who has continued to work on it.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding me this time; and I, too, obviously, support S. 544, which is the exact Senate counterpart to H.R. 3205, the legislation on which I and so many others have worked for several years to reduce medical errors and save lives.

The landmark 1999 Institute of Medicine report entitled "To Err is Human," found that as many as 98,000 people die each year from preventable medical errors. The IOM report noted these errors may cost taxpayers as much as $29 billion each year, in addition to the incalculable pain and suffering experienced by those who lose loved ones as a result of them.

The Patient Safety and Quality Improvement Act will implement many of the IOM's recommendations for reducing medical errors. This legislation would establish a framework within which providers can voluntarily report medical errors to patient safety organizations, which in turn would analyze the data and recommend steps providers could take to prevent such errors from occurring in the future.

These patient safety organizations will be empowered to compile reports on errors and near-misses, determine the causes of these errors or near-errors, identify the changes that need to be made to the health care delivery system to prevent these errors in the future, and implement needed changes. Their work will be invaluable in identifying national trends on medical errors and recommending how to prevent them.

The legislation encourages providers to share information about medical mistakes by preventing the information that they have created specifically to report to patient safety organizations from being used against them. The bill would preclude this information, termed patient safety work product, from being used against providers in civil and administrative proceedings, disclosed pursuant to Freedom of Information Act requests, or used to carry out adverse personnel actions.

The bill does not shield other information outside this patient safety work product from use in court cases. I believe it strikes an appropriate balance between encouraging the reporting of valuable information, which will be used to save lives, and safeguarding the ability of individuals to access necessary information to seek judicial redress when appropriate.

I believe that Congress must pass the Patient Safety and Quality Improvement Act to encourage the voluntary reporting of information on medical errors. Doing so will help create a culture of awareness to expose and address the systemic causes of medical errors instead of continuing the culture of blame which hides and perpetuates them.

Mr. Speaker, I want to thank several individuals: Chairman of the Committee on Energy and Commerce, the gentleman from Texas (Mr. BARTON); and the chairman of the Subcommittee on Health, the gentleman from Georgia (Mr. DEAL). They have shared my commitment to making medical errors as rare as possible and minimizing the hurt they cause their families, as have the ranking member, the gentleman from Michigan (Mr. DINGELL), and the subcommittee ranking member, the gentleman from Ohio (Mr. BROWN). This indeed has been a true bipartisan effort.

I also want to thank members of the staff, though the gentleman from Georgia (Mr. DEAL) already has done so: Nandan Kenkermath and Melissa Bartlett, as well as chief counsel Chuck Clapton and health policy coordinator Brandon Clark.

Mr. Speaker, I also want to thank Jeanne Haggerty, Jeremy Allen, and Steve Tilton, several former members of my staff, whose previous work on this legislation laid the groundwork for its enactment here today. All of these individuals, all should be proud their contributions to this legislation will ultimately save the lives of many they will never know.

Mr. Speaker, I urge all our colleagues to support the Patient Safety and Quality Improvement Act.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 3 minutes.

It is tragic when Americans die prematurely despite modern medicine. It is heartbreaking when Americans die because of modern medicine. Medical errors take lives, medical errors waste money, and medical errors are largely preventable.

Based on available data, medical errors kill up to 100,000 Americans every year. That number, for sure, is a ballpark estimate because we know that medical errors are underreported. That is disturbing, but hardly surprising. The reality is that the consequences of reporting medical errors can be onerous, which deters some who commit or witness medical errors from documenting them.

This legislation is intended to overcome that obstacle. To reduce the number of medical errors, we need to understand what causes them and address those causes. Accurate and complete information on medical errors is the first step. H.R. 3205, or S. 544, creates a secure voluntary medical error reporting system. The system is carefully crafted to encourage information-sharing without undermining the ability of patients to obtain justice when they are harmed and to help the health care system identify the root causes of medical errors without hindering the prosecution of criminal acts.

My friend, the gentleman from Florida (Mr. BILIRAKIS), and I have been working on this legislation for several years. I appreciate his leadership on this issue, as well as that of the subcommittee chairman, the gentleman from Georgia (Mr. DEAL), and our ranking member on the full committee, the gentleman from Michigan (Mr. DINGELL), along with the chairman of the full committee, the gentleman from Texas (Mr. BARTON).

I would also like to commend committee staff on both sides of the aisle for their hard work to reach a solid bipartisan, bicameral compromise on this bill. H.R. 3205/S. 544 will strengthen our health care system and save lives, and I urge my colleagues' support of this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the Patient Safety and Quality Improvement Act of 2005. I am a proud cosponsor of this bill, and I know that this is a bill that my good friend, the gentleman from Florida (Mr. BILIRAKIS), has been working on for at least 5 years. And so now I am happy to see it finally come to the floor and will become law, hopefully.

Americans have the best doctors and technology in the world; yet it is reported every day that more than 250 Americans die because of preventable medical errors in hospitals alone. The cost of preventable medical errors is estimated between $17 billion and $29 billion annually.

Mr. Speaker, we must acknowledge that any error that causes harm to a patient is one too many. While our health care system may never be perfect, we must strive for the best care for our Nation's patients. I am happy that this legislation begins to improve the ability to connect information about errors and near-errors between doctors, researchers, and patients.

However, as I have stated for years, a key step to improving care should be also the passage of meaningful patient protections under Federal law. When insurers and employees are concerned about the cost of health care, the quality of patient care can be jeopardized for the bottom line. This breeds improper care, and it breeds medical error.

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In this light, this legislation is an important first step. This bill will encourage the creation of patient safety organizations that providers will contract with to provide patient safety information to a national patient safety database. While I will concede that I wish we were mandating more in this legislation about reporting errors and getting that information to patients, I stress that this is an essential, important first step.

The bill helps develop a culture of safety that encourages information sharing. When an error occurs, it is important to learn from it so as to not repeat it. We need to get everyone comfortable with reporting errors and near errors, and this bill begins to do just that.

This bill presents us with an opportunity to stand up for patients, and I urge all of my colleagues to join us in supporting it.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Rhode Island (Mr. KENNEDY) who has been a strong advocate during his several terms in Congress for patient safety and for patients generally.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I would like to thank the gentleman from Ohio (Mr. BROWN) for his leadership in this area, as well as the gentleman from Florida (Mr. BILIRAKIS) for his, in addition to the committee chairman, the gentleman from Texas (Mr. BARTON), and the ranking member, the gentleman from Michigan (Mr. DINGELL).

Of the many bills we are talking about on the floor this week, this is the only one that is really addressing the root problem in our health care system. We stand here in the well of the House, all of us from both sides of the aisle, pontificating about the high cost of care, malpractice rates, access to prescription drugs, or the uninsured. All of these are serious problems with big negative impacts on people, but these issues are all symptomatic of a real problem in health care. Our system is not set up to get the right care at the right time to the right people.

Hundreds of our constituents will die today, tomorrow, and every day until we get this right. Millions will be priced out of care until we get this right. My friends just mentioned the statistics: the equivalent of a jumbo jet crashing every 3 days is how many people we lose in our health care system due to inadequate information because there is inadequate information technology to make the information intraoperable and transparent for all to see so there are not those medications that one is being prescribed by one doctor contravening the medications that are prescribed by another doctor because no one has an electronic medical record.

This bill is a step in the right direction. It aligns the incentives in health care to promote outcomes we want: higher quality, higher safety and higher efficiency. We have seen studies where Medicare has had a single procedure. That procedure has been done all around the country, and even in the markets where it costs us the most, we often see where we have the worst outcomes. We have to ask ourselves why is it that we are paying for more care and getting less results? This bill does a lot to address that problem. We need to learn from our mistakes and use them to make better decisions in the future.

This is a bill that is carefully designed to compromise so we do not have a situation where we close down people's right to seek redress for those that are seriously and grievously injured in the course of their health care.

I hope this patient safety bill is the tip of the iceberg in what we will do to transform health care. We need to pass a strong health care information technology bill. This bill was reported out of the committee and I think it will go a long way to getting us on that road, but I hope that we continue in this legislative session to move us even further, where we begin as a country to make our health care system come up to the same level of technology as every other area in our country is right now.

It is inconceivable that people can have an ATM card and get information or dollars anywhere in the country, and yet they cannot get their medical record to the doctor that they need to have that medical record so that physician can make the right decision based upon all of the information that is there about their background, and that we are not having situations where there are drug overdoses because of lack of being able to read the orders. As is too often the case, we not only have people die, but also seriously injured.

One instance, a little girl named Josie King in Baltimore was seriously scalded when she went into the bathtub and the tub was too hot. Her mother took her to the hospital, and she got the best care because this country has the best health care in the world. She had the best professionals because this country has the best professionals in the world. But when it came to the system, the system is what is broken, and this system let Josie King down to the point where she was given the wrong medication because her physician did not have the right information before him. As a result, Josie King was in a coma and eventually had to be removed from life support.

Mr. Speaker, we need to learn from these tragedies if we are to prevent them in the future. This legislation moves us down that path. I ask my colleagues to support this legislation.

Mr. DEAL of Georgia. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BURGESS), a member of the Subcommittee on Health.

Mr. BURGESS. Mr. Speaker, I thank the gentleman for yielding me this time, and thank the gentleman from Florida (Mr. BILIRAKIS) for his leadership, and the gentleman from Texas (Chairman BARTON), who is always evenhanded, played a big role in us finally getting this bill to the floor. I thank the ranking member, the gentleman from Ohio (Mr. BROWN), for his work on this bill as well.

Mr. Speaker, this is an important bill before us today. As a physician, I know that in order to improve safety, we have got to report errors. The gentleman from Georgia (Mr. NORWOOD) just pointed out how if you do not report the error, you cannot learn from the mistake and never prevent it from happening again.

We have an environment right now that punishes doctors for perceived or actual mistakes by lawsuits and regulation, and it has become nearly impossible to encourage true transparency in the practice of medicine. This opacity has not served anyone well with the possible exception of the plaintiff's bar.

I am pleased the United States Congress has finally come to an agreement on a level-headed approach to error reporting and will set quality standards in medicine. I believe this bill will be the first assault on the culture of fear that has permeated medicine for years now: doctors afraid of making a mistake, or doctors afraid of saying I am sorry for fear of being sued no matter how small the mistake, and this may lead to underreporting, overtreatment, and repetition of the same error again.

By permitting reporting, this bill takes a critical first step in improving the quality of care in this country. The research on patient safety unequivocally calls for a learning environment rather than the punitive environment that is present in this country.

Many organizations are currently collecting patient safety data, and this bill will give them the legal protections that will allow them to review protected information and collaborate on the development and implementation of patient safety and improvement strategies.

Mr. Speaker, this bill is long overdue. I agree with the gentleman from Georgia (Mr. NORWOOD) it is but a first step, but it is an important first step, and I am happy to put my support behind this bill that will improve the medical profession and improve the quality and safety of medical care for all Americans.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 544 is identical to the bill passed out of the Committee on Emergency and Commerce, H.R. 3205. Therefore, the committee report we will be filing based on H.R. 3205 is directly relevant to S. 544. I wanted that part of the RECORD.

Mr. DINGELL. Mr. Speaker, in 1999, the Institute of Medicine (IOM) reported that as many as 98,000 people are estimated to die annually as a result of medical errors. The IOM recommended several changes, including the creation of a patient safety reporting system that would allow health care service providers to report information about medical errors in a non-punitive environment. This information would be reviewed by a patient safety organization that would then help providers learn from their mistakes without fear of reprisal.

The Committee has been working for many years on legislation to bring forward the building blocks of this system, and in the 108th Congress, we successfully passed bipartisan legislation in the House. Only this Congress, however, did we successfully reach a compromise with our colleagues in the Senate. I am pleased that today we will finally pass the Patient Safety and Quality Improvement Act of 2005, with the expectation that it will be enacted into law.

S. 544, the Senate companion bill to H.R. 3205, contains the same language as the House bill approved unanimously by the Committee on Energy and Commerce last week. The goal of H.R. 3205 is to set up an error reporting system for health care providers that brings real improvements in patient safety and the quality of health care. It will also help ensure accountability by raising standards and creating the expectation for continuous quality improvements in patient safety. This bill achieves these goals by creating a helpful and non-punitive atmosphere for health care providers to share information with entities specialized in patient safety and quality improvement. Yet, it continues to allow public access to information that is available today. Patient safety organizations will receive information about medical errors and then evaluate trends, such as infection rates and other quality measures, within provider organizations. This will help providers learn to avoid such errors in the future.

This is excellent and important legislation, and I urge its adoption.

Mr. DOOLITTLE. Mr. Speaker, I rise today to support the legislation introduced by my colleague from Vermont which, understandably, enjoys bipartisan support.

Last, year, President Bush called for the majority of Americans to have electronic health records within 10 years and established the role of the National Coordinator for Health Information Technology to help realize this target. The Patient Safety and Quality Improvement Act 2005 is a critical step toward this important goal and the nation's overall vision of providing safer, efficient healthcare for all Americans.

I am proud to report that a healthcare leader in my district is ahead of the curve in pursuit of this vision. In response to the need for leadership in the area of healthcare information technology, Adventist Health—a not-for-profit health care system headquartered in Roseville, California—made the decision to invest over $120,000,000 to implement a new state-of-the-art Clinical Information System for all their hospitals. Project IntelliCare is a groundbreaking, historical initiative and an important first step toward fulfilling patients' aspirations for safe, effective health care.

Long before the concept of healthcare information technology was being discussed nationally, Adventist Health committed to implementing this system— one of the largest single capital investments the health care system has ever made. I think it is extremely important that we support this legislation today. By establishing the refining our goals in this area with legislation like this, we allow health care providers like Adventist Health to easily adapt programs and projects that support patient safety and quality.

It would be my hope—and good public policy—that officials at the Department of Health and Human Services reach out to Adventist Health officers and solicit their guidance. This guidance would be based on the experience of a hall a decade of success and challenges. I am proud of what Adventist Health is accomplishing in California. I look forward working with secretary Leavitt and the Department of Health and Human Services to assist in the implementation of Health Information Technology on a national level.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I urge the adoption of this bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and pass the Senate bill, S. 544.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DEAL of Georgia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

DRUG ADDICTION TREATMENT EXPANSION ACT

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 45) to amend the Controlled Substance Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes.

The Clerk read as follows:

S. 45

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAINTENANCE OR DETOXIFICATION TREATMENT WITH CERTAIN NARCOTIC DRUGS; ELIMINATION OF 30-PATIENT LIMIT FOR GROUP PRACTICES.

(a) IN GENERAL.—Section 303(g)(2)(B) of the Controlled Substance Act (21 U.S.C. 823(g)(2)(B)) is amended by striking clause (iv).

(b) CONFORMING AMENDMENT.—Section 303(g)(2)(B) of the Controlled Substance Act (21 U.S.C. 823(g)(2)(B)) is amended in clause (iii) by striking "In any case" and all that follows through "the total" and inserting "The total".

(c) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. DEAL).

GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material in the consideration of this Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the Speaker for allowing us to consider the Drug Addiction Treatment Expansion Act, S. 45.

In 2000, Congress passed the Drug Addiction Treatment Act which has resulted in improved access to drug abuse treatment. This law has allowed qualified practitioners to prescribed addiction treatment medications from their office settings so long as the number of patients to whom the practitioner provides such treatment does not exceed 30 patients.

However, the Drug Addiction Treatment Act also limited the number of patients a group practice could treat to 30 as well. This limitation has created an unnecessary barrier to access to drug addiction therapy. Under current law, a practice of 500 doctors would still be limited to treating only 30 patients in the same way as a single physician. This policy effectively limits the ability of patients to get access to treatment for their drug addictions.

This legislation before us today would lift the 30-patient limit for group practices, but would still keep in place the 30-patient limit for individual physicians.

I thank the gentleman from Indiana (Mr. SOUDER) for his leadership on this legislation that further expands access to needed addiction therapy. The Committee on Energy and Commerce and the Committee on the Judiciary have both favorably reported companion bills to S. 45, and I urge my colleagues to support this legislation today.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 2 minutes.

Drug addiction is a problem we must face both at the individual and the systemic level. We bear the cost of addiction as a society. These costs are measured in lives and unmet human potential; and, frankly, in dollars.

A recent study by the National Institutes of Health found the economic cost of drug abuse totaled some $100 billion a year, costs borne by all members of society by increased demand on our health care system and our criminal justice system.

H.R. 869, the Drug Addiction Treatment Expansion Act, addresses an anomaly in the current law that limits access to an effective drug addiction treatment.

To ensure proper oversight of drug addiction treatment, current law limits the number of patients any one doctor can treat. However, this restriction inadvertently limits group practices to the same 30-patient limit. This legislation clarifies that each doctor in a group practice is subject to the 30-patient limit, not the group practice as a whole.

This bill will expand access to effective addiction treatment. When we come together to fight addiction, we must use every means available. This bill gives doctors an improved and important tool. H.R. 869 has the support of a range of organizations, including the American Psychological Association and the Partnership for a Drug Free America. I am pleased to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. SOUDER), who is the author of the House companion legislation.

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Mr. SOUDER. I thank the gentleman from Georgia, and I appreciate his leadership in moving this through his subcommittee. We served together on the Drug Policy committee in Government Reform where he served ably as vice chairman before moving up to this important subcommittee chairmanship over in Energy and Commerce and understands directly the need for drug treatment.

Mr. Speaker, we can work for interdiction. We can work for eradication down in Colombia and Afghanistan. We can work to try to seize it as it moves through the Caribbean and through the Pacific. We can work to try to catch it at the borders. We can try to take down the delivery people.

We will continue to do that. We will continue to work through our national ad campaign, through school programs to try to prevent drug use. But ultimately many people in America become addicted. The question is, How can we treat them? As has already been explained, this was an unintended consequence of the original act. I appreciate Senator LEVIN's help on the Senate side in moving this bill that group practices were capped at 30 patients as well.

Between 1997 and 2000, the number of treatment admissions for primary heroin abuse increased 21 percent while treatment admissions for primary abuse of narcotic painkillers increased at an unprecedented 186 percent. In view of the skyrocketing numbers of treatment admissions for primary opiate addiction in recent years, it is imperative that measures be taken at the Federal level to provide adequate treatment options. Given this epidemic of drug abuse in America, drug addiction treatment programs must effectively correspond to the widespread nature of this problem. In order to expand drug treatment programs, please support this bill, the Drug Addiction Treatment Expansion Act, which will remove the 30-patient limit currently imposed on group practices.

According to the American Medical Association, the current 30-patient cap has limited access to effective substance abuse treatment services. There is a broad consensus according to AMA in the medical community that buprenorphine is a major new tool to fight addiction and does not have a high potential for misuse or fatal overdose. Lifting the cap would enable group practices to treat more patients with this highly effective drug.

There are 49 different, well-respected drug treatment organizations that back this bill, including the American Medical Association, the National Association of State Alcohol and Drug Abuse Directors, the American Psychiatric Association, the American Psychological Association, the Association of American Medical Colleges, the Alliance of Community Health Plans, and the American Medical Group Association.

And then in addition to all these medical groups, are almost all the major anti-drug groups in America, including the Partnership for a Drug-Free America, the Community Anti-Drug Coalitions of America, Drug-Free Schools Coalition, Drug Free America Foundation, the Save Our Society From Drugs, Drug-Free Kids, America's Challenge.

I include this list of 49 groups for the RECORD.

American Medical Association (AMA)

National Association of State Alcohol and Drug Abuse Directors (NASADAD)

American Psychiatric Association (APA)

American Psychological Association (APA)

Association of American Medical Colleges (AAMC)

Alliance of Community Health Plans (ACHP)

American Osteopathic Academy of Addiction Medicine (AOAAM)

American Medical Group Association (AMGA)

American Academy of Addiction Psychiatry (AAAP)

Partnership for a Drug-Free America

Community Anti-Drug Coalitions of America (CADCA)

American Society of Addiction Medicine (ASAM)

American Association for the Treatment of Opioid Dependence (AATOD)

Legal Action Center (LAC)

National Alliance of Methadone Advocates (NAMA)

National Association of Drug Court Professionals (NADCP)

National Council on Alcoholism and Drug Dependence (NCADD)

State Associations of Addiction Services (SAAS)

National Association of Counties (NACO)

Kaiser Permanente

National Association of County and City Health Officials (NACCHO)

National Association of County Behavioral Health Directors (NACBHD)

The College on Problem of Drug Dependence (CPDD)

The Friends of NIDA

Faces & Voices of Recovery

Association for Addiction Professionals of New York

Drug-Free Schools Coalition

Drug Free America Foundation, Inc. (DFAF)

Save Our Society From Drugs (SOS)

Drug-Free Kids: America's Challenge

Advocates for Recovery Through Medicine (ARM)

National Families in Action (NFIA)
National Association of Social Workers (NASW)
Man Alive, Inc.
Institute on Global Drug Policy (IDGP)
International Scientific and Medical Forum on Drug Abuse
Californians For Drug-Free Youth (CADFY)
National Alliance of Advocates for Buprenorphine Treatment, Inc.
Christian Drug Education Center
New Jersey Federation for Drug Free Communities
Wisconsin Families in Action (WFIA)
New York Academy of Medicine (NYAM)
American Academy of Pediatrics (AAP)
Association for Medical Education and Research in Substance Abuse (AMERSA)
Physicians and Lawyers for National Drug Policy (PLNDP)
Entertainment Industries Council, Inc. (EIC)
The City of New York, New York
Providence Breakthrough
International Study Group Investigating Drugs as Reinforcers (ISGIDAR)
Housing Works

I think that we can unanimously support this bipartisan effort to make sure that we have another tool in an adequate way with group practices to make sure that we can treat the scourge of drug addiction and help many family members get back into their families, whether it be the mom, the dad, the kids: and this is the way we can in a bipartisan way and with the other body show that we really are trying to address these difficult questions of drug treatment.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. CAPUANO).

Mr. CAPUANO. Mr. Speaker, I rise to first of all thank the gentleman from Indiana (Mr. SOUDER) for being so dogged on this issue. As we have heard already, this is a relatively simple item. We have people who need treatment. I thought we were here to try to help people seek treatment and to provide it and we have an anomaly in the law that prevents them from getting the treatment that they want and that we want to provide them. This bill fixes that anomaly. It is very simple.

I will fully admit that I did not find this on my own. I found this because a doctor in my own district called me, Dr. Schmitt from Mass General Hospital, who works out of the Charlestown Community Health Center. He treats these people. He wants to be able to treat more. Unfortunately, he works in a group practice and is limited to 30. He will be able to help more people in his own community, which will help the community at large.

This bill is a modest piece of legislation. It simply allows more people to be treated. It is not a panacea, it is not going to fix our drug problem, but it is going to increase access to these treatments I believe that all Americans want us to do for their sons and daughters who have fallen victim to the terrible sins of drug abuse.

Mr. Speaker, I urge the passage of this bill. Again, to repeat, I want to thank the gentleman from Indiana for his tenacious push of this bill.

Mr. DEAL of Georgia. Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. I thank the gentleman for yielding time.

Mr. Speaker, I rise today in support of S. 45, which amends the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices. This bill is the companion legislation to H.R. 869, which I have cosponsored. On that subject, let me acknowledge the sponsorship of H.R. 869 by the distinguished gentleman from Indiana (Mr. SOUDER). As Chair and myself as ranking member of the House Government Reform Subcommittee on Criminal Justice, Drug Policy and Human Resources, we have worked tirelessly on the issue and are pleased to have it considered on the floor today.

In 2000, Congress passed the Drug Addiction Treatment Act, otherwise known as DATA, to expand treatment options for patients addicted to opiates. To address concerns about potential abuse or diversion of the treatment medications, DATA limited the prescription of this drug to 30 patients per physician. Unfortunately, DATA also contained language that imposed a 30-patient cap on group practices in addition to the limit per physician. This resulted in an unintended effect of limiting large group practices such as that of Johns Hopkins Medical Center in my district from meeting the high demand for drug treatment. However, S. 45 would eliminate this disparity by removing the 30-patient limit imposed on group practices, thereby expanding access to treatment for all patients regardless of where they receive their medical care.

S. 45 is especially important for my district which includes Baltimore City. According to the latest data available, Baltimore has the third highest rate per 100,000 people of heroin-related addictions among the 21 metropolitan areas reporting this information. Further, Baltimore's heroin use ranked at 195, which is much higher than the national rate of 37. Heroin abuse counted for the most drug treatment admissions to publicly funded facilities in the city from July 1, 2001, through June 30, 2002. In addition, mortality data indicate that there were 349 heroin/morphine-related deaths in the Baltimore metropolitan area in 2001, more than for any other illicit drug.

I must also note that heroin abuse via injection has contributed significantly to the number of HIV cases in the Baltimore area. S. 45 would greatly reduce these numbers by increasing the availability of treatment medications such as buprenorphine or "bupe" in institutions such as teaching hospitals and community health clinics. Treatment medications such as buprenorphine will allow more people to remain productive while trying to overcome their drug addiction. Experts say that buprenorphine leaves patients more clearheaded than methadone and produces less intense withdrawal symptoms. They point out that in the brain, buprenorphine behaves like heroin but works more slowly and less efficiently than other opiates. In other words, this specific treatment reduces or eliminates withdrawal symptoms without producing euphoria.

When we passed the law in 2000, our legislation limited bupe's availability because we wanted to avoid the creation of prescription-writing mills. It is important to note that this bill will not open prescription-writing mills. Rather, it would expand access so that more physicians in large group practices would be able to prescribe the drug.

I urge my colleagues to support S. 45. This is an important piece of legislation.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I would simply urge my colleagues to support this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and pass the Senate bill, S. 45.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DEAL of Georgia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

NATIONAL ALL SCHEDULES PRESCRIPTION ELECTRONIC REPORTING ACT OF 2005

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1132) to provide for the establishment of a controlled substance monitoring program in each State, as amended.

The Clerk read as follows:

H.R. 1132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National All Schedules Prescription Electronic Reporting Act of 2005".

SEC. 2. PURPOSE.

It is the purpose of this Act to—

(1) foster the establishment of State-administered controlled substance monitoring systems in order to ensure that health care providers have access to the accurate, timely prescription history information that they may use as a tool for the early identification of patients at risk for addiction in order to initiate appropriate medical interventions and avert the tragic personal, family, and community consequences of untreated addiction; and

(2) establish, based on the experiences of existing State controlled substance monitoring programs, a set of best practices to guide the establishment of new State programs and the improvement of existing programs.

SEC. 3. CONTROLLED SUBSTANCE MONITORING PROGRAM.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding after section 399N the following:

"SEC. 399O. CONTROLLED SUBSTANCE MONITORING PROGRAM.

"(a) GRANTS.—

"(1) IN GENERAL.—Each fiscal year, the Secretary shall award a grant to each State with an application approved under this section to enable the State—

"(A) to establish and implement a State controlled substance monitoring program; or

"(B) to make improvements to an existing State controlled substance monitoring program.

"(2) DETERMINATION OF AMOUNT.—

"(A) MINIMUM AMOUNT.—In making payments under a grant under paragraph (1) for a fiscal year, the Secretary shall allocate to each State with an application approved under this section an amount that equals 1.0 percent of the amount appropriated to carry out this section for that fiscal year.

"(B) ADDITIONAL AMOUNTS.—In making payments under a grant under paragraph (1) for a fiscal year, the Secretary shall allocate to each State with an application approved under this section an additional amount which bears the same ratio to the amount appropriated to carry out this section for that fiscal year and remaining after amounts are made available under subparagraph (A) as the number of pharmacies of the State bears to the number of pharmacies of all States with applications approved under this section (as determined by the Secretary), except that the Secretary may adjust the amount allocated to a State under this subparagraph after taking into consideration the budget cost estimate for the State's controlled substance monitoring program.

"(3) TERM OF GRANTS.—Grants awarded under this section shall be obligated in the year in which funds are allotted.

"(b) DEVELOPMENT OF MINIMUM REQUIREMENTS.—Prior to awarding a grant under this section, and not later than 6 months after the date on which funds are first appropriated to carry out this section, after seeking consultation with States and other interested parties, the Secretary shall, after publishing in the Federal Register proposed minimum requirements and receiving public comments, establish minimum requirements for criteria to be used by States for purposes of clauses (ii), (v), (vi), and (vii) of subsection (c)(1)(A).

"(c) APPLICATION APPROVAL PROCESS.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, a State shall submit an application to the Secretary at such time, in such manner, and containing such assurances and information as the Secretary may reasonably require. Each such application shall include—

"(A) with respect to a State that intends to use funds under the grant as provided for in subsection (a)(1)(A)—

"(i) a budget cost estimate for the controlled substance monitoring program to be implemented under the grant;

"(ii) criteria for security for information handling and for the database maintained by the State under subsection (e) generally including efforts to use appropriate encryption technology or other appropriate technology to protect the security of such information;

"(iii) an agreement to adopt health information interoperability standards, including health vocabulary and messaging standards, that are consistent with any such standards generated or identified by the Secretary or his or her designee;

"(iv) criteria for meeting the uniform electronic format requirement of subsection (h);

"(v) criteria for availability of information and limitation on access to program personnel;

"(vi) criteria for access to the database, and procedures to ensure that information in the database is accurate;

"(vii) criteria for the use and disclosure of information, including a description of the certification process to be applied to requests for information under subsection (f);

"(viii) penalties for the unauthorized use and disclosure of information maintained in the State controlled substance monitoring program in violation of applicable State law or regulation;

"(ix) information on the relevant State laws, policies, and procedures, if any, regarding purging of information from the database; and

"(x) assurances of compliance with all other requirements of this section; or

"(B) with respect to a State that intends to use funds under the grant as provided for in subsection (a)(1)(B)—

"(i) a budget cost estimate for the controlled substance monitoring program to be improved under the grant;

"(ii) a plan for ensuring that the State controlled substance monitoring program is in compliance with the criteria and penalty requirements described in clauses (ii) through (viii) of subparagraph (A);

"(iii) a plan to enable the State controlled substance monitoring program to achieve interoperability with at least one other State controlled substance monitoring program; and

"(iv) assurances of compliance with all other requirements of this section or a statement describing why such compliance is not feasible or is contrary to the best interests of public health in such State.

"(2) STATE LEGISLATION.—As part of an application under paragraph (1), the Secretary shall require a State to demonstrate that the State has enacted legislation or regulations to permit the implementation of the State controlled substance monitoring program and the imposition of appropriate penalties for the unauthorized use and disclosure of information maintained in such program.

"(3) INTEROPERABILITY.—If a State that submits an application under this subsection geographically borders another State that is operating a controlled substance monitoring program under subsection (a)(1) on the date of submission of such application, and such applicant State has not achieved interoperability for purposes of information sharing between its monitoring program and the monitoring program of such border State, such applicant State shall, as part of the plan under paragraph (1)(B)(iii), describe the manner in which the applicant State will achieve interoperability between the monitoring programs of such States.

"(4) APPROVAL.—If a State submits an application in accordance with this subsection, the Secretary shall approve such application.

"(5) RETURN OF FUNDS.—If the Secretary withdraws approval of a State's application under this section, or the State chooses to cease to implement or improve a controlled substance monitoring program under this section, a funding agreement for the receipt of a grant under this section is that the State will return to the Secretary an amount which bears the same ratio to the overall grant as the remaining time period for expending the grant funds bears to the overall time period for expending the grant (as specified by the Secretary at the time of the grant).

"(d) REPORTING REQUIREMENTS.—In implementing or improving a controlled substance monitoring program under this section, a State shall comply, or with respect to a State that applies for a grant under subsection (a)(1)(B) submit to the Secretary for approval a statement of why such compliance is not feasible or is contrary to the best interests of public health in such State, with the following:

"(1) The State shall require dispensers to report to such State each dispensing in the State of a controlled substance to an ultimate user not later than 1 week after the date of such dispensing.

"(2) The State may exclude from the reporting requirement of this subsection—

"(A) the direct administration of a controlled substance to the body of an ultimate user;

"(B) the dispensing of a controlled substance in a quantity limited to an amount adequate to treat the ultimate user involved for 48 hours or less; or

"(C) the administration or dispensing of a controlled substance in accordance with any other exclusion identified by the Secretary for purposes of this paragraph.

"(3) The information to be reported under this subsection with respect to the dispensing of a controlled substance shall include the following:

"(A) Drug Enforcement Administration Registration Number (or other identifying number used in lieu of such Registration Number) of the dispenser.

"(B) Drug Enforcement Administration Registration Number (or other identifying number used in lieu of such Registration Number) and name of the practitioner who prescribed the drug.

"(C) Name, address, and telephone number of the ultimate user or such contact information of the ultimate user as the Secretary determines appropriate.

"(D) Identification of the drug by a national drug code number.

"(E) Quantity dispensed.

"(F) Number of refills ordered.

"(G) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

"(H) Date of the dispensing.

"(I) Date of origin of the prescription.

"(J) Such other information as may be required by State law to be reported under this subsection.

"(4) The State shall require dispensers to report information under this section in accordance with the electronic format specified by the Secretary under subsection (h).

except that the State may waive the requirement of such format with respect to an individual dispenser that is unable to submit such information by electronic means.

“(e) DATABASE.—In implementing or improving a controlled substance monitoring program under this section, a State shall comply with the following:

“(1) The State shall establish and maintain an electronic database containing the information reported to the State under subsection (d).

“(2) The database must be searchable by any field or combination of fields.

“(3) The State shall include reported information in the database in a manner consistent with criteria established by the Secretary, with appropriate safeguards for ensuring the accuracy and completeness of the database.

“(4) The State shall take appropriate security measures to protect the integrity of, and access to, the database.

“(f) USE AND DISCLOSURE OF INFORMATION.—

“(1) IN GENERAL.—Subject to subsection (g), in implementing or improving a controlled substance monitoring program under this section, a State may disclose information from the database established under subsection (e) and, in the case of a request under subparagraph (D), summary statistics of such information, only in response to a request by—

“(A) a practitioner (or the agent thereof) who certifies, under the procedures determined by the State, that the requested information is for the purpose of providing medical or pharmaceutical treatment or evaluating the need for such treatment to a bona fide current patient;

“(B) any local, State, or Federal law enforcement, narcotics control, licensure, disciplinary, or program authority, who certifies, under the procedures determined by the State, that the requested information is related to an individual investigation or proceeding involving the unlawful diversion or misuse of a schedule II, III, or IV substance, and such information will further the purpose of the investigation or assist in the proceeding;

“(C) the controlled substance monitoring program of another State or group of States with whom the State has established an interoperability agreement;

“(D) any agent of the Department of Health and Human Services, a State medicaid program, a State health department, or the Drug Enforcement Administration who certifies that the requested information is necessary for research to be conducted by such department, program, or administration, respectively, and the intended purpose of the research is related to a function committed to such department, program, or administration by law that is not investigative in nature; or

“(E) an agent of the State agency or entity of another State that is responsible for the establishment and maintenance of that State's controlled substance monitoring program, who certifies that—

“(i) the State has an application approved under this section; and

“(ii) the requested information is for the purpose of implementing the State's controlled substance monitoring program under this section.

“(2) DRUG DIVERSION.—In consultation with practitioners, dispensers, and other relevant and interested stakeholders, a State receiving a grant under subsection (a)—

“(A) shall establish a program to notify practitioners and dispensers of information that will help identify and prevent the unlawful diversion or misuse of controlled substances; and

“(B) may, to the extent permitted under State law, notify the appropriate authorities responsible for carrying out drug diversion investigations if the State determines that information in the database maintained by the State under subsection (e) indicates an unlawful diversion or abuse of a controlled substance.

“(g) LIMITATIONS.—In implementing or improving a controlled substance monitoring program under this section, a State—

“(1) shall limit the information provided pursuant to a valid request under subsection (f)(1) to the minimum necessary to accomplish the intended purpose of the request; and

“(2) shall limit information provided in response to a request under subsection (f)(1)(D) to nonidentifiable information.

“(h) ELECTRONIC FORMAT.—The Secretary shall specify a uniform electronic format for the reporting, sharing, and disclosure of information under this section.

“(i) RULES OF CONSTRUCTION.—

“(1) FUNCTIONS OTHERWISE AUTHORIZED BY LAW.—Nothing in this section shall be construed to restrict the ability of any authority, including any local, State, or Federal law enforcement, narcotics control, licensure, disciplinary, or program authority, to perform functions otherwise authorized by law.

“(2) NO PREEMPTION.—Nothing in this section shall be construed as preempting any State law, except that no such law may relieve any person of a requirement otherwise applicable under this Act.

“(3) ADDITIONAL PRIVACY PROTECTIONS.—Nothing in this section shall be construed as preempting any State from imposing any additional privacy protections.

“(4) FEDERAL PRIVACY REQUIREMENTS.—Nothing in this section shall be construed to supersede any Federal privacy or confidentiality requirement, including the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 110 Stat. 2033) and section 543 of the Public Health Service Act.

“(5) NO FEDERAL PRIVATE CAUSE OF ACTION.—Nothing in this section shall be construed to create a Federal private cause of action.

“(j) STUDIES AND REPORTS.—

“(1) IMPLEMENTATION REPORT.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, based on a review of existing State controlled substance monitoring programs and other relevant information, shall determine whether the implementation of such programs has had a substantial negative impact on—

“(i) patient access to treatment, including therapy for pain or controlled substance abuse;

“(ii) pediatric patient access to treatment; or

“(iii) patient enrollment in research or clinical trials in which, following the protocol that has been approved by the relevant institutional review board for the research or clinical trial, the patient has obtained a controlled substance from either the scientific investigator conducting such research or clinical trial or the agent thereof.

“(B) ADDITIONAL CATEGORIES OF EXCLUSION.—If the Secretary determines under subparagraph (A) that a substantial negative impact has been demonstrated with regard to one or more of the categories of patients described in such subparagraph, the Secretary shall identify additional appropriate categories of exclusion from reporting as authorized under subsection (d)(2)(C).

“(2) PROGRESS REPORT.—Not later than 3 years after the date on which funds are first appropriated under this section, the Secretary shall—

“(A) complete a study that—

“(i) determines the progress of States in establishing and implementing controlled substance monitoring programs under this section;

“(ii) provides an analysis of the extent to which the operation of controlled substance monitoring programs have reduced inappropriate use, abuse, or diversion of controlled substances or affected patient access to appropriate pain care in States operating such programs;

“(iii) determines the progress of States in achieving interoperability between controlled substance monitoring programs, including an assessment of technical and legal barriers to such activities and recommendations for addressing these barriers;

“(iv) determines the feasibility of implementing a real-time electronic controlled substance monitoring program, including the costs associated with establishing such a program;

“(v) provides an analysis of the privacy protections in place for the information reported to the controlled substance monitoring program in each State receiving a grant for the establishment or operation of such program, and any recommendations for additional requirements for protection of this information;

“(vi) determines the feasibility of implementing technological alternatives to centralized data storage, such as peer-to-peer file sharing or data pointer systems, in controlled substance monitoring programs and the potential for such alternatives to enhance the privacy and security of individually identifiable data; and

“(vii) evaluates the penalties that States have enacted for the unauthorized use and disclosure of information maintained in the controlled substance monitoring program, and reports on the criteria used by the Secretary to determine whether such penalties qualify as appropriate pursuant to this section; and

“(B) submit a report to the Congress on the results of the study.

“(k) PREFERENCE.—Beginning 3 years after the date on which funds are first appropriated to carry out this section, the Secretary, in awarding any competitive grant that is related to drug abuse (as determined by the Secretary) and for which only States are eligible to apply, shall give preference to any State with an application approved under this section. The Secretary shall have the discretion to apply such preference to States with existing controlled substance monitoring programs that meet minimum requirements under this section or to States that put forth a good faith effort to meet those requirements (as determined by the Secretary).

“(l) ADVISORY COUNCIL.—

“(1) ESTABLISHMENT.—A State may establish an advisory council to assist in the establishment, implementation, or improvement of a controlled substance monitoring program under this section.

“(2) LIMITATION.—A State may not use amounts received under a grant under this section for the operations of an advisory council established under paragraph (1).

"(3) SENSE OF CONGRESS.—It is the sense of the Congress that, in establishing an advisory council under this subsection, a State should consult with appropriate professional boards and other interested parties.

"(m) DEFINITIONS.—For purposes of this section:

"(1) The term 'bona fide patient' means an individual who is a patient of the practitioner involved.

"(2) The term 'controlled substance' means a drug that is included in schedule II, III, or IV of section 202(c) of the Controlled Substance Act.

"(3) The term 'dispense' means to deliver a controlled substance to an ultimate user by, or pursuant to the lawful order of, a practitioner, irrespective of whether the dispenser uses the Internet or other means to effect such delivery.

"(4) The term 'dispenser' means a physician, pharmacist, or other person that dispenses a controlled substance to an ultimate user.

"(5) The term 'interoperability' with respect to a State controlled substance monitoring program means the ability of the program to electronically share reported information, including each of the required report components described in subsection (d), with another State if the information concerns either the dispensing of a controlled substance to an ultimate user who resides in such other State, or the dispensing of a controlled substance prescribed by a practitioner whose principal place of business is located in such other State.

"(6) The term 'nonidentifiable information' means information that does not identify a practitioner, dispenser, or an ultimate user and with respect to which there is no reasonable basis to believe that the information can be used to identify a practitioner, dispenser, or an ultimate user.

"(7) The term 'practitioner' means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he or she practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

"(8) The term 'State' means each of the 50 States and the District of Columbia.

"(9) The term 'ultimate user' means a person who has obtained from a dispenser, and who possesses, a controlled substance for his or her own use, for the use of a member of his or her household, or for the use of an animal owned by him or her or by a member of his or her household.

"(n) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated—

"(1) $15,000,000 for each of fiscal years 2006 and 2007; and

"(2) $10,000,000 for each of fiscal years 2008, 2009, and 2010.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. DEAL).

GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to insert extraneous material on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are facing a growing national health care crisis involving the abuse of prescription drugs. Earlier this month, Columbia University released a report that showed that more Americans are now abusing controlled prescription drugs than cocaine, hallucinogens, inhalants and heroin combined. The report also stated the number of Americans who admit abusing prescription drugs nearly doubled to over 15 million from 1992 to 2003, while abuse among teens has tripled. H.R. 1132 will provide immediate assistance to States to help them reduce prescription drug abuse. The bill will provide new funding to help States establish and operate data systems that will allow physicians to detect and prevent prescription drug abuse.

Physicians are on the front line of providing care to patients and understand the need to stop prescription drug abuse before it starts. H.R. 1132 will provide physicians with the tools they need to learn when their patients attempt to obtain multiple prescriptions for addictive drugs. The bill will also allow physicians to continue to provide proper medication therapy to their patients. This is why groups like the American Medical Association, the American Society of Anesthesiologists, and the American Society of Interventional Pain Physicians all support this legislation.

I would like to thank the gentleman from Kentucky (Mr. WHITFIELD), the gentleman from Georgia (Mr. NORWOOD), the gentleman from New Jersey (Mr. PALLONE), and the gentleman from Ohio (Mr. STRICKLAND), members of the Energy and Commerce Committee, for their efforts on this bill. As a result of their hard work, the bill has been strengthened and improved from last year when the House approved similar legislation by voice vote.

Among the many improvements are requirements that drug monitoring programs meet new standards for the security of information handling, availability of information, limitations on access to the database, and procedures to ensure database accuracy.

I would also like to thank the staff of the Energy and Commerce Committee for their hard work and in particular thank Ryan Long and John Ford for their efforts to negotiate a bipartisan agreement on this bill.

H.R. 1132 will allow States to reduce the improper abuse of prescription drugs and ensure that monitoring programs can communicate with each other to stifle interstate drug diversion. I urge my colleagues to support this needed legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 3 minutes.

Prescription pain relievers, stimulants, and other controlled substances play a crucial role in health care; but when misused, these same medicines can be enormously destructive. Some are addictive. Some are life-threatening. Many are both. As these medicines proliferate, so, unfortunately, does the risk of misuse. Over the last decade, use of prescription pain relievers increased by almost 200 percent while the use of stimulants increased by more than 150 percent. An estimated 6.2 million Americans misuse prescription medications for nonmedicinal purposes.

In 1999, a quarter of those taking prescription drugs for nonmedical purposes were new users. In other words, this problem is not just growing, it is exploding. To combat this abuse, physicians and pharmacists need information. This legislation, the culmination of hard work and compromise, as the gentleman from Georgia pointed out, by the gentleman from New Jersey (Mr. PALLONE), the gentleman from Kentucky (Mr. WHITFIELD), the gentleman from Georgia (Mr. NORWOOD) who is here today, and the gentleman from Ohio (Mr. STRICKLAND), will provide the information and coordination necessary to stem the misuse of prescription medicines.

The legislation creates grants to establish State-run programs for prescription monitoring that will be administered and coordinated at the Federal level. Over 20 States currently have such a program in place or are working to develop one. Fighting prescription abuse and preventing nonmedical use is a difficult problem that requires doctors and law enforcement authorities to acquire and share information. For this reason, groups like the American Medical Association and the American Society of Interventional Pain Physicians have lent their endorsement to this bill. I believe this bill is an important step forward in this fight and am pleased to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. I thank my friend for yielding me the time.

Mr. Speaker, this is a bill that we have been working hard to get passed for some time now. I would like to begin by really thanking all the people who have helped us get this bill to the floor. The gentleman from Kentucky (Mr. WHITFIELD) and his staff have just done amazing work. A few years ago, I had a bill like this and the gentleman from Kentucky had a bill like this and it shows that we can work together. We merged our bill and came out with a good product today. I do appreciate the efforts of our Democratic cosponsors, the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Ohio (Mr. STRICKLAND). I would like to also thank Chairman BARTON and Chairman DEAL and Ranking Members DINGELL and BROWN for recognizing the importance of this issue and helping us move forward.

□ 1300

Mr. Speaker, prescription drug abuse in this country is a serious problem. I know it. I have seen it. It is a subject with which I have some experience. I experienced it in Vietnam treating wounded soldiers. I experienced it in my dental practice. Some say there is no such thing as doctor-shopping. That is pure nonsense. I have seen it many times in my own life. I have experienced it personally after a car wreck. I feel strongly that we do not do a good enough job in this country to alleviate pain, and morally and ethically we should. But if we do not deal with this misuse of prescription drugs, we are going to have less pain relief than more.

I also know that the drugs that relieve the most severe pain can always, almost always, be the most dangerous. They can create a dependency. They can be diverted by the abusers. We have a responsibility to find ways to fight drug abuse without in any way dampening the ability of doctors to treat their patients in severe pain.

In fact, the abuse and diversion of prescription drugs is a growing public health issue for this Nation, and we need to recognize it and understand it.

From major cities to the smallest rural towns, we have had to deal with the consequences of prescription drug abuse. Prescription drugs now rank second only to marijuana in abuse. Think about that. Over 31 million American adults and adolescents have at one time abused pain relievers. Prescription medications are emerging as the drugs of choice for abuse by America's teenagers. According to a national study released earlier this year, approximately one in five teenagers, that is over 4 million of our sons and daughters, have abused prescription painkillers. Surveys also show that they abuse them because they can, because access is just simply too easy. Mr. Speaker, those numbers are appalling. But there are human faces behind each headline and report of abuse. Their families and their communities suffer along with those who become addicted.

Those who help divert drugs allow these medications to get into the hands of our children as well as adults who have no medical needs. Most physicians have recognized the tremendous benefit State programs in place today are already having, and they have lined up behind our legislation because we could cross State lines.

In an effort to address the problem of prescription drug abuse, 21 States have implemented prescription drug monitoring programs. They are in place today. But in our case, if we have one in Georgia, right across the river in South Carolina we cannot deal with it. In a prescription drug monitoring program, pharmacists are required to provide a standard set of information to a State database when dispensing a controlled substance. The administrator of the State database can then alert appropriate authorities if data indicates abuse or diversion.

A doctor or a pharmacist can check that database to see if a patient could be abusing a prescription drug. Think about it. There are other great consequences from that. The confidentiality of, and access to, the information is protected to the best of our ability, and we think it has been done very well. We have worked very hard on that to try to get privacy rights. H.R. 1132 is a bill that would allow the Secretary of Health and Human Services to fund more of these State-monitoring programs. In exchange for Federal funding, the States agree to set up these programs if they do not have them or, if they do have them, improve the ones they already have.

But there must be some basic Federal standards. Border States must also be able to communicate. This closes a serious loophole in States' current efforts to fight drug abuse. If an abuser can simply cross a State line to avoid detection, the monitoring system cannot work; or if an abuser is doctor-shopping, as I have seen happen, it is very hard to catch him. Through this bill we are encouraging all the States to get on board with a system that works while respecting States' rights and people's privacy.

I ask and encourage all of our colleagues to join us in supporting this very important bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. STUPAK), on the Committee on Energy and Commerce.

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding me this time.

Since 2001, I have been an original cosponsor of the National All Schedules Prescription Electronic Reporting Act, or NASPER, as we call it; and I rise today in strong support of its passage.

I would like to thank the gentleman from Kentucky (Mr. WHITFIELD), the gentleman from New Jersey (Mr. PALLONE), the gentleman from Ohio (Mr. STRICKLAND), the gentleman from Ohio (Mr. BROWN), and the gentleman from Georgia (Mr. NORWOOD) for their leadership on this issue. I would also like to recognize the valuable input of the stakeholders, including the States and physician groups, including the American Society of Interventional Pain Physicians.

The prescription drug abuse problem is growing at an alarming rate. According to a new report by Columbia University, between 1992 and 2003 the number of people abusing controlled prescription drugs jumped 94 percent. Prescription drugs are now the fourth most abused substance in America, behind only marijuana, alcohol, and tobacco.

"Particularly alarming," the authors write, "is the 212 percent increase in the number of 12 to 17 year olds abusing controlled prescription drugs and the increasing number of teens trying these drugs for the first time."

Today, Congress has taken an important first step towards addressing this huge and growing problem by ensuring that all schedule II, schedule III and schedule IV controlled substances are prescribed safely.

The NASPER Act builds on efforts already under way in many States, including my home State of Michigan, to create electronic monitoring systems. The Government Accounting Office, GAO, found in 2002 that these systems help health care providers ensure that patients are not overprescribed powerful, potentially addictive prescription drugs.

The NASPER Act also addresses the problem of people going to other States to circumvent one State's tracking system. This loophole was also identified by the GAO. The NASPER Act will strengthen the ability of practitioners in other States to contact each other and make sure they are not overprescribing these drugs.

To conclude, Mr. Speaker, this is a good bill. NASPER is more necessary than ever, and now is the time for Congress to pass it and for President Bush to sign it.

Mr. DEAL of Georgia. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky (Mr. WHITFIELD), who is one of the leaders on the drafting of the House counterpart to this legislation.

Mr. WHITFIELD. Mr. Speaker, I thank the gentleman for yielding me this time to give me an opportunity to speak on behalf of H.R. 1132, the National All Schedules Prescription Electronic Reporting Act of 2005.

Mr. Speaker, the gentleman from Georgia (Chairman DEAL) referred to the study at Columbia University noting the increase in abuse of prescription drugs in this country, and I would point out that one of the most disturbing aspects of the report out of Columbia University was the finding that a 212 percent increase in the number of children between the ages of 12 and 17 are now abusing prescription drugs. So with this legislation today, we have the opportunity to combat this problem not only with children but also with adults around the country.

I would also mention that, and I think someone has already referred to this, that 20 States are already operating these programs; and with this legislation we establish a grant program at HHS, but more important than that, we provide some Federal standards on this program with this legislation today. In doing that, we will help foster interstate communication by establishing uniform standards on information collection and privacy protections that together will make it easier for States to share information.

I think it is also important to note that the Committee on Appropriations has already been appropriating money for these types of programs. So with this legislation, the Committee on Energy and Commerce, which has exclusive jurisdiction in this area, we now set the guidelines for this, and I think it will do a tremendous job of improving this program and improving our health care program and giving doctors more information to better treat their patients.

I want to thank the gentleman from Texas (Chairman BARTON) for his leadership, the gentleman from Georgia (Chairman DEAL) for his leadership, and, of course, the gentleman from Georgia (Mr. NORWOOD). We have all been working on this program for 3 years. The gentleman from New Jersey (Mr. PALLONE) has been involved in it for 3 years, the gentleman from Ohio (Mr. STRICKLAND), the gentleman from Ohio (Mr. BROWN). So it truly is a bipartisan effort. It is going to do a tremendous job in improving our health care program. And I would urge every Member of Congress to support this important legislation.

And I want to thank particularly Ryan Long, one of the staffers who has worked on this; John Ford of the minority the staff; and my personal staffer John Halliwell; and the many others who were involved, including Warren Burke, who actually wrote the legislation over at the legislative counsel's office.

So after 3 years, I think we are getting ready to move this bill. We know that the Senate is going to take it up in its entirety. And so we look forward to President Bush signing this legislation and improving our health care system.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PALLONE), a member of the Health Subcommittee.

Mr. PALLONE. Mr. Speaker, I thank the gentleman from Ohio (Mr. BROWN) for yielding me this time.

I rise in strong support of the National All Schedules Prescription Electronic Reporting Act, or NASPER, legislation which has been mentioned that the gentleman from Kentucky (Mr. WHITFIELD) has introduced, along with myself, the gentleman from Georgia (Mr. NORWOOD), and the gentleman from Ohio (Mr. STRICKLAND).

This critical legislation provides an avenue for addressing the illegal diversion and misuse of prescription drugs. Prescription drug abuse constitutes one of the fastest growing areas of drug abuse in our Nation today, affecting people of all areas of our Nation, all ages, and all income levels.

Health care practitioners and pharmacists desperately need electronic prescription drug monitoring systems to ensure that they are only prescribing and dispensing schedule II, III, and IV controlled substances that are medically necessary. This bill provides the resources to States to create and operate State-based drug monitoring programs, allows physicians to access this information, and allows for States to communicate with one another. NASPER would help physicians prevent their patients from becoming addicted to prescription medications and would help law enforcement with criminal investigations in the illicit prescription drug market.

NASPER legislation represents a work of great bipartisan and bicameral effort, and I want to thank the gentleman from Kentucky (Mr. WHITFIELD), the gentleman from Georgia (Mr. NORWOOD), the gentleman from Ohio (Mr. STRICKLAND), obviously the gentleman from Ohio (Mr. BROWN). And I also want to mention my staff person who is no longer with me, Kathy Kulkarni, but worked very hard on this legislation.

In the other body, Senator SESSIONS, Senator KENNEDY, and Senator DURBIN, all of these people have been willing to move forward with this effort both here in the House, and it will be taken up in the Senate to alleviate the prescription drug abuse problem plaguing our Nation.

In addition, I applaud the tremendous leadership of the American Society for Interventional Pain Physicians for working with Congress in this significant public health initiative.

Mr. Speaker, I hope my colleagues will join me in supporting this critical measure to help our health care providers begin to stem the burgeoning problems of prescription drug abuse.

Mr. MARKEY. Mr. Speaker, I rise to express my strong concerns about the lack of adequate patient privacy protections in H.R. 1132—the National All Schedules Prescription Electronic Reporting, NASPER, Act of 2005. H.R. 1132 is being considered on the House Floor under suspension of the rules; therefore it cannot be amended. Because of the absence of urgently needed patient privacy safeguards, I oppose this bill, and I urge my colleagues to vote no on this legislation.

H.R. 1132 is intended to support States' efforts to prevent the abuse of certain controlled substances through the provision of Federal grants to the States for the purpose of establishing and implementing controlled substance monitoring programs. States would use the grants to develop and maintain an electronic database containing information about the type of medication prescribed, quantity dispensed, number of refills, and similar product information. The database also would collect personal information about each patient receiving prescriptions of the covered controlled substances, such as the patient's name, address and telephone number.

The abuse of controlled substances such as oxycontin and amphetamines is a serious problem that plagues many Americans. In response to the seriousness of the problem of prescription drug abuse, more than 20 States, including Massachusetts, have taken steps to prevent such abuse through the establishment of reporting requirements on pharmacists and the creation of drug monitoring databases similar to those contemplated by H.R. 1132. In Massachusetts, for example, pharmacies are required to report the prescriptions they fill for substances in Schedules I and II to the State's department of Public Health.

The problem is that H.R. 1132 does not provide the safeguards that are required to shield patients—the vast majority of whom will be law-abiding citizens receiving medications as part of a legitimate plan of care—from unauthorized disclosure of their personal medical information. Instead, the legislation provides the States broad leeway to establish databases of patients' private medical records with little guidance on the privacy protections that must be in place in order to quality for the grants.

For example, H.R. 1132 permits disclosure of individually-identifiable patient information in the database to a wide range of professionals in addition to practitioners and law enforcement personnel, including any local, State or Federal "narcotics control, licensure, disciplinary or program authority" who can make specific certifications as to the need for access to the information. Any "agent of another state" with a monitoring program approved by the bill also could gain access to patient records in the database, provided that the purpose of the access is for "implementing the state's controlled substance monitoring program." Such easy access puts the privacy of potentially hundreds of thousands of law-abiding citizens at risk of unauthorized disclosure.

Additional privacy protections that are missing from H.R. 1132 include: a requirement that States receiving grants under the terms of the bill periodically notify patients whose information in the database has been lost, stolen or used for an unauthorized purpose; a mandate that States inform patients before dispensing medications covered by the bill's reporting requirement that their name, address, and phone number will be stored in a State-run database, potentially in perpetuity, as a result of the dispensing of the medication; and a requirement at the States purge the database of information about any particular prescription after a limited amount of time.

While I strongly support efforts to prevent the abuse of controlled substances, H.R. 1132 does not contain sufficient guidance to the states on the level of privacy protections that they must provide in the creation and maintenance of the databases authorized under the legislation. Since that breach of 145,000 personal records form the databases of data profiler ChoicePoint in February 2005, 50 million records with private information have been leaked from public companies, hospitals, universities and other organizations. During consideration of this legislation in the Energy and Commerce Committee, I offered a reasonable amendment to incorporate a fundamental privacy protection in the bill. My amendment was supported by the American Conservative Union, the American Psychoanalytic Association, the American Psychiatric Association, the American Association of Practicing Psychiatrists and the Massachusetts Medical Society. While my amendment would have simply required patient notification if their information in these databases were lost, stolen or used for an unauthorized purpose, it was defeated.

Without such fundamental protections for patients, this bill is not worthy of support. This bill—which is opposed by a broad, bipartisan coalition—does not belong on the suspension calendar, where it is not subject to amendment.

I urge my colleagues to oppose H.R. 1132. Send it back to committee, where the needed privacy protections can be added. The important goals of this bill can be accomplished without sacrificing the privacy of law-abiding patients.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I urge the adoption of this bill. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and pass the bill, H.R. 1132, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ENCOURAGING TRANSITIONAL NATIONAL ASSEMBLY OF IRAQ TO ADOPT A CONSTITUTION GRANTING WOMEN EQUAL RIGHTS

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 383) encouraging the Transitional National Assembly of Iraq to adopt a constitution that grants women equal rights under the law and to work to protect such rights.

The Clerk read as follows:

H. RES. 383

Whereas the regime of Saddam Hussein in Iraq systematically violated the human rights and fundamental freedoms of the Iraqi people;

Whereas on April 9, 2003, United States and coalition forces brought an end to the regime of Saddam Hussein;

Whereas on June 28, 2004, an Iraqi interim government was sworn in after sovereignty was restored;

Whereas in Iraq's January 2005 parliamentary elections, more than 2,000 women ran for office and currently 31 percent of the seats in Iraq's National Assembly are occupied by women;

Whereas women lead the Iraqi ministries of Displacement and Migration, Telecommunications, Municipalities and Public Works, Environment, Science and Technology, and Women's Affairs;

Whereas United States Government-sponsored programs are helping Iraqi women develop in multiple areas from literacy, computer and vocational training, to human rights education and election training;

Whereas through grants funded by the United States Government's Iraqi Women's Democracy Initiative, nongovernmental organizations are providing training in political leadership, communications, coalition-building skills, voter education, constitution drafting, legal reform, and the legislative process;

Whereas a 275-member Transitional National Assembly, which is charged with the responsibility of drafting a new constitution, was elected to serve as Iraq's national legislature for a transition period.

Whereas Article 12 of Iraq's Transitional Administrative Law states that "[a]ll Iraqis [are] equal in their rights without regard to gender . . . and they are equal before the law";

Whereas Article 12 of the Transitional Administrative Law further states that "[d]iscrimination against an Iraqi citizen on the basis of his gender . . . is prohibited";

Whereas on May 10, 2005, Iraq's National Assembly appointed a 55-member committee, composed of Assembly members, to begin drafting a permanent constitution for Iraq;

Whereas in visits with legislators and officials of the Government of the United States, Iraqi women have raised perceived limitations on their rights in a current draft of the Iraqi constitution;

Whereas the central principles of a true democracy, "liberty and justice for all", "equal justice under law", and "government of the people, by the people and for the people" apply equally to women;

Whereas, in the words of Supreme Court Justice Sandra Day O'Connor: "[s]ociety as a whole benefits immeasurably from a climate in which all persons, regardless of race or gender, may have the opportunity to earn respect, responsibility, advancement and remuneration based on ability";

Whereas the House of Representatives recognizes the commitment and dedication of the United States to ensure that the full rights of women are granted in the Iraqi constitution;

Whereas the House of Representatives recognizes the need to affirm the spirit and free the energies of women in Iraq who have spent countless hours, years, and lifetimes working for the basic human right of equal constitutional protection; and

Whereas the House of Representatives recognizes the risks Iraqi women have faced in working for the future of their country and admire their courageous commitment to democracy: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends United States and coalition forces in liberating the Iraqi people from the repressive regime of Saddam Hussein and their ongoing efforts in support of the freedom and stability of Iraq;

(2) recognizes the progress achieved by the Iraqi people toward the establishment of a representative democratic government;

(3) recognizes the importance of ensuring women in Iraq have equal rights under the law and in society;

(4) recognizes the commitment and dedication of the Administration to ensuring the full rights of women are granted in the Iraqi constitution;

(5) strongly encourages Iraq's Transitional National Assembly to adopt a constitution that grants women equal rights under the law and to work to protect such rights; and

(6) pledges to support the efforts of Iraqi women to fully participate in a democratic Iraq.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

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GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this important resolution. It supports the full participation of Iraqi women in the political, in the economic, and in the social life of a free Iraq on the path to democratic governance.

Today Iraq stands in stark contrast to Iraq under Saddam Hussein. While Saddam Hussein's brutal regime indiscriminately slaughtered Iraqis, the women were among the most vulnerable. The notorious Fedayeen beheaded women in public, dumping their severed heads at their families' footsteps. The regime used widespread rape to extract confessions from the detainees. Saddam Hussein's legacy of terror knew no boundaries.

In assessing the progress achieved and the U.S. contributions to the empowerment of Iraqi women, I look to leaders such as Dr. Khuzai, who served as a member of the Iraqi Governing Council and the National Council on Women. After being prisoners in their own country for 35 years, Dr. Khuzai said, "For the Iraqi women, the morale is so high that you can't even understand it unless you go and see. We will be grateful forever."

I was fortunate, Mr. Speaker, to have the opportunity to visit Iraq as part of an historic all-female congressional delegation. We met with women from all sectors and all educational backgrounds, and the message we heard from all of these women was very clear, that they want a say, they want a role, they want to participate, and they want us to help them get there.

To achieve this end, the U.S. is helping Iraqi women reintegrate themselves into Iraqi society and to the outside world. The administration embarked on the Iraqi Women's Democracy Initiative to train Iraqi women in the skills and practices of democratic public life. It also established the U.S. Iraqi Women's Network, helping to mobilize the private sector in the United States and to link important resources here to critical needs on the ground.

The administration continues to provide assistance and sponsors programs that help Iraqi women develop in multiple areas, from literacy programs and vocational training to human rights education and election training.

Recently we saw the fruits of our efforts as countless Iraqi women went to the polls to have their voices heard.

The resolution that we are considering here today, Mr. Speaker, highlights the many advances of the status of women in Iraq since Saddam's deposition, and particularly the fact that women today lead the Iraqi Ministries of Displacement and Migration, Telecommunications, Municipalities and Public Works, Environment, Science and Technology, and Women's Affairs.

However, as with every incipient democracy, particularly in a country that does not have a history of democratic governance to pull from or a regional basis of cooperation or comparison, much more needs to be done. It is, therefore, important for the United States Congress to express support for the Iraqi constitutional process and share the wisdom of our own experience by underscoring the importance of securing equal rights for women in Iraq, in their bill of rights, and the overall constitutional framework.

This resolution does just that, Mr. Speaker, and I thank my colleagues, the gentlewoman from Texas (Ms. GRANGER) for introducing this important measure, and all of our other colleagues who have worked on this, and I highlight the assistance of the gentleman from Illinois (Chairman HYDE), the gentleman from California (Ranking Member LANTOS), and the leadership in bringing it to the floor today.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I rise in strong support of this resolution, and I yield myself such time as I may consume.

Mr. Speaker, I first would like to congratulate and commend my good friend, the gentlewoman from Texas (Ms. GRANGER), our distinguished colleague, for introducing this important resolution. I also want to commend the chairman of our Subcommittee on the Middle East, the gentlewoman from Florida (Ms. ROS-LEHTINEN), my good friend, for assisting in this very important debate on the Republican side.

Mr. Speaker, we have all read with dismay reports of Iraqi constitutional drafts that diminish and derogate women's rights to the dictates of clerics and religious law. Our country and the other democratic countries in the coalition that continue to have their men and women fighting for freedom in Iraq cannot now remain silent as some seek to oppose equal rights for women in Iraq.

While the Iraqi people must decide the proper role of religion in their society, we have been disturbed to hear reports that some are proposing that Iraqi law would be governed by the Islamic religious code. A country, Mr. Speaker, can be religious, yet reflect internationally accepted norms.

When the new Afghan Constitution was adopted, although it is far from perfect from a Western perspective, it does prohibit discrimination against any citizen of Afghanistan, including, of course, women. The Afghan Constitution provides that women and men have equal rights before the law. The Afghan Constitution also endorses Afghanistan's international obligations, which protect women's rights under uniform international standards, all this, Mr. Speaker, in a country that is dramatically more conservative than Iraq.

Now, fortunately, drafts of constitutions are not final text, and I have every faith that the Iraqi people will allow good sense to prevail on this issue before the final text is submitted 2 weeks from now.

Similar issues arose about the role of religion during the drafting of the Transitional Administrative Law in Iraq last year. There was, for example, considerable concern about the prospect that Islamic law would be enshrined as the primary source of Iraqi legislation. Nevertheless, cooler heads prevailed, and the Transitional Administrative Law which emerged was balanced and liberal in its nature.

In fact, as the resolution offered by our colleague, the gentlewoman from Texas (Ms. GRANGER), points out, the Transitional Administrative Law contains an article ensuring Iraqis' equal rights, prohibiting discrimination, without regard to gender. I have faith that Iraq's Founding Fathers and Founding Mothers next month will affirm that wisdom from the Transitional Administrative Law.

But I think it is important, Mr. Speaker, that our House of Representatives, speaking on behalf of the American people, affirm that wisdom as well. It is crucial that all Iraqis know that our commitment to their freedom and equality is unwavering and unqualified by religion, race, and gender.

That is why I support, Mr. Speaker, this resolution very strongly, and I urge all of my colleagues to do likewise.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 7 minutes to the gentlewoman from Texas (Ms. GRANGER), the author of this resolution.

Ms. GRANGER. Mr. Speaker, I have often had the opportunity to speak on this floor on important issues, but none more important than this, because today I am honored to sponsor this resolution in support of the rights of all Iraqis.

It has been said that a nation reveals its character by the values it upholds. In planting the seed of democracy in the deserts of the Middle East, the United States and our allies hope for a rich harvest of freedom for the people of Iraq. Having removed the dictator, the allies have moved to put Iraqis in control of Iraq. Now, as they draft and ratify their Constitution, we will indeed see the character of a new Iraqi nation revealed through the principles it chooses to uphold.

That is why I urge the Iraqi Transitional National Assembly to create a government worthy of its people, a government that represents every Iraqi from every corner of Iraq, be they Sunni or Shia, rich or poor, male or female.

Human rights are not a privilege granted by the few, they are a liberty entitled to all, and human rights, by definition, include the rights of all humans, those in the dawn of life, the dusk of life, or the shadows of life.

Mr. Speaker, the women of Iraq have waited long enough. Having lived in the shadows of Saddam's Iraq, they are eager for the sunlight of a new nation and a new way of life. I have met these women, and I have felt their courage. I have spoken to them, and, more important, I have listened to them. I have heard more than their words, I have heard their dreams; dreams of a peaceful nation where they can raise their children and make decisions on their own and take part in society.

Mr. Speaker, a free nation must be based on human rights. Just as our Founding Fathers built a new Republic based on life, liberty, and the pursuit of happiness, so, too, the Iraqi nation must choose to uphold the values of human rights for all. Indeed, most Iraqis seem to want this.

In the run-up to the historic January 30 election, Iraqis insisted that every third name on the ballot had to be that of a woman. The result? Upon election, 31 percent of the Transitional National Assembly's membership was female, nearly double the membership of the U.S. Congress.

By any definition, this would be quite an achievement. But to understand where Iraq's women are, consider where they have been. To know the horrors of Saddam, look at how Saddam treated the most vulnerable. In Saddam's Iraq, women were abused and assaulted, beaten and battered, raped and relegated to second-class citizens. In Saddam's Iraq, women could not own property; they were property.

Truly, Saddam Hussein was a criminal crying out for international intervention. And these are people, the Iraqi women, crying out for freedom.

History will record that Saddam got what he deserved. The question is, will Iraqi women get what they deserve, what they have earned, what they demand?

When I met with 20 of these women just weeks before the January election, they explained that because they were women, they were virtual targets of the people trying to stop the elections, because they were running for office. More than half had had members of their families kidnapped or assassinated. Almost all had to have bodyguards. Many had been in exile for years because of their beliefs, their education, and their choice to have a career. Yet they persevered.

They persevered because they knew their election was proof that freedom works, and they persevered because they knew that the more women elected, the less the chance of a Saddam-style policy toward women would ever again come to Iraq.

□ 1330

Proudly, defiantly, and amazingly, these women had the courage of their convictions and changed history. Some of the very women we met with before the election who were so fearful of the outcome and proposed violence led their village walking miles to cast their votes.

Then weeks after that vote, I led another delegation to join 150 Iraqi women who were leaders in their communities and their sects who came to a conference to hear us talk about the principles and practices of democracy.

Women all over Iraq were given the opportunity to apply to be a part of that conference. Do the women of Iraq want democracy? Well, 1,200 of them signed applications hoping to be chosen for this conference. That is right: 1,200 Iraqi women put their names in a document stating who they were and where they lived, that they wanted to learn about democracy from the United States of America.

But while the election of so many Iraqi women last January gives us great hope, recent reports about the drafting of the constitution give us great concerns. With so many reports and rumors, perhaps it is best to take inventory of what we know, as well as what we fear.

We know that Islam allows for rights for women, but we fear the interpretation of religious law might unfairly discriminate against women. We know that a policy of equal rights for women in the constitution would safeguard Iraqi women today and for generations to come, but we fear that extremist elements might prevent the passage of such a constitutional protection.

And we note that the surest way to limit the future and the progress of Iraq is to limit the rights and protections of women. But we fear that women may not be allowed even basic rights on matters of marriage, divorce, economic opportunity, or political involvement.

Mr. Speaker, the people of Iraq deserve better and the women of Iraq demand more. Let me be blunt. American troops have come so far, sacrificed so much, persevered so long to see the tyranny of an unlawful dictator replaced by the tyranny of legal oppression for women. A free Iraq must be free for all Iraqis.

A democracy in the Middle East must be more than a democracy in name only; it must live out its principles. Freedom is not something that can be limited or divided or restricted. It applies to anyone and everyone anywhere and everywhere.

So I put forward this resolution and urge my colleagues not to just stand with me but to stand with the women of Iraq, stand with women everywhere who desire the freedom that we fought for and continue to fight for in Iraq.

Those brave women are writing bold new chapters in the story of freedom. In doing so, they are part of an ever-growing, ever-evolving story.

Mr. LANTOS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. TAUSCHER), my good friend and distinguished colleague, coauthor of this resolution.

Mrs. TAUSCHER. Mr. Speaker, I rise to voice my deep concern over the rights of women in Iraq and urge adoption of this resolution. I am very pleased to join my colleagues, the gentlewoman from Texas (Ms. GRANGER) and the gentleman from Nebraska (Mr. OSBORNE) who are my cochairs in the Iraqi Women's Caucus.

I know they share my unwavering commitment to ensuring the success of our efforts to stabilize Iraq. As we speak, the Iraqi Constitution is being drafted, and preliminary drafts are being circulated around Baghdad and in the United States.

This is the real test of our efforts to bring democracy and stability to Iraq. My colleagues and I have spent countless hours in Iraq, in Jordan prior to the January 30 election, meeting with women candidates, and here in Washington meeting with some of the winners of Iraqi women whose rights are now apparently under attack from extremists in their own country.

The attempts by fundamentalists to insert Sharia, a restrictive form of Islamic law, into the constitution, represents an aggressive and intolerable assault on women's rights. The current transitional administrative law states that Islam is to be considered a source of legislation, but not the only source, and that discrimination against an Iraqi citizen of gender is prohibited.

But current drafts of the new constitution provide legal rights for women as long as they do not violate Islamic law. Many Iraqi women fear, as we do, that enshrining Sharia would sharply curb women's rights in matters such as divorce, family inheritance, travel, professional opportunities, and other areas.

One draft of the constitution also lifted the requirement that at least 25 percent of the Iraqi parliament be women. We cannot allow these drafts to be the final word on August 15. We cannot bring liberty and freedom to only half of Iraq's population, the men.

We owe to it the American men and women in uniform who have lost their lives and to the people of Iraq that we do all we can to protect women's rights in that country.

Today we have an opportunity to demonstrate that Americans will stand strong in support of Iraqi women and their efforts to fully participate in their new democracy. I urge my colleagues to support this resolution.

Mr. LANTOS. Mr. Speaker, I yield as much time as she might consume to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding me the time and for his extraordinary leadership on human rights for people around the world.

And I know that he joins his voice, his strength, his wisdom in working with the Iraqi Women's Caucus to do absolutely everything to protect the women in Iraq.

Today's USA news report has an article that states that the government may designate Islam Sharia as a main source of legislation in the country according to a draft. This is incredibly troubling that the rights of women may be turned back. It would be a terrible step for the women if their rights are actually restricted under this new constitution.

This resolution which we are sending to the government is tremendously important, and I would like to be associated with the comments on both sides of the aisle.

Just last week, we met with women leaders from Iraq. Two of them were official members of the government, and they were major leaders in their communities. They expressed their tremendous concern, and they appealed to us to keep their names confidential, showing the fear that they feel for retaliation.

I have corresponded with several Iraqi women. One was murdered, another one had a tremendous threat on her life, and they are working with incredible strength for their country and for the rights of their families.

I would say that any country that protects their women is a stronger country, and Iraq will be a stronger country if women are able to preserve their position. One of the women we met with was a professional, and she had been denied her job.

Under Sharia, women will lose many of the rights that they already have. As one of them said to me, and I quote: "It is horrible. We are concerned. You must do something. The time is now."

August 15 they will be coming forward with the final draft. They will be voting in October, and we must move forward. Just yesterday, along with 40 of my colleagues, I sent a letter to President Bush urging him and the State Department to do everything they possibly can to encourage the drafters of the constitution to include specific rights for women, thereby ensuring their equality and their full participation in the new Iraq country.

Under the former regime, they were educated, participated in the workforce, and played a role in the government. And since the end of the Saddam Hussein dictatorship, women have served and are serving in the national assembly as cabinet members and in local governments across their country.

I have had the opportunity twice to visit Iraq, to visit our soldiers, to meet with officials, and always to meet with women leaders. They are concerned. They are working hard, and with like-minded men are trying to preserve their role.

If they lose their position in the constitution, it will be incredibly difficult to reverse that. So it is critically important, and it would be a tragic irony if women now began to lose ground. There might be full participation and equal treatment under the law for women in Iraq, and I know that my colleagues on both sides of the aisle, I hope they will join the Women's Iraqi Caucus in expressing our strong support and solidarity with the women of Iraq as they fight for the rights to which they are entitled.

I would just like to close that it would be really a tragedy beyond words if women lose their standing in the constitution and lose the firm grounded protection of a constitution. This is critically important. I urge all of my colleagues to join us in supporting this important resolution.

Mr. Speaker, I include the following for the RECORD:

[From USA Today staff and wire reports.]

ONE DRAFT OF IRAQ'S CONSTITUTION MAKES ISLAM MAIN SOURCE

BAGHDAD.—Framers of Iraq's new constitution are considering designating Islam as the main source of legislation in the country, according to a draft published Tuesday in the government newspaper.

The draft, which appeared in the Baghdad newspaper Al-Sabah, further states that no law shall be approved that contradicts "the rules of Islam," raising worries that the new government will restrict the role of women in society.

The constitution could change significantly, however, before the parliament votes on it by Aug. 15.

"There are several drafts of the constitution out there," U.S. Ambassador Zalmay Khalilzad said in a statement Tuesday.

"I have seen one draft of the constitution in one of the newspapers today. There are other drafts, as well. Now is the time to produce a single draft by the commission," he said.

The draft published Tuesday seems to reflect the views of conservative members of the constitution committee.

"Islam is the official religion of the state and is the main source of legislation," the draft reads. "No law that contradicts with its rules can be promulgated."

The document also grants the Shiite Arab religious leadership in the holy city of Najaf "independence for its guiding role" in recognition of its "high national and religious symbolism."

In Washington, 41 members of the House of Representatives wrote a letter to President Bush urging him to support provisions in the constitution that would protect women's rights. "It would be a terrible step backward for the women of Iraq if their rights are actually restricted under the new constitution," said Rep. Carolyn Maloney, D–N.Y., in a press release.

The letter points out that the constitution would replace the transitional administrative law, which provides for equal treatment under the law and set a requirement that 25% of the seats in the National Assembly go to women.

During the U.S.-run occupation, which ended June 28, 2004, key Shiite and some Sunni politicians sought to have Islam designated as the main source of legislation in the interim constitution, which went into effect in March 2004.

However, U.S. Administrator Paul Bremer blocked the move. He said that Islam would be considered "a source"—but not the only one. At the time, prominent Shiite politicians agreed to forgo a public battle with Bremer and raise the issue again during the drafting of the permanent constitution.

The drafting committee met Tuesday to discuss federalism, another contentious issue, according to Sunni Arab member Mohammed Abed-Rabbou.

He described the discussion as "heated" and said no agreement was reached.

Parliament speaker Hajim al-Hassani urged Iraqi media to refrain from publishing supposed texts unless they were released by the constitutional committee.

The Sunnis on the committee agreed only Monday to resume work on the committee after they walked out to protest the assassination of two of their colleagues this month.

CONGRESS OF THE UNITED STATES,
Washington, DC, July 25, 2005.

Hon. GEORGE W. BUSH,
President,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our concerns with the Iraqi constitution currently being drafted by members of a constitutional drafting committee, and our support for provisions that we hope will be included to guarantee the rights of Iraqi women.

As you know, the National Assembly is scheduled to approve a draft constitution by August 15, 2005, with a national vote by October 15, 2005. This constitution will replace the Transitional Administrative Law (TAL) which provides for equality of all Iraqis regardless of gender and sets the goal of providing Iraqi women with 25% of the seats in the transitional assembly. We strongly believe that Iraqi women must have every opportunity to participate in all levels of government so that they can ensure that any laws passed by the Iraqi government will not take away their rights or relegate them to second-class status.

It is our understanding that the current draft of the constitution contains provisions, such as equal rights for women unless those rights contradict Shari'a law, that would weaken language contained in the TAL. Additionally, we understand that the draft would phase out the 25% requirement of parliamentary seats that must be held by women. Iraqi women are playing a critical role in the future of Iraq after the end of Saddam Hussein's tyranny. They should not be denied their rightful place in society by those who would seek to have the rights of women stripped away.

Therefore, we respectfully request that you do all that you can to demonstrate the United States' support for equality for all Iraqis regardless of gender, and help the Iraqi people as they continue to establish a new society and government that recognizes the rights of all Iraqi citizens. Iraqi women admirably have served in all levels of government including in the National Assembly and as Cabinet Ministers as well as the private sector. We must continue to show our strong support for Iraqi women as they fight for equality.

Thank you for your attention in this matter. We look forward to your reply.

Sincerely,

Carolyn B. Maloney, Darlene Hooley, Lynn C. Woolsey, José E. Serrano, Rosa L. DeLauro, Bernard Sanders, Tammy Baldwin, Betty McCollum, Jim McDermott, Raúl M. Grijalva, Eddie Bernice Johnson, Lois Capps, Frank Pallone, Jr., Shelley Berkley, Jerrold Nadler, Nita Lowey, Nydia M. Velázquez, Janice Schakowsky, Ellen O. Tauscher, Thomas H. Allen, Sam Farr, Mike Honda, Barbara Lee, Jim McGovern, Cynthia McKinney, Anna G. Eshoo, Zoe Lofgren, Julia Carson, Carolyn McCarthy, Nancy L. Johnson, Corrine Brown, Sheila Jackson Lee, Maxine Waters, Debbie Wasserman Schultz, Diane E. Watson, Susan A. Davis, Steve Rothman, Jane Harman, Earl Blumenauer, Anthony D. Weiner.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 5 minutes to the gentleman from Nebraska (Mr. OSBORNE), who has been a true leader on Iraq issues, on democratic governance, on women's issues in Iraq.

Mr. OSBORNE. Mr. Speaker, H. Res. 383 encourages the transitional assembly of Iraq to adopt a constitution that grants women equal rights. It was authored by the gentlewoman from Texas (Ms. GRANGER) and also the gentlewoman from California (Mrs. TAUSCHER) and myself, who are cochairs of the Iraqi Women's Caucus.

Mr. Speaker, I would like to say just a word about the Iraqi Women's Caucus. This was formed a couple of years ago by former Representative Jennifer Dunn and myself, with the belief that Iraqi women are critical to holding the social fabric of Iraq together and bringing Sunnis and Kurds and Shias together.

And as we have talked to them, we found that this is the case, that this is true. Because many of them are married. Sunnis are married to Shias and they have other sects within their families. And they consistently tell us that the divisions are not what people think in the United States.

But we think that women are the key and probably as important as guns and bullets and tanks and helicopters to achieving a peaceful resolution in Iraq. Some of us visited Jordan in March. And we met with 150 Iraqi women near the Dead Sea. These women drove from many points within Iraq. Two groups were shot at on the way, which shows you the resolution that they had, because they continued on their journey.

We visited with many women's groups from Iraq, in the United States and Iraq, as we have traveled. I visited with prime minister al-Jaafari in Iraq in March. And I asked him this question: I said, will you give Iraqi women a prominent role in the government? And the answer that he gave me was, yes, that he would do that, that he would ensure that.

So as many people are aware, one-third of the 275 seats in the transitional national assembly have been given to women, which is a very good thing. But on May 10 of this year, 55 members of the national assembly were chosen to draft a permanent constitution for Iraq by August 15.

Of that 55, approximately 10 or 11 were women, which again does not sound too bad. But as we met with Iraqi women last week, they said the women that were chosen were among the most conservative, among the most fundamentalist group within the national assembly, and therefore they were really concerned about what was happening in regard to Sharia.

And so as everyone knows, Sharia is Islamic law, and this was what was written in a draft of the constitution that was given to us by these women. And in the eighth article this is what it says: "The government vouches for women's duties toward family and their work in the society, equalizing her to men in all political, educational, social and economic fields." So far so good.

All sounds good. But then there is this last phrase, without infracting Islam, which means that whatever rights a women has cannot be in contradiction to Islamic law. This was the thing that concerned these women so much.

As was mentioned earlier, one of those women who came here was a judge, who had been installed on the court, but was removed from her judgeship because of Sharia.

□ 1345

There is great concern at this point. So this resolution urges Iraqi leaders to accord Iraqi women equal rights under the Constitution.

Let me just close, Mr. Speaker, by saying this: Iraqi women as we meet with them are really concerned about security. We do not want to minimize that. We do not want to pretend that Iraq is a real safe place. They are really concerned about the infrastructure, and there are some problems in the infrastructure. But when asked if they would prefer life under Saddam or if they would prefer that the United States pull out, they will almost unanimously say things like this: Things are better now. We see help for the future. We have a hope. We see a brighter future. Please do not leave now. Thank you for removing Saddam.

So even though things are difficult, there is hope. And as long as you have hope, we think that there is a brighter future. And I think that women are truly a major part of whatever resolution we may receive in Iraq that would be of an optimistic nature.

Mr. LANTOS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, may I just say the enormous sacrifices paid by the American people to liberate Iraq both in blood and in treasure were not made to create a society that discriminates against women. Our voice is clear and united. We want the women of Iraq to have equal rights with the men of Iraq in that new unfolding and developing society. I urge all of my colleagues to support this resolution.

Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield the balance of my time to my good friend, the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I thank the gentlewoman for yielding me time. I congratulate the gentlewoman from Texas (Ms. GRANGER) and the gentlewoman from Florida (Ms. ROS-LEHTINEN), the gentlewoman from California (Mrs. TAUSCHER) and the gentleman from Nebraska (Mr. OSBORNE) for their focus on this legislation.

This is a very exciting time. I know it is a contentious time. I just returned from my ninth visit to Iraq yesterday morning. My purpose in going was to meet with the drafters of the new Constitution, to express our gratitude for their work and appreciation for their bravery, but also to make sure they realize that they have an awesome opportunity to a create successful country if they recognize that when they move toward democracy, it has to include certain vital components.

Democracy obviously involves majority rule. That comes easy to folks. They get majority rule but they also need to recognize the importance of minority rights. And right along with that is the fact that democratic countries that succeed are those democracies that recognize women are an equal part.

When you look at the gross domestic product of the Arab nations, it is astounding to recognize when you take in aggregate their total GNP and in spite of controlling nearly two-thirds of the world's oil, they still have a collective gross domestic product only equal to Spains'.

The message is clear, when you cut out half of your populace, you are not going to prosper and grow. So it is in the self-interest of every man and woman in Iraq to make sure women have an equal role in the activities of their country.

When I met this past weekend with Iraqi women in Amman and in Baghdad, and met with men and women who were participating in their constitutional convention, it was clear they feel like they are the Jeffersons and the Madisons and the Adamses and the Franklins and the Shermans. They know they have this unbelievable opportunity to shape a great nation.

It is right for our country to encourage them to do the right thing, to tell them we know what has helped us succeed. But in the end, it is their country and they will decide what is in their best interest.

They are going to decide, but if they want to succeed, and Lord knows we want them to, they need to make sure that along with guaranteeing majority rule and minority rights, right along with that there is the very real need to guarantee women are not only protected as equal but have an active role in their government.

Last June when the President demanded we transfer power to the Iraqis, there were many who did not agree with him. We took this American face and transferred it to Iraqis, and Iraqis began to be in charge of their own country. They had their election this January. More Iraqis participated in their election on a percentage basis than Americans participate in their own elections.

And now they will met this August 15 deadline. They have assured me they are going to have their constitutional draft done, they are going to have their referendum on the 15th of October, and elect their new government in December. They will succeed.

What is astounding is in spite of the bombings, in spite of the chaos, it has not deterred the Iraqis from moving their country forward.

I am going to conclude my remarks by again thanking the gentlewoman from Texas (Ms. GRANGER) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) for their work, and the gentlewoman from California (Mrs. TAUSCHER), and the gentleman from Nebraska (Mr. OSBORNE) for his work.

I believe Iraqis know the importance of what they are doing, and that this little nudge from us is important, but ultimately they get it. They recognize women have a huge role to play in this potentially powerful country, with 10 percent of the world's oil, with all the water that a Middle East country could want. God bless our country, and God bless our new fledgling democracy in Iraq.

Mrs. BIGGERT. Mr. Speaker, I rise today in support of House Resolution 383, to encourage the Transnational Assembly of Iraq to adopt a constitution that grants women equal rights under the law and works to protect such rights.

Frankly, it's no secret that the women of Iraq faced horrific times under the dictatorship of Saddam Hussein. Women confronted terror on a daily basis and far too often lost their loved ones to the brutality of the regime.

Since the fall of Saddam's regime and the emergence of a new democratic government, the women of Iraq have made tremendous progress in reclaiming their rightful place in society. These women have overcome unimaginable obstacles and deserve our ongoing support as they work to build a new democracy.

I have been fortunate enough to have met with many Iraqi women during two visits to Jordan and Iraq this year. Despite finding themselves in a dangerous environment, their dedication to achieving a democracy is inspirational.

The elections that were held in Iraq were only the first step towards democracy and equality. Thankfully, the transitional government was committed to including women in the election process and ultimately decided that every third name on each list would be a woman's name. As a result, 31 percent of those elected to the Transnational Assembly of Iraq are women. These elected women are participating in the writing of the constitution which has a deadline of completion of August 15th.

But the women of Iraq continue to face obstacles. A current hurtle is whether or not equal rights for women are included in the Iraqi Constitution. Their inclusion or omission will determine the future of Iraqi women's rights under the law, status in society, and role in the government. Iraqi women understand this and want their rights clearly defined in the constitution. They realize that unless their rights are firmly established, their future is not ensured and it will be far too easy to strip away these rights. Women constitute 60 percent of the Iraqi population. Leaving the majority of Iraqis out of the Constitution will not only prove detrimental to Iraqi women, but to the future health and prosperity of Iraqi society.

I urge my colleagues to support this resolution, and I strongly encourage the Transnational Assembly of Iraq to grant women equal rights under the law.

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 383.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. ROS-LEHTINEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONFERENCE REPORT ON H.R. 6, ENERGY POLICY ACT OF 2005

Mr. BARTON of Texas (during consideration of H.R. 383) submitted the following conference report and statement on the bill (H.R. 6), an act to ensure jobs for our future with secure, affordable, and reliable energy.

CONFERENCE REPORT (H. REPT. 109-190)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6), to ensure jobs for our future with secure, affordable, and reliable energy, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Energy Policy Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—ENERGY EFFICIENCY

Subtitle A—Federal Programs

Sec. 101. Energy and water saving measures in congressional buildings.
Sec. 102. Energy management requirements.
Sec. 103. Energy use measurement and accountability.
Sec. 104. Procurement of energy efficient products.
Sec. 105. Energy savings performance contracts.
Sec. 106. Voluntary commitments to reduce industrial energy intensity.
Sec. 107. Advanced Building Efficiency Testbed.
Sec. 108. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.
Sec. 109. Federal building performance standards.
Sec. 110. Daylight savings.
Sec. 111. Enhancing energy efficiency in management of Federal lands.

Subtitle B—Energy Assistance and State Programs

Sec. 121. Low income home energy assistance program.
Sec. 122. Weatherization assistance.
Sec. 123. State energy programs.
Sec. 124. Energy efficient appliance rebate programs.
Sec. 125. Energy efficient public buildings.
Sec. 126. Low income community energy efficiency pilot program.
Sec. 127. State Technologies Advancement Collaborative.
Sec. 128. State building energy efficiency codes incentives.

Subtitle C—Energy Efficient Products

Sec. 131. Energy Star program.
Sec. 132. HVAC maintenance consumer education program.
Sec. 133. Public energy education program.
Sec. 134. Energy efficiency public information initiative.
Sec. 135. Energy conservation standards for additional products.
Sec. 136. Energy conservation standards for commercial equipment.
Sec. 137. Energy labeling.
Sec. 138. Intermittent escalator study.
Sec. 139. Energy efficient electric and natural gas utilities study.
Sec. 140. Energy efficiency pilot program.
Sec. 141. Report on failure to comply with deadlines for new or revised energy conservation standards.

Subtitle D—Public Housing

Sec. 151. Public housing capital fund.
Sec. 152. Energy-efficient appliances.
Sec. 153. Energy efficiency standards.
Sec. 154. Energy strategy for HUD.

TITLE II—RENEWABLE ENERGY

Subtitle A—General Provisions

Sec. 201. Assessment of renewable energy resources.
Sec. 202. Renewable energy production incentive.
Sec. 203. Federal purchase requirement.
Sec. 204. Use of photovoltaic energy in public buildings.
Sec. 205. Biobased products.
Sec. 206. Renewable energy security.
Sec. 207. Installation of photovoltaic system.
Sec. 208. Sugar cane ethanol program.
Sec. 209. Rural and remote community electrification grants.
Sec. 210. Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, and other commercial purposes.
Sec. 211. Sense of Congress regarding generation capacity of electricity from renewable energy resources on public lands.

Subtitle B—Geothermal Energy

Sec. 221. Short title.
Sec. 222. Competitive lease sale requirements.
Sec. 223. Direct use.
Sec. 224. Royalties and near-term production incentives.
Sec. 225. Coordination of geothermal leasing and permitting on Federal lands.
Sec. 226. Assessment of geothermal energy potential.
Sec. 227. Cooperative or unit plans.
Sec. 228 Royalty on byproducts.
Sec. 229. Authorities of Secretary to readjust terms, conditions, rentals, and royalties.
Sec. 230. Crediting of rental toward royalty.
Sec. 231. Lease duration and work commitment requirements.
Sec. 232. Advanced royalties required for cessation of production.
Sec. 233. Annual rental.
Sec. 234. Deposit and use of geothermal lease revenues for 5 fiscal years.
Sec. 235. Acreage limitations.
Sec. 236. Technical amendments.
Sec. 237. Intermountain West Geothermal Consortium.

Subtitle C—Hydroelectric

Sec. 241. Alternative conditions and fishways.
Sec. 242. Hydroelectric production incentives.
Sec. 243. Hydroelectric efficiency improvement.
Sec. 244. Alaska State jurisdiction over small hydroelectric projects.
Sec. 245. Flint Creek hydroelectric project.
Sec. 246. Small hydroelectric power projects.

Subtitle D—Insular Energy

Sec. 251. Insular areas energy security.
Sec. 252. Projects enhancing insular energy independence.

TITLE III—OIL AND GAS

Subtitle A—Petroleum Reserve and Home Heating Oil

Sec. 301. Permanent authority to operate the Strategic Petroleum Reserve and other energy programs.

Sec. 302. National Oilheat Research Alliance.
Sec. 303. Site selection.

Subtitle B—Natural Gas

Sec. 311. Exportation or importation of natural gas.
Sec. 312. New natural gas storage facilities.
Sec. 313. Process coordination; hearings; rules of procedure.
Sec. 314. Penalties.
Sec. 315. Market manipulation.
Sec. 316. Natural gas market transparency rules.
Sec. 317. Federal-State liquefied natural gas forums.
Sec. 318. Prohibition of trading and serving by certain individuals.

Subtitle C—Production

Sec. 321. Outer Continental Shelf provisions.
Sec. 322. Hydraulic fracturing.
Sec. 323. Oil and gas exploration and production defined.

Subtitle D—Naval Petroleum Reserve

Sec. 331. Transfer of administrative jurisdiction and environmental remediation, Naval Petroleum Reserve Numbered 2, Kern County, California.
Sec. 332. Naval Petroleum Reserve Numbered 2 Lease Revenue Account.
Sec. 333. Land conveyance, portion of Naval Petroleum Reserve Numbered 2, to City of Taft, California.
Sec. 334. Revocation of land withdrawal.

Subtitle E—Production Incentives

Sec. 341. Definition of Secretary.
Sec. 342. Program on oil and gas royalties in-kind.
Sec. 343. Marginal property production incentives.
Sec. 344. Incentives for natural gas production from deep wells in the shallow waters of the Gulf of Mexico.
Sec. 345. Royalty relief for deep water production.
Sec. 346. Alaska offshore royalty suspension.
Sec. 347. Oil and gas leasing in the National Petroleum Reserve in Alaska.
Sec. 348. North Slope Science Initiative.
Sec. 349. Orphaned, abandoned, or idled wells on Federal land.
Sec. 350. Combined hydrocarbon leasing.
Sec. 351. Preservation of geological and geophysical data.
Sec. 352. Oil and gas lease acreage limitations.
Sec. 353. Gas hydrate production incentive.
Sec. 354. Enhanced oil and natural gas production through carbon dioxide injection.
Sec. 355. Assessment of dependence of State of Hawaii on oil.
Sec. 356. Denali Commission.
Sec. 357. Comprehensive inventory of OCS oil and natural gas resources.

Subtitle F—Access to Federal Lands

Sec. 361. Federal onshore oil and gas leasing and permitting practices.
Sec. 362. Management of Federal oil and gas leasing programs.
Sec. 363. Consultation regarding oil and gas leasing on public land.
Sec. 364. Estimates of oil and gas resources underlying onshore Federal land.
Sec. 365. Pilot project to improve Federal permit coordination.
Sec. 366. Deadline for consideration of applications for permits.
Sec. 367. Fair market value determinations for linear rights-of-way across public lands and National Forests.
Sec. 368. Energy right-of-way corridors on Federal land.
Sec. 369. Oil shale, tar sands, and other strategic unconventional fuels.
Sec. 370. Finger Lakes withdrawal.
Sec. 371. Reinstatement of leases.
Sec. 372. Consultation regarding energy rights-of-way on public land.
Sec. 373. Sense of Congress regarding development of minerals under Padre Island National Seashore.
Sec. 374. Livingston Parish mineral rights transfer.

Subtitle G—Miscellaneous

Sec. 381. Deadline for decision on appeals of consistency determination under the Coastal Zone Management Act of 1972.
Sec. 382. Appeals relating to offshore mineral development.
Sec. 383. Royalty payments under leases under the Outer Continental Shelf Lands Act.
Sec. 384. Coastal impact assistance program.
Sec. 385. Study of availability of skilled workers.
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SEC. 2. DEFINITIONS.

Except as otherwise provided, in this Act:

(1) DEPARTMENT.—The term "Department" means the Department of Energy.

(2) INSTITUTION OF HIGHER EDUCATION.—

(A) IN GENERAL.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1065 (20 U.S.C. 1001(a)).

(B) INCLUSION.—The term "institution of higher education" includes an organization that—

(i) is organized, and at all times thereafter operated, exclusively for the benefit of, to perform the functions of, or to carry out the functions of 1 or more organizations referred to in subparagraph (A); and

(ii) is operated, supervised, or controlled by or in connection with 1 or more of those organizations.

(3) NATIONAL LABORATORY.—The term "National Laboratory" means any of the following laboratories owned by the Department:

(A) Ames Laboratory.

(B) Argonne National Laboratory.

(C) Brookhaven National Laboratory.

(D) Fermi National Accelerator Laboratory.

(E) Idaho National Laboratory.

(F) Lawrence Berkeley National Laboratory.

(G) Lawrence Livermore National Laboratory.

(H) Los Alamos National Laboratory.

(I) National Energy Technology Laboratory.

(J) National Renewable Energy Laboratory.

(K) Oak Ridge National Laboratory.

(L) Pacific Northwest National Laboratory.

(M) Princeton Plasma Physics Laboratory.

(N) Sandia National Laboratories.

(O) Savannah River National Laboratory.

(P) Stanford Linear Accelerator Center.

(Q) Thomas Jefferson National Accelerator Facility.

(4) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(5) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632).

TITLE I—ENERGY EFFICIENCY

Subtitle A—Federal Programs

SEC. 101. ENERGY AND WATER SAVING MEASURES IN CONGRESSIONAL BUILDINGS.

(a) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.) is amended by adding at the end the following:

"SEC. 552. ENERGY AND WATER SAVINGS MEASURES IN CONGRESSIONAL BUILDINGS.

"(a) IN GENERAL.—The Architect of the Capitol—

"(1) shall develop, update, and implement a cost-effective energy conservation and management plan (referred to in this section as the 'plan') for all facilities administered by Congress (referred to in this section as 'congressional buildings') to meet the energy performance requirements for Federal buildings established under section 543(a)(1); and

"(2) shall submit the plan to Congress, not later than 180 days after the date of enactment of this section.

"(b) PLAN REQUIREMENTS.—The plan shall include—

"(1) a description of the life cycle cost analysis used to determine the cost-effectiveness of proposed energy efficiency projects;

"(2) a schedule of energy surveys to ensure complete surveys of all congressional buildings every 5 years to determine the cost and payback period of energy and water conservation measures;

"(3) a strategy for installation of life cycle cost-effective energy and water conservation measures;

"(4) the results of a study of the costs and benefits of installation of submetering in congressional buildings; and

"(5) information packages and 'how-to' guides for each Member and employing authority of Congress that detail simple, cost-effective methods to save energy and taxpayer dollars in the workplace.

"(c) ANNUAL REPORT.—The Architect of the Capitol shall submit to Congress annually a report on congressional energy management and conservation programs required under this section that describes in detail—

"(1) energy expenditures and savings estimates for each facility;

"(2) energy management and conservation projects; and

"(3) future priorities to ensure compliance with this section.".

(b). TABLE OF CONTENTS AMENDMENT.—The table of contents of the National Energy Conservation Policy Act is amended by adding at the end of the items relating to part 3 of title V the following new item:

"Sec. 552. Energy and water savings measures in congressional buildings".

(c) REPEAL.—Section 310 of the Legislative Branch Appropriations Act, 1999 (2 U.S.C. 1815), is repealed.

SEC. 102. ENERGY MANAGEMENT REQUIREMENTS.

(a) ENERGY REDUCTION GOALS.—

(1) AMENDMENT.—Section 543(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended by striking "its Federal buildings so that" and all that follows through the end and inserting "the Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption per gross square foot of the Federal buildings of the agency in fiscal years 2006 through 2015 is reduced, as compared with the energy consumption per gross square foot of the Federal buildings of the agency in fiscal year 2003, by the percentage specified in the following table:

"Fiscal Year	***Percentage reduction***
2006	*2*
2007	*4*
2008	*6*
2009	*8*
2010	*10*
2011	*12*
2012	*14*
2013	*16*
2014	*18*
2015	*20."*

(2) REPORTING BASELINE.—The energy reduction goals and baseline established in paragraph (1) of section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)), as amended by this subsection, supersede all previous goals and baselines under such paragraph, and related reporting requirements.

(b) REVIEW AND REVISION OF ENERGY PERFORMANCE REQUIREMENT.—Section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)) is further amended by adding at the end the following:

"(3) Not later than December 31, 2014, the Secretary shall review the results of the implementation of the energy performance requirement established under paragraph (1) and submit to Congress recommendations concerning energy performance requirements for fiscal years 2016 through 2025.".

(c) EXCLUSIONS.—Section 543(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(1)) is amended by striking "An agency may exclude" and all that follows through the end and inserting "(A) An agency may exclude, from the energy performance requirement for a fiscal year established under

subsection (a) and the energy management requirement established under subsection (b), any Federal building or collection of Federal buildings, if the head of the agency finds that—

"(i) compliance with those requirements would be impracticable;

"(ii) the agency has completed and submitted all federally required energy management reports;

"(iii) the agency has achieved compliance with the energy efficiency requirements of this Act, the Energy Policy Act of 1992, Executive orders, and other Federal law; and

"(iv) the agency has implemented all practicable, life cycle cost-effective projects with respect to the Federal building or collection of Federal buildings to be excluded.

"(B) A finding of impracticability under subparagraph (A)(i) shall be based on—

"(i) the energy intensiveness of activities carried out in the Federal building or collection of Federal buildings; or

"(ii) the fact that the Federal building or collection of Federal buildings is used in the performance of a national security function.".

(d) REVIEW BY SECRETARY.—Section 543(c)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(2)) is amended—

(1) by striking "impracticability standards" and inserting "standards for exclusion";

(2) by striking "a finding of impracticability" and inserting "the exclusion"; and

(3) by striking "energy consumption requirements" and inserting "requirements of subsections (a) and (b)(1)".

(e) CRITERIA.—Section 543(c) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)) is further amended by adding at the end the following:

"(3) Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue guidelines that establish criteria for exclusions under paragraph (1).".

(f) RETENTION OF ENERGY AND WATER SAVINGS.—Section 546 of the National Energy Conservation Policy Act (42 U.S.C. 8256) is amended by adding at the end the following new subsection:

"(e) RETENTION OF ENERGY AND WATER SAVINGS.—An agency may retain any funds appropriated to that agency for energy expenditures, water expenditures, or wastewater treatment expenditures, at buildings subject to the requirements of section 543(a) and (b), that are not made because of energy savings or water savings. Except as otherwise provided by law, such funds may be used only for energy efficiency, water conservation, or unconventional and renewable energy resources projects. Such projects shall be subject to the requirements of section 3307 of title 40, United States Code.".

(g) REPORTS.—Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258(b)) is amended—

(1) in the subsection heading, by inserting "THE PRESIDENT AND" before "CONGRESS"; and

(2) by inserting "President and" before "Congress".

(h) CONFORMING AMENDMENT.—Section 550(d) of the National Energy Conservation Policy Act (42 U.S.C. 8258b(d)) is amended in the second sentence by striking "the 20 percent reduction goal established under section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a))." and inserting "each of the energy reduction goals established under section 543(a).".

SEC. 103. ENERGY USE MEASUREMENT AND ACCOUNTABILITY.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is further amended by adding at the end the following:

"(e) METERING OF ENERGY USE.—

"(1) DEADLINE.—By October 1, 2012, in accordance with guidelines established by the Secretary under paragraph (2), all Federal buildings shall, for the purposes of efficient use of energy and reduction in the cost of electricity used in such buildings, be metered. Each agency shall use, to the maximum extent practicable, advanced meters or advanced metering devices that provide data at least daily and that measure at least hourly consumption of electricity in the Federal buildings of the agency. Such data shall be incorporated into existing Federal energy tracking systems and made available to Federal facility managers.

"(2) GUIDELINES.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary, in consultation with the Department of Defense, the General Services Administration, representatives from the metering industry, utility industry, energy services industry, energy efficiency industry, energy efficiency advocacy organizations, national laboratories, universities, and Federal facility managers, shall establish guidelines for agencies to carry out paragraph (1).

"(B) REQUIREMENTS FOR GUIDELINES.—The guidelines shall—

"(i) take into consideration—

"(I) the cost of metering and the reduced cost of operation and maintenance expected to result from metering;

"(II) the extent to which metering is expected to result in increased potential for energy management, increased potential for energy savings and energy efficiency improvement, and cost and energy savings due to utility contract aggregation; and

"(III) the measurement and verification protocols of the Department of Energy;

"(ii) include recommendations concerning the amount of funds and the number of trained personnel necessary to gather and use the metering information to track and reduce energy use;

"(iii) establish priorities for types and locations of buildings to be metered based on cost-effectiveness and a schedule of 1 or more dates, not later than 1 year after the date of issuance of the guidelines, on which the requirements specified in paragraph (1) shall take effect; and

"(iv) establish exclusions from the requirements specified in paragraph (1) based on the de minimis quantity of energy use of a Federal building, industrial process, or structure.

"(3) PLAN.—Not later than 6 months after the date guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing how the agency will implement the requirements of paragraph (1), including (A) how the agency will designate personnel primarily responsible for achieving the requirements and (B) demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices, as defined in paragraph (1), are not practicable.".

SEC. 104. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(a) REQUIREMENTS.—Part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), as amended by section 101, is amended by adding at the end the following:

"SEC. 553. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

"(a) DEFINITIONS.—In this section:

"(1) AGENCY.—The term 'agency' has the meaning given that term in section 7902(a) of title 5, United States Code.

"(2) ENERGY STAR PRODUCT.—The term 'Energy Star product' means a product that is rated for energy efficiency under an Energy Star program.

"(3) ENERGY STAR PROGRAM.—The term 'Energy Star program' means the program established by section 324A of the Energy Policy and Conservation Act.

"(4) FEMP DESIGNATED PRODUCT.—The term 'FEMP designated product' means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

"(5) PRODUCT.—The term 'product' does not include any energy consuming product or system designed or procured for combat or combat-related missions.

"(b) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.—

"(1) REQUIREMENT.—To meet the requirements of an agency for an energy consuming product, the head of the agency shall, except as provided in paragraph (2), procure—

"(A) an Energy Star product; or

"(B) a FEMP designated product.

"(2) EXCEPTIONS.—The head of an agency is not required to procure an Energy Star product or FEMP designated product under paragraph (1) if the head of the agency finds in writing that—

"(A) an Energy Star product or FEMP designated product is not cost-effective over the life of the product taking energy cost savings into account; or

"(B) no Energy Star product or FEMP designated product is reasonably available that meets the functional requirements of the agency.

"(3) PROCUREMENT PLANNING.—The head of an agency shall incorporate into the specifications for all procurements involving energy consuming products and systems, including guide specifications, project specifications, and construction, renovation, and services contracts that include provision of energy consuming products and systems, and into the factors for the evaluation of offers received for the procurement, criteria for energy efficiency that are consistent with the criteria used for rating Energy Star products and for rating FEMP designated products.

"(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN FEDERAL CATALOGS.—Energy Star products and FEMP designated products shall be clearly identified and prominently displayed in any inventory or listing of products by the General Services Administration or the Defense Logistics Agency. The General Services Administration or the Defense Logistics Agency shall supply only Energy Star products or FEMP designated products for all product categories covered by the Energy Star program or the Federal Energy Management Program, except in cases where the agency ordering a product specifies in writing that no Energy Star product or FEMP designated product is available to meet the buyer's functional requirements, or that no Energy Star product or FEMP designated product is cost-effective for the intended application over the life of the product, taking energy cost savings into account.

"(d) SPECIFIC PRODUCTS.—(1) In the case of electric motors of 1 to 500 horsepower, agencies shall select only premium efficient motors that meet a standard designated by the Secretary. The Secretary shall designate such a standard not later than 120 days after the date of the enactment of this section, after considering the recommendations of associated electric motor manufacturers and energy efficiency groups.

"(2) All Federal agencies are encouraged to take actions to maximize the efficiency of air conditioning and refrigeration equipment, including appropriate cleaning and maintenance, including the use of any system treatment or additive that will reduce the electricity consumed by air conditioning and refrigeration equipment. Any such treatment or additive must be—

"(A) determined by the Secretary to be effective in increasing the efficiency of air conditioning and refrigeration equipment without having an adverse impact on air conditioning

performance (including cooling capacity) or equipment useful life;

"(B) determined by the Administrator of the Environmental Protection Agency to be environmentally safe; and

"(C) shown to increase seasonal energy efficiency ratio (SEER) or energy efficiency ratio (EER) when tested by the National Institute of Standards and Technology according to Department of Energy test procedures without causing any adverse impact on the system, system components, the refrigerant or lubricant, or other materials in the system.

Results of testing described in subparagraph (C) shall be published in the Federal Register for public review and comment. For purposes of this section, a hardware device or primary refrigerant shall not be considered an additive.

"(e) Regulations.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue guidelines to carry out this section.".

(b) Conforming Amendment.—The table of contents of the National Energy Conservation Policy Act is further amended by inserting after the item relating to section 552 the following new item:

"Sec. 553. Federal procurement of energy efficient products.".

SEC. 105. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) Extension.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended by striking "2006" and inserting "2016".

(b) Extension of Authority.—Any energy savings performance contract entered into under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) after October 1, 2003, and before the date of enactment of this Act, shall be considered to have been entered into under that section.

SEC. 106. VOLUNTARY COMMITMENTS TO REDUCE INDUSTRIAL ENERGY INTENSITY.

(a) Definition of Energy Intensity.—In this section, the term "energy intensity" means the primary energy consumed for each unit of physical output in an industrial process.

(b) Voluntary Agreements.—The Secretary may enter into voluntary agreements with 1 or more persons in industrial sectors that consume significant quantities of primary energy for each unit of physical output to reduce the energy intensity of the production activities of the persons.

(c) Goal.—Voluntary agreements under this section shall have as a goal the reduction of energy intensity by not less than 2.5 percent each year during the period of calendar years 2007 through 2016.

(d) Recognition.—The Secretary, in cooperation with other appropriate Federal agencies, shall develop mechanisms to recognize and publicize the achievements of participants in voluntary agreements under this section.

(e) Technical Assistance.—A person that enters into an agreement under this section and continues to make a good faith effort to achieve the energy efficiency goals specified in the agreement shall be eligible to receive from the Secretary a grant or technical assistance, as appropriate, to assist in the achievement of those goals.

(f) Report.—Not later than each of June 30, 2012, and June 30, 2017, the Secretary shall submit to Congress a report that—

(1) evaluates the success of the voluntary agreements under this section; and

(2) provides independent verification of a sample of the energy savings estimates provided by participating firms.

SEC. 107. ADVANCED BUILDING EFFICIENCY TESTBED.

(a) Establishment.—The Secretary, in consultation with the Administrator of General Services, shall establish an Advanced Building Efficiency Testbed program for the development, testing, and demonstration of advanced engineering systems, components, and materials to enable innovations in building technologies. The program shall evaluate efficiency concepts for government and industry buildings, and demonstrate the ability of next generation buildings to support individual and organizational productivity and health (including by improving indoor air quality) as well as flexibility and technological change to improve environmental sustainability. Such program shall complement and not duplicate existing national programs.

(b) Participants.—The program established under subsection (a) shall be led by a university with the ability to combine the expertise from numerous academic fields including, at a minimum, intelligent workplaces and advanced building systems and engineering, electrical and computer engineering, computer science, architecture, urban design, and environmental and mechanical engineering. Such university shall partner with other universities and entities who have established programs and the capability of advancing innovative building efficiency technologies.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary to carry out this section $6,000,000 for each of the fiscal years 2006 through 2008, to remain available until expended. For any fiscal year in which funds are expended under this section, the Secretary shall provide ⅓ of the total amount to the lead university described in subsection (b), and provide the remaining ⅔ to the other participants referred to in subsection (b) on an equal basis.

SEC. 108. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) Amendment.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

"INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE

"Sec. 6005. (a) Definitions.—In this section:

"(1) Agency head.—The term 'agency head' means—

"(A) the Secretary of Transportation; and

"(B) the head of any other Federal agency that, on a regular basis, procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

"(2) Cement or concrete project.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

"(A) involves the procurement of cement or concrete; and

"(B) is carried out, in whole or in part, using Federal funds.

"(3) Recovered mineral component.—The term 'recovered mineral component' means—

"(A) ground granulated blast furnace slag, excluding lead slag;

"(B) coal combustion fly ash; and

"(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

"(b) Implementation of Requirements.—

"(1) In general.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

"(2) Priority.—In carrying out paragraph (1), an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

"(3) Federal procurement requirements.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

"(c) Full Implementation Study.—

"(1) In general.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

"(2) Matters to be addressed.—The study shall—

"(A) quantify—

"(i) the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of procurement requirements; and

"(ii) the energy savings and environmental benefits associated with the substitution;

"(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from the law; and

"(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

"(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

"(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

"(3) Report.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.

"(d) Additional Procurement Requirements.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the date on which the report under subsection (c)(3) is submitted, take additional actions under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects—

"(1) to realize more fully the energy savings and environmental benefits associated with increased substitution; and

"(2) to eliminate barriers identified under subsection (c)(2)(B).

"(e) Effect of Section.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).".

(b) Conforming Amendment.—The table of contents of the Solid Waste Disposal Act is

amended by adding after the item relating to section 6004 the following:

"Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.".

SEC. 109. FEDERAL BUILDING PERFORMANCE STANDARDS.

Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is amended—

(1) in paragraph (2)(A), by striking "CABO Model Energy Code, 1992 (in the case of residential buildings) or ASHRAE Standard 90.1–1989" and inserting "the 2004 International Energy Conservation Code (in the case of residential buildings) or ASHRAE Standard 90.1–2004"; and

(2) by adding at the end the following:

"(3)(A) Not later than 1 year after the date of enactment of this paragraph, the Secretary shall establish, by rule, revised Federal building energy efficiency performance standards that require that—

"(i) if life-cycle cost-effective for new Federal buildings—

"(I) the buildings be designed to achieve energy consumption levels that are at least 30 percent below the levels established in the version of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, that is in effect as of the date of enactment of this paragraph; and

"(II) sustainable design principles are applied to the siting, design, and construction of all new and replacement buildings; and

"(ii) if water is used to achieve energy efficiency, water conservation technologies shall be applied to the extent that the technologies are life-cycle cost-effective.

"(iii) Not later than 1 year after the date of approval of each subsequent revision of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, the Secretary shall determine, based on the cost-effectiveness of the requirements under the amendment, whether the revised standards established under this paragraph should be updated to reflect the amendment.

"(iv) In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include—

"(v) a list of all new Federal buildings owned, operated, or controlled by the Federal agency; and

"(vi) a statement specifying whether the Federal buildings meet or exceed the revised standards established under this paragraph.".

SEC. 110. DAYLIGHT SAVINGS.

(a) AMENDMENT.—Section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) is amended—

(1) by striking "first Sunday of April" and inserting "second Sunday of March"; and

(2) by striking "last Sunday of October" and inserting "first Sunday of November".

(b) EFFECTIVE DATE.—Subsection (a) shall take effect 1 year after the date of enactment of this Act or March 1, 2007, whichever is later.

(c) REPORT TO CONGRESS.—Not later than 9 months after the effective date stated in subsection (b), the Secretary shall report to Congress on the impact of this section on energy consumption in the United States.

(d) RIGHT TO REVERT.—Congress retains the right to revert the Daylight Saving Time back to the 2005 time schedules once the Department study is complete.

SEC. 111. ENHANCING ENERGY EFFICIENCY IN MANAGEMENT OF FEDERAL LANDS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that Federal agencies should enhance the use of energy efficient technologies in the management of natural resources.

(b) ENERGY EFFICIENT BUILDINGS.—To the extent practicable, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall seek to incorporate energy efficient technologies in public and administrative buildings associated with management of the National Park System, National Wildlife Refuge System, National Forest System, National Marine Sanctuaries System, and other public lands and resources managed by the Secretaries.

(c) ENERGY EFFICIENT VEHICLES.—To the extent practicable, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall seek to use energy efficient motor vehicles, including vehicles equipped with biodiesel or hybrid engine technologies, in the management of the National Park System, National Wildlife Refuge System, National Forest System, National Marine Sanctuaries System, and other public lands and resources managed by the Secretaries.

Subtitle B—Energy Assistance and State Programs

SEC. 121. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking "and $2,000,000,000 for each of fiscal years 2002 through 2004" and inserting "and $5,100,000,000 for each of fiscal years 2005 through 2007".

(b) RENEWABLE FUELS.—The Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) is amended by adding at the end the following new section:

"RENEWABLE FUELS

"SEC. 2612. In providing assistance pursuant to this title, a State, or any other person with which the State makes arrangements to carry out the purposes of this title, may purchase renewable fuels, including biomass.".

(c) REPORT TO CONGRESS.—The Secretary shall report to Congress on the use of renewable fuels in providing assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 122. WEATHERIZATION ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking "for fiscal years 1999 through 2003 such sums as may be necessary" and inserting "$500,000,000 for fiscal year 2006, $600,000,000 for fiscal year 2007, and $700,000,000 for fiscal year 2008".

(b) ELIGIBILITY.—Section 412(7) of the Energy Conservation and Production Act (42 U.S.C. 6862(7)) is amended by striking "125 percent" both places it appears and inserting "150 percent".

SEC. 123. STATE ENERGY PROGRAMS.

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

"(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.".

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

"STATE ENERGY EFFICIENCY GOALS

"SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of the Energy Policy Act of 2005 shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2012 as compared to calendar year 1990, and may contain interim goals.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking "for fiscal years 1999 through 2003 such sums as may be necessary" and inserting "$100,000,000 for each of the fiscal years 2006 and 2007 and $125,000,000 for fiscal year 2008".

SEC. 124. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE STATE.—The term "eligible State" means a State that meets the requirements of subsection (b).

(2) ENERGY STAR PROGRAM.—The term "Energy Star program" means the program established by section 324A of the Energy Policy and Conservation Act.

(3) RESIDENTIAL ENERGY STAR PRODUCT.—The term "residential Energy Star product" means a product for a residence that is rated for energy efficiency under the Energy Star program.

(4) STATE ENERGY OFFICE.—The term "State energy office" means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322).

(5) STATE PROGRAM.—The term "State program" means a State energy efficient appliance rebate program described in subsection (b)(1).

(b) ELIGIBLE STATES.—A State shall be eligible to receive an allocation under subsection (c) if the State—

(1) establishes (or has established) a State energy efficient appliance rebate program to provide rebates to residential consumers for the purchase of residential Energy Star products to replace used appliances of the same type;

(2) submits an application for the allocation at such time, in such form, and containing such information as the Secretary may require; and

(3) provides assurances satisfactory to the Secretary that the State will use the allocation to supplement, but not supplant, funds made available to carry out the State program.

(c) AMOUNT OF ALLOCATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount made available under subsection (f) for the fiscal year by the ratio that the population of the State in the most recent calendar year for which data are available bears to the total population of all eligible States in that calendar year.

(2) MINIMUM ALLOCATIONS.—For each fiscal year, the amounts allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum that is less than an amount determined by the Secretary.

(d) USE OF ALLOCATED FUNDS.—The allocation to a State energy office under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out a State program.

(e) ISSUANCE OF REBATES.—Rebates may be provided to residential consumers that meet the requirements of the State program. The amount of a rebate shall be determined by the State energy office, taking into consideration—

(1) the amount of the allocation to the State energy office under subsection (c);

(2) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product; and

(3) the difference between the cost of the residential Energy Star product and the cost of an

appliance that is not a residential Energy Star product, but is of the same type as, and is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to, the residential Energy Star product.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $50,000,000 for each of the fiscal years 2006 through 2010.

SEC. 125. ENERGY EFFICIENT PUBLIC BUILDINGS.

(a) GRANTS.—The Secretary may make grants to the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), or, if no such agency exists, a State agency designated by the Governor of the State, to assist units of local government in the State in improving the energy efficiency of public buildings and facilities—

(1) through construction of new energy efficient public buildings that use at least 30 percent less energy than a comparable public building constructed in compliance with standards prescribed in the most recent version of the International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent efficiency levels; or

(2) through renovation of existing public buildings to achieve reductions in energy use of at least 30 percent as compared to the baseline energy use in such buildings prior to renovation, assuming a 3-year, weather-normalized average for calculating such baseline.

(b) ADMINISTRATION.—State energy offices receiving grants under this section shall—

(1) maintain such records and evidence of compliance as the Secretary may require; and

(2) develop and distribute information and materials and conduct programs to provide technical services and assistance to encourage planning, financing, and design of energy efficient public buildings by units of local government.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary $30,000,000 for each of fiscal years 2006 through 2010. Not more than 10 percent of appropriated funds shall be used for administration.

SEC. 126. LOW INCOME COMMUNITY ENERGY EFFICIENCY PILOT PROGRAM.

(a) GRANTS.—The Secretary is authorized to make grants to units of local government, private, non-profit community development organizations, and Indian tribe economic development entities to improve energy efficiency; identify and develop alternative, renewable, and distributed energy supplies; and increase energy conservation in low income rural and urban communities.

(b) PURPOSE OF GRANTS.—The Secretary may make grants on a competitive basis for—

(1) investments that develop alternative, renewable, and distributed energy supplies;

(2) energy efficiency projects and energy conservation programs;

(3) studies and other activities that improve energy efficiency in low income rural and urban communities;

(4) planning and development assistance for increasing the energy efficiency of buildings and facilities; and

(5) technical and financial assistance to local government and private entities on developing new renewable and distributed sources of power or combined heat and power generation.

(c) DEFINITION.—For purposes of this section, the term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section there are authorized to be appropriated to the Secretary $20,000,000 for each of fiscal years 2006 through 2008.

SEC. 127. STATE TECHNOLOGIES ADVANCEMENT COLLABORATIVE.

(a) IN GENERAL.—The Secretary, in cooperation with the States, shall establish a cooperative program for research, development, demonstration, and deployment of technologies in which there is a common Federal and State energy efficiency, renewable energy, and fossil energy interest, to be known as the "State Technologies Advancement Collaborative" (referred to in this section as the "Collaborative").

(b) DUTIES.—The Collaborative shall—

(1) leverage Federal and State funding through cost-shared activity;

(2) reduce redundancies in Federal and State funding; and

(3) create multistate projects to be awarded through a competitive process.

(c) ADMINISTRATION.—The Collaborative shall be administered through an agreement between the Department and appropriate State-based organizations.

(d) FUNDING SOURCES.—Funding for the Collaborative may be provided from—

(1) amounts specifically appropriated for the Collaborative; or

(2) amounts that may be allocated from other appropriations without changing the purpose for which the amounts are appropriated.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to carry out this section such sums as are necessary for each of fiscal years 2006 through 2010.

SEC. 128. STATE BUILDING ENERGY EFFICIENCY CODES INCENTIVES.

Section 304(e) of the Energy Conservation and Production Act (42 U.S.C. 6833(e)) is amended—

(1) in paragraph (1), by inserting before the period at the end of the first sentence the following: ", including increasing and verifying compliance with such codes"; and

(2) by striking paragraph (2) and inserting the following:

"(2) Additional funding shall be provided under this subsection for implementation of a plan to achieve and document at least a 90 percent rate of compliance with residential and commercial building energy efficiency codes, based on energy performance—

"(A) to a State that has adopted and is implementing, on a statewide basis—

"(i) a residential building energy efficiency code that meets or exceeds the requirements of the 2004 International Energy Conservation Code, or any succeeding version of that code that has received an affirmative determination from the Secretary under subsection (a)(5)(A); and

"(ii) a commercial building energy efficiency code that meets or exceeds the requirements of the ASHRAE Standard 90.1–2004, or any succeeding version of that standard that has received an affirmative determination from the Secretary under subsection (b)(2)(A); or

"(B) in a State in which there is no statewide energy code either for residential buildings or for commercial buildings, to a local government that has adopted and is implementing residential and commercial building energy efficiency codes, as described in subparagraph (A).

"(3) Of the amounts made available under this subsection, the Secretary may use $500,000 for each fiscal year to train State and local officials to implement codes described in paragraph (2).

"(4)(A) There are authorized to be appropriated to carry out this subsection—

"(i) $25,000,000 for each of fiscal years 2006 through 2010; and

"(ii) such sums as are necessary for fiscal year 2011 and each fiscal year thereafter.

"(iii) Funding provided to States under paragraph (2) for each fiscal year shall not exceed ½ of the excess of funding under this subsection over $5,000,000 for the fiscal year.".

Subtitle C—Energy Efficient Products

SEC. 131. ENERGY STAR PROGRAM.

(a) IN GENERAL.—The Energy Policy and Conservation Act is amended by inserting after section 324 (42 U.S.C. 6294) the following:

"ENERGY STAR PROGRAM

"SEC. 324A. (a) IN GENERAL.—There is established within the Department of Energy and the Environmental Protection Agency a voluntary program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through voluntary labeling of, or other forms of communication about, products and buildings that meet the highest energy conservation standards.

"(b) DIVISION OF RESPONSIBILITIES.—Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency in accordance with the terms of applicable agreements between those agencies.

"(c) DUTIES.—The Administrator and the Secretary shall—

"(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for—

"(A) achieving energy efficiency; and

"(B) reducing pollution;

"(2) work to enhance public awareness of the Energy Star label, including by providing special outreach to small businesses;

"(3) preserve the integrity of the Energy Star label;

"(4) regularly update Energy Star product criteria for product categories;

"(5) solicit comments from interested parties prior to establishing or revising an Energy Star product category, specification, or criterion (or prior to effective dates for any such product category, specification, or criterion);

"(6) on adoption of a new or revised product category, specification, or criterion, provide reasonable notice to interested parties of any changes (including effective dates) in product categories, specifications, or criteria, along with—

"(A) an explanation of the changes; and

"(B) as appropriate, responses to comments submitted by interested parties; and

"(7) provide appropriate lead time (which shall be 270 days, unless the Agency or Department specifies otherwise) prior to the applicable effective date for a new or a significant revision to a product category, specification, or criterion, taking into account the timing requirements of the manufacturing, product marketing, and distribution process for the specific product addressed.

"(d) DEADLINES.—The Secretary shall establish new qualifying levels—

"(1) not later than January 1, 2006, for clothes washers and dishwashers, effective beginning January 1, 2007; and

"(2) not later than January 1, 2008, for clothes washers, effective beginning January 1, 2010.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by inserting after the item relating to section 324 the following:

"Sec. 324A. Energy Star program.".

SEC. 132. HVAC MAINTENANCE CONSUMER EDUCATION PROGRAM.

Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding at the end the following:

"(c) HVAC MAINTENANCE.—(1) To ensure that installed air conditioning and heating systems operate at maximum rated efficiency levels, the Secretary shall, not later than 180 days after the date of enactment of this subsection, carry out a program to educate homeowners and small business owners concerning the energy savings from properly conducted maintenance of air conditioning, heating, and ventilating systems.

"(2) The Secretary shall carry out the program under paragraph (1), on a cost-shared basis, in cooperation with the Administrator of the Environmental Protection Agency and any other entities that the Secretary determines to be appropriate, including industry trade associations, industry members, and energy efficiency organizations.

"(d) SMALL BUSINESS EDUCATION AND ASSISTANCE.—(1) The Administrator of the Small Business Administration, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall develop and coordinate a Government-wide program, building on the Energy Star for Small Business Program, to assist small businesses in—

"(A) becoming more energy efficient;

"(B) understanding the cost savings from improved energy efficiency;

"(C) understanding and accessing Federal procurement opportunities with regard to Energy Star technologies and products; and

"(D) identifying financing options for energy efficiency upgrades.

"(2) The Secretary, the Administrator of the Environmental Protection Agency, and the Administrator of the Small Business Administration shall—

"(A) make program information available to small business concerns directly through the district offices and resource partners of the Small Business Administration, including small business development centers, women's business centers, and the Service Corps of Retired Executives (SCORE), and through other Federal agencies, including the Federal Emergency Management Agency and the Department of Agriculture; and

"(B) coordinate assistance with the Secretary of Commerce for manufacturing-related efforts, including the Manufacturing Extension Partnership Program.

"(3) The Secretary, on a cost shared basis in cooperation with the Administrator of the Environmental Protection Agency, shall provide to the Small Business Administration all advertising, marketing, and other written materials necessary for the dissemination of information under paragraph (2).

"(4) The Secretary, the Administrator of the Environmental Protection Agency, and the Administrator of the Small Business Administration, as part of the outreach to small business concerns under the Energy Star Program for Small Business Program, may enter into cooperative agreements with qualified resources partners (including the National Center for Appropriate Technology) to establish, maintain, and promote a Small Business Energy Clearinghouse (in this subsection referred to as the 'Clearinghouse').

"(5) The Secretary, the Administrator of the Environmental Protection Agency, and the Administrator of the Small Business Administration shall ensure that the Clearinghouse provides a centralized resource where small business concerns may access, telephonically and electronically, technical information and advice to help increase energy efficiency and reduce energy costs.

"(6) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.".

SEC. 133. PUBLIC ENERGY EDUCATION PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall convene an organizational conference for the purpose of establishing an ongoing, self-sustaining national public energy education program.

(b) PARTICIPANTS.—The Secretary shall invite to participate in the conference individuals and entities representing all aspects of energy production and distribution, including—

(1) industrial firms;

(2) professional societies;

(3) educational organizations;

(4) trade associations; and

(5) governmental agencies.

(c) PURPOSE, SCOPE, AND STRUCTURE.—

(1) PURPOSE.—The purpose of the conference shall be to establish an ongoing, self-sustaining national public energy education program to examine and recognize interrelationships between energy sources in all forms, including—

(A) conservation and energy efficiency;

(B) the role of energy use in the economy; and

(C) the impact of energy use on the environment.

(2) SCOPE AND STRUCTURE.—Taking into consideration the purpose described in paragraph (1), the participants in the conference invited under subsection (b) shall design the scope and structure of the program described in subsection (a).

(d) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and other guidance necessary to carry out the program described in subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 134. ENERGY EFFICIENCY PUBLIC INFORMATION INITIATIVE.

(a) IN GENERAL.—The Secretary shall carry out a comprehensive national program, including advertising and media awareness, to inform consumers about—

(1) the need to reduce energy consumption during the 4-year period beginning on the date of enactment of this Act;

(2) the benefits to consumers of reducing consumption of electricity, natural gas, and petroleum, particularly during peak use periods;

(3) the importance of low energy costs to economic growth and preserving manufacturing jobs in the United States; and

(4) practical, cost-effective measures that consumers can take to reduce consumption of electricity, natural gas, and gasoline, including—

(A) maintaining and repairing heating and cooling ducts and equipment;

(B) weatherizing homes and buildings;

(C) purchasing energy efficient products; and

(D) proper tire maintenance.

(b) COOPERATION.—The program carried out under subsection (a) shall—

(1) include collaborative efforts with State and local government officials and the private sector; and

(2) incorporate, to the maximum extent practicable, successful State and local public education programs.

(c) REPORT.—Not later than July 1, 2009, the Secretary shall submit to Congress a report describing the effectiveness of the program under this section.

(d) TERMINATION OF AUTHORITY.—The program carried out under this section shall terminate on December 31, 2010.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $90,000,000 for each of fiscal years 2006 through 2010.

SEC. 135. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL PRODUCTS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended—

(1) in paragraph (29)—

(A) in subparagraph (D)—

(i) in clause (i), by striking "C78.1-1978(R1984)" and inserting "C78.81-2003 (Data Sheet 7881-ANSI-1010-1)";

(ii) in clause (ii), by striking "C78.1-1978(R1984)" and inserting "C78.81-2003 (Data Sheet 7881-ANSI-3007-1)"; and

(iii) in clause (iii), by striking "C78.1-1978(R1984)" and inserting "C78.81-2003 (Data Sheet 7881-ANSI-1019-1)"; and

(B) by adding at the end the following:

"(M) The term 'F34T12 lamp' (also known as a 'F40T12/ES lamp') means a nominal 34 watt tubular fluorescent lamp that is 48 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1006-1).

"(N) The term 'F96T12/ES lamp' means a nominal 60 watt tubular fluorescent lamp that is 96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-3006-1).

"(O) The term 'F96T12HO/ES lamp' means a nominal 95 watt tubular fluorescent lamp that is 96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1017-1).

"(P) The term 'replacement ballast' means a ballast that—

"(i) is designed for use to replace an existing ballast in a previously installed luminaire;

"(ii) is marked 'FOR REPLACEMENT USE ONLY';

"(iii) is shipped by the manufacturer in packages containing not more than 10 ballasts; and

"(iv) has output leads that when fully extended are a total length that is less than the length of the lamp with which the ballast is intended to be operated.";

(2) in paragraph (30)(S)—

(A) by inserting "(i)" before "The term"; and

(B) by adding at the end the following:

"(ii) The term 'medium base compact fluorescent lamp' does not include—

"(I) any lamp that is—

"(aa) specifically designed to be used for special purpose applications; and

"(bb) unlikely to be used in general purpose applications, such as the applications described in subparagraph (D); or

"(II) any lamp not described in subparagraph (D) that is excluded by the Secretary, by rule, because the lamp is—

"(aa) designed for special applications; and

"(bb) unlikely to be used in general purpose applications."; and

(3) by adding at the end the following:

"(32) The term 'battery charger' means a device that charges batteries for consumer products, including battery chargers embedded in other consumer products.

"(33)(A) The term 'commercial prerinse spray valve' means a handheld device designed and marketed for use with commercial dishwashing and ware washing equipment that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue before cleaning the items.

"(B) The Secretary may modify the definition of 'commercial prerinse spray valve' by rule—

"(i) to include products—

"(I) that are extensively used in conjunction with commercial dishwashing and ware washing equipment;

"(II) the application of standards to which would result in significant energy savings; and

"(III) the application of standards to which would meet the criteria specified in section 325(o)(4); and

"(ii) to exclude products—

"(I) that are used for special food service applications;

"(II) that are unlikely to be widely used in conjunction with commercial dishwashing and ware washing equipment; and

"(III) the application of standards to which would not result in significant energy savings.

"(34) The term 'dehumidifier' means a self-contained, electrically operated, and mechanically encased assembly consisting of—

"(A) a refrigerated surface (evaporator) that condenses moisture from the atmosphere;

"(B) a refrigerating system, including an electric motor;

"(C) an air-circulating fan; and

"(D) means for collecting or disposing of the condensate.

"(35)(A) The term 'distribution transformer' means a transformer that—

"(i) has an input voltage of 34.5 kilovolts or less;

"(ii) has an output voltage of 600 volts or less; and

"(iii) is rated for operation at a frequency of 60 Hertz.

"(B) The term 'distribution transformer' does not include—

"(i) a transformer with multiple voltage taps, the highest of which equals at least 20 percent more than the lowest;

"(ii) a transformer that is designed to be used in a special purpose application and is unlikely to be used in general purpose applications, such as a drive transformer, rectifier transformer, auto-transformer, Uninterruptible Power System transformer, impedance transformer, regulating transformer, sealed and nonventilating transformer, machine tool transformer, welding transformer, grounding transformer, or testing transformer; or

"(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because—

"(I) the transformer is designed for a special application;

"(II) the transformer is unlikely to be used in general purpose applications; and

"(III) the application of standards to the transformer would not result in significant energy savings.

"(36) The term 'external power supply' means an external power supply circuit that is used to convert household electric current into DC current or lower-voltage AC current to operate a consumer product.

"(37) The term 'illuminated exit sign' means a sign that—

"(A) is designed to be permanently fixed in place to identify an exit; and

"(B) consists of an electrically powered integral light source that—

"(i) illuminates the legend 'EXIT' and any directional indicators; and

"(ii) provides contrast between the legend, any directional indicators, and the background.

"(38) The term 'low-voltage dry-type distribution transformer' means a distribution transformer that—

"(A) has an input voltage of 600 volts or less;

"(B) is air-cooled; and

"(C) does not use oil as a coolant.

"(39) The term 'pedestrian module' means a light signal used to convey movement information to pedestrians.

"(40) The term 'refrigerated bottled or canned beverage vending machine' means a commercial refrigerator that cools bottled or canned beverages and dispenses the bottled or canned beverages on payment.

"(41) The term 'standby mode' means the lowest power consumption mode, as established on an individual product basis by the Secretary, that—

"(A) cannot be switched off or influenced by the user; and

"(B) may persist for an indefinite time when an appliance is—

"(i) connected to the main electricity supply; and

"(ii) used in accordance with the instructions of the manufacturer.

"(42) The term 'torchiere' means a portable electric lamp with a reflector bowl that directs light upward to give indirect illumination.

"(43) The term 'traffic signal module' means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication that—

"(A) consists of a light source, a lens, and all other parts necessary for operation; and

"(B) communicates movement messages to drivers through red, amber, and green colors.

"(44) The term 'transformer' means a device consisting of 2 or more coils of insulated wire that transfers alternating current by electromagnetic induction from 1 coil to another to change the original voltage or current value.

"(45)(A) The term 'unit heater' means a self-contained fan-type heater designed to be installed within the heated space.

"(B) The term 'unit heater' does not include a warm air furnace.

"(46)(A) The term 'high intensity discharge lamp' means an electric-discharge lamp in which—

"(i) the light-producing arc is stabilized by bulb wall temperature; and

"(ii) the arc tube has a bulb wall loading in excess of 3 Watts/cm^2.

"(B) The term 'high intensity discharge lamp' includes mercury vapor, metal halide, and high-pressure sodium lamps described in subparagraph (A).

"(47)(A) The term 'mercury vapor lamp' means a high intensity discharge lamp in which the major portion of the light is produced by radiation from mercury operating at a partial pressure in excess of 100,000 Pa (approximately 1 atm).

"(B) The term 'mercury vapor lamp' includes clear, phosphor-coated, and self-ballasted lamps described in subparagraph (A).

"(48) The term 'mercury vapor lamp ballast' means a device that is designed and marketed to start and operate mercury vapor lamps by providing the necessary voltage and current.

"(49) The term 'ceiling fan' means a nonportable device that is suspended from a ceiling for circulating air via the rotation of fan blades.

"(50) The term 'ceiling fan light kit' means equipment designed to provide light from a ceiling fan that can be—

"(A) integral, such that the equipment is attached to the ceiling fan prior to the time of retail sale; or

"(B) attachable, such that at the time of retail sale the equipment is not physically attached to the ceiling fan, but may be included inside the ceiling fan at the time of sale or sold separately for subsequent attachment to the fan.

"(51) The term 'medium screw base' means an Edison screw base identified with the prefix E-26 in the 'American National Standard for Electric Lamp Bases', ANSI IEC C81.61—2003, published by the American National Standards Institute.".

(b) TEST PROCEDURES.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended—

(1) in subsection (b), by adding at the end the following:

"(9) Test procedures for illuminated exit signs shall be based on the test method used under version 2.0 of the Energy Star program of the Environmental Protection Agency for illuminated exit signs.

"(10)(A) Test procedures for distribution transformers and low voltage dry-type distribution transformers shall be based on the 'Standard Test Method for Measuring the Energy Consumption of Distribution Transformers' prescribed by the National Electrical Manufacturers Association (NEMA TP 2–1998).

"(B) The Secretary may review and revise the test procedures established under subparagraph (A).

"(C) For purposes of section 346(a), the test procedures established under subparagraph (A) shall be considered to be the testing requirements prescribed by the Secretary under section 346(a)(1) for distribution transformers for which the Secretary makes a determination that energy conservation standards would—

"(i) be technologically feasible and economically justified; and

"(ii) result in significant energy savings.

"(11) Test procedures for traffic signal modules and pedestrian modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this paragraph.

"(12)(A) Test procedures for medium base compact fluorescent lamps shall be based on the test methods for compact fluorescent lamps used under the August 9, 2001, version of the Energy Star program of the Environmental Protection Agency and the Department of Energy.

"(B) Except as provided in subparagraph (C), medium base compact fluorescent lamps shall meet all test requirements for regulated parameters of section 325(cc).

"(C) Notwithstanding subparagraph (B), if manufacturers document engineering predictions and analysis that support expected attainment of lumen maintenance at 40 percent rated life and lamp lifetime, medium base compact fluorescent lamps may be marketed before completion of the testing of lamp life and lumen maintenance at 40 percent of rated life.

"(13) Test procedures for dehumidifiers shall be based on the test criteria used under the Energy Star Program Requirements for Dehumidifiers developed by the Environmental Protection Agency, as in effect on the date of enactment of this paragraph unless revised by the Secretary pursuant to this section.

"(14) The test procedure for measuring flow rate for commercial prerinse spray valves shall be based on American Society for Testing and Materials Standard F2324, entitled 'Standard Test Method for Pre-Rinse Spray Valves.'

"(15) The test procedure for refrigerated bottled or canned beverage vending machines shall be based on American National Standards Institute/American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 32.1-2004, entitled 'Methods of Testing for Rating Vending Machines for Bottled, Canned or Other Sealed Beverages'.

"(16)(A)(i) Test procedures for ceiling fans shall be based on the 'Energy Star Testing Facility Guidance Manual: Building a Testing Facility and Performing the Solid State Test Method for ENERGY STAR Qualified Ceiling Fans, Version 1.1' published by the Environmental Protection Agency.

"(ii) Test procedures for ceiling fan light kits shall be based on the test procedures referenced in the Energy Star specifications for Residential Light Fixtures and Compact Fluorescent Light Bulbs, as in effect on the date of enactment of this paragraph.

"(B) The Secretary may review and revise the test procedures established under subparagraph (A)."; and

(2) by adding at the end the following:

"(f) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—(1) Not later than 2 years after the date of enactment of this subsection, the Secretary shall prescribe testing requirements for refrigerated bottled or canned beverage vending machines.

"(2) To the maximum extent practicable, the testing requirements prescribed under paragraph (1) shall be based on existing test procedures used in industry.".

(c) STANDARD SETTING AUTHORITY.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended—

(1) in subsection (f)(3), by adding at the end the following:

"(D) Notwithstanding any other provision of this Act, if the requirements of subsection (o) are met, the Secretary may consider and prescribe energy conservation standards or energy use standards for electricity used for purposes of circulating air through duct work.";

(2) in subsection (g)—

(A) in paragraph (6)(B), by inserting "and labeled" after "designed"; and

(B) by adding at the end the following:

"(8)(A) Each fluorescent lamp ballast (other than replacement ballasts or ballasts described in subparagraph (C))—

"(i)(I) manufactured on or after July 1, 2009;

"(II) sold by the manufacturer on or after October 1, 2009; or

"(III) incorporated into a luminaire by a luminaire manufacturer on or after July 1, 2010; and

"(ii) designed—

"(I) to operate at nominal input voltages of 120 or 277 volts;

"(II) to operate with an input current frequency of 60 Hertz; and

"(III) for use in connection with F34T12 lamps, F96T12/ES lamps, or F96T12HO/ES lamps;

shall have a power factor of 0.90 or greater and shall have a ballast efficacy factor of not less than the following:

Application for operation of	Ballast input voltage	Total nominal lamp watts	Ballast efficacy factor
One F34T12 lamp	120/277	34	2.61
Two F34T12 lamps	120/277	68	1.35
Two F96 T12/ES lamps	120/277	120	0.77
Two F96 T12HO/ES lamps	120/277	190	0.42.

"(B) The standards described in subparagraph (A) shall apply to all ballasts covered by subparagraph (A)(ii) that are manufactured on or after July 1, 2010, or sold by the manufacturer on or after October 1, 2010.

"(C) The standards described in subparagraph (A) do not apply to—

"(i) a ballast that is designed for dimming to 50 percent or less of the maximum output of the ballast;

"(ii) a ballast that is designed for use with 2 F96T12HO lamps at ambient temperatures of 20°F or less and for use in an outdoor sign; or

"(iii) a ballast that has a power factor of less than 0.90 and is designed and labeled for use only in residential applications.";

(3) in subsection (o), by adding at the end the following:

"(5) The Secretary may set more than 1 energy conservation standard for products that serve more than 1 major function by setting 1 energy conservation standard for each major function."; and

(4) by adding at the end the following:

"(u) BATTERY CHARGER AND EXTERNAL POWER SUPPLY ELECTRIC ENERGY CONSUMPTION.—(1)(A) Not later than 18 months after the date of enactment of this subsection, the Secretary shall, after providing notice and an opportunity for comment, prescribe, by rule, definitions and test procedures for the power use of battery chargers and external power supplies.

"(B) In establishing the test procedures under subparagraph (A), the Secretary shall—

"(i) consider existing definitions and test procedures used for measuring energy consumption in standby mode and other modes; and

"(ii) assess the current and projected future market for battery chargers and external power supplies.

"(C) The assessment under subparagraph (B)(ii) shall include—

"(i) estimates of the significance of potential energy savings from technical improvements to battery chargers and external power supplies; and

"(ii) suggested product classes for energy conservation standards.

"(D) Not later than 18 months after the date of enactment of this subsection, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for energy use for battery chargers and external power supplies.

"(E)(i) Not later than 3 years after the date of enactment of this subsection, the Secretary shall issue a final rule that determines whether energy conservation standards shall be issued for battery chargers and external power supplies or classes of battery chargers and external power supplies.

"(ii) For each product class, any energy conservation standards issued under clause (i) shall be set at the lowest level of energy use that—

"(I) meets the criteria and procedures of subsections (o), (p), (q), (r), (s), and (t); and

"(II) would result in significant overall annual energy savings, considering standby mode and other operating modes.

"(2) In determining under section 323 whether test procedures and energy conservation standards under this section should be revised with respect to covered products that are major sources of standby mode energy consumption, the Secretary shall consider whether to incorporate standby mode into the test procedures and energy conservation standards, taking into account standby mode power consumption compared to overall product energy consumption.

"(3) The Secretary shall not propose an energy conservation standard under this section, unless the Secretary has issued applicable test procedures for each product under section 323.

"(4) Any energy conservation standard issued under this subsection shall be applicable to products manufactured or imported beginning on the date that is 3 years after the date of issuance.

"(5) The Secretary and the Administrator shall collaborate and develop programs (including programs under section 324A and other voluntary industry agreements or codes of conduct) that are designed to reduce standby mode energy use.

"(v) CEILING FANS AND REFRIGERATED BEVERAGE VENDING MACHINES.—(1) Not later than 1 year after the date of enactment of this subsection, the Secretary shall prescribe, by rule, test procedures and energy conservation standards for ceiling fans and ceiling fan light kits. If the Secretary sets such standards, the Secretary shall consider exempting or setting different standards for certain product classes for which the primary standards are not technically feasible or economically justified, and establishing separate or exempted product classes for highly decorative fans for which air movement performance is a secondary design feature.

"(2) Not later than 4 years after the date of enactment of this subsection, the Secretary shall prescribe, by rule, energy conservation standards for refrigerated bottle or canned beverage vending machines.

"(3) In establishing energy conservation standards under this subsection, the Secretary shall use the criteria and procedures prescribed under subsections (o) and (p).

"(4) Any energy conservation standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing the energy conservation standard.

"(w) ILLUMINATED EXIT SIGNS.—An illuminated exit sign manufactured on or after January 1, 2006, shall meet the version 2.0 Energy Star Program performance requirements for illuminated exit signs prescribed by the Environmental Protection Agency.

"(x) TORCHIERES.—A torchiere manufactured on or after January 1, 2006—

"(1) shall consume not more than 190 watts of power; and

"(2) shall not be capable of operating with lamps that total more than 190 watts.

"(y) LOW VOLTAGE DRY-TYPE DISTRIBUTION TRANSFORMERS.—The efficiency of a low voltage dry-type distribution transformer manufactured on or after January 1, 2007, shall be the Class I Efficiency Levels for distribution transformers specified in table 4–2 of the 'Guide for Determining Energy Efficiency for Distribution Transformers' published by the National Electrical Manufacturers Association (NEMA TP 1–2002).

"(z) TRAFFIC SIGNAL MODULES AND PEDESTRIAN MODULES.—Any traffic signal module or pedestrian module manufactured on or after January 1, 2006, shall—

"(1) meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on the date of enactment of this subsection; and

"(2) be installed with compatible, electrically connected signal control interface devices and conflict monitoring systems.

"(aa) UNIT HEATERS.—A unit heater manufactured on or after the date that is 3 years after the date of enactment of this subsection shall—

"(1) be equipped with an intermittent ignition device; and

"(2) have power venting or an automatic flue damper.

"(bb) MEDIUM BASE COMPACT FLUORESCENT LAMPS.—(1) A bare lamp and covered lamp (no reflector) medium base compact fluorescent lamp manufactured on or after January 1, 2006, shall meet the following requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps, Energy Star Eligibility Criteria, Energy-Efficiency Specification issued by the Environmental Protection Agency and Department of Energy:

"(A) Minimum initial efficacy.

"(B) Lumen maintenance at 1000 hours.

"(C) Lumen maintenance at 40 percent of rated life.

"(D) Rapid cycle stress test.

"(E) Lamp life.

"(2) The Secretary may, by rule, establish requirements for color quality (CRI), power factor, operating frequency, and maximum allowable start time based on the requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps.

"(3) The Secretary may, by rule—

"(A) revise the requirements established under paragraph (2); or

"(B) establish other requirements, after considering energy savings, cost effectiveness, and consumer satisfaction.

"(cc) DEHUMIDIFIERS.—(1) Dehumidifiers manufactured on or after October 1, 2007, shall have an Energy Factor that meets or exceeds the following values:

"Product Capacity (pints/day):	**Minimum Energy Factor (Liters/kWh)**
25.00 or less	*1.00*
25.01 – 35.00	*1.20*
35.01 – 54.00	*1.30*
54.01 – 74.99	*1.50*
75.00 or more	*2.25.*

"(2)(A) Not later than October 1, 2009, the Secretary shall publish a final rule in accordance with subsections (o) and (p), to determine whether the energy conservation standards established under paragraph (1) should be amended.

"(B) The final rule published under subparagraph (A) shall—

"(i) contain any amendment by the Secretary; and

"(ii) provide that the amendment applies to products manufactured on or after October 1, 2012.

"(C) If the Secretary does not publish an amendment that takes effect by October 1, 2012, dehumidifiers manufactured on or after October 1, 2012, shall have an Energy Factor that meets or exceeds the following values:

"Product Capacity (pints/day):	***Minimum Energy Factor (Liters/kWh)***
25.00 or less	*1.20*
25.01 – 35.00	*1.30*
35.01 – 45.00	*1.40*
45.01 – 54.00	*1.50*
54.01 – 74.99	*1.60*
75.00 or more	*2.5.*

"(dd) Commercial Prerinse Spray Valves.—Commercial prerinse spray valves manufactured on or after January 1, 2006, shall have a flow rate of not more than 1.6 gallons per minute.

"(ee) Mercury Vapor Lamp Ballasts.—Mercury vapor lamp ballasts shall not be manufactured or imported after January 1, 2008.

"(ff) Ceiling Fans and Ceiling Fan Light Kits.—(1)(A) All ceiling fans manufactured on or after January 1, 2007, shall have the following features:

"(i) Fan speed controls separate from any lighting controls.

"(ii) Adjustable speed controls (either more than 1 speed or variable speed).

"(iii) Adjustable speed controls (either more than 1 speed or variable speed).

"(iv) The capability of reversible fan action, except for—

"(I) fans sold for industrial applications;

"(II) outdoor applications; and

"(III) cases in which safety standards would be violated by the use of the reversible mode.

"(B) The Secretary may define the exceptions described in clause (iv) in greater detail, but shall not substantively expand the exceptions

"(2)(A) Ceiling fan light kits with medium screw base sockets manufactured on or after January 1, 2007, shall be packaged with screw-based lamps to fill all screw base sockets.

"(B) The screw-based lamps required under subparagraph (A) shall—

"(i) meet the Energy Star Program Requirements for Compact Fluorescent Lamps, version 3.0, issued by the Department of Energy; or

"(ii) use light sources other than compact fluorescent lamps that have lumens per watt performance at least equivalent to comparably configured compact fluorescent lamps meeting the Energy Star Program Requirements described in clause (i).

"(3) Ceiling fan light kits with pin-based sockets for fluorescent lamps manufactured on or after January 1, 2007 shall—

"(A) meet the Energy Star Program Requirements for Residential Light Fixtures version 4.0 issued by the Environmental Protection Agency; and

"(B) be packaged with lamps to fill all sockets.

"(4)(A) By January 1, 2007, the Secretary shall consider and issue requirements for any ceiling fan lighting kits other than those covered in paragraphs (2) and (3), including candelabra screw base sockets.

"(B) The requirements issued under subparagraph (A) shall be effective for products manufactured 2 years after the date of the final rule.

"(C) If the Secretary fails to issue a final rule by the date specified in subparagraph (B), any type of ceiling fan lighting kit described in subparagraph (A) that is manufactured after January 1, 2009—

"(i) shall not be capable of operating with lamps that total more than 190 watts; and

"(ii) shall include the lamps described in clause (i) in the ceiling fan lighting kits.

"(5)(A) After January 1, 2010, the Secretary may consider, and issue, if the requirements of subsections (o) and (p) are met, amended energy efficiency standards for ceiling fan light kits.

"(B) Any amended standards issued under subparagraph (A) shall apply to products manufactured not earlier than 2 years after the date of publication of the final rule establishing the amended standard.

"(6)(A) Notwithstanding any other provision of this Act, the Secretary may consider, and issue, if the requirements of subsections (o) and (p) are met, energy efficiency or energy use standards for electricity used by ceiling fans to circulate air in a room.

"(B) In issuing the standards under subparagraph (A), the Secretary shall consider—

"(C) exempting, or setting different standards for, certain product classes for which the primary standards are not technically feasible or economically justified; and

"(D) establishing separate exempted product classes for highly decorative fans for which air movement performance is a secondary design feature.

"(7) Section 327 shall apply to the products covered in paragraphs (1) through (4) beginning on the date of enactment of this subsection, except that any State or local labeling requirement for ceiling fans prescribed or enacted before the date of enactment of this subsection shall not be preempted until the labeling requirements applicable to ceiling fans established under section 327 take effect.

"(gg) Application Date.—Section 327 applies—

"(1) to products for which energy conservation standards are to be established under subsection (l), (u), or (v) beginning on the date on which a final rule is issued by the Secretary, except that any State or local standard prescribed or enacted for the product before the date on which the final rule is issued shall not be preempted until the energy conservation standard established under subsection (l), (u), or (v) for the product takes effect; and

"(2) to products for which energy conservation standards are established under subsections (w) through (ff) on the date of enactment of those subsections, except that any State or local standard prescribed or enacted before the date of enactment of those subsections shall not be preempted until the energy conservation standards established under subsections (w) through (ff) take effect.".

(d) General Rule of Preemption.—Section 327(c) of the Energy Policy and Conservation Act (42 U.S.C. 6297(c)) is amended—

(1) in paragraph (5), by striking "or" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(7)(A) is a regulation concerning standards for commercial prerinse spray valves adopted by the California Energy Commission before January 1, 2005; or

"(B) is an amendment to a regulation described in subparagraph (A) that was developed to align California regulations with changes in American Society for Testing and Materials Standard F2324;

"(8)(A) is a regulation concerning standards for pedestrian modules adopted by the California Energy Commission before January 1, 2005; or

"(B) is an amendment to a regulation described in subparagraph (A) that was developed to align California regulations to changes in the Institute for Transportation Engineers standards, entitled 'Performance Specification: Pedestrian Traffic Control Signal Indications'.".

SEC. 136. ENERGY CONSERVATION STANDARDS FOR COMMERCIAL EQUIPMENT.

(a) Definitions.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (D) through (G) as subparagraphs (H) through (K), respectively; and

(B) by inserting after subparagraph (C) the following:

"(D) Very large commercial package air conditioning and heating equipment.

"(E) Commercial refrigerators, freezers, and refrigerator-freezers.

"(F) Automatic commercial ice makers.

"(G) Commercial clothes washers.";

(2) in paragraph (2)(B), by striking "small and large commercial package air conditioning and heating equipment" and inserting "commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers";

(3) by striking paragraphs (8) and (9) and inserting the following:

"(8)(A) The term 'commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application.

"(B) The term 'small commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated below 135,000 Btu per hour (cooling capacity).

"(C) The term 'large commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated—

"(i) at or above 135,000 Btu per hour; and

"(ii) below 240,000 Btu per hour (cooling capacity).

"(D) The term 'very large commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated—

"(i) at or above 240,000 Btu per hour; and

"(ii) below 760,000 Btu per hour (cooling capacity).

"(9)(A) The term 'commercial refrigerator, freezer, and refrigerator-freezer' means refrigeration equipment that—

"(i) is not a consumer product (as defined in section 321);

"(ii) is not designed and marketed exclusively for medical, scientific, or research purposes;

"(iii) operates at a chilled, frozen, combination chilled and frozen, or variable temperature;

"(iv) displays or stores merchandise and other perishable materials horizontally, semivertically, or vertically;

"(v) has transparent or solid doors, sliding or hinged doors, a combination of hinged, sliding, transparent, or solid doors, or no doors;

"(vi) is designed for pull-down temperature applications or holding temperature applications; and

"(vii) is connected to a self-contained condensing unit or to a remote condensing unit.

"(B) The term 'holding temperature application' means a use of commercial refrigeration equipment other than a pull-down temperature application, except a blast chiller or freezer.

"(C) The term 'integrated average temperature' means the average temperature of all test package measurements taken during the test.

"(D) The term 'pull-down temperature application' means a commercial refrigerator with doors that, when fully loaded with 12 ounce

beverage cans at 90 degrees F, can cool those beverages to an average stable temperature of 38 degrees F in 12 hours or less.

"(E) The term 'remote condensing unit' means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is remotely located from the refrigerated equipment and consists of 1 or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.

"(F) The term 'self-contained condensing unit' means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is an integral part of the refrigerated equipment and consists of 1 or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories."; and

(4) by adding at the end the following:

"(19) The term 'automatic commercial ice maker' means a factory-made assembly (not necessarily shipped in 1 package) that—

"(A) consists of a condensing unit and ice-making section operating as an integrated unit, with means for making and harvesting ice; and

"(B) may include means for storing ice, dispensing ice, or storing and dispensing ice.

"(20) The term 'commercial clothes washer' means a soft-mount front-loading or soft-mount top-loading clothes washer that—

"(A) has a clothes container compartment that—

"(i) for horizontal-axis clothes washers, is not more than 3.5 cubic feet; and

"(ii) for vertical-axis clothes washers, is not more than 4.0 cubic feet; and

"(B) is designed for use in—

"(i) applications in which the occupants of more than 1 household will be using the clothes washer, such as multi-family housing common areas and coin laundries; or

"(ii) other commercial applications.

"(21) The term 'harvest rate' means the amount of ice (at 32 degrees F) in pounds produced per 24 hours.".

(b) STANDARDS FOR COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT.—Section 342(a) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)) is amended—

(1) in the subsection heading, by striking "SMALL AND LARGE" and inserting "SMALL, LARGE, AND VERY LARGE";

(2) in paragraph (1), by inserting "but before January 1, 2010," after "January 1, 1994,";

(3) in paragraph (2), by inserting "but before January 1, 2010," after "January 1, 1995,"; and

(4) in paragraph (6)—

(A) in subparagraph (A)—

(i) by inserting "(i)" after "(A)";

(ii) by striking "the date of enactment of the Energy Policy Act of 1992" and inserting "January 1, 2010";

(iii) by inserting after "large commercial package air conditioning and heating equipment," the following: "and very large commercial package air conditioning and heating equipment, or if ASHRAE/IES Standard 90.1, as in effect on October 24, 1992, is amended with respect to any"; and

(iv) by adding at the end the following:

"(ii) If ASHRAE/IES Standard 90.1 is not amended with respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, and very large commercial package air conditioning and heating equipment during the 5-year period beginning on the effective date of a standard, the Secretary may initiate a rulemaking to determine whether a more stringent standard—

"(I) would result in significant additional conservation of energy; and

"(II) is technologically feasible and economically justified."; and

(B) in subparagraph (C)(ii), by inserting "and very large commercial package air conditioning and heating equipment" after "large commercial package air conditioning and heating equipment"; and

(5) by adding at the end the following:

"(7) Small commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

"(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

"(i) 11.2 for equipment with no heating or electric resistance heating; and

"(ii) 11.0 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

"(i) 11.0 for equipment with no heating or electric resistance heating; and

"(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.3 (at a high temperature rating of 47 degrees F db).

"(8) Large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

"(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be—

"(i) 11.0 for equipment with no heating or electric resistance heating; and

"(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be—

"(i) 10.6 for equipment with no heating or electric resistance heating; and

"(ii) 10.4 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).

"(9) Very large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

"(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

"(i) 10.0 for equipment with no heating or electric resistance heating; and

"(ii) 9.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

"(i) 9.5 for equipment with no heating or electric resistance heating; and

"(ii) 9.3 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).".

(c) STANDARDS FOR COMMERCIAL REFRIGERATORS, FREEZERS, AND REFRIGERATOR-FREEZERS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) is amended by adding at the end the following:

"(c) COMMERCIAL REFRIGERATORS, FREEZERS, AND REFRIGERATOR-FREEZERS.—(1) In this subsection:

"(A) The term 'AV' means the adjusted volume (ft^3) (defined as 1.63 x frozen temperature compartment volume (ft^3) + chilled temperature compartment volume (ft^3)) with compartment volumes measured in accordance with the Association of Home Appliance Manufacturers Standard HRF1–1979.

"(B) The term 'V' means the chilled or frozen compartment volume (ft^3) (as defined in the Association of Home Appliance Manufacturers Standard HRF1–1979).

"(C) Other terms have such meanings as may be established by the Secretary, based on industry-accepted definitions and practice.

"(2) Each commercial refrigerator, freezer, and refrigerator-freezer with a self-contained condensing unit designed for holding temperature applications manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) that does not exceed the following:

Refrigerators with solid doors.	0.10 V + 2.04
Refrigerators with transparent doors.	0.12 V + 3.34
Freezers with solid doors.	0.40 V + 1.38
Freezers with transparent doors.	0.75 V + 4.10
Refrigerators/freezers with solid doors the greater of.	0.27 AV - 0.71 or 0.70.

"(3) Each commercial refrigerator with a self-contained condensing unit designed for pull-down temperature applications and transparent doors manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) of not more than 0.126 V + 3.51.

"(4)(A) Not later than January 1, 2009, the Secretary shall issue, by rule, standard levels for ice-cream freezers, self-contained commercial refrigerators, freezers, and refrigerator-freezers without doors, and remote condensing commercial refrigerators, freezers, and refrigerator-freezers, with the standard levels effective for equipment manufactured on or after January 1, 2012.

"(B) The Secretary may issue, by rule, standard levels for other types of commercial refrigerators, freezers, and refrigerator-freezers not covered by paragraph (2)(A) with the standard levels effective for equipment manufactured 3 or more years after the date on which the final rule is published.

"(5)(A) Not later than January 1, 2013, the Secretary shall issue a final rule to determine whether the standards established under this subsection should be amended.

"(B) Not later than 3 years after the effective date of any amended standards under subparagraph (A) or the publication of a final rule determining that the standards should not be amended, the Secretary shall issue a final rule to determine whether the standards established under this subsection or the amended standards, as applicable, should be amended.

"(C) If the Secretary issues a final rule under subparagraph (A) or (B) establishing amended standards, the final rule shall provide that the amended standards apply to products manufactured on or after the date that is—

"(i) 3 years after the date on which the final amended standard is published; or

"(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final rule is published.".

(d) STANDARDS FOR AUTOMATIC COMMERCIAL ICE MAKERS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) (as amended by subsection (c)) is amended by adding at the end the following:

"(d) AUTOMATIC COMMERCIAL ICE MAKERS.—(1) Each automatic commercial ice maker that produces cube type ice with capacities between 50 and 2500 pounds per 24-hour period when tested according to the test standard established in section 343(a)(7) and is manufactured on or after January 1, 2010, shall meet the following standard levels:

Equipment Type	Type of Cooling	Harvest Rate (lbs ice/24 hours)	Maximum Energy Use (kWh/100 lbs Ice)	Maximum Condenser Water Use (gal/100 lbs Ice)
Ice Making Head	Water	<500	7.80–0.0055H	200–0.022H
		≥500 and <1436	5.58–0.0011H	200–0.022H
		≥1436	4.0	200–0.022H
Ice Making Head	Air	<450	10.26–0.0086H	Not Applicable
		≥450	6.89–0.0011H	Not Applicable
Remote Condensing (but not remote compressor)	Air	<1000	8.85–0.0038H	Not Applicable
		≥1000	5.10	Not Applicable
Remote Condensing and Remote Compressor	Air	<934	8.85–0.0038H	Not Applicable
		≥934	5.3	Not Applicable
Self Contained	Water	<200	11.40–0.019H	191–0.0315H
		≥200	7.60	191–0.0315H
Self Contained	Air	<175	18.0–0.0469H	Not Applicable
		≥175	9.80	Not Applicable

H = Harvest rate in pounds per 24 hours.
Water use is for the condenser only and does not include potable water used to make ice.

"(2)(A) The Secretary may issue, by rule, standard levels for types of automatic commercial ice makers that are not covered by paragraph (1).

"(B) The standards established under subparagraph (A) shall apply to products manufactured on or after the date that is—

"(i) 3 years after the date on which the rule is published under subparagraph (A); or

"(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final rule is published.

"(3)(A) Not later than January 1, 2015, with respect to the standards established under paragraph (1), and, with respect to the standards established under paragraph (2), not later than 5 years after the date on which the standards take effect, the Secretary shall issue a final rule to determine whether amending the applicable standards is technologically feasible and economically justified.

"(B) Not later than 5 years after the effective date of any amended standards under subparagraph (A) or the publication of a final rule determining that amending the standards is not technologically feasible or economically justified, the Secretary shall issue a final rule to determine whether amending the standards established under paragraph (1) or the amended standards, as applicable, is technologically feasible or economically justified.

"(C) If the Secretary issues a final rule under subparagraph (A) or (B) establishing amended standards, the final rule shall provide that the amended standards apply to products manufactured on or after the date that is—

"(i) 3 years after the date on which the final amended standard is published; or

"(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final amended standard is published.

"(4) A final rule issued under paragraph (2) or (3) shall establish standards at the maximum level that is technically feasible and economically justified, as provided in subsections (o) and (p) of section 325.".

(e) STANDARDS FOR COMMERCIAL CLOTHES WASHERS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) (as amended by subsection (d)) is amended by adding at the end the following:

"(e) COMMERCIAL CLOTHES WASHERS.—(1) Each commercial clothes washer manufactured on or after January 1, 2007, shall have—

"(A) a Modified Energy Factor of at least 1.26; and

"(B) a Water Factor of not more than 9.5.

"(2)(A)(i) Not later than January 1, 2010, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

"(ii) The rule published under clause (i) shall provide that any amended standard shall apply to products manufactured 3 years after the date on which the final amended standard is published.

"(B)(i) Not later than January 1, 2015, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

"(ii) The rule published under clause (i) shall provide that any amended standard shall apply to products manufactured 3 years after the date on which the final amended standard is published.".

(f) TEST PROCEDURES.—Section 343 of the Energy Policy and Conservation Act (42 U.S.C. 6314) is amended—

(1) in subsection (a)—

(A) in paragraph (4)—

(i) in subparagraph (A), by inserting "very large commercial package air conditioning and heating equipment," after "large commercial package air conditioning and heating equipment,"; and

(ii) in subparagraph (B), by inserting "very large commercial package air conditioning and heating equipment," after "large commercial package air conditioning and heating equipment,"; and

(B) by adding at the end the following:

"(6)(A)(i) In the case of commercial refrigerators, freezers, and refrigerator-freezers, the test procedures shall be—

"(I) the test procedures determined by the Secretary to be generally accepted industry testing procedures; or

"(II) rating procedures developed or recognized by the ASHRAE or by the American National Standards Institute.

"(ii) In the case of self-contained refrigerators, freezers, and refrigerator-freezers to which standards are applicable under paragraphs (2) and (3) of section 342(c), the initial test procedures shall be the ASHRAE 117 test procedure that is in effect on January 1, 2005.

"(B)(i) In the case of commercial refrigerators, freezers, and refrigerators-freezers with doors covered by the standards adopted in February

2002, by the California Energy Commission, the rating temperatures shall be the integrated average temperature of 38 degrees F (± 2 degrees F) for refrigerator compartments and 0 degrees F (± 2 degrees F) for freezer compartments.

"(C) The Secretary shall issue a rule in accordance with paragraphs (2) and (3) to establish the appropriate rating temperatures for the other products for which standards will be established under section 342(c)(4).

"(D) In establishing the appropriate test temperatures under this subparagraph, the Secretary shall follow the procedures and meet the requirements under section 323(e).

"(E)(i) Not later than 180 days after the publication of the new ASHRAE 117 test procedure, if the ASHRAE 117 test procedure for commercial refrigerators, freezers, and refrigerator-freezers is amended, the Secretary shall, by rule, amend the test procedure for the product as necessary to ensure that the test procedure is consistent with the amended ASHRAE 117 test procedure, unless the Secretary makes a determination, by rule, and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraphs (2) and (3).

"(ii) If the Secretary determines that 180 days is an insufficient period during which to review and adopt the amended test procedure or rating procedure under clause (i), the Secretary shall publish a notice in the Federal Register stating the intent of the Secretary to wait not longer than 1 additional year before putting into effect an amended test procedure or rating procedure.

"(F)(i) If a test procedure other than the ASHRAE 117 test procedure is approved by the American National Standards Institute, the Secretary shall, by rule—

"(I) review the relative strengths and weaknesses of the new test procedure relative to the ASHRAE 117 test procedure; and

"(II) based on that review, adopt 1 new test procedure for use in the standards program.

"(ii) If a new test procedure is adopted under clause (i)—

"(I) section 323(e) shall apply; and

"(II) subparagraph (B) shall apply to the adopted test procedure.

"(7)(A) In the case of automatic commercial ice makers, the test procedures shall be the test procedures specified in Air-Conditioning and Refrigeration Institute Standard 810–2003, as in effect on January 1, 2005.

"(B)(i) If Air-Conditioning and Refrigeration Institute Standard 810–2003 is amended, the Secretary shall amend the test procedures established in subparagraph (A) as necessary to be consistent with the amended Air-Conditioning and Refrigeration Institute Standard, unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraphs (2) and (3).

"(ii) If the Secretary issues a rule under clause (i) containing a determination described in clause (ii), the rule may establish an amended test procedure for the product that meets the requirements of paragraphs (2) and (3).

"(C) The Secretary shall comply with section 323(e) in establishing any amended test procedure under this paragraph.

"(8) With respect to commercial clothes washers, the test procedures shall be the same as the test procedures established by the Secretary for residential clothes washers under section 325(g)."; and

(2) in subsection (d)(1), by inserting "very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers," after "large commercial package air conditioning and heating equipment,".

(g) LABELING.—Section 344(e) of the Energy Policy and Conservation Act (42 U.S.C. 6315(e)) is amended by inserting "very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers," after "large commercial package air conditioning and heating equipment," each place it appears.

(h) ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION.—Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) is amended—

(1) in subsection (a)—

(A) in paragraph (7), by striking "and" at the end;

(B) in paragraph (8), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(9) in the case of commercial clothes washers, section 327(b)(1) shall be applied as if the National Appliance Energy Conservation Act of 1987 was the Energy Policy Act of 2005.";

(2) in the first sentence of subsection (b)(1), by striking "part B" and inserting "part A"; and

(3) by adding at the end the following:

"(d)(1) Except as provided in paragraphs (2) and (3), section 327 shall apply with respect to very large commercial package air conditioning and heating equipment to the same extent and in the same manner as section 327 applies under part A on the date of enactment of this subsection.

"(2) Any State or local standard issued before the date of enactment of this subsection shall not be preempted until the standards established under section 342(a)(9) take effect on January 1, 2010.

"(e)(1)(A) Subsections (a), (b), and (d) of section 326, subsections (m) through (s) of section 325, and sections 328 through 336 shall apply with respect to commercial refrigerators, freezers, and refrigerator-freezers to the same extent and in the same manner as those provisions apply under part A.

"(B) In applying those provisions to commercial refrigerators, freezers, and refrigerator-freezers, paragraphs (1), (2), (3), and (4) of subsection (a) shall apply.

"(2)(A) Section 327 shall apply to commercial refrigerators, freezers, and refrigerator-freezers for which standards are established under paragraphs (2) and (3) of section 342(c) to the same extent and in the same manner as those provisions apply under part A on the date of enactment of this subsection, except that any State or local standard issued before the date of enactment of this subsection shall not be preempted until the standards established under paragraphs (2) and (3) of section 342(c) take effect.

"(B) In applying section 327 in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

"(3)(A) Section 327 shall apply to commercial refrigerators, freezers, and refrigerator-freezers for which standards are established under section 342(c)(4) to the same extent and in the same manner as the provisions apply under part A on the date of publication of the final rule by the Secretary, except that any State or local standard issued before the date of publication of the final rule by the Secretary shall not be preempted until the standards take effect.

"(B) In applying section 327 in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

"(4)(A) If the Secretary does not issue a final rule for a specific type of commercial refrigerator, freezer, or refrigerator-freezer within the time frame specified in section 342(c)(5), subsections (b) and (c) of section 327 shall not apply to that specific type of refrigerator, freezer, or refrigerator-freezer for the period beginning on the date that is 2 years after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering the specific type of refrigerator, freezer, or refrigerator-freezer.

"(B) Any State or local standard issued before the date of publication of the final rule shall not be preempted until the final rule takes effect.

"(5)(A) In the case of any commercial refrigerator, freezer, or refrigerator-freezer to which standards are applicable under paragraphs (2) and (3) of section 342(c), the Secretary shall require manufacturers to certify, through an independent, nationally recognized testing or certification program, that the commercial refrigerator, freezer, or refrigerator-freezer meets the applicable standard.

"(B) The Secretary shall, to the maximum extent practicable, encourage the establishment of at least 2 independent testing and certification programs.

"(C) As part of certification, information on equipment energy use and interior volume shall be made available to the Secretary.

"(f)(1)(A)(i) Except as provided in clause (ii), section 327 shall apply to automatic commercial ice makers for which standards have been established under section 342(d)(1) to the same extent and in the same manner as the section applies under part A on the date of enactment of this subsection.

"(ii) Any State standard issued before the date of enactment of this subsection shall not be preempted until the standards established under section 342(d)(1) take effect.

"(B) In applying section 327 to the equipment under subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

"(2)(A)(i) Except as provided in clause (ii), section 327 shall apply to automatic commercial ice makers for which standards have been established under section 342(d)(2) to the same extent and in the same manner as the section applies under part A on the date of publication of the final rule by the Secretary.

"(ii) Any State standard issued before the date of publication of the final rule by the Secretary shall not be preempted until the standards established under section 342(d)(2) take effect.

"(B) In applying section 327 in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

"(3)(A) If the Secretary does not issue a final rule for a specific type of automatic commercial ice maker within the time frame specified in section 342(d), subsections (b) and (c) of section 327 shall no longer apply to the specific type of automatic commercial ice maker for the period beginning on the day after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering the specific type of automatic commercial ice maker.

"(B) Any State standard issued before the publication of the final rule shall not be preempted until the standards established in the final rule take effect.

"(4)(A) The Secretary shall monitor whether manufacturers are reducing harvest rates below tested values for the purpose of bringing noncomplying equipment into compliance.

"(B) If the Secretary finds that there has been a substantial amount of manipulation with respect to harvest rates under subparagraph (A), the Secretary shall take steps to minimize the manipulation, such as requiring harvest rates to be within 5 percent of tested values.

"(g)(1)(A) If the Secretary does not issue a final rule for commercial clothes washers within the timeframe specified in section 342(e)(2), subsections (b) and (c) of section 327 shall not apply to commercial clothes washers for the period beginning on the day after the scheduled date for a final rule and ending on the date on

which the Secretary publishes a final rule covering commercial clothes washers.

"(B) Any State or local standard issued before the date on which the Secretary publishes a final rule shall not be preempted until the standards established under section 342(e)(2) take effect.

"(2) The Secretary shall undertake an educational program to inform owners of laundromats, multifamily housing, and other sites where commercial clothes washers are located about the new standard, including impacts on washer purchase costs and options for recovering those costs through coin collection.".

SEC. 137. ENERGY LABELING.

(a) Rulemaking on Effectiveness of Consumer Product Labeling.—Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding at the end the following:

"(F)(i) Not later than 90 days after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to consider—

"(I) the effectiveness of the consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency; and

"(II) changes to the labeling rules (including categorical labeling) that would improve the effectiveness of consumer product labels.

"(ii) Not later than 2 years after the date of enactment of this subparagraph, the Commission shall complete the rulemaking initiated under clause (i).

"(G)(i) Not later than 18 months after the date of enactment of this subparagraph, the Commission shall issue by rule, in accordance with this section, labeling requirements for the electricity used by ceiling fans to circulate air in a room.

"(ii) The rule issued under clause (i) shall apply to products manufactured after the later of—

"(I) January 1, 2009; or

"(II) the date that is 60 days after the final rule is issued.".

(b) Rulemaking on Labeling for Additional Products.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is amended by adding at the end the following:

"(5)(A) For covered products described in subsections (u) through (ff) of section 325, after a test procedure has been prescribed under section 323, the Secretary or the Commission, as appropriate, may prescribe, by rule, under this section labeling requirements for the products.

"(B) In the case of products to which TP–1 standards under section 325(y) apply, labeling requirements shall be based on the 'Standard for the Labeling of Distribution Transformer Efficiency' prescribed by the National Electrical Manufacturers Association (NEMA TP–3) as in effect on the date of enactment of this paragraph.

"(C) In the case of dehumidifiers covered under section 325(dd), the Commission shall not require an 'Energy Guide' label.".

SEC. 138. INTERMITTENT ESCALATOR STUDY.

(a) In General.—The Administrator of General Services shall conduct a study on the advantages and disadvantages of employing intermittent escalators in the United States.

(b) Contents.—Such study shall include an analysis of—

(1) the energy end-cost savings derived from the use of intermittent escalators;

(2) the cost savings derived from reduced maintenance requirements; and

(3) such other issues as the Administrator considers appropriate.

(c) Report to Congress.—Not later than 1 year after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study.

(d) Definition.—For purpose of this section, the term "intermittent escalator" means an escalator that remains in a stationary position until it automatically operates at the approach of a passenger, returning to a stationary position after the passenger completes passage.

SEC. 139. ENERGY EFFICIENT ELECTRIC AND NATURAL GAS UTILITIES STUDY.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the National Association of Regulatory Utility Commissioners and the National Association of State Energy Officials, shall conduct a study of State and regional policies that promote cost-effective programs to reduce energy consumption (including energy efficiency programs) that are carried out by—

(1) utilities that are subject to State regulation; and

(2) nonregulated utilities.

(b) Consideration.—In conducting the study under subsection (a), the Secretary shall take into consideration—

(1) performance standards for achieving energy use and demand reduction targets;

(2) funding sources, including rate surcharges;

(3) infrastructure planning approaches (including energy efficiency programs) and infrastructure improvements;

(4) the costs and benefits of consumer education programs conducted by State and local governments and local utilities to increase consumer awareness of energy efficiency technologies and measures; and

(5) methods of—

(A) removing disincentives for utilities to implement energy efficiency programs;

(B) encouraging utilities to undertake voluntary energy efficiency programs; and

(C) ensuring appropriate returns on energy efficiency programs.

(c) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes—

(1) the findings of the study; and

(2) any recommendations of the Secretary, including recommendations on model policies to promote energy efficiency programs.

SEC. 140. ENERGY EFFICIENCY PILOT PROGRAM.

(a) In General.—The Secretary shall establish a pilot program under which the Secretary provides financial assistance to at least 3, but not more than 7, States to carry out pilot projects in the States for—

(1) planning and adopting statewide programs that encourage, for each year in which the pilot project is carried out—

(A) energy efficiency; and

(B) reduction of consumption of electricity or natural gas in the State by at least 0.75 percent, as compared to a baseline determined by the Secretary for the period preceding the implementation of the program; or

(2) for any State that has adopted a statewide program as of the date of enactment of this Act, activities that reduce energy consumption in the State by expanding and improving the program.

(b) Verification.—A State that receives financial assistance under subsection (a)(1) shall submit to the Secretary independent verification of any energy savings achieved through the statewide program.

(c) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 141. REPORT ON FAILURE TO COMPLY WITH DEADLINES FOR NEW OR REVISED ENERGY CONSERVATION STANDARDS.

(a) Initial Report.—The Secretary shall submit a report to Congress regarding each new or revised energy conservation or water use standard which the Secretary has failed to issue in conformance with the deadlines established in the Energy Policy and Conservation Act. Such report shall state the reasons why the Secretary has failed to comply with the deadline for issuances of the new or revised standard and set forth the Secretary's plan for expeditiously prescribing such new or revised standard. The Secretary's initial report shall be submitted not later than 6 months following enactment of this Act and subsequent reports shall be submitted whenever the Secretary determines that additional deadlines for issuance of new or revised standards have been missed.

(b) Implementation Report.—Every 6 months following the submission of a report under subsection (a) until the adoption of a new or revised standard described in such report, the Secretary shall submit to the Congress an implementation report describing the Secretary's progress in implementing the Secretary's plan or the issuance of the new or revised standard.

Subtitle D—Public Housing

SEC. 151. PUBLIC HOUSING CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is amended—

(1) in subsection (d)(1)—

(A) in subparagraph (I), by striking "and" at the end;

(B) in subparagraph (J), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate; and

"(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures."; and

(2) in subsection (e)(2)(C)—

(A) by striking "The" and inserting the following:

"(i) In General.—The"; and

(B) by adding at the end the following:

"(ii) Third Party Contracts.—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident-paid utilities, and adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

"(iii) Term of Contract.—The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generation, advanced energy savings technologies, including renewable energy generation, and other such retrofits.".

SEC. 152. ENERGY-EFFICIENT APPLIANCES.

In purchasing appliances, a public housing agency shall purchase energy-efficient appliances that are Energy Star products or FEMP-designated products, as such terms are defined in section 553 of the National Energy Conservation Policy Act), unless the purchase of energy-efficient appliances is not cost-effective to the agency.

SEC. 153. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "1 year after the date of the enactment of the Energy Policy Act of 1992" and inserting "September 30, 2006";

(ii) in subparagraph (A), by striking "and" at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), where such standards are determined to be cost effective by the Secretary of Housing and Urban Development."; and

(B) in paragraph (2), by inserting ", and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code" after "90.1–1989')";

(2) in subsection (b)—

(A) by striking "within 1 year after the date of the enactment of the Energy Policy Act of 1992" and inserting "by September 30, 2006"; and

(B) by inserting ", and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code" before the period at the end; and

(3) in subsection (c)—

(A) in the heading, by inserting "AND THE INTERNATIONAL ENERGY CONSERVATION CODE" after "MODEL ENERGY CODE"; and

(B) by inserting ", or, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code" after "1989".

SEC. 154. ENERGY STRATEGY FOR HUD.

The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures and energy efficient design and construction of public and assisted housing. The energy strategy shall include the development of energy reduction goals and incentives for public housing agencies. The Secretary shall submit a report to Congress, not later than 1 year after the date of the enactment of this Act, on the energy strategy and the actions taken by the Department of Housing and Urban Development to monitor the energy usage of public housing agencies and shall submit an update every 2 years thereafter on progress in implementing the strategy.

TITLE II—RENEWABLE ENERGY

Subtitle A—General Provisions

SEC. 201. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) Resource Assessment.—Not later than 6 months after the date of enactment of this Act, and each year thereafter, the Secretary shall review the available assessments of renewable energy resources within the United States, including solar, wind, biomass, ocean (including tidal, wave, current, and thermal), geothermal, and hydroelectric energy resources, and undertake new assessments as necessary, taking into account changes in market conditions, available technologies, and other relevant factors.

(b) Contents of Reports.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Secretary shall publish a report based on the assessment under subsection (a). The report shall contain—

(1) a detailed inventory describing the available amount and characteristics of the renewable energy resources; and

(2) such other information as the Secretary believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource, together with an identification of any barriers to providing adequate transmission for remote sources of renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable or other energy producers.

(c) Authorization of Appropriations.—For the purposes of this section, there are authorized to be appropriated to the Secretary $10,000,000 for each of fiscal years 2006 through 2010.

SEC. 202. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) Incentive Payments.—Section 1212(a) of the Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is amended—

(1) by striking the last sentence;

(2) by designating the first, second, and third sentences as paragraphs (1), (2), and (3), respectively;

(3) in paragraph (3) (as so designated), by striking "and which satisfies" and all that follows through "deems necessary"; and

(4) by adding at the end the following:

"(4)(A) Subject to subparagraph (B), if there are insufficient appropriations to make full payments for electric production from all qualified renewable energy facilities for a fiscal year, the Secretary shall assign—

"(i) 60 percent of appropriated funds for the fiscal year to facilities that use solar, wind, ocean (including tidal, wave, current, and thermal), geothermal, or closed-loop (dedicated energy crops) biomass technologies to generate electricity; and

"(ii) 40 percent of appropriated funds for the fiscal year to other projects.

"(B) After submitting to Congress an explanation of the reasons for the alteration, the Secretary may alter the percentage requirements of subparagraph (A).".

(b) Qualified Renewable Energy Facility.—Section 1212(b) of the Energy Policy Act of 1992 (42 U.S.C. 13317(b)) is amended—

(1) by striking "a State or any political" and all that follows through "nonprofit electrical cooperative" and inserting "a not-for-profit electric cooperative, a public utility described in section 115 of the Internal Revenue Code of 1986, a State, Commonwealth, territory, or possession of the United States, or the District of Columbia, or a political subdivision thereof, an Indian tribal government or subdivision thereof, or a Native Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)),"; and

(2) by inserting "landfill gas, livestock methane, ocean (including tidal, wave, current, and thermal)," after "wind, biomass,".

(c) Eligibility Window.—Section 1212(c) of the Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended by striking "during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section" and inserting "before October 1, 2016".

(d) Payment Period.—Section 1212(d) of the Energy Policy Act of 1992 (42 U.S.C. 13317(d)) is amended in the second sentence by inserting ", or in which the Secretary determines that all necessary Federal and State authorizations have been obtained to begin construction of the facility" after "eligible for such payments".

(e) Amount of Payment.—Section 1212(e)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1)) is amended in the first sentence by inserting "landfill gas, livestock methane, ocean (including tidal, wave, current, and thermal)," after "wind, biomass,".

(f) Termination of Authority.—Section 1212(f) of the Energy Policy Act of 1992 (42 U.S.C. 13317(f)) is amended by striking "the expiration of" and all that follows through "of this section" and inserting "September 30, 2026".

(g) Authorization of Appropriations.—Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is amended by striking subsection (g) and inserting the following:

"(g) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2006 through 2026, to remain available until expended.".

SEC. 203. FEDERAL PURCHASE REQUIREMENT.

(a) Requirement.—The President, acting through the Secretary, shall seek to ensure that, to the extent economically feasible and technically practicable, of the total amount of electric energy the Federal Government consumes during any fiscal year, the following amounts shall be renewable energy:

(1) Not less than 3 percent in fiscal years 2007 through 2009.

(2) Not less than 5 percent in fiscal years 2010 through 2012.

(3) Not less than 7.5 percent in fiscal year 2013 and each fiscal year thereafter.

(b) Definitions.—In this section:

(1) Biomass.—The term "biomass" means any lignin waste material that is segregated from other waste materials and is determined to be nonhazardous by the Administrator of the Environmental Protection Agency and any solid, nonhazardous, cellulosic material that is derived from—

(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, or nonmerchantable material;

(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled;

(C) agriculture wastes, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues, and livestock waste nutrients; or

(D) a plant that is grown exclusively as a fuel for the production of electricity.

(2) Renewable Energy.—The term "renewable energy" means electric energy generated from solar, wind, biomass, landfill gas, ocean (including tidal, wave, current, and thermal), geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.

(c) Calculation.—For purposes of determining compliance with the requirement of this section, the amount of renewable energy shall be doubled if—

(1) the renewable energy is produced and used on-site at a Federal facility;

(2) the renewable energy is produced on Federal lands and used at a Federal facility; or

(3) the renewable energy is produced on Indian land as defined in title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) and used at a Federal facility.

(d) Report.—Not later than April 15, 2007, and every 2 years thereafter, the Secretary shall provide a report to Congress on the progress of the Federal Government in meeting the goals established by this section.

SEC. 204. USE OF PHOTOVOLTAIC ENERGY IN PUBLIC BUILDINGS.

(a) IN GENERAL.—Subchapter VI of chapter 31 of title 40, United States Code, is amended by adding at the end the following:

"§3177. Use of photovoltaic energy in public buildings

"(a) PHOTOVOLTAIC ENERGY COMMERCIALIZATION PROGRAM.—

"(1) IN GENERAL.—The Administrator of General Services may establish a photovoltaic energy commercialization program for the procurement and installation of photovoltaic solar electric systems for electric production in new and existing public buildings.

"(2) PURPOSES.—The purposes of the program shall be to accomplish the following:

"(A) To accelerate the growth of a commercially viable photovoltaic industry to make this energy system available to the general public as an option which can reduce the national consumption of fossil fuel.

"(B) To reduce the fossil fuel consumption and costs of the Federal Government.

"(C) To attain the goal of installing solar energy systems in 20,000 Federal buildings by 2010, as contained in the Federal Government's Million Solar Roof Initiative of 1997.

"(D) To stimulate the general use within the Federal Government of life-cycle costing and innovative procurement methods.

"(E) To develop program performance data to support policy decisions on future incentive programs with respect to energy.

"(3) ACQUISITION OF PHOTOVOLTAIC SOLAR ELECTRIC SYSTEMS.—

"(A) IN GENERAL.—The program shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability for use in public buildings.

"(B) ACQUISITION LEVELS.—The acquisition of photovoltaic electric systems shall be at a level substantial enough to allow use of low-cost production techniques with at least 150 megawatts (peak) cumulative acquired during the 5 years of the program.

"(4) ADMINISTRATION.—The Administrator shall administer the program and shall—

"(A) issue such rules and regulations as may be appropriate to monitor and assess the performance and operation of photovoltaic solar electric systems installed pursuant to this subsection;

"(B) develop innovative procurement strategies for the acquisition of such systems; and

"(C) transmit to Congress an annual report on the results of the program.

"(b) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—

"(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Administrator shall establish a photovoltaic solar energy systems evaluation program to evaluate such photovoltaic solar energy systems as are required in public buildings.

"(2) PROGRAM REQUIREMENT.—In evaluating photovoltaic solar energy systems under the program, the Administrator shall ensure that such systems reflect the most advanced technology.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) PHOTOVOLTAIC ENERGY COMMERCIALIZATION PROGRAM.—There are authorized to be appropriated to carry out subsection (a) $50,000,000 for each of fiscal years 2006 through 2010. Such sums shall remain available until expended.

"(2) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—There are authorized to be appropriated to carry out subsection (b) $10,000,000 for each of fiscal years 2006 through 2010. Such sums shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The table of sections for the National Energy Conservation Policy Act is amended by inserting after the item relating to section 569 the following:

"Sec. 570. Use of photovoltaic energy in public buildings".

SEC. 205. BIOBASED PRODUCTS.

Section 9002(c)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102(c)(1)) is amended by inserting "or such items that comply with the regulations issued under section 103 of Public Law 100–556 (42 U.S.C. 6914b–1)" after "practicable".

SEC. 206. RENEWABLE ENERGY SECURITY.

(a) WEATHERIZATION ASSISTANCE.—Section 415(c) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)) is amended—

(1) in paragraph (1), by striking "in paragraph (3)" and inserting "in paragraphs (3) and (4)";

(2) in paragraph (3), by striking "$2.500 per dwelling unit average provided in paragraph (1)" and inserting "dwelling unit averages provided in paragraphs (1) and (4)"; and

(3) by adding at the end the following new paragraphs:

"(4) The expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters for a renewable energy system shall not exceed an average of $3,000 per dwelling unit.

"(5)(A) The Secretary shall by regulations—

"(i) establish the criteria which are to be used in prescribing performance and quality standards under paragraph (6)(A)(ii) or in specifying any form of renewable energy under paragraph (6)(A)(i)(I); and

"(ii) establish a procedure under which a manufacturer of an item may request the Secretary to certify that the item will be treated, for purposes of this paragraph, as a renewable energy system.

"(B) The Secretary shall make a final determination with respect to any request filed under subparagraph (A)(ii) within 1 year after the filing of the request, together with any information required to be filed with such request under subparagraph (A)(ii).

"(C) Each month the Secretary shall publish a report of any request under subparagraph (A)(ii) which has been denied during the preceding month and the reasons for the denial.

"(D) The Secretary shall not specify any form of renewable energy under paragraph (6)(A)(i)(I) unless the Secretary determines that—

"(i) there will be a reduction in oil or natural gas consumption as a result of such specification;

"(ii) such specification will not result in an increased use of any item which is known to be, or reasonably suspected to be, environmentally hazardous or a threat to public health or safety; and

"(iii) available Federal subsidies do not make such specification unnecessary or inappropriate (in the light of the most advantageous allocation of economic resources).

"(6) In this subsection—

"(A) the term 'renewable energy system' means a system which—

"(i) when installed in connection with a dwelling, transmits or uses—

"(I) solar energy, energy derived from the geothermal deposits, energy derived from biomass, or any other form of renewable energy which the Secretary specifies by regulations, for the purpose of heating or cooling such dwelling or providing hot water or electricity for use within such dwelling; or

"(II) wind energy for nonbusiness residential purposes;

"(ii) meets the performance and quality standards (if any) which have been prescribed by the Secretary by regulations;

"(iii) in the case of a combustion rated system, has a thermal efficiency rating of at least 75 percent; and

"(iv) in the case of a solar system, has a thermal efficiency rating of at least 15 percent; and

"(B) the term 'biomass' means any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal wastes, municipal wastes, and other waste materials.".

(b) DISTRICT HEATING AND COOLING PROGRAMS.—Section 172 of the Energy Policy Act of 1992 (42 U.S.C. 13451 note) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(5) evaluate the use of renewable energy systems (as such term is defined in section 415(c) of the Energy Conservation and Production Act (42 U.S.C. 6865(c))) in residential buildings."; and

(2) in subsection (b), by striking "this Act" and inserting "the Energy Policy Act of 2005".

(c) REBATE PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a program providing rebates for consumers for expenditures made for the installation of a renewable energy system in connection with a dwelling unit or small business.

(2) AMOUNT OF REBATE.—Rebates provided under the program established under paragraph (1) shall be in an amount not to exceed the lesser of—

(A) 25 percent of the expenditures described in paragraph (1) made by the consumer; or

(B) $3,000.

(3) DEFINITION.—For purposes of this subsection, the term "renewable energy system" has the meaning given that term in section 415(c)(6)(A) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)(6)(A)), as added by subsection (a)(3) of this section.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this subsection, to remain available until expended—

(A) $150,000,000 for fiscal year 2006;

(B) $150,000,000 for fiscal year 2007;

(C) $200,000,000 for fiscal year 2008;

(D) $250,000,000 for fiscal year 2009; and

(E) $250,000,000 for fiscal year 2010.

(d) RENEWABLE FUEL INVENTORY.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to Congress a report containing—

(1) an inventory of renewable fuels available for consumers; and

(2) a projection of future inventories of renewable fuels based on the incentives provided in this section.

SEC. 207. INSTALLATION OF PHOTOVOLTAIC SYSTEM.

There is authorized to be appropriated to the General Services Administration to install a photovoltaic system, as set forth in the Sun Wall Design Project, for the headquarters building of the Department of Energy located at 1000 Independence Avenue Southwest in the District of Columbia, commonly know as the Forrestal Building, $20,000,000 for fiscal year 2006. Such sums shall remain available until expended.

SEC. 208. SUGAR CANE ETHANOL PROGRAM.

(a) DEFINITION OF PROGRAM.—In this section, the term "program" means the Sugar Cane Ethanol Program established by subsection (b).

(b) ESTABLISHMENT.—There is established within the Environmental Protection Agency a program to be known as the "Sugar Cane Ethanol Program".

(c) PROJECT.—

(1) IN GENERAL.—Subject to the availability of appropriations under subsection (d), in carrying

out the program, the Administrator of the Environmental Protection Agency shall establish a project that is—

(A) carried out in multiple States—

(i) in each of which is produced cane sugar that is eligible for loans under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272), or a similar subsequent authority; and

(ii) at the option of each such State, that have an incentive program that requires the use of ethanol in the State; and

(B) designed to study the production of ethanol from cane sugar, sugarcane, and sugarcane byproducts.

(2) REQUIREMENTS.—A project described in paragraph (1) shall—

(A) be limited to sugar producers and the production of ethanol in the States of Florida, Louisiana, Texas, and Hawaii, divided equally among the States, to demonstrate that the process may be applicable to cane sugar, sugarcane, and sugarcane byproducts;

(B) include information on the ways in which the scale of production may be replicated once the sugar cane industry has located sites for, and constructed, ethanol production facilities; and

(C) not last more than 3 years.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $36,000,000, to remain available until expended.

SEC. 209. RURAL AND REMOTE COMMUNITY ELECTRIFICATION GRANTS.

The Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended in title VI by adding at the end the following:

"SEC. 609. RURAL AND REMOTE COMMUNITIES ELECTRIFICATION GRANTS.

"(a) DEFINITIONS.—In this section:

"(1) The term 'eligible grantee' means a local government or municipality, peoples' utility district, irrigation district, and cooperative, nonprofit, or limited-dividend association in a rural area.

"(2) The term 'incremental hydropower' means additional generation achieved from increased efficiency after January 1, 2005, at a hydroelectric dam that was placed in service before January 1, 2005.

"(3) The term 'renewable energy' means electricity generated from—

"(A) a renewable energy source; or

"(B) hydrogen, other than hydrogen produced from a fossil fuel, that is produced from a renewable energy source.

"(4) The term 'renewable energy source' means—

"(A) wind;

"(B) ocean waves;

"(C) biomass;

"(D) solar

"(E) landfill gas;

"(F) incremental hydropower;

"(G) livestock methane; or

"(H) geothermal energy.

"(5) The term 'rural area' means a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants.

"(b) GRANTS.—The Secretary, in consultation with the Secretary of Agriculture and the Secretary of the Interior, may provide grants under this section to eligible grantees for the purpose of—

"(1) increasing energy efficiency, siting or upgrading transmission and distribution lines serving rural areas,; or

"(2) providing or modernizing electric generation facilities that serve rural areas.

"(c) GRANT ADMINISTRATION.—(1) The Secretary shall make grants under this section based on a determination of cost-effectiveness and the most effective use of the funds to achieve the purposes described in subsection (b).

"(2) For each fiscal year, the Secretary shall allocate grant funds under this section equally between the purposes described in paragraphs (1) and (2) of subsection (b).

"(3) In making grants for the purposes described in subsection (b)(2), the Secretary shall give preference to renewable energy facilities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $20,000,000 for each of fiscal years 2006 through 2012.".

SEC. 210. GRANTS TO IMPROVE THE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, AND OTHER COMMERCIAL PURPOSES.

(a) DEFINITIONS.—In this section:

(1) BIOMASS.—The term "biomass" means nonmerchantable materials or precommercial thinnings that are byproducts of preventive treatments, such as trees, wood, brush, thinnings, chips, and slash, that are removed—

(A) to reduce hazardous fuels;

(B) to reduce or contain disease or insect infestation; or

(C) to restore forest health.

(2) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(3) NONMERCHANTABLE.—For purposes of subsection (b), the term "nonmerchantable" means that portion of the byproducts of preventive treatments that would not otherwise be used for higher value products.

(4) PERSON.—The term "person" includes—

(A) an individual;

(B) a community (as determined by the Secretary concerned);

(C) an Indian tribe;

(D) a small business or a corporation that is incorporated in the United States; and

(E) a nonprofit organization.

(5) PREFERRED COMMUNITY.—The term "preferred community" means—

(A) any Indian tribe;

(B) any town, township, municipality, or other similar unit of local government (as determined by the Secretary concerned) that—

(i) has a population of not more than 50,000 individuals; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near Federal or Indian land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation; or

(C) any county that—

(i) is not contained within a metropolitan statistical area; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near Federal or Indian land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

(6) SECRETARY CONCERNED.—The term "Secretary concerned" means the Secretary of Agriculture or the Secretary of the Interior.

(b) BIOMASS COMMERCIAL USE GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary concerned may make grants to any person in a preferred community that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, or transportation fuels to offset the costs incurred to purchase biomass for use by such facility.

(2) GRANT AMOUNTS.—A grant under this subsection may not exceed $20 per green ton of biomass delivered.

(3) MONITORING OF GRANT RECIPIENT ACTIVITIES.—As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary concerned may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass. Upon notice by a representative of the Secretary concerned, the grant recipient shall afford the representative reasonable access to the facility that purchases or uses biomass and an opportunity to examine the inventory and records of the facility.

(c) IMPROVED BIOMASS USE GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary concerned may make grants to persons to offset the cost of projects to develop or research opportunities to improve the use of, or add value to, biomass. In making such grants, the Secretary concerned shall give preference to persons in preferred communities.

(2) SELECTION.—The Secretary concerned shall select a grant recipient under paragraph (1) after giving consideration to—

(A) the anticipated public benefits of the project, including the potential to develop thermal or electric energy resources or affordable energy;

(B) opportunities for the creation or expansion of small businesses and micro-businesses;

(C) the potential for new job creation;

(D) the potential for the project to improve efficiency or develop cleaner technologies for biomass utilization; and

(E) the potential for the project to reduce the hazardous fuels from the areas in greatest need of treatment.

(3) GRANT AMOUNT.—A grant under this subsection may not exceed $500,000.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2006 through 2016 to carry out this section.

(e) REPORT.—Not later than October 1, 2010, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Resources, the Committee on Energy and Commerce, and the Committee on Agriculture of the House of Representatives, a report describing the results of the grant programs authorized by this section. The report shall include the following:

(1) An identification of the size, type, and use of biomass by persons that receive grants under this section.

(2) The distance between the land from which the biomass was removed and the facility that used the biomass.

(3) The economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations.

SEC. 211. SENSE OF CONGRESS REGARDING GENERATION CAPACITY OF ELECTRICITY FROM RENEWABLE ENERGY RESOURCES ON PUBLIC LANDS.

It is the sense of the Congress that the Secretary of the Interior should, before the end of the 10-year period beginning on the date of enactment of this Act, seek to have approved nonhydropower renewable energy projects located on the public lands with a generation capacity of at least 10,000 megawatts of electricity.

Subtitle B—Geothermal Energy

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "John Rishel Geothermal Steam Act Amendments of 2005".

SEC. 222. COMPETITIVE LEASE SALE REQUIREMENTS.

Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended to read as follows:

"SEC. 4. LEASING PROCEDURES.

"(a) NOMINATIONS.—The Secretary shall accept nominations of land to be leased at any

time from qualified companies and individuals under this Act.

"(b) Competitive Lease Sale Required.—

"(1) In general.—Except as otherwise specifically provided by this Act, all land to be leased that is not subject to leasing under subsection (c) shall be leased as provided in this subsection to the highest responsible qualified bidder, as determined by the Secretary.

"(2) Competitive lease sales.—The Secretary shall hold a competitive lease sale at least once every 2 years for land in a State that has nominations pending under subsection (a) if the land is otherwise available for leasing.

"(3) Lands subject to mining claims.—Lands that are subject to a mining claim for which a plan of operations has been approved by the relevant Federal land management agency may be available for noncompetitive leasing under this section to the mining claim holder.

"(c) Noncompetitive Leasing.—The Secretary shall make available for a period of 2 years for noncompetitive leasing any tract for which a competitive lease sale is held, but for which the Secretary does not receive any bids in a competitive lease sale.

"(d) Pending Lease Applications.—

"(1) In general.—It shall be a priority for the Secretary, and for the Secretary of Agriculture with respect to National Forest Systems land, to ensure timely completion of administrative actions, including amendments to applicable forest plans and resource management plans, necessary to process applications for geothermal leasing pending on the date of enactment of this subsection. All future forest plans and resource management plans for areas with high geothermal resource potential shall consider geothermal leasing and development.

"(2) Administration.—An application described in paragraph (1) and any lease issued pursuant to the application—

"(A) except as provided in subparagraph (B), shall be subject to this section as in effect on the day before the date of enactment of this paragraph; or

"(B) at the election of the applicant, shall be subject to this section as in effect on the effective date of this paragraph.

"(e) Leases Sold as a Block.—If information is available to the Secretary indicating a geothermal resource that could be produced as 1 unit can reasonably be expected to underlie more than 1 parcel to be offered in a competitive lease sale, the parcels for such a resource may be offered for bidding as a block in the competitive lease sale.".

SEC. 223. DIRECT USE.

(a) Fees for Direct Use.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended—

(1) in subsection (c), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by redesignating subsections (a) through (d) as paragraphs (1) through (4), respectively;

*(3) by inserting "(a) In General.—" after "*__SEC. 5.__*"; and*

(4) by adding at the end the following:

"(b) Direct Use.—

"(1) In general.—Notwithstanding subsection (a)(1), the Secretary shall establish a schedule of fees, in lieu of royalties for geothermal resources, that a lessee or its affiliate—

"(A) uses for a purpose other than the commercial generation of electricity; and

"(B) does not sell.

"(2) Schedule of fees.—The schedule of fees—

"(A) may be based on the quantity or thermal content, or both, of geothermal resources used;

"(B) shall ensure a fair return to the United States for use of the resource; and

"(C) shall encourage development of the resource.

"(3) State, tribal, or local governments.—If a State, tribal, or local government is the lessee and uses geothermal resources without sale and for public purposes other than commercial generation of electricity, the Secretary shall charge only a nominal fee for use of the resource.

"(4) Final regulation.—In issuing any final regulation establishing a schedule of fees under this subsection, the Secretary shall seek—

"(A) to provide lessees with a simplified administrative system;

"(B) to facilitate development of direct use of geothermal resources; and

"(C) to contribute to sustainable economic development opportunities in the area.".

(b) Leasing for Direct Use.—Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) (as amended by section 222) is further amended by adding at the end the following:

"(f) Leasing for Direct Use of Geothermal Resources.—Notwithstanding subsection (b), the Secretary may identify areas in which the land to be leased under this Act exclusively for direct use of geothermal resources, without sale for purposes other than commercial generation of electricity, may be leased to any qualified applicant that first applies for such a lease under regulations issued by the Secretary, if the Secretary—

"(1) publishes a notice of the land proposed for leasing not later than 90 days before the date of the issuance of the lease;

"(2) does not receive during the 90-day period beginning on the date of the publication any nomination to include the land concerned in the next competitive lease sale; and

"(3) determines there is no competitive interest in the geothermal resources in the land to be leased.

"(g) Area Subject to Lease for Direct Use.—

"(1) In general.—Subject to paragraph (2), a geothermal lease for the direct use of geothermal resources shall cover not more than the quantity of acreage determined by the Secretary to be reasonably necessary for the proposed use.

"(2) Limitations.—The quantity of acreage covered by the lease shall not exceed the limitations established under section 7.".

(c) Application of New Lease Terms.—The schedule of fees established under the amendment made by subsection (a)(4) shall apply with respect to payments under a lease converted under this subsection that are due and owing, and have been paid, on or after July 16, 2003. This subsection shall not require the refund of royalties paid to a state under section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) prior to the date of enactment of this Act.

SEC. 224. ROYALTIES AND NEAR-TERM PRODUCTION INCENTIVES.

(a) Royalty.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended—

(1) in subsection (a) by striking paragraph (1) and inserting the following:

"(1) a royalty on electricity produced using geothermal resources, other than direct use of geothermal resources, that shall be—

"(A) not less than 1 percent and not more than 2.5 percent of the gross proceeds from the sale of electricity produced from such resources during the first 10 years of production under the lease; and

"(B) not less than 2 and not more than 5 percent of the gross proceeds from the sale of electricity produced from such resources during each year after such 10-year period;"; and

(2) by adding at the end the following:

"(c) Final Regulation Establishing Royalty Rates.—In issuing any final regulation establishing royalty rates under this section, the Secretary shall seek—

"(1) to provide lessees a simplified administrative system;

"(2) to encourage new development; and

"(3) to achieve the same level of royalty revenues over a 10-year period as the regulation in effect on the date of enactment of this subsection.

"(d) Credits for In-Kind Payments of Electricity.—The Secretary may provide to a lessee a credit against royalties owed under this Act, in an amount equal to the value of electricity provided under contract to a State or county government that is entitled to a portion of such royalties under section 20 of this Act, section 35 of the Mineral Leasing Act (30 U.S.C. 191), except as otherwise provided by this section, or section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355), if—

"(1) the Secretary has approved in advance the contract between the lessee and the State or county government for such in-kind payments;

"(2) the contract establishes a specific methodology to determine the value of such credits; and

"(3) the maximum credit will be equal to the royalty value owed to the State or county that is a party to the contract and the electricity received will serve as the royalty payment from the Federal Government to that entity.".

(b) Disposal of Moneys From Sales, Bonuses, Royalties, and Rents.—Section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) is amended to read as follows:

"SEC. 20. DISPOSAL OF MONEYS FROM SALES, BONUSES, RENTALS, AND ROYALTIES.

"(a) In General.—Except with respect to lands in the State of Alaska, all monies received by the United States from sales, bonuses, rentals, and royalties under this Act shall be paid into the Treasury of the United States. Of amounts deposited under this subsection, subject to the provisions of subsection (b) of section 35 of the Mineral Leasing Act (30 U.S.C. 191(b)) and section 5(a)(2) of this Act—

"(1) 50 percent shall be paid to the State within the boundaries of which the leased lands or geothermal resources are or were located; and

"(2) 25 percent shall be paid to the County within the boundaries of which the leased lands or geothermal resources are or were located.

"(b) Use of Payments.—Amounts paid to a State or county under subsection (a) shall be used consistent with the terms of section 35 of the Mineral Leasing Act (30 U.S.C. 191).".

(c) Near-Term Production Incentive for Existing Leases.—

(1) In general.—Notwithstanding section 5(a) of the Geothermal Steam Act of 1970, the royalty required to be paid shall be 50 percent of the amount of the royalty otherwise required, on any lease issued before the date of enactment of this Act that does not convert to new royalty terms under subsection (e)—

(A) with respect to commercial production of energy from a facility that begins such production in the 6-year period beginning on the date of enactment of this Act; or

(B) on qualified expansion geothermal energy.

(2) 4-year application.—Paragraph (1) applies only to new commercial production of energy from a facility in the first 4 years of such production.

(d) Definition of Qualified Expansion Geothermal Energy.—In this section, the term "qualified expansion geothermal energy" means geothermal energy produced from a generation facility for which—

(1) the production is increased by more than 10 percent as a result of expansion of the facility carried out in the 6-year period beginning on the date of enactment of this Act; and

(2) such production increase is greater than 10 percent of the average production by the facility during the 5-year period preceding the expansion of the facility (as such average is adjusted

to reflect any trend in changes in production during that period).

(e) Royalty Under Existing Leases.—

(1) In general.—Any lessee under a lease issued under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) before the date of enactment of this Act may, within the time period specified in paragraph (2), submit to the Secretary of the Interior a request to modify the terms of the lease relating to payment of royalties to provide—

(A) in the case of a lease that meets the requirements of subsection (b) of section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 223), that royalties be based on the schedule of fees established under that section; and

(B) in the case of any other lease, that royalties be computed on a percentage of the gross proceeds from the sale of electricity, at a royalty rate that is expected to yield total royalty payments equivalent to payments that would have been received for comparable production under the royalty rate in effect for the lease before the date of enactment of this subsection.

(2) Timing.—A request for a modification under paragraph (1) shall be submitted to the Secretary of the Interior by the date that is not later than—

(A) in the case of a lease for direct use, 18 months after the effective date of the schedule of fees established by the Secretary of the Interior under section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004); or

(B) in the case of any other lease, 18 months after the effective date of the final regulation issued under subsection (a).

(3) Application of modification.—If the lessee requests modification of a lease under paragraph (1)—

(A) the Secretary of the Interior shall, within 180 days after the receipt of the request for modification, modify the lease to comply with—

(i) in the case of a lease for direct use, the schedule of fees established by the Secretary under section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004); or

(ii) in the case of any other lease, the royalty for the lease established under paragraph (1)(B); and

(B) the modification shall apply to any use of geothermal resources to which subsection (a) applies that occurs after the date of the modification.

(4) Consultation.—The Secretary of the Interior shall consult with the State and local governments affected by any proposed changes in lease royalty terms under this subsection.

SEC. 225. COORDINATION OF GEOTHERMAL LEASING AND PERMITTING ON FEDERAL LANDS.

(a) In General.—Not later than 180 days after the date of enactment of this section, the Secretary of the Interior and the Secretary of Agriculture shall enter into and submit to Congress a memorandum of understanding in accordance with this section, the Geothermal Steam Act of 1970 (as amended by this Act), and other applicable laws, regarding coordination of leasing and permitting for geothermal development of public lands and National Forest System lands under their respective jurisdictions.

(b) Lease and Permit Applications.—The memorandum of understanding shall—

(1) establish an administrative procedure for processing geothermal lease applications, including lines of authority, steps in application processing, and time limits for application procession;

(2) establish a 5-year program for geothermal leasing of lands in the National Forest System, and a process for updating that program every 5 years; and

(3) establish a program for reducing the backlog of geothermal lease application pending on January 1, 2005, by 90 percent within the 5-year period beginning on the date of enactment of this Act, including, as necessary, by issuing leases, rejecting lease applications for failure to comply with the provisions of the regulations under which they were filed, or determining that an original applicant (or the applicant's assigns, heirs, or estate) is no longer interested in pursuing the lease application.

(c) Data Retrieval System.—The memorandum of understanding shall establish a joint data retrieval system that is capable of tracking lease and permit applications and providing to the applicant information as to their status within the Departments of the Interior and Agriculture, including an estimate of the time required for administrative action.

SEC. 226. ASSESSMENT OF GEOTHERMAL ENERGY POTENTIAL..

Not later than 3 years after the date of enactment of this Act and thereafter as the availability of data and developments in technology warrants, the Secretary of the Interior, acting through the Director of the United States Geological Survey and in cooperation with the States, shall—

(1) update the Assessment of Geothermal Resources made during 1978; and

(2) submit to Congress the updated assessment.

SEC. 227. COOPERATIVE OR UNIT PLANS.

Section 18 of the Geothermal Steam Act of 1970 (30 U.S.C. 1017) is amended to read as follows:

"SEC. 18. UNIT AND COMMUNITIZATION AGREEMENTS.

"(a) Adoption of Units.by Lessees.—

"(1) In general.—For the purpose of more properly conserving the natural resources of any geothermal reservoir, field, or like area, or any part thereof (whether or not any part of the geothermal reservoir, field, or like area, is subject to any cooperative plan of development or operation (referred to in this section as a 'unit agreement')), lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for the reservoir, field, or like area, or any part thereof, including direct use resources, if determined and certified by the Secretary to be necessary or advisable in the public interest.

"(2) Majority interest of single leases.—A majority interest of owners of any single lease shall have the authority to commit the lease to a unit agreement.

"(3) Initiative of secretary.—The Secretary may also initiate the formation of a unit agreement, or require an existing Federal lease to commit to a unit agreement, if in the public interest.

"(4) Modification of lease requirements by secretary.—

"(A) In general.—The Secretary may, in the discretion of the Secretary and with the consent of the holders of leases involved, establish, alter, change, or revoke rates of operations (including drilling, operations, production, and other requirements) of the leases and make conditions with respect to the leases, with the consent of the lessees, in connection with the creation and operation of any such unit agreement as the Secretary may consider necessary or advisable to secure the protection of the public interest.

"(B) Unlike terms or rates.—Leases with unlike lease terms or royalty rates shall not be required to be modified to be in the same unit.

"(b) Requirement of Plans Under New Leases.—The Secretary may—

"(1) provide that geothermal leases issued under this Act shall contain a provision requiring the lessee to operate under a unit agreement; and

"(2) prescribe the unit agreement under which the lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

"(c) Modification of Rate of Prospecting, Development, and Production.—The Secretary may require that any unit agreement authorized by this section that applies to land owned by the United States contain a provision under which authority is vested in the Secretary, or any person, committee, or State or Federal officer or agency as may be designated in the unit agreement to alter or modify, from time to time, the rate of prospecting and development and the quantity and rate of production under the unit agreement.

"(d) Exclusion From Determination of Holding or Control.—Any land that is subject to a unit agreement approved or prescribed by the Secretary under this section shall not be considered in determining holdings or control under section 7.

"(e) Pooling of Certain Land.—If separate tracts of land cannot be independently developed and operated to use geothermal resources pursuant to any section of this Act—

"(1) the land, or a portion of the land, may be pooled with other land, whether or not owned by the United States, for purposes of development and operation under a communitization agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the production unit, if the pooling is determined by the Secretary to be in the public interest; and

"(2) operation or production pursuant to the communitization agreement shall be treated as operation or production with respect to each tract of land that is subject to the communitization agreement.

"(f) Unit Agreement Review.—

"(1) In general.—Not later than 5 years after the date of approval of any unit agreement and at least every 5 years thereafter, the Secretary shall—

"(A) review each unit agreement; and

"(B) after notice and opportunity for comment, eliminate from inclusion in the unit agreement any land that the Secretary determines is not reasonably necessary for unit operations under the unit agreement.

"(2) Basis for elimination.—The elimination shall—

"(A) be based on scientific evidence; and

"(B) occur only if the elimination is determined by the Secretary to be for the purpose of conserving and properly managing the geothermal resource.

"(3) Extension.—Any land eliminated under this subsection shall be eligible for an extension under section 6(g) if the land meets the requirements for the extension.

"(g) Drilling or Development Contracts.—

"(1) In general.—The Secretary may, on such conditions as the Secretary may prescribe, approve drilling or development contracts made by 1 or more lessees of geothermal leases, with 1 or more persons, associations, or corporations if, in the discretion of the Secretary, the conservation of natural resources or the public convenience or necessity may require or the interests of the United States may be best served by the approval.

"(2) Holdings or control.—Each lease operated under an approved drilling or development contract, and interest under the contract, shall be excepted in determining holdings or control under section 7.

"(h) Coordination With State Governments.—The Secretary shall coordinate unitization and pooling activities with appropriate State agencies.".

SEC. 228. ROYALTY ON BYPRODUCTS.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 223(a)) is further amended in subsection (a) by striking paragraph (2) and inserting the following:

"(2) a royalty on any byproduct that is a mineral specified in the first section of the Mineral Leasing Act (30 U.S.C. 181), and that is derived from production under the lease, at the rate of the royalty that applies under that Act to production of the mineral under a lease under that Act;".

SEC. 229. AUTHORITIES OF SECRETARY TO READJUST TERMS, CONDITIONS, RENTALS, AND ROYALTIES.

Section 8(b) of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is amended in the second sentence by striking "period, and in no event" and all that follows through the end of the sentence and inserting "period".

SEC. 230. CREDITING OF RENTAL TOWARD ROYALTY.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by sections 223 and 224) is further amended—

(1) in subsection (a)(2) by inserting "and" after the semicolon at the end;

(2) in subsection (a)(3) by striking "; and" and inserting a period;

(3) by striking paragraph (4) of subsection (a); and

(4) by adding at the end the following:

"(e) CREDITING OF RENTAL TOWARD ROYALTY.—Any annual rental under this section that is paid with respect to a lease before the first day of the year for which the annual rental is owed shall be credited to the amount of royalty that is required to be paid under the lease for that year.".

SEC. 231. LEASE DURATION AND WORK COMMITMENT REQUIREMENTS.

Section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005) is amended—

(1) by striking so much as precedes subsection (c), and striking subsections (e), (g), (h), (i), and (j);

(2) by redesignating subsections (c), (d), and (f) in order as subsections (g), (h), and (i); and

(3) by inserting before subsection (g), as so redesignated, the following:

"SEC. 6. LEASE TERM AND WORK COMMITMENT REQUIREMENTS.

"(a) IN GENERAL.—

"(1) PRIMARY TERM.—A geothermal lease shall be for a primary term of 10 years.

"(2) INITIAL EXTENSION.—The Secretary shall extend the primary term of a geothermal lease for 5 years if, for each year after the tenth year of the lease—

"(A) the Secretary determined under subsection (b) that the lessee satisfied the work commitment requirements that applied to the lease for that year; or

"(B) the lessee paid in annual payments accordance with subsection (c).

"(3) ADDITIONAL EXTENSION.—The Secretary shall extend the primary term of a geothermal lease (after an initial extension under paragraph (2)) for an additional 5 years if, for each year of the initial extension under paragraph (2), the Secretary determined under subsection (b) that the lessee satisfied the minimum work requirements that applied to the lease for that year.

"(b) REQUIREMENT TO SATISFY ANNUAL MINIMUM WORK REQUIREMENT.—

"(1) IN GENERAL.—The lessee for a geothermal lease shall, for each year after the tenth year of the lease, satisfy minimum work requirements prescribed by the Secretary that apply to the lease for that year.

"(2) PRESCRIPTION OF MINIMUM WORK REQUIREMENTS.—The Secretary shall issue regulations prescribing minimum work requirements for geothermal leases, that—

"(A) establish a geothermal potential; and

"(B) if a geothermal potential has been established, confirm the existence of producible geothermal resources.

"(c) PAYMENTS IN LIEU OF MINIMUM WORK REQUIREMENTS.—In lieu of the minimum work requirements set forth in subsection (b)(2), the Secretary shall by regulation establish minimum annual payments which may be made by the lessee for a limited number of years that the Secretary determines will not impair achieving diligent development of the geothermal resource, but in no event shall the number of years exceed the duration of the extension period provided in subsection (a).

"(d) TRANSITION RULES FOR LEASES ISSUED PRIOR TO ENACTMENT OF ENERGY POLICY ACT OF 2005.—The Secretary shall by regulation establish transition rules for leases issued before the date of the enactment of this subsection, including terms under which a lease that is near the end of its term on the date of enactment of this subsection may be extended for up to 2 years—

"(1) to allow achievement of production under the lease; or

"(2) to allow the lease to be included in a producing unit.

"(e) GEOTHERMAL LEASE OVERLYING MINING CLAIM.—

"(1) EXEMPTION.—The lessee for a geothermal lease of an area overlying an area subject to a mining claim for which a plan of operations has been approved by the relevant Federal land management agency is exempt from annual work requirements established under this Act, if development of the geothermal resource subject to the lease would interfere with the mining operations under such claim.

"(2) TERMINATION OF EXEMPTION.—An exemption under this paragraph expires upon the termination of the mining operations.

"(f) TERMINATION OF APPLICATION OF REQUIREMENTS.—Minimum work requirements prescribed under this section shall not apply to a geothermal lease after the date on which the geothermal resource is utilized under the lease in commercial quantities.".

SEC. 232. ADVANCED ROYALTIES REQUIRED FOR CESSATION OF PRODUCTION.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by sections 223, 224, and 230) is further amended by adding at the end the following:

"(f) ADVANCED ROYALTIES REQUIRED FOR CESSATION OF PRODUCTION.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), if, at any time after commercial production under a lease is achieved, production ceases for any reason, the lease shall remain in full force and effect for a period of not more than an aggregate number of 10 years beginning on the date production ceases, if, during the period in which production is ceased, the lessee pays royalties in advance at the monthly average rate at which the royalty was paid during the period of production.

"(2) REDUCTION.—The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advanced royalties paid under the lease to the extent that the advance royalties have not been used to reduce production royalties for a prior year.

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if the cessation in production is required or otherwise caused by—

"(A) the Secretary;

"(B) the Secretary of the Air Force;

"(C) the Secretary of the Army;

"(D) the Secretary of the Navy;

"(E) a State or a political subdivision of a State; or

"(F) a force majeure.".

SEC. 233. ANNUAL RENTAL.

(a) ANNUAL RENTAL RATE.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 223(a)) is further amended in subsection (a) by striking paragraph (3) and inserting the following:

"(3) payment in advance of an annual rental of not less than—

"(A) for each of the first through tenth years of the lease—

"(i) in the case of a lease awarded in a noncompetitive lease sale, $1 per acre or fraction thereof; or

"(ii) in the case of a lease awarded in a competitive lease sale, $2 per acre or fraction thereof for the first year and $3 per acre or fraction thereof for each of the second through 10th years; and

"(B) for each year after the 10th year of the lease, $5 per acre or fraction thereof;".

(b) TERMINATION OF LEASE FOR FAILURE TO PAY RENTAL.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by sections 223, 224, 230, and 232) is further amended by adding at the end the following:

"(g) TERMINATION OF LEASE FOR FAILURE TO PAY RENTAL.—

"(1) IN GENERAL.—The Secretary shall terminate any lease with respect to which rental is not paid in accordance with this Act and the terms of the lease under which the rental is required, on the expiration of the 45-day period beginning on the date of the failure to pay the rental.

"(2) NOTIFICATION.—The Secretary shall promptly notify a lessee that has not paid rental required under the lease that the lease will be terminated at the end of the period referred to in paragraph (1).

"(3) REINSTATEMENT.—A lease that would otherwise terminate under paragraph (1) shall not terminate under that paragraph if the lessee pays to the Secretary, before the end of the period referred to in paragraph (1), the amount of rental due plus a late fee equal to 10 percent of the amount.".

SEC. 234. DEPOSIT AND USE OF GEOTHERMAL LEASE REVENUES FOR 5 FISCAL YEARS.

(a) DEPOSIT OF GEOTHERMAL RESOURCES LEASES.—Notwithstanding any other provision of law, amounts received by the United States in the first 5 fiscal years beginning after the date of enactment of this Act as rentals, royalties, and other payments required under leases under the Geothermal Steam Act of 1970, excluding funds required to be paid to State and county governments, shall be deposited into a separate account in the Treasury.

(b) USE OF DEPOSITS.—Amounts deposited under subsection (a) shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, to implement the Geothermal Steam Act of 1970 and this Act.

(c) TRANSFER OF FUNDS.—For the purposes of coordination and processing of geothermal leases and geothermal use authorizations on Federal land the Secretary of the Interior may authorize the expenditure or transfer of such funds as are necessary to the Forest Service.

SEC. 235. ACREAGE LIMITATIONS.

Section 7 of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is amended—

(1) by striking "SEC. 7.", and by inserting immediately before and above the first paragraph the following:

"SEC. 7. ACREAGE LIMITATIONS.";

(2) in the first paragraph—

(A) by striking "two thousand five hundred and sixty acres" and inserting "5,120 acres"; and

(B) by striking "twenty thousand four hundred and eighty acres" and inserting "51,200 acres"; and

(3) by striking the second paragraph.

SEC. 236. TECHNICAL AMENDMENTS.

The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is further amended as follows:

(1) By striking "geothermal steam and associated geothermal resources" each place it appears and inserting "geothermal resources".

(2) Section 2 (30 U.S.C. 1001) is amended by adding at the end the following:

"(g) 'direct use' means utilization of geothermal resources for commercial, residential, agricultural, public facilities, or other energy needs other than the commercial production of electricity; and".

(3) Section 21 (30 U.S.C. 1020) is amended by striking "(a) Within one hundred" and all that follows through "(b) Geothermal" and inserting "Geothermal".

(4) The first section (30 U.S.C. 1001 note) is amended by striking "That this" and inserting the following:

"SEC. 1. SHORT TITLE.

"This".

(5) Section 2 (30 U.S.C. 1001) is amended by striking "**SEC. 2.** As" and inserting the following:

"SEC. 2. DEFINITIONS.

"As".

(6) Section 3 (30 U.S.C. 1002) is amended by striking "**SEC. 3.** Subject" and inserting the following:

"SEC. 3. LANDS SUBJECT TO GEOTHERMAL LEASING.

"Subject".

(7) Section 5 (30 U.S.C. 1004) is further amended by striking "**SEC. 5.**", and by inserting immediately before and above subsection (a) the following:

"SEC. 5. RENTS AND ROYALTIES.".

(8) Section 8 (30 U.S.C. 1007) is amended by striking "**SEC. 8.** (a) The" and inserting the following:

"SEC. 8. READJUSTMENT OF LEASE TERMS AND CONDITIONS.

"(a) The".

(9) Section 9 (30 U.S.C. 1008) is amended by striking "**SEC. 9.** If" and inserting the following:

"SEC. 9. BYPRODUCTS.

"If".

(10) Section 10 (30 U.S.C. 1009) is amended by striking "**SEC.** 10. The" and inserting the following:

"SEC. 10. RELINQUISHMENT OF GEOTHERMAL RIGHTS.

"The".

(11) Section 11 (30 U.S.C. 1010) is amended by striking "**SEC.** 11. The" and inserting the following:

"SEC. 11. SUSPENSION OF OPERATIONS AND PRODUCTION.

"The".

(12) Section 12 (30 U.S.C. 1011) is amended by striking "**SEC.** 12. Leases" and inserting the following:

"SEC. 12. TERMINATION OF LEASES.

"Leases".

(13) Section 13 (30 U.S.C. 1012) is amended by striking "**SEC.** 13. The" and inserting the following:

"SEC. 13. WAIVER, SUSPENSION, OR REDUCTION OF RENTAL OR ROYALTY.

"The".

(14) Section 14 (30 U.S.C. 1013) is amended by striking "**SEC.** 14. Subject" and inserting the following:

"SEC. 14. SURFACE LAND USE.

"Subject".

(15) Section 15 (30 U.S.C. 1014) is amended by striking "**SEC.** 15. (a) Geothermal" and inserting the following:

"SEC. 15. LANDS SUBJECT TO GEOTHERMAL LEASING.

"(a) Geothermal".

(16) Section 16 (30 U.S.C. 1015) is amended by striking "**SEC.** 16. Leases" and inserting the following:

"SEC. 16. REQUIREMENT FOR LESSEES.

"Leases".

(17) Section 17 (30 U.S.C. 1016) is amended by striking "**SEC.** 17. Administration" and inserting the following:

"SEC. 17. ADMINISTRATION.

"Administration".

(18) Section 19 (30 U.S.C. 1018) is amended by striking "**SEC.** 19. Upon" and inserting the following:

"SEC. 19. DATA FROM FEDERAL AGENCIES.

"Upon".

(19) Section 21 (30 U.S.C. 1020) is further amended by striking "**SEC.** 21.", and by inserting immediately before and above the remainder of that section the following:

"SEC. 21. PUBLICATION IN FEDERAL REGISTER; RESERVATION OF MINERAL RIGHTS.".

(20) Section 22 (30 U.S.C. 1021) is amended by striking "**SEC.** 22. Nothing" and inserting the following:

"SEC. 22. FEDERAL EXEMPTION FROM STATE WATER LAWS.

"Nothing".

(21) Section 23 (30 U.S.C. 1022) is amended by striking "**SEC.** 23. (a) All" and inserting the following:

"SEC. 23. PREVENTION OF WASTE; EXCLUSIVITY.

"(a) All".

(22) Section 24 (30 U.S.C. 1023) is amended by striking "**SEC.** 24. The" and inserting the following:

"SEC. 24. RULES AND REGULATIONS.

"The".

(23) Section 25 (30 U.S.C. 1024) is amended by striking "**SEC.** 25. As" and inserting the following:

"SEC. 25. INCLUSION OF GEOTHERMAL LEASING UNDER CERTAIN OTHER LAWS.

"As".

(24) Section 26 is amended by striking "**SEC.** 26. The" and inserting the following:

"SEC. 26. AMENDMENT.

"The".

(25) Section 27 (30 U.S.C. 1025) is amended by striking "**SEC.** 27. The" and inserting the following:

"SEC. 27. FEDERAL RESERVATION OF CERTAIN MINERAL RIGHTS.

"The".

(26) Section 28 (30 U.S.C. 1026) is amended by striking "**SEC.** 28. (a)(1) The" and inserting the following:

"SEC. 28. SIGNIFICANT THERMAL FEATURES.

"(a)(1) The".

(27) Section 29 (30 U.S.C. 1027) is amended by striking "**SEC.** 29. The" and inserting the following:

"SEC. 29. LAND SUBJECT TO PROHIBITION ON LEASING.

"The".

SEC. 237. INTERMOUNTAIN WEST GEOTHERMAL CONSORTIUM.

(a) Participation Authorized.—The Secretary, acting through the Idaho National Laboratory, may participate in a consortium described in subsection (b) to address science and science policy issues surrounding the expanded discovery and use of geothermal energy, including from geothermal resources on public lands.

(b) Members.—The consortium referred to in subsection (a) shall—

(1) be known as the "Intermountain West Geothermal Consortium";

(2) be a regional consortium of institutions and government agencies that focuses on building collaborative efforts among the universities in the State of Idaho, other regional universities, State agencies, and the Idaho National Laboratory;

(3) include Boise State University, the University of Idaho (including the Idaho Water Resources Research Institute), the Oregon Institute of Technology, the Desert Research Institute with the University and Community College System of Nevada, and the Energy and Geoscience Institute at the University of Utah;

(4) be hosted and managed by Boise State University; and

(5) have a director appointed by Boise State University, and associate directors appointed by each participating institution.

(c) Financial Assistance.—The Secretary, acting through the Idaho National Laboratory and subject to the availability of appropriations, will provide financial assistance to Boise State University for expenditure under contracts with members of the consortium to carry out the activities of the consortium.

Subtitle C—Hydroelectric

SEC. 241. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) Federal Reservations.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by inserting after "adequate protection and utilization of such reservation." at the end of the first proviso the following: "The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such conditions. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted by the relevant resource agency in accordance with the regulations promulgated under this subsection and within the time frame established by the Commission for each license proceeding. Within 90 days of the date of enactment of the Energy Policy Act of 2005, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission.".

(b) Fishways.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by inserting after "and such fishways as may be prescribed by the Secretary of Commerce." the following: "The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such fishways. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted by the relevant resource agency in accordance with the regulations promulgated under this subsection and within the time frame established by the Commission for each license proceeding. Within 90 days of the date of enactment of the Energy Policy Act of 2005, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission.".

(c) Alternative Conditions and Prescriptions.—Part I of the Federal Power Act (16 U.S.C. 791a et seq.) is amended by adding the following new section at the end thereof:

"SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.

"(a) Alternative Conditions.—(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the department under whose supervision such reservation falls (referred to in this subsection as the 'Secretary') deems a condition to such license to be necessary under the first proviso of section 4(e), the *license applicant or any other party to the license proceeding may propose an alternative condition.*

"(2) Notwithstanding the first proviso of section 4(e), the Secretary shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary determines, based on substantial evidence provided by the license applicant, any other party to the proceeding, or otherwise available to the Secretary, that such alternative condition—

"(A) provides for the adequate protection and utilization of the reservation; and

"(B) will either, as compared to the condition initially by the Secretary—

"(i) cost significantly less to implement; or

"(ii) result in improved operation of the project works for electricity production.

"(3) In making a determination under paragraph (2), the Secretary shall consider evidence provided for the record by any party to a licensing proceeding, or otherwise available to the Secretary, including any evidence provided by the Commission, on the implementation costs or operational impacts for electricity production of a proposed alternative.

"(4) The Secretary concerned shall submit into the public record of the Commission proceeding with any condition under section 4(e) or alternative condition it accepts under this section, a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

"(5) If the Commission finds that the Secretary's final condition would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the reservation. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.

"(b) ALTERNATIVE PRESCRIPTIONS.—(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under section 18, the license applicant or any other party to the license proceeding may propose an alternative to such prescription to construct, maintain, or operate a fishway.

"(2) Notwithstanding section 18, the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the license applicant, any other party to the proceeding, or otherwise available to the Secretary, that such alternative—

"(A) will be no less protective than the fishway initially prescribed by the Secretary; and

"(B) will either, as compared to the fishway initially prescribed by the Secretary—

"(i) cost significantly less to implement; or

"(ii) result in improved operation of the project works for electricity production.

"(3) In making a determination under paragraph (2), the Secretary shall consider evidence provided for the record by any party to a licensing proceeding, or otherwise available to the Secretary, including any evidence provided by the Commission, on the implementation costs or operational impacts for electricity production of a proposed alternative.

"(4) The Secretary concerned shall submit into the public record of the Commission proceeding with any prescription under section 18 or alternative prescription it accepts under this section, a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the prescription adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

"(5) If the Commission finds that the Secretary's final prescription would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the fish resources. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.".

SEC. 242. HYDROELECTRIC PRODUCTION INCENTIVES.

(a) INCENTIVE PAYMENTS.—For electric energy generated and sold by a qualified hydroelectric facility during the incentive period, the Secretary shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility. The amount of such payment made to any such owner or operator shall be as determined under subsection (e) of this section. Payments under this section may only be made upon receipt by the Secretary of an incentive payment application which establishes that the applicant is eligible to receive such payment and which satisfies such other requirements as the Secretary deems necessary. Such application shall be in such form, and shall be submitted at such time, as the Secretary shall establish.

(b) DEFINITIONS.—For purposes of this section:

(1) QUALIFIED HYDROELECTRIC FACILITY.—The term "qualified hydroelectric facility" means a turbine or other generating device owned or solely operated by a non-Federal entity which generates hydroelectric energy for sale and which is added to an existing dam or conduit.

(2) EXISTING DAM OR CONDUIT.—The term "existing dam or conduit" means any dam or conduit the construction of which was completed before the date of the enactment of this section and which does not require any construction or enlargement of impoundment or diversion structures (other than repair or reconstruction) in connection with the installation of a turbine or other generating device.

(3) CONDUIT.—The term "conduit" has the same meaning as when used in section 30(a)(2) of the Federal Power Act (16 U.S.C. 823a(a)(2)).

The terms defined in this subsection shall apply without regard to the hydroelectric kilowatt capacity of the facility concerned, without regard to whether the facility uses a dam owned by a governmental or nongovernmental entity, and without regard to whether the facility begins operation on or after the date of the enactment of this section.

(c) ELIGIBILITY WINDOW.—Payments may be made under this section only for electric energy generated from a qualified hydroelectric facility which begins operation during the period of 10 fiscal years beginning with the first full fiscal year occurring after the date of enactment of this subtitle.

(d) INCENTIVE PERIOD.—A qualified hydroelectric facility may receive payments under this section for a period of 10 fiscal years (referred to in this section as the "incentive period"). Such period shall begin with the fiscal year in which electric energy generated from the facility is first eligible for such payments.

(e) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—Payments made by the Secretary under this section to the owner or operator of a qualified hydroelectric facility shall be based on the number of kilowatt hours of hydroelectric energy generated by the facility during the incentive period. For any such facility, the amount of such payment shall be 1.8 cents per kilowatt hour (adjusted as provided in paragraph (2)), subject to the availability of appropriations under subsection (g), except that no facility may receive more than $750,000 in 1 calendar year.

(2) ADJUSTMENTS.—The amount of the payment made to any person under this section as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 2005 in the same manner as provided in the provisions of section 29(d)(2)(B) of the Internal Revenue Code of 1986, except that in applying such provisions the calendar year 2005 shall be substituted for calendar year 1979.

(f) SUNSET.—No payment may be made under this section to any qualified hydroelectric facility after the expiration of the period of 20 fiscal years beginning with the first full fiscal year occurring after the date of enactment of this subtitle, and no payment may be made under this section to any such facility after a payment has been made with respect to such facility for a period of 10 fiscal years.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this section $10,000,000 for each of the fiscal years 2006 through 2015.

SEC. 243. HYDROELECTRIC EFFICIENCY IMPROVEMENT.

(a) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments to the owners or operators of hydroelectric facilities at existing dams to be used to make capital improvements in the facilities that are directly related to improving the efficiency of such facilities by at least 3 percent.

(b) LIMITATIONS.—Incentive payments under this section shall not exceed 10 percent of the costs of the capital improvement concerned and not more than 1 payment may be made with respect to improvements at a single facility. No payment in excess of $750,000 may be made with respect to improvements at a single facility.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not more than $10,000,000 for each of the fiscal years 2006 through 2015.

SEC. 244. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

Section 32 of the Federal Power Act (16 U.S.C. 823c) is amended—

(1) in subsection (a)(3)(C), by inserting "except as provided in subsection (j)," before "conditions"; and

(2) by adding at the end the following:

"(j) FISH AND WILDLIFE.—If the State of Alaska determines that a recommendation under subsection (a)(3)(C) is inconsistent with paragraphs (1) and (2) of subsection (a), the State of Alaska may decline to adopt all or part of the recommendations in accordance with the procedures established under section 10(j)(2).".

SEC. 245. FLINT CREEK HYDROELECTRIC PROJECT.

(a) EXTENSION OF TIME.—Notwithstanding the time period specified in section 5 of the Federal Power Act (16 U.S.C. 798) that would otherwise apply to the Federal Energy Regulatory Commission (referred to in this section as the "Commission") project numbered 12107, the Commission shall—

(1) if the preliminary permit is in effect on the date of enactment of this Act, extend the preliminary permit for a period of 3 years beginning on the date on which the preliminary permit expires; or

(2) if the preliminary permit expired before the date of enactment of this Act, on request of the permittee, reinstate the preliminary permit for an additional 3-year period beginning on the date of enactment of this Act.

(b) LIMITATION ON CERTAIN FEES.—Notwithstanding section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1)) or any other provision of Federal law providing for the payment to the United States of charges for the use of Federal land for the purposes of operating and maintaining a hydroelectric development licensed by the Commission, any political subdivision of the State of Montana that holds a Commission license for the Commission project numbered 12107 in Granite and Deer Lodge Counties, Montana, shall be required to pay to the United States for the use of that land for each year during which the political subdivision continues to hold the license for the project, the lesser of—

(1) $25,000; or

(2) such annual charge as the Commission or any other department or agency of the Federal Government may assess.

SEC. 246. SMALL HYDROELECTRIC POWER PROJECTS.

Section 408(a)(6) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2708(a)(6)) is amended by striking "April 20, 1977" and inserting "July 22, 2005".

Subtitle D—Insular Energy

SEC. 251. INSULAR AREAS ENERGY SECURITY.

Section 604 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved December 24, 1980 (48 U.S.C. 1492), is amended—

(1) in subsection (a)(4) by striking the period and inserting a semicolon;

(2) by adding at the end of subsection (a) the following new paragraphs:

"(5) electric power transmission and distribution lines in insular areas are inadequate to withstand damage caused by the hurricanes and typhoons which frequently occur in insular areas and such damage often costs millions of dollars to repair; and

"(6) the refinement of renewable energy technologies since the publication of the 1982 Territorial Energy Assessment prepared pursuant to subsection (c) reveals the need to reassess the state of energy production, consumption, infrastructure, reliance on imported energy, opportunities for energy conservation and increased energy efficiency, and indigenous sources in regard to the insular areas.";

(3) by amending subsection (e) to read as follows:

"(e)(1) The Secretary of the Interior, in consultation with the Secretary of Energy and the head of government of each insular area, shall update the plans required under subsection (c) by—

"(A) updating the contents required by subsection (c);

"(B) drafting long-term energy plans for such insular areas with the objective of reducing, to the extent feasible, their reliance on energy imports by the year 2012, increasing energy conservation and energy efficiency, and maximizing, to the extent feasible, use of indigenous energy sources; and

"(C) drafting long-term energy transmission line plans for such insular areas with the objective that the maximum percentage feasible of electric power transmission and distribution lines in each insular area be protected from damage caused by hurricanes and typhoons.

"(2) In carrying out this subsection, the Secretary of Energy shall identify and evaluate the strategies or projects with the greatest potential for reducing the dependence on imported fossil fuels as used for the generation of electricity, including strategies and projects for—

"(A) improved supply-side efficiency of centralized electrical generation, transmission, and distribution systems;

"(B) improved demand-side management through—

"(i) the application of established standards for energy efficiency for appliances;

"(ii) the conduct of energy audits for business and industrial customers; and

"(iii) the use of energy savings performance contracts;

"(C) increased use of renewable energy, including—

"(i) solar thermal energy for electric generation;

"(ii) solar thermal energy for water heating in large buildings, such as hotels, hospitals, government buildings, and residences;

"(iii) photovoltaic energy;

"(iv) wind energy;

"(v) hydroelectric energy;

"(vi) wave energy;

"(vii) energy from ocean thermal resources, including ocean thermal-cooling for community air conditioning;

"(viii) water vapor condensation for the production of potable water;

"(ix) fossil fuel and renewable hybrid electrical generation systems; and

"(x) other strategies or projects that the Secretary may identify as having significant potential; and

"(D) fuel substitution and minimization with indigenous biofuels, such as coconut oil.

"(3) In carrying out this subsection, for each insular area with a significant need for distributed generation, the Secretary of Energy shall identify and evaluate the most promising strategies and projects described in subparagraphs (C) and (D) of paragraph (2) for meeting that need.

"(4) In assessing the potential of any strategy or project under paragraphs (2) and (3), the Secretary of Energy shall consider—

"(A) the estimated cost of the power or energy to be produced, including—

"(i) any additional costs associated with the distribution of the generation; and

"(ii) the long-term availability of the generation source;

"(B) the capacity of the local electrical utility to manage, operate, and maintain any project that may be undertaken; and

"(C) other factors the Secretary of Energy considers to be appropriate.

"(5) Not later than 1 year after the date of enactment of this subsection, the Secretary of the Interior shall submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and the Committee on Energy and Commerce of the House of Representatives, the updated plans for each insular area required by this subsection."; and

(4) by amending subsection (g)(4) to read as follows:

"(4) POWER LINE GRANTS FOR INSULAR AREAS.—

"(A) IN GENERAL.—The Secretary of the Interior is authorized to make grants to governments of insular areas of the United States to carry out eligible projects to protect electric power transmission and distribution lines in such insular areas from damage caused by hurricanes and typhoons.

"(B) ELIGIBLE PROJECTS.—The Secretary of the Interior may award grants under subparagraph (A) only to governments of insular areas of the United States that submit written project plans to the Secretary for projects that meet the following criteria:

"(i) The project is designed to protect electric power transmission and distribution lines located in 1 or more of the insular areas of the United States from damage caused by hurricanes and typhoons.

"(ii) The project is likely to substantially reduce the risk of future damage, hardship, loss, or suffering.

"(iii) The project addresses 1 or more problems that have been repetitive or that pose a significant risk to public health and safety.

"(iv) The project is not likely to cost more than the value of the reduction in direct damage and other negative impacts that the project is designed to prevent or mitigate. The cost benefit analysis required by this criterion shall be computed on a net present value basis.

"(v) The project design has taken into consideration long-term changes to the areas and persons it is designed to protect and has manageable future maintenance and modification requirements.

"(vi) The project plan includes an analysis of a range of options to address the problem it is designed to prevent or mitigate and a justification for the selection of the project in light of that analysis.

"(vii) The applicant has demonstrated to the Secretary that the matching funds required by subparagraph (D) are available.

"(C) PRIORITY.—When making grants under this paragraph, the Secretary of the Interior shall give priority to grants for projects which are likely to—

"(i) have the greatest impact on reducing future disaster losses; and

"(ii) best conform with plans that have been approved by the Federal Government or the government of the insular area where the project is to be carried out for development or hazard mitigation for that insular area.

"(D) MATCHING REQUIREMENT.—The Federal share of the cost for a project for which a grant is provided under this paragraph shall not exceed 75 percent of the total cost of that project. The non-Federal share of the cost may be provided in the form of cash or services.

"(E) TREATMENT OF FUNDS FOR CERTAIN PURPOSES.—Grants provided under this paragraph shall not be considered as income, a resource, or a duplicative program when determining eligibility or benefit levels for Federal major disaster and emergency assistance.

"(F) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $6,000,000 for each fiscal year beginning after the date of the enactment of this paragraph.".

SEC. 252. PROJECTS ENHANCING INSULAR ENERGY INDEPENDENCE.

(a) PROJECT FEASIBILTY STUDIES.—

(1) IN GENERAL.—On a request described in paragraph (2), the Secretary shall conduct a feasibility study of a project to implement a

strategy or project identified in the plans submitted to Congress pursuant to section 604 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved December 24, 1980 (48 U.S.C. 1492), as having the potential to—

(A) significantly reduce the dependence of an insular area on imported fossil fuels; or

(B) provide needed distributed generation to an insular area.

(2) REQUEST.—The Secretary shall conduct a feasibility study under paragraph (1) on—

(A) the request of an electric utility located in an insular area that commits to fund at least 10 percent of the cost of the study; and

(B) if the electric utility is located in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, written support for that request by the President or the Ambassador of the affected freely associated state.

(3) CONSULTATION.—The Secretary shall consult with regional utility organizations in—

(A) conducting feasibility studies under paragraph (1); and

(B) determining the feasibility of potential projects.

(4) FEASIBILITY.—For the purpose of a feasibility study under paragraph (1), a project shall be determined to be feasible if the project would significantly reduce the dependence of an insular area on imported fossil fuels, or provide needed distributed generation to an insular area, at a reasonable cost.

(b) IMPLEMENTATION.—

(1) IN GENERAL.—On a determination by the Secretary (in consultation with the Secretary of the Interior) that a project is feasible under subsection (a) and a commitment by an electric utility to operate and maintain the project, the Secretary may provide such technical and financial assistance as the Secretary determines is appropriate for the implementation of the project.

(2) REGIONAL UTILITY ORGANIZATIONS.—In providing assistance under paragraph (1), the Secretary shall consider providing the assistance through regional utility organizations.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary—

(A) $500,000 for each fiscal year for project feasibility studies under subsection (a); and

(B) $1,000,000 for each fiscal year for project implementation under subsection (b).

(2) LIMITATION OF FUNDS RECEIVED BY INSULAR AREAS.—No insular area may receive, during any 3-year period, more than 20 percent of the total funds made available during that 3-year period under subparagraphs (A) and (B) of paragraph (1) unless the Secretary determines that providing funding in excess of that percentage best advances existing opportunities to meet the objectives of this section.

TITLE III—OIL AND GAS

Subtitle A—Petroleum Reserve and Home Heating Oil

SEC. 301. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVE AND OTHER ENERGY PROGRAMS.

(a) AMENDMENT TO TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6212 et seq.) is amended—

(1) by striking section 166 (42 U.S.C. 6246) and inserting the following:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 166. There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this part and part D, to remain available until expended.";

(2) by striking section 186 (42 U.S.C. 6250e); and

(3) by striking part E (42 U.S.C. 6251).

(b) AMENDMENT TO TITLE II OF THE ENERGY POLICY AND CONSERVATION ACT.—Title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) is amended—

(1) by inserting before section 273 (42 U.S.C. 6283) the following:

"PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS";

(2) by striking section 273(e) (42 U.S.C. 6283(e)); and

(3) by striking part D (42 U.S.C. 6285).

(c) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended—

(1) by inserting after the items relating to part C of title I the following:

"PART D—NORTHEAST HOME HEATING OIL RESERVE

"Sec. 181. Establishment.
"Sec. 182. Authority.
"Sec. 183. Conditions for release; plan.
"Sec. 184. Northeast Home Heating Oil Reserve Account.
"Sec. 185. Exemptions.";

(2) by amending the items relating to part C of title II to read as follows:

"PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

"Sec. 273. Summer fill and fuel budgeting programs.";

and

(3) by striking the items relating to part D of title II.

(d) AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.—Section 183(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6250b(b)(1)) is amended by striking "by more" and all that follows through "mid-October through March" and inserting "by more than 60 percent over its 5-year rolling average for the months of mid-October through March (considered as a heating season average)".

(e) FILL STRATEGIC PETROLEUM RESERVE TO CAPACITY.—

(1) IN GENERAL.—The Secretary shall, as expeditiously as practicable, without incurring excessive cost or appreciably affecting the price of petroleum products to consumers, acquire petroleum in quantities sufficient to fill the Strategic Petroleum Reserve to the 1,000,000,000-barrel capacity authorized under section 154(a) of the Energy Policy and Conservation Act (42 U.S.C. 6234(a)), in accordance with the sections 159 and 160 of that Act (42 U.S.C. 6239, 6240).

(2) PROCEDURES.—

(A) AMENDMENT.—Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by inserting after subsection (b) the following new subsection:

"(c) PROCEDURES.—The Secretary shall develop, with public notice and opportunity for comment, procedures consistent with the objectives of this section to acquire petroleum for the Reserve. Such procedures shall take into account the need to—

"(1) maximize overall domestic supply of crude oil (including quantities stored in private sector inventories);

"(2) avoid incurring excessive cost or appreciably affecting the price of petroleum products to consumers;

"(3) minimize the costs to the Department of the Interior and the Department of Energy in acquiring such petroleum products (including foregone revenues to the Treasury when petroleum products for the Reserve are obtained through the royalty-in-kind program);

"(4) protect national security;

"(5) avoid adversely affecting current and futures prices, supplies, and inventories of oil; and

"(6) address other factors that the Secretary determines to be appropriate.".

(B) REVIEW OF REQUESTS FOR DEFERRALS OF SCHEDULED DELIVERIES.—The procedures developed under section 160(c) of the Energy Policy and Conservation Act, as added by subparagraph (A), shall include procedures and criteria for the review of requests for the deferrals of scheduled deliveries.

(C) DEADLINES.—The Secretary shall—

(i) propose the procedures required under the amendment made by subparagraph (A) not later than 120 days after the date of enactment of this Act;

(ii) promulgate the procedures not later than 180 days after the date of enactment of this Act; and

(iii) comply with the procedures in acquiring petroleum for the Reserve effective beginning on the date that is 180 days after the date of enactment of this Act.

SEC. 302. NATIONAL OILHEAT RESEARCH ALLIANCE.

Section 713 of the Energy Act of 2000 (Public Law 106–469; 42 U.S.C. 6201 note) is amended by striking "4" and inserting "9".

SEC. 303. SITE SELECTION.

Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a proceeding to select, from sites that the Secretary has previously studied, sites necessary to enable acquisition by the Secretary of the full authorized volume of the Strategic Petroleum Reserve. In such proceeding, the Secretary shall first consider and give preference to the five sites which the Secretary previously assessed in the Draft Environmental Impact Statement, DOE/EIS–0165–D. However, the Secretary in his discretion may select other sites as proposed by a State where a site has been previously studied by the Secretary to meet the full authorized volume of the Strategic Petroleum Reserve.

Subtitle B—Natural Gas

SEC. 311. EXPORTATION OR IMPORTATION OF NATURAL GAS.

(a) SCOPE OF NATURAL GAS ACT.—Section 1(b) of the Natural Gas Act (15 U.S.C. 717(b)) is amended by inserting "and to the importation or exportation of natural gas in foreign commerce and to persons engaged in such importation or exportation," after "such transportation or sale,".

(b) DEFINITION.—Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by adding at the end the following new paragraph:

"(11) 'LNG terminal' includes all natural gas facilities located onshore or in State waters that are used to receive, unload, load, store, transport, gasify, liquefy, or process natural gas that is imported to the United States from a foreign country, exported to a foreign country from the United States, or transported in interstate commerce by waterborne vessel, but does not include—

"(A) waterborne vessels used to deliver natural gas to or from any such facility; or

"(B) any pipeline or storage facility subject to the jurisdiction of the Commission under section 7.".

(c) AUTHORIZATION FOR SITING, CONSTRUCTION, EXPANSION, OR OPERATION OF LNG TERMINALS.—(1) The title for section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by inserting "; LNG TERMINALS" after "EXPORTATION OR IMPORTATION OF NATURAL GAS".

(2) Section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by adding at the end the following:

"(d) Except as specifically provided in this Act, nothing in this Act affects the rights of States under—

"(1) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

"(2) the Clean Air Act (42 U.S.C. 7401 et seq.); or

"(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

"(e)(1) The Commission shall have the exclusive authority to approve or deny an application for the siting, construction, expansion, or operation of an LNG terminal. Except as specifically provided in this Act, nothing in this Act is intended to affect otherwise applicable law related to any Federal agency's authorities or responsibilities related to LNG terminals.

"(2) Upon the filing of any application to site, construct, expand, or operate an LNG terminal, the Commission shall—

"(A) set the matter for hearing;

"(B) give reasonable notice of the hearing to all interested persons, including the State commission of the State in which the LNG terminal is located and, if not the same, the Governor-appointed State agency described in section 3A;

"(C) decide the matter in accordance with this subsection; and

"(D) issue or deny the appropriate order accordingly.

"(3)(A) Except as provided in subparagraph (B), the Commission may approve an application described in paragraph (2), in whole or part, with such modifications and upon such terms and conditions as the Commission find necessary or appropriate.

"(B) Before January 1, 2015, the Commission shall not—

"(i) deny an application solely on the basis that the applicant proposes to use the LNG terminal exclusively or partially for gas that the applicant or an affiliate of the applicant will supply to the facility; or

"(ii) condition an order on—

"(I) a requirement that the LNG terminal offer service to customers other than the applicant, or any affiliate of the applicant, securing the order;

"(II) any regulation of the rates, charges, terms, or conditions of service of the LNG terminal; or

"(III) a requirement to file with the Commission schedules or contracts related to the rates, charges, terms, or conditions of service of the LNG terminal.

"(C) Subparagraph (B) shall cease to have effect on January 1, 2030.

"(4) An order issued for an LNG terminal that also offers service to customers on an open access basis shall not result in subsidization of expansion capacity by existing customers, degradation of service to existing customers, or undue discrimination against existing customers as to their terms or conditions of service at the facility, as all of those terms are defined by the Commission.

"(f)(1) In this subsection, the term 'military installation'—

"(A) means a base, camp, post, range, station, yard, center, or homeport facility for any ship or other activity under the jurisdiction of the Department of Defense, including any leased facility, that is located within a State, the District of Columbia, or any territory of the United States; and

"(B) does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects, as determined by the Secretary of Defense.

"(2) The Commission shall enter into a memorandum of understanding with the Secretary of Defense for the purpose of ensuring that the Commission coordinate and consult with the Secretary of Defense on the siting, construction, expansion, or operation of liquefied natural gas facilities that may affect an active military installation.

"(3) The Commission shall obtain the concurrence of the Secretary of Defense before authorizing the siting, construction, expansion, or operation of liquefied natural gas facilities affecting the training or activities of an active military installation.".

(d) LNG TERMINAL STATE AND LOCAL SAFETY CONCERNS.—After section 3 of the Natural Gas Act (15 U.S.C. 717b) insert the following:

"STATE AND LOCAL SAFETY CONSIDERATIONS

"SEC. 3A. (a) The Commission shall promulgate regulations on the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq) pre-filing process within 60 days after the date of enactment of this section. An applicant shall comply with pre-filing process required under the National Environmental Policy Act of 1969 prior to filing an application with the Commission. The regulations shall require that the pre-filing process commence at least 6 months prior to the filing of an application for authorization to construct an LNG terminal and encourage applicants to cooperate with State and local officials.

"(b) The Governor of a State in which an LNG terminal is proposed to be located shall designate the appropriate State agency for the purposes of consulting with the Commission regarding an application under section 3. The Commission shall consult with such State agency regarding State and local safety considerations prior to issuing an order pursuant to section 3. For the purposes of this section, State and local safety considerations include—

"(1) the kind and use of the facility;

"(2) the existing and projected population and demographic characteristics of the location;

"(3) the existing and proposed land use near the location;

"(4) the natural and physical aspects of the location;

"(5) the emergency response capabilities near the facility location; and

"(6) the need to encourage remote siting.

"(c) The State agency may furnish an advisory report on State and local safety considerations to the Commission with respect to an application no later than 30 days after the application was filed with the Commission. Before issuing an order authorizing an applicant to site, construct, expand, or operate an LNG terminal, the Commission shall review and respond specifically to the issues raised by the State agency described in subsection (b) in the advisory report. This subsection shall apply to any application filed after the date of enactment of the Energy Policy Act of 2005. A State agency has 30 days after such date of enactment to file an advisory report related to any applications pending at the Commission as of such date of enactment.

"(d) The State commission of the State in which an LNG terminal is located may, after the terminal is operational, conduct safety inspections in conformance with Federal regulations and guidelines with respect to the LNG terminal upon written notice to the Commission. The State commission may notify the Commission of any alleged safety violations. The Commission shall transmit information regarding such allegations to the appropriate Federal agency, which shall take appropriate action and notify the State commission.

"(e)(1) In any order authorizing an LNG terminal the Commission shall require the LNG terminal operator to develop an Emergency Response Plan. The Emergency Response Plan shall be prepared in consultation with the United States Coast Guard and State and local agencies and be approved by the Commission prior to any final approval to begin construction. The Plan shall include a cost-sharing plan.

"(2) A cost-sharing plan developed under paragraph (1) shall include a description of any direct cost reimbursements that the applicant agrees to provide to any State and local agencies with responsibility for security and safety—

"(A) at the LNG terminal; and

"(B) in proximity to vessels that serve the facility.".

SEC. 312. NEW NATURAL GAS STORAGE FACILITIES.

Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding at the end the following:

"(f)(1) In exercising its authority under this Act or the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et seq.), the Commission may authorize a natural gas company (or any person that will be a natural gas company on completion of any proposed construction) to provide storage and storage-related services at market-based rates for new storage capacity related to a specific facility placed in service after the date of enactment of the Energy Policy Act of 2005, notwithstanding the fact that the company is unable to demonstrate that the company lacks market power, if the Commission determines that—

"(A) market-based rates are in the public interest and necessary to encourage the construction of the storage capacity in the area needing storage services; and

"(B) customers are adequately protected.

"(2) The Commission shall ensure that reasonable terms and conditions are in place to protect consumers.

"(3) If the Commission authorizes a natural gas company to charge market-based rates under this subsection, the Commission shall review periodically whether the market-based rate is just, reasonable, and not unduly discriminatory or preferential.".

SEC. 313. PROCESS COORDINATION; HEARINGS; RULES OF PROCEDURE.

(a) IN GENERAL.—Section 15 of the Natural Gas Act (15 U.S.C. 717n) is amended—

(1) by striking the section heading and inserting "PROCESS COORDINATION; HEARINGS; RULES OF PROCEDURE";

(2) by redesignating subsections (a) and (b) as subsections (e) and (f), respectively; and

(3) by striking "SEC. 15." and inserting the following:

"SEC. 15.(a) In this section, the term 'Federal authorization'—

"(1) means any authorization required under Federal law with respect to an application for authorization under section 3 or a certificate of public convenience and necessity under section 7; and

"(2) includes any permits, special use authorizations, certifications, opinions, or other approvals as may be required under Federal law with respect to an application for authorization under section 3 or a certificate of public convenience and necessity under section 7.

"(b) DESIGNATION AS LEAD AGENCY.—

"(1) IN GENERAL.—The Commission shall act as the lead agency for the purposes of coordinating all applicable Federal authorizations and for the purposes of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) OTHER AGENCIES.—Each Federal and State agency considering an aspect of an application for Federal authorization shall cooperate with the Commission and comply with the deadlines established by the Commission.

"(c) SCHEDULE.—

"(1) COMMISSION AUTHORITY TO SET SCHEDULE.—The Commission shall establish a schedule for all Federal authorizations. In establishing the schedule, the Commission shall—

"(A) ensure expeditious completion of all such proceedings; and

"(B) comply with applicable schedules established by Federal law.

"(2) FAILURE TO MEET SCHEDULE.—If a Federal or State administrative agency does not complete a proceeding for an approval that is required for a Federal authorization in accordance with the schedule established by the Commission, the applicant may pursue remedies under section 19(d).

"(d) Consolidated Record.—The Commission shall, with the cooperation of Federal and State administrative agencies and officials, maintain a complete consolidated record of all decisions made or actions taken by the Commission or by a Federal administrative agency or officer (or State administrative agency or officer acting under delegated Federal authority) with respect to any Federal authorization. Such record shall be the record for—

"(1) appeals or reviews under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), provided that the record may be supplemented as expressly provided pursuant to section 319 of that Act; or

"(2) judicial review under section 19(d) of decisions made or actions taken of Federal and State administrative agencies and officials, provided that, if the Court determines that the record does not contain sufficient information, the Court may remand the proceeding to the Commission for further development of the consolidated record.".

(b) Judicial Review.—Section 19 of the Natural Gas Act (15 U.S.C. 717r) is amended by adding at the end the following:

"(d) Judicial Review.—

"(1) In General.—The United States Court of Appeals for the circuit in which a facility subject to section 3 or section 7 is proposed to be constructed, expanded, or operated shall have original and exclusive jurisdiction over any civil action for the review of an order or action of a Federal agency (other than the Commission) or State administrative agency acting pursuant to Federal law to issue, condition, or deny any permit, license, concurrence, or approval (hereinafter collectively referred to as 'permit') required under Federal law, other than the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

"(2) Agency Delay.—The United States Court of Appeals for the District of Columbia shall have original and exclusive jurisdiction over any civil action for the review of an alleged failure to act by a Federal agency (other than the Commission) or State administrative agency acting pursuant to Federal law to issue, condition, or deny any permit required under Federal law, other than the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), for a facility subject to section 3 or section 7. The failure of an agency to take action on a permit required under Federal law, other than the Coastal Zone Management Act of 1972, in accordance with the Commission schedule established pursuant to section 15(c) shall be considered inconsistent with Federal law for the purposes of paragraph (3).

"(3) Court Action.—If the Court finds that such order or action is inconsistent with the Federal law governing such permit and would prevent the construction, expansion, or operation of the facility subject to section 3 or section 7, the Court shall remand the proceeding to the agency to take appropriate action consistent with the order of the Court. If the Court remands the order or action to the Federal or State agency, the Court shall set a reasonable schedule and deadline for the agency to act on remand.

"(4) Commission Action.—For any action described in this subsection, the Commission shall file with the Court the consolidated record of such order or action to which the appeal hereunder relates.

"(5) Expedited Review.—The Court shall set any action brought under this subsection for expedited consideration.".

SEC. 314. PENALTIES.

(a) Criminal Penalties.—

(1) Natural Gas Act.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(A) in subsection (a)—

(i) by striking "$5,000" and inserting "$1,000,000"; and

(ii) by striking "two years" and inserting "5 years"; and

(B) in subsection (b), by striking "$500" and inserting "$50,000".

(2) Natural Gas Policy Act of 1978.—Section 504(c) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3414(c)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "$5,000" and inserting "$1,000,000"; and

(ii) in subparagraph (B), by striking "two years" and inserting "5 years"; and

(B) in paragraph (2), by striking "$500 for each violation" and inserting "$50,000 for each day on which the offense occurs".

(b) Civil Penalties.—

(1) Natural Gas Act.—The Natural Gas Act (15 U.S.C. 717 et seq.) is amended—

(A) by redesignating sections 22 through 24 as sections 24 through 26, respectively; and

(B) by inserting after section 21 (15 U.S.C. 717t) the following:

"CIVIL PENALTY AUTHORITY

"Sec. 22. (a) Any person that violates this Act, or any rule, regulation, restriction, condition, or order made or imposed by the Commission under authority of this Act, shall be subject to a civil penalty of not more than $1,000,000 per day per violation for as long as the violation continues.

"(b) The penalty shall be assessed by the Commission after notice and opportunity for public hearing.

"(c) In determining the amount of a proposed penalty, the Commission shall take into consideration the nature and seriousness of the violation and the efforts to remedy the violation.".

(2) Natural Gas Policy Act of 1978.—Section 504(b)(6)(A) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3414(b)(6)(A)) is amended—

(A) in clause (i), by striking "$5,000" and inserting "$1,000,000"; and

(B) in clause (ii), by striking "$25,000" and inserting "$1,000,000".

SEC. 315. MARKET MANIPULATION.

The Natural Gas Act is amended by inserting after section 4 (15 U.S.C. 717c) the following:

"PROHIBITION ON MARKET MANIPULATION

"Sec. 4A. It shall be unlawful for any entity, directly or indirectly, to use or employ, in connection with the purchase or sale of natural gas or the purchase or sale of transportation services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance (as those terms are used in section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78j(b))) in contravention of such rules and regulations as the Commission may prescribe as necessary in the public interest or for the protection of natural gas ratepayers. Nothing in this section shall be construed to create a private right of action.".

SEC. 316. NATURAL GAS MARKET TRANSPARENCY RULES.

The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by inserting after section 22 the following:

"NATURAL GAS MARKET TRANSPARENCY RULES

"Sec. 23. (a)(1) The Commission is directed to facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce, having due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

"(2) The Commission may prescribe such rules as the Commission determines necessary and appropriate to carry out the purposes of this section. The rules shall provide for the dissemination, on a timely basis, of information about the availability and prices of natural gas sold at wholesale and in interstate commerce to the Commission, State commissions, buyers and sellers of wholesale natural gas, and the public.

"(3) The Commission may—

"(A) obtain the information described in paragraph (2) from any market participant; and

"(B) rely on entities other than the Commission to receive and make public the information, subject to the disclosure rules in subsection (b).

"(4) In carrying out this section, the Commission shall consider the degree of price transparency provided by existing price publishers and providers of trade processing services, and shall rely on such publishers and services to the maximum extent possible. The Commission may establish an electronic information system if it determines that existing price publications are not adequately providing price discovery or market transparency.

"(b)(1) Rules described in subsection (a)(2), if adopted, shall exempt from disclosure information the Commission determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security.

"(2) In determining the information to be made available under this section and the time to make the information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

"(c)(1) Within 180 days of enactment of this section, the Commission shall conclude a memorandum of understanding with the Commodity Futures Trading Commission relating to information sharing, which shall include, among other things, provisions ensuring that information requests to markets within the respective jurisdiction of each agency are properly coordinated to minimize duplicative information requests, and provisions regarding the treatment of proprietary trading information.

"(2) Nothing in this section may be construed to limit or affect the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

"(d)(1) The Commission shall not condition access to interstate pipeline transportation on the reporting requirements of this section.

"(2) The Commission shall not require natural gas producers, processors, or users who have a de minimis market presence to comply with the reporting requirements of this section.

"(e)(1) Except as provided in paragraph (2), no person shall be subject to any civil penalty under this section with respect to any violation occurring more than 3 years before the date on which the person is provided notice of the proposed penalty under section 22(b).

"(2) Paragraph (1) shall not apply in any case in which the Commission finds that a seller that has entered into a contract for the transportation or sale of natural gas subject to the jurisdiction of the Commission has engaged in fraudulent market manipulation activities materially affecting the contract in violation of section 4A.".

SEC. 317. FEDERAL-STATE LIQUEFIED NATURAL GAS FORUMS.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation and consultation with the Secretary of Transportation, the Secretary of Homeland Security, the Federal Energy Regulatory Commission, and the Governors of the Coastal States, shall convene not less than 3 forums on liquefied natural gas.

(b) Requirements.—The forums shall—

(1) be located in areas where liquefied natural gas facilities are under consideration;

(2) be designed to foster dialogue among Federal officials, State and local officials, the general public, independent experts, and industry representatives; and

(3) at a minimum, provide an opportunity for public education and dialogue on—

(A) the role of liquefied natural gas in meeting current and future United States energy supply requirements and demand, in the context of the full range of energy supply options;

(B) the Federal and State siting and permitting processes;

(C) the potential risks and rewards associated with importing liquefied natural gas;

(D) the Federal safety and environmental requirements (including regulations) applicable to liquefied natural gas;

(E) prevention, mitigation, and response strategies for liquefied natural gas hazards; and

(F) additional issues as appropriate.

(c) PURPOSE.—The purpose of the forums shall be to identify and develop best practices for addressing the issues and challenges associated with liquefied natural gas imports, building on existing cooperative efforts.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 318. PROHIBITION OF TRADING AND SERVING BY CERTAIN INDIVIDUALS.

Section 20 of the Natural Gas Act (15 U.S.C. 717s) is amended by adding at the end the following:

"(d) In any proceedings under subsection (a), the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as the court determines, any individual who is engaged or has engaged in practices constituting a violation of section 4A (including related rules and regulations) from—

"(1) acting as an officer or director of a natural gas company; or

"(2) engaging in the business of—

"(A) the purchasing or selling of natural gas; or

"(B) the purchasing or selling of transmission services subject to the jurisdiction of the Commission.".

Subtitle C—Production

SEC. 321. OUTER CONTINENTAL SHELF PROVISIONS.

(a) STORAGE ON THE OUTER CONTINENTAL SHELF.—Section 5(a)(5) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(5)) is amended by inserting "from any source" after "oil and gas".

(b) NATURAL GAS DEFINED.—Section 3(13) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(13)) is amended by adding at the end before the semicolon the following: ", natural gas liquids, liquefied petroleum gas, and condensate recovered from natural gas".

SEC. 322. HYDRAULIC FRACTURING.

Paragraph (1) of section 1421(d) of the Safe Drinking Water Act (42 U.S.C. 300h(d)) is amended to read as follows:

"(1) UNDERGROUND INJECTION.—The term 'underground injection'—

"(A) means the subsurface emplacement of fluids by well injection; and

"(B) excludes—

"(i) the underground injection of natural gas for purposes of storage; and

"(ii) the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.".

SEC. 323. OIL AND GAS EXPLORATION AND PRODUCTION DEFINED.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

"(24) OIL AND GAS EXPLORATION AND PRODUCTION.—The term 'oil and gas exploration, production, processing, or treatment operations or transmission facilities' means all field activities or operations associated with exploration, production, processing, or treatment operations, or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities.".

Subtitle D—Naval Petroleum Reserve

SEC. 331. TRANSFER OF ADMINISTRATIVE JURISDICTION AND ENVIRONMENTAL REMEDIATION, NAVAL PETROLEUM RESERVE NUMBERED 2, KERN COUNTY, CALIFORNIA.

(a) ADMINISTRATION JURISDICTION TRANSFER TO SECRETARY OF THE INTERIOR.—Effective on the date of the enactment of this Act, administrative jurisdiction and control over all public domain lands included within Naval Petroleum Reserve Numbered 2 located in Kern County, California, (other than the lands specified in subsection (b)) are transferred from the Secretary to the Secretary of the Interior for management, subject to subsection (c), in accordance with the laws governing management of the public lands, and the regulations promulgated under such laws, including the Mineral Leasing Act (30 U.S.C. 181 et seq.) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(b) EXCLUSION OF CERTAIN RESERVE LANDS.—The transfer of administrative jurisdiction made by subsection (a) does not include the following lands:

(1) That portion of Naval Petroleum Reserve Numbered 2 authorized for disposal under section 3403(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 10 U.S.C. 7420 note).

(2) That portion of the surface estate of Naval Petroleum Reserve Numbered 2 conveyed to the City of Taft, California, by section 333.

(c) PURPOSE OF TRANSFER.—

(1) PRODUCTION OF HYDROCARBON RESOURCES.—Notwithstanding any other provision of law, the principal purpose of the lands subject to transfer under subsection (a) is the production of hydrocarbon resources, and the Secretary of the Interior shall manage the lands in a fashion consistent with this purpose. In managing the lands, the Secretary of the Interior shall regulate operations to prevent unnecessary degradation and to provide for ultimate economic recovery of the resources.

(2) DISPOSAL AUTHORITY AND SURFACE USE.—The Secretary of the Interior may make disposals of lands subject to transfer under subsection (a), or allow commercial or non-profit surface use of such lands, not to exceed 10 acres each, so long as the disposals or surface uses do not materially interfere with the ultimate economic recovery of the hydrocarbon resources of such lands. All revenues received from the disposal of lands under this paragraph or from allowing the surface use of such lands shall be deposited in the Naval Petroleum Reserve Numbered 2 Lease Revenue Account established by section 332.

(d) CONFORMING AMENDMENT.—Section 3403 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 10 U.S.C 7420 note) is amended by striking subsection (b).

SEC. 332. NAVAL PETROLEUM RESERVE NUMBERED 2 LEASE REVENUE ACCOUNT.

(a) ESTABLISHMENT.—There is established in the Treasury a special deposit account to be known as the "Naval Petroleum Reserve Numbered 2 Lease Revenue Account" (in this section referred to as the "lease revenue account"). The lease revenue account is a revolving account, and amounts in the lease revenue account shall be available to the Secretary of the Interior, without further appropriation, for the purposes specified in subsection (b).

(b) PURPOSES OF ACCOUNT.—

(1) ENVIRONMENTAL-RELATED COSTS.—The lease revenue account shall be the sole and exclusive source of funds to pay for any and all costs and expenses incurred by the United States for—

(A) environmental investigations (other than any environmental investigations that were conducted by the Secretary before the transfer of the Naval Petroleum Reserve Numbered 2 lands under section 331), remediation, compliance actions, response, waste management, impediments, fines or penalties, or any other costs or expenses of any kind arising from, or relating to, conditions existing on or below the Naval Petroleum Reserve Numbered 2 lands, or activities occurring or having occurred on such lands, on or before the date of the transfer of such lands; and

(B) any future remediation necessitated as a result of pre-transfer and leasing activities on such lands.

(2) TRANSITION COSTS.—The lease revenue account shall also be available for use by the Secretary of the Interior to pay for transition costs incurred by the Department of the Interior associated with the transfer and leasing of the Naval Petroleum Reserve Numbered 2 lands.

(c) FUNDING.—The lease revenue account shall consist of the following:

(1) Notwithstanding any other provision of law, for a period of three years after the date of the transfer of the Naval Petroleum Reserve Numbered 2 lands under section 331, the sum of $500,000 per year of revenue from leases entered into before that date, including bonuses, rents, royalties, and interest charges collected pursuant to the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et. seq.), derived from the Naval Petroleum Reserve Numbered 2 lands, shall be deposited into the lease revenue account.

(2) Subject to subsection (d), all revenues derived from leases on Naval Petroleum Reserve Numbered 2 lands issued on or after the date of the transfer of such lands, including bonuses, rents, royalties, and interest charges collected pursuant to the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), shall be deposited into the lease revenue account.

(d) LIMITATION.—Funds in the lease revenue account shall not exceed $3,000,000 at any one time. Whenever funds in the lease revenue account are obligated or expended so that the balance in the account falls below that amount, lease revenues referred to in subsection (c)(2) shall be deposited in the account to maintain a balance of $3,000,000.

(e) TERMINATION OF ACCOUNT.—At such time as the Secretary of the Interior certifies that remediation of all environmental contamination of Naval Petroleum Reserve Numbered 2 lands in existence as of the date of the transfer of such lands under section 331 has been successfully completed, that all costs and expenses of investigation, remediation, compliance actions, response, waste management, impediments, fines, or penalties associated with environmental contamination of such lands in existence as of the date of the transfer have been paid in full, and that the transition costs of the Department of the Interior referred to in subsection (b)(2) have been paid in full, the lease revenue account shall be terminated and any remaining funds shall be distributed in accordance with subsection (f).

(f) DISTRIBUTION OF REMAINING FUNDS.—Section 35 of the Mineral Leasing Act (30 U.S.C. 191) shall apply to the payment and distribution of all funds remaining in the lease revenue account upon its termination under subsection (e).

SEC. 333. LAND CONVEYANCE, PORTION OF NAVAL PETROLEUM RESERVE NUMBERED 2, TO CITY OF TAFT, CALIFORNIA.

(a) Conveyance.—Effective on the date of the enactment of this Act, there is conveyed to the City of Taft, California (in this section referred to as the "City"), all surface right, title, and interest of the United States in and to a parcel of real property consisting of approximately 220 acres located in the NE¼, the NE¼ of the NW¼, and the N½ of the SE¼ of the NW¼ of section 18, township 32 south, range 24 east, Mount Diablo meridian, Kern County, California.

(b) Consideration.—The conveyance under subsection (a) is made without the payment of consideration by the City.

(c) Treatment of Existing Rights.—The conveyance under subsection (a) is subject to valid existing rights, including Federal oil and gas lease SAC—019577.

(d) Treatment of Minerals.—All coal, oil, gas, and other minerals within the lands conveyed under subsection (a) are reserved to the United States, except that the United States and its lessees, licensees, permittees, or assignees shall have no right of surface use or occupancy of the lands. Nothing in this subsection shall be construed to require the United States or its lessees, licensees, permittees, or assignees to support the surface of the conveyed lands.

(e) Indemnify and Hold Harmless.—The City shall indemnify, defend, and hold harmless the United States for, from, and against, and the City shall assume all responsibility for, any and all liability of any kind or nature, including all loss, cost, expense, or damage, arising from the City's use or occupancy of, or operations on, the land conveyed under subsection (a), whether such use or occupancy of, or operations on, occurred before or occur after the date of the enactment of this Act.

(f) Instrument of Conveyance.—Not later than one year after the date of the enactment of this Act, the Secretary shall execute, file, and cause to be recorded in the appropriate office a deed or other appropriate instrument documenting the conveyance made by this section.

SEC. 334. REVOCATION OF LAND WITHDRAWAL.

Effective on the date of the enactment of this Act, the Executive Order of December 13, 1912, which created Naval Petroleum Reserve Numbered 2, is revoked in its entirety.

Subtitle E—Production Incentives

SEC. 341. DEFINITION OF SECRETARY.

In this subtitle, the term "Secretary" means the Secretary of the Interior.

SEC. 342. PROGRAM ON OIL AND GAS ROYALTIES IN-KIND.

(a) Applicability of Section.—Notwithstanding any other provision of law, this section applies to all royalty in-kind accepted by the Secretary on or after the date of enactment of this Act under any Federal oil or gas lease or permit under—

(1) section 36 of the Mineral Leasing Act (30 U.S.C. 192);

(2) section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353); or

(3) any other Federal law governing leasing of Federal land for oil and gas development.

(b) Terms and Conditions.—All royalty accruing to the United States shall, on the demand of the Secretary, be paid in-kind. If the Secretary makes such a demand, the following provisions apply to the payment:

(1) Satisfaction of royalty obligation.—Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies royalty obligation of the lessee for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2) Marketable condition.—

(A) Definition of marketable condition.—In this paragraph, the term "in marketable condition" means sufficiently free from impurities and otherwise in a condition that the royalty production will be accepted by a purchaser under a sales contract typical of the field or area in which the royalty production was produced.

(B) Requirement.—Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(3) Disposition by the secretary.—The Secretary may—

(A) sell or otherwise dispose of any royalty production taken in-kind (other than oil or gas transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)) for not less than the market price; and

(B) transport or process (or both) any royalty production taken in-kind.

(4) Retention by the secretary.—The Secretary may, notwithstanding section 3302 of title 31, United States Code, retain and use a portion of the revenues from the sale of oil and gas taken in-kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use oil or gas received as royalty taken in-kind (referred to in this paragraph as "royalty production") to pay the cost of—

(A) transporting the royalty production;

(B) processing the royalty production;

(C) disposing of the royalty production; or

(D) any combination of transporting, processing, and disposing of the royalty production.

(5) Limitation.—

(A) In general.—Except as provided in subparagraph (B), the Secretary may not use revenues from the sale of oil and gas taken in-kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(B) Exception.—Notwithstanding subparagraph (A), the Secretary may use a portion of the revenues from royalty in-kind sales, without fiscal year limitation, to pay salaries and other administrative costs directly related to the royalty in-kind program.

(c) Reimbursement of Cost.—If the lessee, pursuant to an agreement with the United States or as provided in the lease, processes the royalty gas or delivers the royalty oil or gas at a point not on or adjacent to the lease area, the Secretary shall—

(1) reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs; or

(2) allow the lessee to deduct the transportation or processing costs in reporting and paying royalties in-value for other Federal oil and gas leases.

(d) Benefit to the United States Required.—The Secretary may receive oil or gas royalties in-kind only if the Secretary determines that receiving royalties in-kind provides benefits to the United States that are greater than or equal to the benefits that are likely to have been received had royalties been taken in-value.

(e) Reports.—

(1) In general.—Not later than September 30, 2006, the Secretary shall submit to Congress a report that addresses—

(A) actions taken to develop business processes and automated systems to fully support the royalty-in-kind capability to be used in tandem with the royalty-in-value approach in managing Federal oil and gas revenue; and

(B) future royalty-in-kind businesses operation plans and objectives.

(2) Reports on oil or gas royalties taken in-kind.—For each of fiscal years 2006 through 2015 in which the United States takes oil or gas royalties in-kind from production in any State or from the outer Continental Shelf, excluding royalties taken in-kind and sold to refineries under subsection (h), the Secretary shall submit to Congress a report that describes—

(A) the 1 or more methodologies used by the Secretary to determine compliance with subsection (d), including the performance standard for comparing amounts received by the United States derived from royalties in-kind to amounts likely to have been received had royalties been taken in-value;

(B) an explanation of the evaluation that led the Secretary to take royalties in-kind from a lease or group of leases, including the expected revenue effect of taking royalties in-kind;

(C) actual amounts received by the United States derived from taking royalties in-kind and costs and savings incurred by the United States associated with taking royalties in-kind, including administrative savings and any new or increased administrative costs; and

(D) an evaluation of other relevant public benefits or detriments associated with taking royalties in-kind.

(f) Deduction of Expenses.—

(1) In general.—Before making payments under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) of revenues derived from the sale of royalty production taken in-kind from a lease, the Secretary shall deduct amounts paid or deducted under subsections (b)(4) and (c) and deposit the amount of the deductions in the miscellaneous receipts of the Treasury.

(2) Accounting for deductions.—When the Secretary allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.

(g) Consultation With States.—The Secretary—

(1) shall consult with a State before conducting a royalty in-kind program under this subtitle within the State;

(2) may delegate management of any portion of the Federal royalty in-kind program to the State except as otherwise prohibited by Federal law; and

(3) shall consult annually with any State from which Federal oil or gas royalty is being taken in-kind to ensure, to the maximum extent practicable, that the royalty in-kind program provides revenues to the State greater than or equal to the revenues likely to have been received had royalties been taken in-value.

(h) Small Refineries.—

(1) Preference.—If the Secretary finds that sufficient supplies of crude oil are not available in the open market to refineries that do not have their own source of supply for crude oil, the Secretary may grant preference to those refineries in the sale of any royalty oil accruing or reserved to the United States under Federal oil and gas leases issued under any mineral leasing law, for processing or use in those refineries at private sale at not less than the market price.

(2) Proration among refineries in production area.—In disposing of oil under this subsection, the Secretary may, at the discretion of the Secretary, prorate the oil among refineries described in paragraph (1) in the area in which the oil is produced.

(i) Disposition to Federal Agencies.—

(1) Onshore royalty.—Any royalty oil or gas taken by the Secretary in-kind from onshore oil and gas leases may be sold at not less than the market price to any Federal agency.

(2) Offshore royalty.—Any royalty oil or gas taken in-kind from a Federal oil or gas lease

on the outer Continental Shelf may be disposed of only under section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353).

(j) Federal Low-Income Energy Assistance Programs.—

(1) Preference.—In disposing of royalty oil or gas taken in-kind under this section, the Secretary may grant a preference to any person, including any Federal or State agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

(2) Report.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit a report to Congress—

(A) assessing the effectiveness of granting preferences specified in paragraph (1); and

(B) providing a specific recommendation on the continuation of authority to grant preferences.

SEC. 343. MARGINAL PROPERTY PRODUCTION INCENTIVES.

(a) Definition of Marginal Property.—Until such time as the Secretary issues regulations under subsection (e) that prescribe a different definition, in this section, the term "marginal property" means an onshore unit, communitization agreement, or lease not within a unit or communitization agreement, that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90,000,000 British thermal units of gas per well per day calculated based on the average over the 3 most recent production months, including only wells that produce on more than half of the days during those 3 production months.

(b) Conditions for Reduction of Royalty Rate.—Until such time as the Secretary issues regulations under subsection (e) that prescribe different standards or requirements, the Secretary shall reduce the royalty rate on—

(1) oil production from marginal properties as prescribed in subsection (c) if the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, is, on average, less than $15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; and

(2) gas production from marginal properties as prescribed in subsection (c) if the spot price of natural gas delivered at Henry Hub, Louisiana, is, on average, less than $2.00 per million British thermal units (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days.

(c) Reduced Royalty Rate.—

(1) In general.—When a marginal property meets the conditions specified in subsection (b), the royalty rate shall be the lesser of—

(A) 5 percent; or

(B) the applicable rate under any other statutory or regulatory royalty relief provision that applies to the affected production.

(2) Period of effectiveness.—The reduced royalty rate under this subsection shall be effective beginning on the first day of the production month following the date on which the applicable condition specified in subsection (b) is met.

(d) Termination of Reduced Royalty Rate.—A royalty rate prescribed in subsection (c)(1) shall terminate—

(1) with respect to oil production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, on average, exceeds $15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property; and

(2) with respect to gas production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of natural gas delivered at Henry Hub, Louisiana, on average, exceeds $2.00 per million British thermal units (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property.

(e) Regulations Prescribing Different Relief.—

(1) Discretionary regulations.—The Secretary may by regulation prescribe different parameters, standards, and requirements for, and a different degree or extent of, royalty relief for marginal properties in lieu of those prescribed in subsections (a) through (d).

(2) Mandatory regulations.—Unless a determination is made under paragraph (3), not later than 18 months after the date of enactment of this Act, the Secretary shall by regulation—

(A) prescribe standards and requirements for, and the extent of royalty relief for, marginal properties for oil and gas leases on the outer Continental Shelf; and

(B) define what constitutes a marginal property on the outer Continental Shelf for purposes of this section.

(3) Report.—To the extent the Secretary determines that it is not practicable to issue the regulations referred to in paragraph (2), the Secretary shall provide a report to Congress explaining such determination by not later than 18 months after the date of enactment of this Act.

(4) Considerations.—In issuing regulations under this subsection, the Secretary may consider—

(A) oil and gas prices and market trends;

(B) production costs;

(C) abandonment costs;

(D) Federal and State tax provisions and the effects of those provisions on production economics;

(E) other royalty relief programs;

(F) regional differences in average wellhead prices;

(G) national energy security issues; and

(H) other relevant matters, as determined by the Secretary.

(f) Savings Provision.—Nothing in this section prevents a lessee from receiving royalty relief or a royalty reduction pursuant to any other law (including a regulation) that provides more relief than the amounts provided by this section.

SEC. 344. INCENTIVES FOR NATURAL GAS PRODUCTION FROM DEEP WELLS IN THE SHALLOW WATERS OF THE GULF OF MEXICO.

(a) Royalty Incentive Regulations for Ultra Deep Gas Wells.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes of not less than 35 billion cubic feet with respect to the production of natural gas from ultra deep wells on leases issued in shallow waters less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. Regulations issued under this subsection shall be retroactive to the date that the notice of proposed rulemaking is published in the Federal Register.

(2) Suspension volumes.—The Secretary may grant suspension volumes of not less than 35 billion cubic feet in any case in which—

(A) the ultra deep well is a sidetrack; or

(B) the lease has previously produced from wells with a perforated interval the top of which is at least 15,000 feet true vertical depth below the datum at mean sea level.

(3) Definitions.—In this subsection:

(A) Ultra deep well.—The term "ultra deep well" means a well drilled with a perforated interval, the top of which is at least 20,000 true vertical depth below the datum at mean sea level.

(B) Sidetrack.—

(i) In general.—The term "sidetrack" means a well resulting from drilling an additional hole to a new objective bottom-hole location by leaving a previously drilled hole.

(ii) Inclusion.—The term "sidetrack" includes—

(I) drilling a well from a platform slot reclaimed from a previously drilled well;

(II) re-entering and deepening a previously drilled well; and

(III) a bypass from a sidetrack, including drilling around material blocking a hole or drilling to straighten a crooked hole.

(b) Royalty Incentive Regulations for Deep Gas Wells.—Not later than 180 days after the date of enactment of this Act, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes with respect to production of natural gas from deep wells on leases issued in waters more than 200 meters but less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. The suspension volumes for deep wells within 200 to 400 meters of water depth shall be calculated using the same methodology used to calculate the suspension volumes for deep wells in the shallower waters of the Gulf of Mexico, and in no case shall the suspension volumes for deep wells within 200 to 400 meters of water depth be lower than those for deep wells in shallower waters. Regulations issued under this subsection shall be retroactive to the date that the notice of proposed rulemaking is published in the Federal Register.

(c) Limitations.—The Secretary may place limitations on the royalty relief granted under this section based on market price. The royalty relief granted under this section shall not apply to a lease for which deep water royalty relief is available.

SEC. 345. ROYALTY RELIEF FOR DEEP WATER PRODUCTION.

(a) In General.—Subject to subsections (b) and (c), for each tract located in water depths of greater than 400 meters in the Western and Central Planning Area of the Gulf of Mexico (including the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude), any oil or gas lease sale under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) occurring during the 5-year period beginning on the date of enactment of this Act shall use the bidding system authorized under section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)).

(b) Suspension of Royalties.—The suspension of royalties under subsection (a) shall be established at a volume of not less than—

(1) 5,000,000 barrels of oil equivalent for each lease in water depths of 400 to 800 meters;

(2) 9,000,000 barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters;

(3) 12,000,000 barrels of oil equivalent for each lease in water depths of 1,600 to 2,000 meters; and

(4) 16,000,000 barrels of oil equivalent for each lease in water depths greater than 2,000 meters.

(c) LIMITATION.—The Secretary may place limitations on royalty relief granted under this section based on market price.

SEC. 346. ALASKA OFFSHORE ROYALTY SUSPENSION.

Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by inserting "and in the Planning Areas offshore Alaska" after "West longitude".

SEC. 347. OIL AND GAS LEASING IN THE NATIONAL PETROLEUM RESERVE IN ALASKA.

(a) TRANSFER OF AUTHORITY.—

(1) REDESIGNATION.—The Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.) is amended by redesignating section 107 (42 U.S.C. 6507) as section 108.

(2) TRANSFER.—The matter under the heading "**EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA**" under the heading "**ENERGY AND MINERALS**" of title I of Public Law 96–514 (42 U.S.C. 6508) is—

(A) transferred to the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.);

(B) redesignated as section 107 of that Act; and

(C) moved so as to appear after section 106 of that Act (42 U.S.C. 6506).

(b) COMPETITIVE LEASING.—Section 107 of the Naval Petroleum Reserves Production Act of 1976 (as amended by subsection (a)(2)) is amended—

(1) by striking the heading and all that follows through "Provided, That (1) activities" and inserting the following:

"SEC. 107. COMPETITIVE LEASING OF OIL AND GAS.

"(a) IN GENERAL.—The Secretary shall conduct an expeditious program of competitive leasing of oil and gas in the Reserve in accordance with this Act.

"(b) MITIGATION OF ADVERSE EFFECTS.—Activities";

(2) by striking "Alaska (the Reserve); (2) the" and inserting "Alaska.

"(c) LAND USE PLANNING; BLM WILDERNESS STUDY.—The";

(3) by striking "Reserve; (3) the" and inserting "Reserve.

"(d) FIRST LEASE SALE.—The;";

(4) by striking "4332); (4) the" and inserting "4321 et seq.).

"(e) WITHDRAWALS.—The";

(5) by striking "herein; (5) bidding" and inserting "under this section.

"(f) BIDDING SYSTEMS.—Bidding";

(6) by striking "629); (6) lease" and inserting "629).

"(g) GEOLOGICAL STRUCTURES.—Lease";

(7) by striking "structures; (7) the" and inserting "structures.

"(h) SIZE OF LEASE TRACTS.—The";

(8) by striking "Secretary; (8)" and all that follows through "Drilling, production," and inserting "Secretary.

"(i) TERMS.—

"(1) IN GENERAL.—Each lease shall be issued for an initial period of not more than 10 years, and shall be extended for so long thereafter as oil or gas is produced from the lease in paying quantities, oil or gas is capable of being produced in paying quantities, or drilling or reworking operations, as approved by the Secretary, are conducted on the leased land.

"(2) RENEWAL OF LEASES WITH DISCOVERIES.—At the end of the primary term of a lease the Secretary shall renew for an additional 10-year term a lease that does not meet the requirements of paragraph (1) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and the lessee certifies, and the Secretary agrees, that hydrocarbon resources were discovered on one or more wells drilled on the leased land in such quantities that a prudent operator would hold the lease for potential future development.

"(3) RENEWAL OF LEASES WITHOUT DISCOVERIES.—At the end of the primary term of a lease the Secretary shall renew for an additional 10-year term a lease that does not meet the requirements of paragraph (1) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and pays the Secretary a renewal fee of $100 per acre of leased land, and—

"(A) the lessee provides evidence, and the Secretary agrees that, the lessee has diligently pursued exploration that warrants continuation with the intent of continued exploration or future potential development of the leased land; or

"(B) all or part of the lease—

"(i) is part of a unit agreement covering a lease described in subparagraph (A); and

"(ii) has not been previously contracted out of the unit.

"(4) APPLICABILITY.—This subsection applies to a lease that is in effect on or after the date of enactment of the Energy Policy Act of 2005.

"(5) EXPIRATION FOR FAILURE TO PRODUCE.—Notwithstanding any other provision of this Act, if no oil or gas is produced from a lease within 30 years after the date of the issuance of the lease the lease shall expire.

"(6) TERMINATION.—No lease issued under this section covering lands capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same due to circumstances beyond the control of the lessee.

"(j) UNIT AGREEMENTS.—

"(1) IN GENERAL.—For the purpose of conservation of the natural resources of all or part of any oil or gas pool, field, reservoir, or like area, lessees (including representatives) of the pool, field, reservoir, or like area may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for all or part of the pool, field, reservoir, or like area (whether or not any other part of the oil or gas pool, field, reservoir, or like area is already subject to any cooperative or unit plan of development or operation), if the Secretary determines the action to be necessary or advisable in the public interest. In determining the public interest, the Secretary should consider, among other things, the extent to which the unit agreement will minimize the impact to surface resources of the leases and will facilitate consolidation of facilities.

"(2) CONSULTATION.—In making a determination under paragraph (1), the Secretary shall consult with and provide opportunities for participation by the State of Alaska or a Regional Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) with respect to the creation or expansion of units that include acreage in which the State of Alaska or the Regional Corporation has an interest in the mineral estate.

"(3) PRODUCTION ALLOCATION METHODOLOGY.—(A) The Secretary may use a production allocation methodology for each participating area within a unit that includes solely Federal land in the Reserve.

"(B) The Secretary shall use a production allocation methodology for each participating area within a unit that includes Federal land in the Reserve and non-Federal land based on the characteristics of each specific oil or gas pool, field, reservoir, or like area to take into account reservoir heterogeneity and area variation in reservoir producibility across diverse leasehold interests. The implementation of the foregoing production allocation methodology shall be controlled by agreement among the affected lessors and lessees.

"(4) BENEFIT OF OPERATIONS.—Drilling, production,";

(9) by striking "When separate" and inserting the following:

"(5) POOLING.—If separate";

(10) by inserting "(in consultation with the owners of the other land)" after "determined by the Secretary of the Interior";

(11) by striking "thereto; (10) to" and all that follows through "the terms provided therein" and inserting "to the agreement.

"(k) EXPLORATION INCENTIVES.—

"(1) IN GENERAL.—

"(A) WAIVER, SUSPENSION, OR REDUCTION.—To encourage the greatest ultimate recovery of oil or gas or in the interest of conservation, the Secretary may waive, suspend, or reduce the rental fees or minimum royalty, or reduce the royalty on an entire leasehold (including on any lease operated pursuant to a unit agreement), whenever (after consultation with the State of Alaska and the North Slope Borough of Alaska and the concurrence of any Regional Corporation for leases that include land that was made available for acquisition by the Regional Corporation under the provisions of section 1431(o) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.)) in the judgment of the Secretary it is necessary to do so to promote development, or whenever in the judgment of the Secretary the leases cannot be successfully operated under the terms provided therein.

"(B) APPLICABILITY.—This paragraph applies to a lease that is in effect on or after the date of enactment of the Energy Policy Act of 2005.";

(12) by striking "The Secretary is authorized to" and inserting the following:

"(2) SUSPENSION OF OPERATIONS AND PRODUCTION.—The Secretary may";

(13) by striking "In the event" and inserting the following:

"(3) SUSPENSION OF PAYMENTS.—If";

(14) by striking "thereto; and (11) all" and inserting "to the lease.

"(l) RECEIPTS.—All";

(15) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively;

(16) by striking "Any agency" and inserting the following:

"(m) EXPLORATIONS.—Any agency";

(17) by striking "Any action" and inserting the following:

"(n) ENVIRONMENTAL IMPACT STATEMENTS.—

"(1) JUDICIAL REVIEW.—Any action";

(18) by striking "The detailed" and inserting the following:

"(2) INITIAL LEASE SALES.—The detailed";

(19) by striking "section 104(b) of the Naval Petroleum Reserves Production Act of 1976 (90 Stat. 304; 42 U.S.C. 6504)" and inserting "section 104(a)"; and

(20) by adding at the end the following:

"(o) REGULATIONS.—As soon as practicable after the date of enactment of the Energy Policy Act of 2005, the Secretary shall issue regulations to implement this section.

"(p) WAIVER OF ADMINISTRATION FOR CONVEYED LANDS.—

"(1) IN GENERAL.—Notwithstanding section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g))—

"(A) the Secretary of the Interior shall waive administration of any oil and gas lease to the extent that the lease covers any land in the Reserve in which all of the subsurface estate is conveyed to the Arctic Slope Regional Corporation (referred to in this subsection as the 'Corporation');

"(B)(i) in a case in which a conveyance of a subsurface estate described in subparagraph (A) does not include all of the land covered by the oil and gas lease, the person that owns the subsurface estate in any particular portion of the *land covered by the lease shall be entitled to all of the revenues reserved under the lease as to that portion, including, without limitation, all the royalty payable with respect to oil or gas produced from or allocated to that portion;*

"(ii) in a case described in clause (i), the Secretary of the Interior shall—

"(I) segregate the lease into 2 leases, 1 of which shall cover only the subsurface estate conveyed to the Corporation; and

"(II) waive administration of the lease that covers the subsurface estate conveyed to the Corporation; and

"(iii) the segregation of the lease described in clause (ii)(I) has no effect on the obligations of the lessee under either of the resulting leases, including obligations relating to operations, production, or other circumstances (other than payment of rentals or royalties); and

"(C) nothing in this subsection limits the authority of the Secretary of the Interior to manage the federally-owned surface estate within the Reserve.".

(c) Conforming Amendments.—Section 104 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) through (d) as subsections (a) through (c), respectively.

SEC. 348. NORTH SLOPE SCIENCE INITIATIVE.

(a) Establishment.—

(1) In general.—The Secretary of the Interior shall establish a long-term initiative to be known as the "North Slope Science Initiative" (referred to in this section as the "Initiative").

(2) Purpose.—The purpose of the Initiative shall be to implement efforts to coordinate collection of scientific data that will provide a better understanding of the terrestrial, aquatic, and marine ecosystems of the North Slope of Alaska.

(b) Objectives.—To ensure that the Initiative is conducted through a comprehensive science strategy and implementation plan, the Initiative shall, at a minimum—

(1) identify and prioritize information needs for inventory, monitoring, and research activities to address the individual and cumulative effects of past, ongoing, and anticipated development activities and environmental change on the North Slope;

(2) develop an understanding of information needs for regulatory and land management agencies, local governments, and the public;

(3) focus on prioritization of pressing natural resource management and ecosystem information needs, coordination, and cooperation among agencies and organizations;

(4) coordinate ongoing and future inventory, monitoring, and research activities to minimize duplication of effort, share financial resources and expertise, and assure the collection of quality information;

(5) identify priority needs not addressed by agency science programs in effect on the date of enactment of this Act and develop a funding strategy to meet those needs;

(6) provide a consistent approach to high caliber science, including inventory, monitoring, and research;

(7) maintain and improve public and agency access to—

(A) accumulated and ongoing research; and

(B) contemporary and traditional local knowledge; and

(8) ensure through appropriate peer review that the science conducted by participating agencies and organizations is of the highest technical quality.

(c) Membership.—

(1) In general.—To ensure comprehensive collection of scientific data, in carrying out the Initiative, the Secretary shall consult and coordinate with Federal, State, and local agencies that have responsibilities for land and resource management across the North Slope.

(2) Cooperative agreements.—The Secretary shall enter into cooperative agreements with the State of Alaska, the North Slope Borough, the Arctic Slope Regional Corporation, and other Federal agencies as appropriate to coordinate efforts, share resources, and fund projects under this section.

(d) Science Technical Advisory Panel.—

(1) In general.—The Initiative shall include a panel to provide advice on proposed inventory, monitoring, and research functions.

(2) Membership.—The panel described in paragraph (1) shall consist of a representative group of not more than 15 scientists and technical experts from diverse professions and interests, including the oil and gas industry, subsistence users, Native Alaskan entities, conservation organizations, wildlife management organizations, and academia, as determined by the Secretary.

(e) Reports.—Not later than 3 years after the date of enactment of this section and each year thereafter, the Secretary shall publish a report that describes the studies and findings of the Initiative.

(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 349. ORPHANED, ABANDONED, OR IDLED WELLS ON FEDERAL LAND.

(a) In General.—The Secretary, in cooperation with the Secretary of Agriculture, shall establish a program not later than 1 year after the date of enactment of this Act to remediate, reclaim, and close orphaned, abandoned, or idled oil and gas wells located on land administered by the land management agencies within the Department of the Interior and the Department of Agriculture.

(b) Activities.—The program under subsection (a) shall—

(1) include a means of ranking orphaned, abandoned, or idled wells sites for priority in remediation, reclamation, and closure, based on public health and safety, potential environmental harm, and other land use priorities;

(2) provide for identification and recovery of the costs of remediation, reclamation, and closure from persons or other entities currently providing a bond or other financial assurance required under State or Federal law for an oil or gas well that is orphaned, abandoned, or idled; and

(3) provide for recovery from the persons or entities identified under paragraph (2), or their sureties or guarantors, of the costs of remediation, reclamation, and closure of such wells.

(c) Cooperation and Consultations.—In carrying out the program under subsection (a), the Secretary shall—

(1) work cooperatively with the Secretary of Agriculture and the States within which Federal land is located; and

(2) consult with the Secretary of Energy and the Interstate Oil and Gas Compact Commission.

(d) Plan.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with the Secretary of Agriculture, shall submit to Congress a plan for carrying out the program under subsection (a).

(e) Idled Well.—For the purposes of this section, a well is idled if—

(1) the well has been nonoperational for at least 7 years; and

(2) there is no anticipated beneficial use for the well.

(f) Federal Reimbursement for Orphaned Well Reclamation Pilot Program.—

(1) Reimbursement for remediating, reclaiming, and closing wells on land subject to a new lease.—The Secretary shall carry out a pilot program under which, in issuing a new oil and gas lease on federally owned land on which 1 or more orphaned wells are located, the Secretary—

(A) may require, other than as a condition of the lease, that the lessee remediate, reclaim, and close in accordance with standards established by the Secretary, all orphaned wells on the land leased; and

(B) shall develop a program to reimburse a lessee, through a royalty credit against the Federal share of royalties owed or other means, for the reasonable actual costs of remediating, reclaiming, and closing the orphaned wells pursuant to that requirement.

(2) Reimbursement for reclaiming orphaned wells on other land.—In carrying out this subsection, the Secretary—

(A) may authorize any lessee under an oil and gas lease on federally owned land to reclaim in accordance with the Secretary's standards—

(i) an orphaned well on unleased federally owned land; or

(ii) an orphaned well located on an existing lease on federally owned land for the reclamation of which the lessee is not legally responsible; and

(B) shall develop a program to provide reimbursement of 100 percent of the reasonable actual costs of remediating, reclaiming, and closing the orphaned well, through credits against the Federal share of royalties or other means.

(3) Regulations.—The Secretary may issue such regulations as are appropriate to carry out this subsection.

(g) Technical Assistance Program for Non-Federal Land.—

(1) In general.—The Secretary of Energy shall establish a program to provide technical and financial assistance to oil and gas producing States to facilitate State efforts over a 10-year period to ensure a practical and economical remedy for environmental problems caused by orphaned or abandoned oil and gas exploration or production well sites on State or private land.

(2) Assistance.—The Secretary of Energy shall work with the States, through the Interstate Oil and Gas Compact Commission, to assist the States in quantifying and mitigating environmental risks of onshore orphaned or abandoned oil or gas wells on State and private land.

(3) Activities.—The program under paragraph (1) shall include—

(A) mechanisms to facilitate identification, if feasible, of the persons currently providing a bond or other form of financial assurance required under State or Federal law for an oil or gas well that is orphaned or abandoned;

(B) criteria for ranking orphaned or abandoned well sites based on factors such as public health and safety, potential environmental harm, and other land use priorities;

(C) information and training programs on best practices for remediation of different types of sites; and

(D) funding of State mitigation efforts on a cost-shared basis.

(h) Authorization of Appropriations.—

(1) In general.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2006 through 2010.

(2) Use.—Of the amounts authorized under paragraph (1), $5,000,000 are authorized for each fiscal year for activities under subsection (f).

SEC. 350. COMBINED HYDROCARBON LEASING.

(a) Special Provisions Regarding Leasing.—Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C. 226(b)(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following:

"(B) For any area that contains any combination of tar sand and oil or gas (or both), the Secretary may issue under this Act, separately—

"(i) a lease for exploration for and extraction of tar sand; and

"(ii) a lease for exploration for and development of oil and gas.

"(C) A lease issued for tar sand shall be issued using the same bidding process, annual rental, and posting period as a lease issued for oil and gas, except that the minimum acceptable bid required for a lease issued for tar sand shall be $2 per acre.

"(D) The Secretary may waive, suspend, or alter any requirement under section 26 that a permittee under a permit authorizing prospecting for tar sand must exercise due diligence, to promote any resource covered by a combined hydrocarbon lease.".

(b) CONFORMING AMENDMENT.—Section 17(b)(1)(B) of the Mineral Leasing Act (30 U.S.C. 226(b)(1)(B)) is amended in the second sentence by inserting ", subject to paragraph (2)(B)," after "Secretary".

(c) REGULATIONS.—Not later than 45 days after the date of enactment of this Act, the Secretary shall issue final regulations to implement this section.

SEC. 351. PRESERVATION OF GEOLOGICAL AND GEOPHYSICAL DATA.

(a) SHORT TITLE.—This section may be cited as the "National Geological and Geophysical Data Preservation Program Act of 2005".

(b) PROGRAM.—The Secretary shall carry out a National Geological and Geophysical Data Preservation Program in accordance with this section—

(1) to archive geologic, geophysical, and engineering data, maps, well logs, and samples;

(2) to provide a national catalog of such archival material; and

(3) to provide technical and financial assistance related to the archival material.

(c) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a plan for the implementation of the Program.

(d) DATA ARCHIVE SYSTEM.—

(1) ESTABLISHMENT.—The Secretary shall establish, as a component of the Program, a data archive system to provide for the storage, preservation, and archiving of subsurface, surface, geological, geophysical, and engineering data and samples. The Secretary, in consultation with the Advisory Committee, shall develop guidelines relating to the data archive system, including the types of data and samples to be preserved.

(2) SYSTEM COMPONENTS.—The system shall be comprised of State agencies that elect to be part of the system and agencies within the Department of the Interior that maintain geological and geophysical data and samples that are designated by the Secretary in accordance with this subsection. The Program shall provide for the storage of data and samples through data repositories operated by such agencies.

(3) LIMITATION OF DESIGNATION.—The Secretary may not designate a State agency as a component of the data archive system unless that agency is the agency that acts as the geological survey in the State.

(4) DATA FROM FEDERAL LAND.—The data archive system shall provide for the archiving of relevant subsurface data and samples obtained from Federal land—

(A) in the most appropriate repository designated under paragraph (2), with preference being given to archiving data in the State in which the data were collected; and

(B) consistent with all applicable law and requirements relating to confidentiality and proprietary data.

(e) NATIONAL CATALOG.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall develop and maintain, as a component of the Program, a national catalog that identifies—

(A) data and samples available in the data archive system established under subsection (d);

(B) the repository for particular material in the system; and

(C) the means of accessing the material.

(2) AVAILABILITY.—The Secretary shall make the national catalog accessible to the public on the site of the Survey on the Internet, consistent with all applicable requirements related to confidentiality and proprietary data.

(f) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Advisory Committee shall advise the Secretary on planning and implementation of the Program.

(2) NEW DUTIES.—In addition to its duties under the National Geologic Mapping Act of 1992 (43 U.S.C. 31a et seq.), the Advisory Committee shall perform the following duties:

(A) Advise the Secretary on developing guidelines and procedures for providing assistance for facilities under subsection (g)(1).

(B) Review and critique the draft implementation plan prepared by the Secretary under subsection (c).

(C) Identify useful studies of data archived under the Program that will advance understanding of the Nation's energy and mineral resources, geologic hazards, and engineering geology.

(D) Review the progress of the Program in archiving significant data and preventing the loss of such data, and the scientific progress of the studies funded under the Program.

(E) Include in the annual report to the Secretary required under section 5(b)(3) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)(3)) an evaluation of the progress of the Program toward fulfilling the purposes of the Program under subsection (b).

(g) FINANCIAL ASSISTANCE.—

(1) ARCHIVE FACILITIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to a State agency that is designated under subsection (d)(2) for providing facilities to archive energy material.

(2) STUDIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to any State agency designated under subsection (d)(2) for studies and technical assistance activities that enhance understanding, interpretation, and use of materials archived in the data archive system established under subsection (d).

(3) FEDERAL SHARE.—The Federal share of the cost of an activity carried out with assistance under this subsection shall be not more than 50 percent of the total cost of the activity.

(4) PRIVATE CONTRIBUTIONS.—The Secretary shall apply to the non-Federal share of the cost of an activity carried out with assistance under this subsection the value of private contributions of property and services used for that activity.

(h) REPORT.—The Secretary shall include in each report under section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g)—

(1) a description of the status of the Program;

(2) an evaluation of the progress achieved in developing the Program during the period covered by the report; and

(3) any recommendations for legislative or other action the Secretary considers necessary and appropriate to fulfill the purposes of the Program under subsection (b).

(i) MAINTENANCE OF STATE EFFORT.—It is the intent of Congress that the States not use this section as an opportunity to reduce State resources applied to the activities that are the subject of the Program.

(j) DEFINITIONS.—In this section:

(1) ADVISORY COMMITTEE.—The term "Advisory Committee" means the advisory committee established under section 5 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d).

(2) PROGRAM.—The term "Program" means the National Geological and Geophysical Data Preservation Program carried out under this section.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(4) SURVEY.—The term "Survey" means the United States Geological Survey.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2006 through 2010.

SEC. 352. OIL AND GAS LEASE ACREAGE LIMITATIONS.

Section 27(d)(1) of the Mineral Leasing Act (30 U.S.C. 184(d)(1)) is amended by inserting after "acreage held in special tar sand areas" the following: ", and acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or communitization agreement or for which royalty (including compensatory royalty or royalty in-kind) was paid in the preceding calendar year,".

SEC. 353. GAS HYDRATE PRODUCTION INCENTIVE.

(a) PURPOSE.—The purpose of this section is to promote natural gas production from the natural gas hydrate resources on the outer Continental Shelf and Federal lands in Alaska by providing royalty incentives.

(b) SUSPENSION OF ROYALTIES.—

(1) IN GENERAL.—The Secretary may grant royalty relief in accordance with this section for natural gas produced from gas hydrate resources under an eligible lease.

(2) ELIGIBLE LEASES.—A lease shall be an eligible lease for purposes of this section if—

(A) it is issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or is an oil and gas lease issued for onshore Federal lands in Alaska;

(B) it is issued prior to January 1, 2016; and

(C) production under the lease of natural gas from gas hydrate resources commences prior to January 1, 2018.

(3) AMOUNT OF RELIEF.—The Secretary shall conduct a rulemaking and grant royalty relief under this section as a suspension volume if the Secretary determines that such royalty relief would encourage production of natural gas from gas hydrate resources from an eligible lease. The maximum suspension volume shall be 30 billion cubic feet of natural gas per lease. Such relief shall be in addition to any other royalty relief under any other provision applicable to the lease that does not specifically grant a gas hydrate production incentive. Such royalty suspension volume shall be applied to any eligible production occurring on or after the date of publication of the advanced notice of proposed rulemaking.

(4) LIMITATION.—The Secretary may place limitations on royalty relief granted under this section based on market price.

(c) APPLICATION.—This section shall apply to any eligible lease issued before, on, or after the date of enactment of this Act.

(d) RULEMAKINGS.—

(1) REQUIREMENT.—The Secretary shall publish the advanced notice of proposed rulemaking within 180 days after the date of enactment of this Act and complete the rulemaking implementing this section within 365 days after the date of enactment of this Act.

(2) GAS HYDRATE RESOURCES DEFINED.—Such regulations shall define the term "gas hydrate resources" to include both the natural gas content of gas hydrates within the hydrate stability zone and free natural gas trapped by and beneath the hydrate stability zone.

(e) REVIEW.—Not later than 365 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Energy, shall

carry out a review of, and submit to Congress a report on, further opportunities to enhance production of natural gas from gas hydrate resources on the outer Continental Shelf and on Federal lands in Alaska through the provision of other production incentives or through technical or financial assistance.

SEC. 354. ENHANCED OIL AND NATURAL GAS PRODUCTION THROUGH CARBON DIOXIDE INJECTION.

(a) PRODUCTION INCENTIVE.—

(1) FINDINGS.—Congress finds the following:

(A) Approximately two-thirds of the original oil in place in the United States remains unproduced.

(B) Enhanced oil and natural gas production from the sequestering of carbon dioxide and other appropriate gases has the potential to increase oil and natural gas production.

(C) Capturing and productively using carbon dioxide would help reduce the carbon intensity of the economy.

(2) PURPOSE.—The purpose of this section is—

(A) to promote the capturing, transportation, and injection of produced carbon dioxide, natural carbon dioxide, and other appropriate gases or other matter for sequestration into oil and gas fields; and

(B) to promote oil and natural gas production from the outer Continental Shelf and onshore Federal lands under lease by providing royalty incentives to use enhanced recovery techniques using injection of the substances referred to in subparagraph (A).

(b) SUSPENSION OF ROYALTIES.—

(1) IN GENERAL.—If the Secretary determines that reduction of the royalty under a Federal oil and gas lease that is an eligible lease is in the public interest and promotes the purposes of this section, the Secretary shall undertake a rulemaking to provide for such reduction for an eligible lease.

(2) RULEMAKINGS.—The Secretary shall publish the advanced notice of proposed rulemaking within 180 days after the date of enactment of this Act and complete the rulemaking implementing this section within 365 days after the date of enactment of this Act.

(3) ELIGIBLE LEASES.—A lease shall be an eligible lease for purposes of this section if—

(A) it is a lease for production of oil and gas from the outer Continental Shelf or Federal onshore lands;

(B) the injection of the substances referred to in subsection (a)(2)(A) will be used as an enhanced recovery technique on such lease; and

(C) the Secretary determines that the lease contains oil or gas that would not likely be produced without the royalty reduction provided under this section.

(4) AMOUNT OF RELIEF.—The rulemaking shall provide for a suspension volume, which shall not exceed 5,000,000 barrels of oil equivalent for each eligible lease. Such suspension volume shall be applied to any production from an eligible lease occurring on or after the date of publication of any advanced notice of proposed rulemaking under this subsection.

(5) LIMITATION.—The Secretary may place limitations on the royalty reduction granted under this section based on market price.

(6) APPLICATION.—This section shall apply to any eligible lease issued before, on, or after the date of enactment of this Act.

(c) DEMONSTRATION PROGRAM.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary of Energy shall establish a competitive grant program to provide grants to producers of oil and gas to carry out projects to inject carbon dioxide for the purpose of enhancing recovery of oil or natural gas while increasing the sequestration of carbon dioxide.

(B) PROJECTS.—The demonstration program shall provide for—

(i) not more than 10 projects in the Willistin Basin in North Dakota and Montana; and

(ii) 1 project in the Cook Inlet Basin in Alaska.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary of Energy shall issue requirements relating to applications for grants under paragraph (1).

(B) RULEMAKING.—The issuance of requirements under subparagraph (A) shall not require a rulemaking.

(C) MINIMUM REQUIREMENTS.—At a minimum, the Secretary shall require under subparagraph (A) that an application for a grant include—

(i) a description of the project proposed in the application;

(ii) an estimate of the production increase and the duration of the production increase from the project, as compared to conventional recovery techniques, including water flooding;

(iii) an estimate of the carbon dioxide sequestered by project, over the life of the project;

(iv) a plan to collect and disseminate data relating to each project to be funded by the grant;

(v) a description of the means by which the project will be sustainable without Federal assistance after the completion of the term of the grant;

(vi) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(vii) a description of which costs of the project will be supported by Federal assistance under this section; and

(viii) a description of any secondary or tertiary recovery efforts in the field and the efficacy of water flood recovery techniques used.

(3) PARTNERS.—An applicant for a grant under paragraph (1) may carry out a project under a pilot program in partnership with 1 or more other public or private entities.

(4) SELECTION CRITERIA.—In evaluating applications under this subsection, the Secretary of Energy shall—

(A) consider the previous experience with similar projects of each applicant; and

(B) give priority consideration to applications that—

(i) are most likely to maximize production of oil and gas in a cost-effective manner;

(ii) sequester significant quantities of carbon dioxide from anthropogenic sources;

(iii) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this section is completed; and

(iv) minimize any adverse environmental effects from the project.

(5) DEMONSTRATION PROGRAM REQUIREMENTS.—

(A) MAXIMUM AMOUNT.—The Secretary of Energy shall not provide more than $3,000,000 in Federal assistance under this subsection to any applicant.

(B) COST SHARING.—The Secretary of Energy shall require cost-sharing under this subsection in accordance with section 988.

(C) PERIOD OF GRANTS.—

(i) IN GENERAL.—A project funded by a grant under this subsection shall begin construction not later than 2 years after the date of provision of the grant, but in any case not later than December 31, 2010.

(ii) TERM.—The Secretary shall not provide grant funds to any applicant under this subsection for a period of more than 5 years.

(6) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary of Energy shall establish mechanisms to ensure that the information and knowledge gained by participants in the program under this subsection are transferred among other participants and interested persons, including other applicants that submitted applications for a grant under this subsection.

(7) SCHEDULE.—

(A) PUBLICATION.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall publish in the Federal Register, and elsewhere, as appropriate, a request for applications to carry out projects under this subsection.

(B) DATE FOR APPLICATIONS.—An application for a grant under this subsection shall be submitted not later than 180 days after the date of publication of the request under subparagraph (A).

(C) SELECTION.—After the date by which applications for grants are required to be submitted under subparagraph (B), the Secretary of Energy, in a timely manner, shall select, after peer review and based on the criteria under paragraph (4), those projects to be awarded a grant under this subsection.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 355. ASSESSMENT OF DEPENDENCE OF STATE OF HAWAII ON OIL.

(a) ASSESSMENT.—The Secretary of Energy shall assess the economic implications of the dependence of the State of Hawaii on oil as the principal source of energy for the State, including—

(1) the short- and long-term prospects for crude oil supply disruption and price volatility and potential impacts on the economy of Hawaii;

(2) the economic relationship between oil-fired generation of electricity from residual fuel and refined petroleum products consumed for ground, marine, and air transportation;

(3) the technical and economic feasibility of increasing the contribution of renewable energy resources for generation of electricity, on an island-by-island basis, including—

(A) siting and facility configuration;

(B) environmental, operational, and safety considerations;

(C) the availability of technology;

(D) the effects on the utility system, including reliability;

(E) infrastructure and transport requirements;

(F) community support; and

(G) other factors affecting the economic impact of such an increase and any effect on the economic relationship described in paragraph (2);

(4) the technical and economic feasibility of using liquefied natural gas to displace residual fuel oil for electric generation, including neighbor island opportunities, and the effect of the displacement on the economic relationship described in paragraph (2), including—

(A) the availability of supply;

(B) siting and facility configuration for onshore and offshore liquefied natural gas receiving terminals;

(C) the factors described in subparagraphs (B) through (F) of paragraph (3); and

(D) other economic factors;

(5) the technical and economic feasibility of using renewable energy sources (including hydrogen) for ground, marine, and air transportation energy applications to displace the use of refined petroleum products, on an island-by-island basis, and the economic impact of the displacement on the relationship described in paragraph (2); and

(6) an island-by-island approach to—

(A) the development of hydrogen from renewable resources; and

(B) the application of hydrogen to the energy needs of Hawaii

(b) CONTRACTING AUTHORITY.—The Secretary of Energy may carry out the assessment under *subsection (a) directly or, in whole or in part, through 1 or more contracts with qualified public or private entities.*

(c) Report.—Not later than 300 days after the date of enactment of this Act, the Secretary of Energy shall prepare (in consultation with agencies of the State of Hawaii and other stakeholders, as appropriate), and submit to Congress, a report describing the findings, conclusions, and recommendations resulting from the assessment.

(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 356. DENALI COMMISSION.

(a) Definition of Commission.—In this section, the term "Commission" means the Denali Commission established by the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277).

(b) Energy Programs.—The Commission shall use amounts made available under subsection (d) to carry out energy programs, including—

(1) energy generation and development, including—

(A) fuel cells, hydroelectric, solar, wind, wave, and tidal energy; and

(B) alternative energy sources;

(2) the construction of energy transmission, including interties;

(3) the replacement and cleanup of fuel tanks;

(4) the construction of fuel transportation networks and related facilities;

(5) power cost equalization programs; and

(6) projects using coal as a fuel, including coal gasification projects.

(c) Open Meetings.—

(1) In general.—Except as provided in paragraph (2), a meeting of the Commission shall be open to the public if—

(A) the Commission members take action on behalf of the Commission; or

(B) the deliberations of the Commission determine, or result in the joint conduct or disposition of, official Commission business.

(2) Exceptions.—Paragraph (1) shall not apply to any portion of a Commission meeting for which the Commission, in public session, votes to close the meeting for the reasons described in paragraph (2), (4), (5), or (6) of subsection (c) of section 552b of title 5, United States Code.

(3) Public notice.—

(A) In general.—At least 1 week before a meeting of the Commission, the Commission shall make a public announcement of the meeting that describes—

(i) the time, place, and subject matter of the meeting;

(ii) whether the meeting is to be open or closed to the public; and

(iii) the name and telephone number of an appropriate person to respond to requests for information about the meeting.

(B) Additional notice.—The Commission shall make a public announcement of any change to the information made available under subparagraph (A) at the earliest practicable time.

(4) Minutes.—The Commission shall keep, and make available to the public, a transcript, electronic recording, or minutes from each Commission meeting, except for portions of the meeting closed under paragraph (2).

(d) Authorization of Appropriations.—There is authorized to be appropriated to the Commission not more than $55,000,000 for each of fiscal years 2006 through 2015 to carry out subsection (b).

SEC. 357. COMPREHENSIVE INVENTORY OF OCS OIL AND NATURAL GAS RESOURCES.

(a) In General.—The Secretary shall conduct an inventory and analysis of oil and natural gas resources beneath all of the waters of the United States Outer Continental Shelf ("OCS"). The inventory and analysis shall—

(1) use available data on oil and gas resources in areas offshore of Mexico and Canada that will provide information on trends of oil and gas accumulation in areas of the OCS;

(2) use any available technology, except drilling, but including 3-D seismic technology to obtain accurate resource estimates;

(3) analyze how resource estimates in OCS areas have changed over time in regards to gathering geological and geophysical data, initial exploration, or full field development, including areas such as the deepwater and subsalt areas in the Gulf of Mexico;

(4) estimate the effect that understated oil and gas resource inventories have on domestic energy investments; and

(5) identify and explain how legislative, regulatory, and administrative programs or processes restrict or impede the development of identified resources and the extent that they affect domestic supply, such as moratoria, lease terms and conditions, operational stipulations and requirements, approval delays by the Federal Government and coastal States, and local zoning restrictions for onshore processing facilities and pipeline landings.

(b) Reports.—The Secretary shall submit a report to Congress on the inventory of estimates and the analysis of restrictions or impediments, together with any recommendations, within 6 months of the date of enactment of the section. The report shall be publicly available and updated at least every 5 years.

Subtitle F—Access to Federal Lands

SEC. 361. FEDERAL ONSHORE OIL AND GAS LEASING AND PERMITTING PRACTICES.

(a) Review of Onshore Oil and Gas Leasing Practices.—

(1) In general.—The Secretary of the Interior, in consultation with the Secretary of Agriculture with respect to National Forest System lands under the jurisdiction of the Department of Agriculture, shall perform an internal review of current Federal onshore oil and gas leasing and permitting practices.

(2) Inclusions.—The review shall include the process for—

(A) accepting or rejecting offers to lease;

(B) administrative appeals of decisions or orders of officers or employees of the Bureau of Land Management with respect to a Federal oil or gas lease;

(C) considering surface use plans of operation, including the timeframes in which the plans are considered, and any recommendations for improving and expediting the process; and

(D) identifying stipulations to address site-specific concerns and conditions, including those stipulations relating to the environment and resource use conflicts.

(b) Report.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall transmit a report to Congress that describes—

(1) actions taken under section 3 of Executive Order No. 13212 (42 U.S.C. 13201 note); and

(2) actions taken or any plans to improve the Federal onshore oil and gas leasing program.

SEC. 362. MANAGEMENT OF FEDERAL OIL AND GAS LEASING PROGRAMS.

(a) Timely Action on Leases and Permits.—

(1) Secretary of the interior.—To ensure timely action on oil and gas leases and applications for permits to drill on land otherwise available for leasing, the Secretary of the Interior (referred to in this section as the "Secretary") shall—

(A) ensure expeditious compliance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and any other applicable environmental and cultural resources laws;

(B) improve consultation and coordination with the States and the public; and

(C) improve the collection, storage, and retrieval of information relating to the oil and gas leasing activities.

(2) Secretary of agriculture.—To ensure timely action on oil and gas lease applications for permits to drill on land otherwise available for leasing, the Secretary of Agriculture shall—

(A) ensure expeditious compliance with all applicable environmental and cultural resources laws; and

(B) improve the collection, storage, and retrieval of information relating to the oil and gas leasing activities.

(b) Best Management Practices.—

(1) In general.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop and implement best management practices to—

(A) improve the administration of the onshore oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.); and

(B) ensure timely action on oil and gas leases and applications for permits to drill on land otherwise available for leasing.

(2) Considerations.—In developing the best management practices under paragraph (1), the Secretary shall consider any recommendations from the review under section 361.

(3) Regulations.—Not later than 180 days after the development of the best management practices under paragraph (1), the Secretary shall publish, for public comment, proposed regulations that set forth specific timeframes for processing leases and applications in accordance with the best management practices, including deadlines for—

(A) approving or disapproving—

(i) resource management plans and related documents;

(ii) lease applications;

(iii) applications for permits to drill; and

(iv) surface use plans; and

(B) related administrative appeals.

(c) Improved Enforcement.—The Secretary and the Secretary Agriculture shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill on land under the jurisdiction of the Secretary and the Secretary of Agriculture, respectively.

(d) Authorization of Appropriations.—In addition to amounts made available to carry out activities relating to oil and gas leasing on public land administered by the Secretary and National Forest System land administered by the Secretary of Agriculture, there are authorized to be appropriated for each of fiscal years 2006 through 2010—

(1) to the Secretary, acting through the Director of the Bureau of Land Management—

(A) $40,000,000 to carry out subsections (a)(1) and (b); and

(B) $20,000,000 to carry out subsection (c);

(2) to the Secretary, acting through the Director of the United States Fish and Wildlife Service, $5,000,000 to carry out subsection (a)(1); and

(3) to the Secretary of Agriculture, acting through the Chief of the Forest Service, $5,000,000 to carry out subsections (a)(2) and (c).

SEC. 363. CONSULTATION REGARDING OIL AND GAS LEASING ON PUBLIC LAND.

(a) In General.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall enter into a memorandum of understanding regarding oil and gas leasing on—

(1) public land under the jurisdiction of the Secretary of the Interior; and

(2) National Forest System land under the jurisdiction of the Secretary of Agriculture.

(b) CONTENTS.—The memorandum of understanding shall include provisions that—

(1) establish administrative procedures and lines of authority that ensure timely processing of—

(A) oil and gas lease applications;

(B) surface use plans of operation, including steps for processing surface use plans; and

(C) applications for permits to drill consistent with applicable timelines;

(2) eliminate duplication of effort by providing for coordination of planning and environmental compliance efforts;

(3) ensure that lease stipulations are—

(A) applied consistently;

(B) coordinated between agencies; and

(C) only as restrictive as necessary to protect the resource for which the stipulations are applied;

(4) establish a joint data retrieval system that is capable of—

(A) tracking applications and formal requests made in accordance with procedures of the Federal onshore oil and gas leasing program; and

(B) providing information regarding the status of the applications and requests within the Department of the Interior and the Department of Agriculture; and

(5) establish a joint geographic information system mapping system for use in—

(A) tracking surface resource values to aid in resource management; and

(B) processing surface use plans of operation and applications for permits to drill.

SEC. 364. ESTIMATES OF OIL AND GAS RESOURCES UNDERLYING ONSHORE FEDERAL LAND.

(a) ASSESSMENT.—Section 604 of the Energy Act of 2000 (42 U.S.C. 6217) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "reserve"; and

(ii) by striking "and" after the semicolon; and

(B) by striking paragraph (2) and inserting the following:

"(2) the extent and nature of any restrictions or impediments to the development of the resources, including—

"(A) impediments to the timely granting of leases;

"(B) post-lease restrictions, impediments, or delays on development for conditions of approval, applications for permits to drill, or processing of environmental permits; and

"(C) permits or restrictions associated with transporting the resources for entry into commerce; and

"(3) the quantity of resources not produced or introduced into commerce because of the restrictions.";

(2) in subsection (b)—

(A) by striking "reserve" and inserting "resource"; and

(B) by striking "publically" and inserting "publicly"; and

(3) by striking subsection (d) and inserting the following:

"(d) ASSESSMENTS.—Using the inventory, the Secretary of Energy shall make periodic assessments of economically recoverable resources accounting for a range of parameters such as current costs, commodity prices, technology, and regulations.".

(b) METHODOLOGY.—The Secretary of the Interior shall use the same assessment methodology across all geological provinces, areas, and regions in preparing and issuing national geological assessments to ensure accurate comparisons of geological resources.

SEC. 365. PILOT PROJECT TO IMPROVE FEDERAL PERMIT COORDINATION.

(a) ESTABLISHMENT.—The Secretary of the Interior (referred to in this section as the "Secretary") shall establish a Federal Permit Streamlining Pilot Project (referred to in this section as the "Pilot Project").

(b) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into a memorandum of understanding for purposes of this section with—

(A) the Secretary of Agriculture;

(B) the Administrator of the Environmental Protection Agency; and

(C) the Chief of Engineers.

(2) STATE PARTICIPATION.—The Secretary may request that the Governors of Wyoming, Montana, Colorado, Utah, and New Mexico be signatories to the memorandum of understanding.

(c) DESIGNATION OF QUALIFIED STAFF.—

(1) IN GENERAL.—Not later than 30 days after the date of the signing of the memorandum of understanding under subsection (b), all Federal signatory parties shall, if appropriate, assign to each of the field offices identified in subsection (d) an employee who has expertise in the regulatory issues relating to the office in which the employee is employed, including, as applicable, particular expertise in—

(A) the consultations and the preparation of biological opinions under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536);

(B) permits under section 404 of Federal Water Pollution Control Act (33 U.S.C. 1344);

(C) regulatory matters under the Clean Air Act (42 U.S.C. 7401 et seq.);

(D) planning under the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.); and

(E) the preparation of analyses under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) DUTIES.—Each employee assigned under paragraph (1) shall—

(A) not later than 90 days after the date of assignment, report to the Bureau of Land Management Field Managers in the office to which the employee is assigned;

(B) be responsible for all issues relating to the jurisdiction of the home office or agency of the employee; and

(C) participate as part of the team of personnel working on proposed energy projects, planning, and environmental analyses.

(d) FIELD OFFICES.—The following Bureau of Land Management Field Offices shall serve as the Pilot Project offices:

(1) Rawlins, Wyoming.

(2) Buffalo, Wyoming.

(3) Miles City, Montana

(4) Farmington, New Mexico.

(5) Carlsbad, New Mexico.

(6) Grand Junction/Glenwood Springs, Colorado.

(7) Vernal, Utah.

(e) REPORTS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(1) outlines the results of the Pilot Project to date; and

(2) makes a recommendation to the President regarding whether the Pilot Project should be implemented throughout the United States.

(f) ADDITIONAL PERSONNEL.—The Secretary shall assign to each field office identified in subsection (d) any additional personnel that are necessary to ensure the effective implementation of—

(1) the Pilot Project; and

(2) other programs administered by the field offices, including inspection and enforcement relating to energy development on Federal land, in accordance with the multiple use mandate of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq).

(g) PERMIT PROCESSING IMPROVEMENT FUND.—Section 35 of the Mineral Leasing Act (30 U.S.C. 191) is amended by adding at the end the following:

"(c)(1) Notwithstanding the first sentence of subsection (a), any rentals received from leases in any State (other than the State of Alaska) on or after the date of enactment of this subsection shall be deposited in the Treasury, to be allocated in accordance with paragraph (2).

"(2) Of the amounts deposited in the Treasury under paragraph (1)—

"(A) 50 percent shall be paid by the Secretary of the Treasury to the State within the boundaries of which the leased land is located or the deposits were derived; and

"(B) 50 percent shall be deposited in a special fund in the Treasury, to be known as the 'BLM Permit Processing Improvement Fund' (referred to in this subsection as the 'Fund').

"(3) For each of fiscal years 2006 through 2015, the Fund shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, for the coordination and processing of oil and gas use authorizations on onshore Federal land under the jurisdiction of the Pilot Project offices identified in section 365(d) of the Energy Policy Act of 2005.".

(h) TRANSFER OF FUNDS.—For the purposes of coordination and processing of oil and gas use authorizations on Federal land under the administration of the Pilot Project offices identified in subsection (d), the Secretary may authorize the expenditure or transfer of such funds as are necessary to—

(1) the United States Fish and Wildlife Service;

(2) the Bureau of Indian Affairs;

(3) the Forest Service;

(4) the Environmental Protection Agency;

(5) the Corps of Engineers; and

(6) the States of Wyoming, Montana, Colorado, Utah, and New Mexico.

(i) FEES.—During the period in which the Pilot Project is authorized, the Secretary shall not implement a rulemaking that would enable an increase in fees to recover additional costs related to processing drilling-related permit applications and use authorizations.

(j) SAVINGS PROVISION.—Nothing in this section affects—

(1) the operation of any Federal or State law; or

(2) any delegation of authority made by the head of a Federal agency whose employees are participating in the Pilot Project.

SEC. 366. DEADLINE FOR CONSIDERATION OF APPLICATIONS FOR PERMITS.

Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding at the end the following:

"(p) DEADLINES FOR CONSIDERATION OF APPLICATIONS FOR PERMITS.—

"(1) IN GENERAL.—Not later than 10 days after the date on which the Secretary receives an application for any permit to drill, the Secretary shall—

"(A) notify the applicant that the application is complete; or

"(B) notify the applicant that information is missing and specify any information that is required to be submitted for the application to be complete.

"(2) ISSUANCE OR DEFERRAL.—Not later than 30 days after the applicant for a permit has submitted a complete application, the Secretary shall—

"(A) issue the permit, if the requirements under the National Environmental Policy Act of 1969 and other applicable law have been completed within such timeframe; or

"(B) defer the decision on the permit and provide to the applicant a notice—

"(i) that specifies any steps that the applicant could take for the permit to be issued; and

"(ii) a list of actions that need to be taken by the agency to complete compliance with applicable law together with timelines and deadlines for completing such actions.

"(3) REQUIREMENTS FOR DEFERRED APPLICATIONS.—

"(A) IN GENERAL.—If the Secretary provides notice under paragraph (2)(B), the applicant shall have a period of 2 years from the date of receipt of the notice in which to complete all requirements specified by the Secretary, including providing information needed for compliance with the National Environmental Policy Act of 1969.

"(B) ISSUANCE OF DECISION ON PERMIT.—If the applicant completes the requirements within the period specified in subparagraph (A), the Secretary shall issue a decision on the permit not later than 10 days after the date of completion of the requirements described in subparagraph (A), unless compliance with the National Environmental Policy Act of 1969 and other applicable law has not been completed within such timeframe.

"(C) DENIAL OF PERMIT.—If the applicant does not complete the requirements within the period specified in subparagraph (A) or if the applicant does not comply with applicable law, the Secretary shall deny the permit.".

SEC. 367. FAIR MARKET VALUE DETERMINATIONS FOR LINEAR RIGHTS-OF-WAY ACROSS PUBLIC LANDS AND NATIONAL FORESTS.

(a) UPDATE OF FEE SCHEDULE.—Not later than one year after the date of enactment of this section—

(1) the Secretary of the Interior shall update section 2806.20 of title 43, Code of Federal Regulations, as in effect on the date of enactment of this section, to revise the per acre rental fee zone value schedule by State, county, and type of linear right-of-way use to reflect current values of land in each zone; and

(2) the Secretary of Agriculture shall make the same revision for linear rights-of-way granted, issued, or renewed under title V of the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.) on National Forest System land.

(b) FAIR MARKET VALUE RENTAL DETERMINATION FOR LINEAR RIGHTS-OF-WAY.—The fair market value rent of a linear right-of-way across public lands or National Forest System lands issued under section 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764) or section 28 of the Mineral Leasing Act (30 U.S.C. 185) shall be determined in accordance with subpart 2806 of title 43, Code of Federal Regulations, as in effect on the date of enactment of this section (including the annual or periodic updates specified in the regulations) and as updated in accordance with subsection (a).

SEC. 368. ENERGY RIGHT-OF-WAY CORRIDORS ON FEDERAL LAND.

(a) WESTERN STATES.—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Secretary of the Interior (in this section referred to collectively as "the Secretaries"), in consultation with the Federal Energy Regulatory Commission, States, tribal or local units of governments as appropriate, affected utility industries, and other interested persons, shall consult with each other and shall—

(1) designate, under their respective authorities, corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in the eleven contiguous Western States (as defined in section 103(o) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(o));

(2) perform any environmental reviews that may be required to complete the designation of such corridors; and

(3) incorporate the designated corridors into the relevant agency land use and resource management plans or equivalent plans.

(b) OTHER STATES.—Not later than 4 years after the date of enactment of this Act, the Secretaries, in consultation with the Federal Energy Regulatory Commission, affected utility industries, and other interested persons, shall jointly—

(1) identify corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in States other than those described in subsection (a); and

(2) schedule prompt action to identify, designate, and incorporate the corridors into the applicable land use plans.

(c) ONGOING RESPONSIBILITIES.—The Secretaries, in consultation with the Federal Energy Regulatory Commission, affected utility industries, and other interested parties, shall establish procedures under their respective authorities that—

(1) ensure that additional corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land are promptly identified and designated as necessary; and

(2) expedite applications to construct or modify oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities within such corridors, taking into account prior analyses and environmental reviews undertaken during the designation of such corridors.

(d) CONSIDERATIONS.—In carrying out this section, the Secretaries shall take into account the need for upgraded and new electricity transmission and distribution facilities to—

(1) improve reliability;

(2) relieve congestion; and

(3) enhance the capability of the national grid to deliver electricity.

(e) SPECIFICATIONS OF CORRIDOR.—A corridor designated under this section shall, at a minimum, specify the centerline, width, and compatible uses of the corridor.

SEC. 369. OIL SHALE, TAR SANDS, AND OTHER STRATEGIC UNCONVENTIONAL FUELS.

(a) SHORT TITLE.—This section may be cited as the "Oil Shale, Tar Sands, and Other Strategic Unconventional Fuels Act of 2005".

(b) DECLARATION OF POLICY.—Congress declares that it is the policy of the United States that—

(1) United States oil shale, tar sands, and other unconventional fuels are strategically important domestic resources that should be developed to reduce the growing dependence of the United States on politically and economically unstable sources of foreign oil imports;

(2) the development of oil shale, tar sands, and other strategic unconventional fuels, for research and commercial development, should be conducted in an environmentally sound manner, using practices that minimize impacts; and

(3) development of those strategic unconventional fuels should occur, with an emphasis on sustainability, to benefit the United States while taking into account affected States and communities.

(c) LEASING PROGRAM FOR RESEARCH AND DEVELOPMENT OF OIL SHALE AND TAR SANDS.—In accordance with section 21 of the Mineral Leasing Act (30 U.S.C. 241) and any other applicable law, except as provided in this section, not later than 180 days after the date of enactment of this Act, from land otherwise available for leasing, the Secretary of the Interior (referred to in this section as the "Secretary") shall make available for leasing such land as the Secretary considers to be necessary to conduct research and development activities with respect to technologies for the recovery of liquid fuels from oil shale and tar sands resources on public lands. Prospective public lands within each of the States of Colorado, Utah, and Wyoming shall be made available for such research and development leasing.

(d) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT AND COMMERCIAL LEASING PROGRAM FOR OIL SHALE AND TAR SANDS.—

(1) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.—Not later than 18 months after the date of enactment of this Act, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), the Secretary shall complete a programmatic environmental impact statement for a commercial leasing program for oil shale and tar sands resources on public lands, with an emphasis on the most geologically prospective lands within each of the States of Colorado, Utah, and Wyoming.

(2) FINAL REGULATION.—Not later than 6 months after the completion of the programmatic environmental impact statement under this subsection, the Secretary shall publish a final regulation establishing such program.

(e) COMMENCEMENT OF COMMERCIAL LEASING OF OIL SHALE AND TAR SANDS.—Not later than 180 days after publication of the final regulation required by subsection (d), the Secretary shall consult with the Governors of States with significant oil shale and tar sands resources on public lands, representatives of local governments in such States, interested Indian tribes, and other interested persons, to determine the level of support and interest in the States in the development of tar sands and oil shale resources. If the Secretary finds sufficient support and interest exists in a State, the Secretary may conduct a lease sale in that State under the commercial leasing program regulations. Evidence of interest in a lease sale under this subsection shall include, but not be limited to, appropriate areas nominated for leasing by potential lessees and other interested parties.

(f) DILIGENT DEVELOPMENT REQUIREMENTS.—The Secretary shall, by regulation, designate work requirements and milestones to ensure the diligent development of the lease.

(g) INITIAL REPORT BY THE SECRETARY OF THE INTERIOR.—Within 90 days after the date of enactment of this Act, the Secretary of the Interior shall report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on—

(1) the interim actions necessary to—

(A) develop the program, complete the programmatic environmental impact statement, and promulgate the final regulation as required by subsection (d); and.

(B) conduct the first lease sales under the program as required by subsection (e); and

(2) a schedule to complete such actions within the time limits mandated by this section.

(h) TASK FORCE.—

(1) ESTABLISHMENT.—The Secretary of Energy, in cooperation with the Secretary of the Interior and the Secretary of Defense, shall establish a task force to develop a program to coordinate and accelerate the commercial development of strategic unconventional fuels, including but not limited to oil shale and tar sands resources within the United States, in an integrated manner.

(2) COMPOSITION.—The Task Force shall be composed of

(A) the Secretary of Energy (or the designee of the Secretary);

(B) the Secretary of the Interior (or the designee of the Secretary of the Interior);

(C) the Secretary of Defense (or the designee of the Secretary of Defense);

(D) the Governors of affected States; and

(E) representatives of local governments in affected areas.

(3) RECOMMENDATIONS.—The Task Force shall make such recommendations regarding promoting the development of the strategic unconventional fuels resources within the United States as it may deem appropriate.

(4) PARTNERSHIPS.—The Task Force shall make recommendations with respect to initiating a partnership with the Province of Alberta, Canada, for purposes of sharing information relating to the development and production of oil from tar sands, and similar partnerships with other nations that contain significant oil shale resources

(5) REPORTS.—

(A) INITIAL REPORT.—Not later than 180 days after the date of enactment of this Act, the Task Force shall submit to the President and Congress a report that describes the analysis and recommendations of the Task Force.

(B) SUBSEQUENT REPORTS.—The Secretary shall provide an annual report describing the progress in developing the strategic unconventional fuels resources within the United States for each of the 5 years following submission of the report provided for in subparagraph (A).

(i) OFFICE OF PETROLEUM RESERVES.—

(1) IN GENERAL.—The Office of Petroleum Reserves of the Department of Energy shall—

(A) coordinate the creation and implementation of a commercial strategic fuel development program for the United States;

(B) evaluate the strategic importance of unconventional sources of strategic fuels to the security of the United States;

(C) promote and coordinate Federal Government actions that facilitate the development of strategic fuels in order to effectively address the energy supply needs of the United States;

(D) identify, assess, and recommend appropriate actions of the Federal Government required to assist in the development and manufacturing of strategic fuels; and

(E) coordinate and facilitate appropriate relationships between private industry and the Federal Government to promote sufficient and timely private investment to commercialize strategic fuels for domestic and military use.

(2) CONSULTATION AND COORDINATION.—The Office of Petroleum Reserves shall work closely with the Task Force and coordinate its staff support.

(3) ANNUAL REPORTS.—Not later than 180 days after the date of enactment of this Act and annually thereafter, the Secretary shall submit to Congress a report that describes the activities of the Office of Petroleum Reserves carried out under this subsection.

(j) MINERAL LEASING ACT AMENDMENTS.—

(1) SECTION 17.—Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C. 226(b)(2)), as amended by section 350, is further amended—

(A) in subparagraph (A) (as designated by the amendment made by subsection (a)(1) of that section) by designating the first, second, and third sentences as clauses (i), (ii), and (iii), respectively;

(B) by moving clause (ii), as so designated, so as to begin immediately after and below clause (i);

(C) by moving clause (iii), as so designated, so as to begin immediately after and below clause (ii);

(D) in clause (i) of subparagraph (A) (as designated by subparagraph (A) of this paragraph) by striking "five thousand one hundred and twenty" and inserting "5,760"; and

(E) by adding at the end the following:

"(iv) No lease issued under this paragraph shall be included in any chargeability limitation associated with oil and gas leases.".

(2) SECTION 21.—Section 21(a) of the Mineral Leasing Act (30 U.S.C. 241(a)) is amended—

(A) by striking "(a) That the Secretary" and inserting the following:

"(a)(1) The Secretary";

(B) by striking "; that no lease" and inserting a period, followed by the following:

"(2) No lease";

(C) by striking "Leases may be for" and inserting the following:

"(3) Leases may be for";

(D) by striking "For the privilege" and inserting the following:

"(4) For the privilege";

(E) in paragraph (2) (as designated by subparagraph (B) of this paragraph) by striking "five thousand one hundred and twenty" and inserting "5,760";

(F) in paragraph (4) (as designated by subparagraph (D) of this paragraph) by striking "rate of 50 cents per acre" and inserting "rate of $2.00 per acre";

(G)(i) by striking ": Provided further, That not more than one lease shall be granted under this section to any" and inserting ": Provided further, That no"; and

(ii) by striking "except that with respect to leases for" and inserting "shall acquire or hold more than 50,000 acres of oil shale leases in any one State. For"; and

(H) by adding at the end the following:

"(5) No lease issued under this section shall be included in any chargeability limitation associated with oil and gas leases.".

(k) INTERAGENCY COORDINATION AND EXPEDITIOUS REVIEW OF PERMITTING PROCESS.—

(1) DEPARTMENT OF THE INTERIOR AS LEAD AGENCY.—Upon written request of a prospective applicant for Federal authorization to develop a proposed oil shale or tar sands project, the Department of the Interior shall act as the lead Federal agency for the purposes of coordinating all applicable Federal authorizations and environmental reviews. To the maximum extent practicable under applicable Federal law, the Secretary shall coordinate this Federal authorization and review process with any Indian tribes and State and local agencies responsible for conducting any separate permitting and environmental reviews.

(2) IMPLEMENTING REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall issue any regulations necessary to implement this subsection.

(l) COST-SHARED DEMONSTRATION TECHNOLOGIES.—

(1) IDENTIFICATION.—The Secretary of Energy shall identify technologies for the development of oil shale and tar sands that—

(A) are ready for demonstration at a commercially-representative scale; and

(B) have a high probability of leading to commercial production.

(2) ASSISTANCE.—For each technology identified under paragraph (1), the Secretary of Energy may provide—

(A) technical assistance;

(B) assistance in meeting environmental and regulatory requirements; and

(C) cost-sharing assistance.

(m) NATIONAL OIL SHALE AND TAR SANDS ASSESSMENT.—

(1) ASSESSMENT.—

(A) IN GENERAL.—The Secretary shall carry out a national assessment of oil shale and tar sands resources for the purposes of evaluating and mapping oil shale and tar sands deposits, in the geographic areas described in subparagraph (B). In conducting such an assessment, the Secretary shall make use of the extensive geological assessment work for oil shale and tar sands already conducted by the United States Geological Survey.

(B) GEOGRAPHIC AREAS.—The geographic areas referred to in subparagraph (A), listed in the order in which the Secretary shall assign priority, are—

(i) the Green River Region of the States of Colorado, Utah, and Wyoming;

(ii) the Devonian oil shales and other hydrocarbon-bearing rocks having the nomenclature of "shale" located east of the Mississippi River; and

(iii) any remaining area in the central and western United States (including the State of Alaska) that contains oil shale and tar sands, as determined by the Secretary.

(2) USE OF STATE SURVEYS AND UNIVERSITIES.—In carrying out the assessment under paragraph (1), the Secretary may request assistance from any State- administered geological survey or university.

(n) LAND EXCHANGES.—

(1) IN GENERAL.—To facilitate the recovery of oil shale and tar sands, especially in areas where Federal, State, and private lands are intermingled, the Secretary shall consider the use of land exchanges where appropriate and feasible to consolidate land ownership and mineral interests into manageable areas.

(2) IDENTIFICATION AND PRIORITY OF PUBLIC LANDS.—The Secretary shall identify public lands containing deposits of oil shale or tar sands within the Green River, Piceance Creek, Uintah, and Washakie geologic basins, and shall give priority to implementing land exchanges within those basins. The Secretary shall consider the geology of the respective basin in determining the optimum size of the lands to be consolidated.

(3) COMPLIANCE WITH SECTION 206 OF FLPMA.—A land exchange undertaken in furtherance of this subsection shall be implemented in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(o) ROYALTY RATES FOR LEASES.—The Secretary shall establish royalties, fees, rentals, bonus, or other payments for leases under this section that shall—

(1) encourage development of the oil shale and tar sands resource; and

(2) ensure a fair return to the United States.

(p) HEAVY OIL TECHNICAL AND ECONOMIC ASSESSMENT.—The Secretary of Energy shall update the 1987 technical and economic assessment of domestic heavy oil resources that was prepared by the Interstate Oil and Gas Compact Commission. Such an update should include all of North America and cover all unconventional oil, including heavy oil, tar sands (oil sands), and oil shale.

(q) PROCUREMENT OF UNCONVENTIONAL FUELS BY THE DEPARTMENT OF DEFENSE.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by inserting after section 2398 the following:

"§2398a. Procurement of fuel derived from coal, oil shale, and tar sands

"(a) USE OF FUEL TO MEET DEPARTMENT OF DEFENSE NEEDS.—The Secretary of Defense shall develop a strategy to use fuel produced, in whole or in part, from coal, oil shale, and tar sands (referred to in this section as a 'covered fuel') that are extracted by either mining or in-situ methods and refined or otherwise processed in the United States in order to assist in meeting the fuel requirements of the Department of Defense when the Secretary determines that it is in the national interest.

"(b) AUTHORITY TO PROCURE.—The Secretary of Defense may enter into 1 or more contracts or other agreements (that meet the requirements of this section) to procure a covered fuel to meet 1 or more fuel requirements of the Department of Defense.

"(c) CLEAN FUEL REQUIREMENTS.—A covered fuel may be procured under subsection (b) only if the covered fuel meets such standards for clean fuel produced from domestic sources as the Secretary of Defense shall establish for purposes of this section in consultation with the Department of Energy.

"(d) MULTIYEAR CONTRACT AUTHORITY.—Subject to applicable provisions of law, any contract or other agreement for the procurement of covered fuel under subsection (b) may be for 1 or more years at the election of the Secretary of Defense.

"(e) FUEL SOURCE ANALYSIS.—In order to facilitate the procurement by the Department of

Defense of covered fuel under subsection (b), the Secretary of Defense may carry out a comprehensive assessment of current and potential locations in the United States for the supply of covered fuel to the Department.".

(2) Clerical amendment.—The table of sections for chapter 141 of title 10, United States Code, is amended by inserting after the item relating to section 2398 the following:

"2398a. Procurement of fuel derived from coal, oil shale, and tar sands".

(r) State Water Rights.—Nothing in this section preempts or affects any State water law or interstate compact relating to water.

(s) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 370. FINGER LAKES WITHDRAWAL.

All Federal land within the boundary of Finger Lakes National Forest in the State of New York is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws; and

(2) disposition under all laws relating to oil and gas leasing.

SEC. 371. REINSTATEMENT OF LEASES.

(a) Leases Terminated for Certain Failure to Pay Rental.—Notwithstanding section 31(d)(2)(B) of the Mineral Leasing Act (30 U.S.C. 188(d)(2)(B)) as in effect before the effective date of this section, and notwithstanding the amendment made by subsection (b) of this section, the Secretary of the Interior may reinstate any oil and gas lease issued under that Act that was terminated for failure of a lessee to pay the full amount of rental on or before the anniversary date of the lease, during the period beginning on September 1, 2001, and ending on June 30, 2004, if—

(1) not later than 120 days after the date of enactment of this Act, the lessee—

(A) files a petition for reinstatement of the lease;

(B) complies with the conditions of section 31(e) of the Mineral Leasing Act (30 U.S.C. 188(e)); and

(C) certifies that the lessee did not receive a notice of termination by the date that was 13 months before the date of termination; and

(2) the land is available for leasing.

(b) Deadline for Petitions, Generally.—Section 31(d)(2) of the Mineral Leasing Act (30 U.S.C. 188(d)(2)) is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) with respect to any lease that terminated under subsection (b) on or before the date of the enactment of the Energy Policy Act of 2005, a petition for reinstatement (together with the required back rental and royalty accruing after the date of termination) is filed on or before the earlier of—

"(i) 60 days after the lessee receives from the Secretary notice of termination, whether by return of check or by any other form of actual notice; or

"(ii) 15 months after the termination of the lease; or

"(B) with respect to any lease that terminates under subsection (b) after the date of the enactment of the Energy Policy Act of 2005, a petition for reinstatement (together with the required back rental and royalty accruing after the date of termination) is filed on or before the earlier of—

"(i) 60 days after receipt of the notice of termination sent by the Secretary by certified mail to all lessees of record; or

"(ii) 24 months after the termination of the lease.".

SEC. 372. CONSULTATION REGARDING ENERGY RIGHTS-OF-WAY ON PUBLIC LAND.

(a) Memorandum of Understanding.—

(1) In general.—Not later than 6 months after the date of enactment of this Act, the Secretary of Energy, in consultation with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense with respect to lands under their respective jurisdictions, shall enter into a memorandum of understanding to coordinate all applicable Federal authorizations and environmental reviews relating to a proposed or existing utility facility. To the maximum extent practicable under applicable law, the Secretary of Energy shall, to ensure timely review and permit decisions, coordinate such authorizations and reviews with any Indian tribes, multi-State entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the affected utility facility.

(2) Contents.—The memorandum of understanding shall include provisions that—

(A) establish—

(i) a unified right-of-way application form; and

(ii) an administrative procedure for processing right-of-way applications, including lines of authority, steps in application processing, and timeframes for application processing;

(B) provide for coordination of planning relating to the granting of the rights-of-way;

(C) provide for an agreement among the affected Federal agencies to prepare a single environmental review document to be used as the basis for all Federal authorization decisions; and

(D) provide for coordination of use of right-of-way stipulations to achieve consistency.

(b) Natural Gas Pipelines.—

(1) In general.—With respect to permitting activities for interstate natural gas pipelines, the May 2002 document entitled "Interagency Agreement On Early Coordination Of Required Environmental And Historic Preservation Reviews Conducted In Conjunction With The Issuance Of Authorizations To Construct And Operate Interstate Natural Gas Pipelines Certificated By The Federal Energy Regulatory Commission" shall constitute compliance with subsection (a).

(2) Report.—

(A) In general.—Not later than 1 year after the date of enactment of this Act, and every 2 years thereafter, agencies that are signatories to the document referred to in paragraph (1) shall transmit to Congress a report on how the agencies under the jurisdiction of the Secretaries are incorporating and implementing the provisions of the document referred to in paragraph (1).

(B) Contents.—The report shall address—

(i) efforts to implement the provisions of the document referred to in paragraph (1);

(ii) whether the efforts have had a streamlining effect;

(iii) further improvements to the permitting process of the agency; and

(iv) recommendations for inclusion of State and tribal governments in a coordinated permitting process.

(c) Definition of Utility Facility.—In this section, the term "utility facility" means any privately, publicly, or cooperatively owned line, facility, or system—

(1) for the transportation of—

(A) oil, natural gas, synthetic liquid fuel, or gaseous fuel;

(B) any refined product produced from oil, natural gas, synthetic liquid fuel, or gaseous fuel; or

(C) products in support of the production of material referred to in subparagraph (A) or (B);

(2) for storage and terminal facilities in connection with the production of material referred to in paragraph (1); or

(3) for the generation, transmission, and distribution of electric energy.

SEC. 373. SENSE OF CONGRESS REGARDING DEVELOPMENT OF MINERALS UNDER PADRE ISLAND NATIONAL SEASHORE.

(a) Findings.—Congress finds the following:

(1) Pursuant to Public Law 87–712 (16 U.S.C. 459d et seq.; popularly known as the "Federal Enabling Act") and various deeds and actions under that Act, the United States is the owner of only the surface estate of certain lands constituting the Padre Island National Seashore.

(2) Ownership of the oil, gas, and other minerals in the subsurface estate of the lands constituting the Padre Island National Seashore was never acquired by the United States, and ownership of those interests is held by the State of Texas and private parties.

(3) Public Law 87–712 (16 U.S.C. 459d et seq.)—

(A) expressly contemplated that the United States would recognize the ownership and future development of the oil, gas, and other minerals in the subsurface estate of the lands constituting the Padre Island National Seashore by the owners and their mineral lessees; and

(B) recognized that approval of the State of Texas was required to create Padre Island National Seashore.

(4) Approval was given for the creation of Padre Island National Seashore by the State of Texas through Tex. Rev. Civ. Stat. Ann. Art. 6077(t) (Vernon 1970), which expressly recognized that development of the oil, gas, and other minerals in the subsurface of the lands constituting Padre Island National Seashore would be conducted with full rights of ingress and egress under the laws of the State of Texas.

(b) Sense of Congress.—It is the sense of Congress that with regard to Federal law, any regulation of the development of oil, gas, or other minerals in the subsurface of the lands constituting Padre Island National Seashore should be made as if those lands retained the status that the lands had on September 27, 1962.

SEC. 374. LIVINGSTON PARISH MINERAL RIGHTS TRANSFER.

Section 102 of Public Law 102–562 (106 Stat. 4234) is amended by striking subsection (b) and inserting the following:

"(b) Reservation of Oil and Gas Rights and Conveyance of Remaining Mineral Rights.—Subject to the limitations set forth in subsection (c), the United States hereby excepts and reserves from the provisions of subsection (a), all rights to oil and gas underlying such lands, along with the right to explore for, and produce the oil and gas under applicable law and such regulations as the Secretary of the Interior may prescribe. Not later than 180 days after the date of enactment of the Energy Policy Act of 2005, the Secretary of the Interior shall convey the remaining mineral rights to the parties who as of the date of enactment of the Energy Policy Act of 2005 would be recognized as holders of a right, title, or interest to any portion of such minerals under the laws of the State of Louisiana, but for the interest of the United States in such minerals.

"(c) Oil and Gas Resource Assessment and Report.—The United States Geological Survey shall conduct a resource assessment and publish a report of the findings of such resource assessment ('USGS Assessment and Report') within one year of the date of enactment of the Energy Policy Act of 2005. The USGS Assessment and Report shall provide an assessment of all oil and gas resources underlying the certain lands in Livingston Parish, Louisiana, as described in section 103 (the 'Livingston Parish lands'). Upon a finding by the Secretary of the Interior based upon the USGS Assessment and Report that it is unlikely that economically recoverable oil and gas resources are present, the Secretary shall convey all rights to oil and gas underlying such lands to the recipients, or their successors,

heirs, or assigns, of the conveyances under subsection (b). Such further conveyances shall be made within 180 days after a finding by the Secretary that it is unlikely that economically recoverable oil and gas resources are present.".

Subtitle G—Miscellaneous

SEC. 381. DEADLINE FOR DECISION ON APPEALS OF CONSISTENCY DETERMINATION UNDER THE COASTAL ZONE MANAGEMENT ACT OF 1972.

Section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465) is amended to read as follows:

"APPEALS TO THE SECRETARY

"SEC. 319. (a) NOTICE.—Not later than 30 days after the date of the filing of an appeal to the Secretary of a consistency determination under section 307, the Secretary shall publish an initial notice in the Federal Register.

"(b) CLOSURE OF RECORD.—

"(1) IN GENERAL.—Not later than the end of the 160-day period beginning on the date of publication of an initial notice under subsection (a), except as provided in paragraph (3), the Secretary shall immediately close the decision record and receive no more filings on the appeal.

"(2) NOTICE.—After closing the administrative record, the Secretary shall immediately publish a notice in the Federal Register that the administrative record has been closed.

"(3) EXCEPTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), during the 160-day period described in paragraph (1), the Secretary may stay the closing of the decision record—

"(i) for a specific period mutually agreed to in writing by the appellant and the State agency; or

"(ii) as the Secretary determines necessary to receive, on an expedited basis—

"(I) any supplemental information specifically requested by the Secretary to complete a consistency review under this Act; or

"(II) any clarifying information submitted by a party to the proceeding related to information in the consolidated record compiled by the lead Federal permitting agency.

"(B) APPLICABILITY.—The Secretary may only stay the 160-day period described in paragraph (1) for a period not to exceed 60 days.

"(c) DEADLINE FOR DECISION.—

"(1) IN GENERAL.—Not later than 60 days after the date of publication of a Federal Register notice stating when the decision record for an appeal has been closed, the Secretary shall issue a decision or publish a notice in the Federal Register explaining why a decision cannot be issued at that time.

"(2) SUBSEQUENT DECISION.—Not later than 15 days after the date of publication of a Federal Register notice explaining why a decision cannot be issued within the 60-day period, the Secretary shall issue a decision.".

SEC. 382. APPEALS RELATING TO OFFSHORE MINERAL DEVELOPMENT.

For any Federal administrative agency proceeding that is an appeal or review under section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465), as amended by this Act, related to any Federal authorization for the permitting, approval, or other authorization of an energy project, the lead Federal permitting agency for the project shall, with the cooperation of Federal and State administrative agencies, maintain a consolidated record of all decisions made or actions taken by the lead agency or by another Federal or State administrative agency or officer. Such record shall be the initial record for appeals or reviews under that Act, provided that the record may be supplemented as expressly provided pursuant to section 319 of that Act.

SEC. 383. ROYALTY PAYMENTS UNDER LEASES UNDER THE OUTER CONTINENTAL SHELF LANDS ACT.

(a) ROYALTY RELIEF.—

(1) IN GENERAL.—For purposes of providing compensation for lessees and a State for which amounts are authorized by section 6004(c) of the Oil Pollution Act of 1990 (Public Law 101–380), a lessee may withhold from payment any royalty due and owing to the United States under any leases under the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.) for offshore oil or gas production from a covered lease tract if, on or before the date that the payment is due and payable to the United States, the lessee makes a payment to the State of 44 cents for every $1 of royalty withheld.

(2) TREATMENT OF AMOUNTS.—Any royalty withheld by a lessee in accordance with this section (including any portion thereof that is paid to the State under paragraph (1)) shall be treated as paid for purposes of satisfaction of the royalty obligations of the lessee to the United States.

(3) CERTIFICATION OF WITHHELD AMOUNTS.—The Secretary of the Treasury shall—

(A) determine the amount of royalty withheld by a lessee under this section; and

(B) promptly publish a certification when the total amount of royalty withheld by the lessee under this section is equal to—

(i) the dollar amount stated at page 47 of Senate Report number 101–534, which is designated therein as the total drainage claim for the West Delta field; plus

(ii) interest as described at page 47 of that Report.

(b) PERIOD OF ROYALTY RELIEF.—Subsection (a) shall apply to royalty amounts that are due and payable in the period beginning on October 1, 2006, and ending on the date on which the Secretary of the Treasury publishes a certification under subsection (a)(3)(B).

(c) DEFINITIONS.—As used in this section:

(1) COVERED LEASE TRACT.—The term "covered lease tract" means a leased tract (or portion of a leased tract)—

(A) lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)); or

(B) lying within such zone but to which such section does not apply.

(2) LESSEE.—The term "lessee"—

(A) means a person or entity that, on the date of the enactment of the Oil Pollution Act of 1990, was a lessee referred to in section 6004(c) of that Act (as in effect on that date of the enactment), but did not hold lease rights in Federal offshore lease OCS–G–5669; and

(B) includes successors and affiliates of a person or entity described in subparagraph (A).

SEC. 384. COASTAL IMPACT ASSISTANCE PROGRAM.

Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is amended to read as follows:

"SEC. 31. COASTAL IMPACT ASSISTANCE PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a coastal State any part of which political subdivision is—

"(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the coastal State as of the date of enactment of the Energy Policy Act of 2005; and

"(B) not more than 200 nautical miles from the geographic center of any leased tract.

"(2) COASTAL POPULATION.—The term 'coastal population' means the population, as determined by the most recent official data of the Census Bureau, of each political subdivision any part of which lies within the designated coastal boundary of a State (as defined in a State's coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)).

"(3) COASTAL STATE.—The term 'coastal State' has the meaning given the term in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).

"(4) COASTLINE.—The term 'coastline' has the meaning given the term 'coast line' in section 2 of the Submerged Lands Act (43 U.S.C. 1301).

"(5) DISTANCE.—The term 'distance' means the minimum great circle distance, measured in statute miles.

"(6) LEASED TRACT.—The term 'leased tract' means a tract that is subject to a lease under section 6 or 8 for the purpose of drilling for, developing, and producing oil or natural gas resources.

"(7) LEASING MORATORIA.—The term 'leasing moratoria' means the prohibitions on preleasing, leasing, and related activities on any geographic area of the outer Continental Shelf as contained in sections 107 through 109 of division E of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3063).

"(8) POLITICAL SUBDIVISION.—The term 'political subdivision' means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs.

"(9) PRODUCING STATE.—

"(A) IN GENERAL.—The term 'producing State' means a coastal State that has a coastal seaward boundary within 200 nautical miles of the geographic center of a leased tract within any area of the outer Continental Shelf.

"(B) EXCLUSION.—The term 'producing State' does not include a producing State, a majority of the coastline of which is subject to leasing moratoria, unless production was occurring on January 1, 2005, from a lease within 10 nautical miles of the coastline of that State.

"(10) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

"(A) IN GENERAL.—The term 'qualified Outer Continental Shelf revenues' means all amounts received by the United States from each leased tract or portion of a leased tract—

"(i) lying—

"(I) seaward of the zone covered by section 8(g); or

"(II) within that zone, but to which section 8(g) does not apply; and

"(ii) the geographic center of which lies within a distance of 200 nautical miles from any part of the coastline of any coastal State.

"(B) INCLUSIONS.—The term 'qualified Outer Continental Shelf revenues' includes bonus bids, rents, royalties (including payments for royalty taken in kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued under this Act.

"(C) EXCLUSION.—The term 'qualified Outer Continental Shelf revenues' does not include any revenues from a leased tract or portion of a leased tract that is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on January 1, 2005.

"(b) PAYMENTS TO PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

"(1) IN GENERAL.—The Secretary shall, without further appropriation, disburse to producing States and coastal political subdivisions in accordance with this section $250,000,000 for each of fiscal years 2007 through 2010.

"(2) DISBURSEMENT.—In each fiscal year, the Secretary shall disburse to each producing State for which the Secretary has approved a plan under subsection (c), and to coastal political subdivisions under paragraph (4), such funds as are allocated to the producing State or coastal political subdivision, respectively, under this section for the fiscal year.

"(3) ALLOCATION AMONG PRODUCING STATES.—

"(A) IN GENERAL.—Except as provided in subparagraph (C) and subject to subparagraph (D),

the amounts available under paragraph (1) shall be allocated to each producing State based on the ratio that—

"(i) the amount of qualified outer Continental Shelf revenues generated off the coastline of the producing State; bears to

"(ii) the amount of qualified outer Continental Shelf revenues generated off the coastline of all producing States.

"(B) AMOUNT OF OUTER CONTINENTAL SHELF REVENUES.—For purposes of subparagraph (A)—

"(i) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2007 and 2008 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2006; and

"(ii) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2009 and 2010 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2008.

"(C) MULTIPLE PRODUCING STATES.—In a case in which more than 1 producing State is located within 200 nautical miles of any portion of a leased tract, the amount allocated to each producing State for the leased tract shall be inversely proportional to the distance between—

"(i) the nearest point on the coastline of the producing State; and

"(ii) the geographic center of the leased tract.

"(D) MINIMUM ALLOCATION.—The amount allocated to a producing State under subparagraph (A) shall be at least 1 percent of the amounts available under paragraph (1).

"(4) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

"(A) IN GENERAL.—The Secretary shall pay 35 percent of the allocable share of each producing State, as determined under paragraph (3) to the coastal political subdivisions in the producing State.

"(B) FORMULA.—Of the amount paid by the Secretary to coastal political subdivisions under subparagraph (A)—

"(i) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

"(I) the coastal population of the coastal political subdivision, bears to

"(II) the coastal population of all coastal political subdivisions in the producing State;

"(ii) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

"(I) the number of miles of coastline of the coastal political subdivision; bears to

"(II) the number of miles of coastline of all coastal political subdivisions in the producing State; and

"(iii) 50 percent shall be allocated in amounts that are inversely proportional to the respective distances between the points in each coastal political subdivision that are closest to the geographic center of each leased tract, as determined by the Secretary.

"(C) EXCEPTION FOR THE STATE OF LOUISIANA.—For the purposes of subparagraph (B)(ii), the coastline for coastal political subdivisions in the State of Louisiana without a coastline shall be considered to be ⅓ the average length of the coastline of all coastal political subdivisions with a coastline in the State of Louisiana.

"(D) EXCEPTION FOR THE STATE OF ALASKA.—For the purposes of carrying out subparagraph (B)(iii) in the State of Alaska, the amounts allocated shall be divided equally among the 2 coastal political subdivisions that are closest to the geographic center of a leased tract.

"(E) EXCLUSION OF CERTAIN LEASED TRACTS.—For purposes of subparagraph (B)(iii), a leased tract or portion of a leased tract shall be excluded if the tract or portion of a leased tract is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on that date.

"(5) NO APPROVED PLAN.—

"(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in subparagraph (C), in a case in which any amount allocated to a producing State or coastal political subdivision under paragraph (4) or (5) is not disbursed because the producing State does not have in effect a plan that has been approved by the Secretary under subsection (c), the Secretary shall allocate the undisbursed amount equally among all other producing States.

"(B) RETENTION OF ALLOCATION.—The Secretary shall hold in escrow an undisbursed amount described in subparagraph (A) until such date as the final appeal regarding the disapproval of a plan submitted under subsection (c) is decided.

"(C) WAIVER.—The Secretary may waive subparagraph (A) with respect to an allocated share of a producing State and hold the allocable share in escrow if the Secretary determines that the producing State is making a good faith effort to develop and submit, or update, a plan in accordance with subsection (c).

"(c) COASTAL IMPACT ASSISTANCE PLAN.—

"(1) SUBMISSION OF STATE PLANS.—

"(A) IN GENERAL.—Not later than July 1, 2008, the Governor of a producing State shall submit to the Secretary a coastal impact assistance plan.

"(B) PUBLIC PARTICIPATION.—In carrying out subparagraph (A), the Governor shall solicit local input and provide for public participation in the development of the plan.

"(2) APPROVAL.—

"(A) IN GENERAL.—The Secretary shall approve a plan of a producing State submitted under paragraph (1) before disbursing any amount to the producing State, or to a coastal political subdivision located in the producing State, under this section.

"(B) COMPONENTS.—The Secretary shall approve a plan submitted under paragraph (1) if—

"(i) the Secretary determines that the plan is consistent with the uses described in subsection (d); and

"(ii) the plan contains—

"(I) the name of the State agency that will have the authority to represent and act on behalf of the producing State in dealing with the Secretary for purposes of this section;

"(II) a program for the implementation of the plan that describes how the amounts provided under this section to the producing State will be used;

"(III) for each coastal political subdivision that receives an amount under this section—

"(aa) the name of a contact person; and

"(bb) a description of how the coastal political subdivision will use amounts provided under this section;

"(IV) a certification by the Governor that ample opportunity has been provided for public participation in the development and revision of the plan; and

"(V) a description of measures that will be taken to determine the availability of assistance from other relevant Federal resources and programs.

"(3) AMENDMENT.—Any amendment to a plan submitted under paragraph (1) shall be—

"(A) developed in accordance with this subsection; and

"(B) submitted to the Secretary for approval or disapproval under paragraph (4).

"(4) PROCEDURE.—Not later than 90 days after the date on which a plan or amendment to a plan is submitted under paragraph (1) or (3), the Secretary shall approve or disapprove the plan or amendment.

"(d) AUTHORIZED USES.—

"(1) IN GENERAL.—A producing State or coastal political subdivision shall use all amounts received under this section, including any amount deposited in a trust fund that is administered by the State or coastal political subdivision and dedicated to uses consistent with this section, in accordance with all applicable Federal and State law, only for 1 or more of the following purposes:

"(A) Projects and activities for the conservation, protection, or restoration of coastal areas, including wetland.

"(B) Mitigation of damage to fish, wildlife, or natural resources.

"(C) Planning assistance and the administrative costs of complying with this section.

"(D) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

"(E) Mitigation of the impact of outer Continental Shelf activities through funding of onshore infrastructure projects and public service needs.

"(2) COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any expenditure made by a producing State or coastal political subdivision is not consistent with this subsection, the Secretary shall not disburse any additional amount under this section to the producing State or the coastal political subdivision until such time as all amounts obligated for unauthorized uses have been repaid or reobligated for authorized uses.

"(3) LIMITATION.—Not more than 23 percent of amounts received by a producing State or coastal political subdivision for any 1 fiscal year shall be used for the purposes described subparagraphs (C) and (E) of paragraph (1).".

SEC. 385. STUDY OF AVAILABILITY OF SKILLED WORKERS.

(a) IN GENERAL.—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study of the short-term and long-term availability of skilled workers to meet the energy and mineral security requirements of the United States.

(b) INCLUSIONS.—The study shall include an analysis of—

(1) the need for and availability of workers for the oil, gas, and mineral industries;

(2) the availability of skilled labor at both entry level and more senior levels; and

(3) recommendations for future actions needed to meet future labor requirements.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study.

SEC. 386. GREAT LAKES OIL AND GAS DRILLING BAN.

No Federal or State permit or lease shall be issued for new oil and gas slant, directional, or offshore drilling in or under one or more of the Great Lakes.

SEC. 387. FEDERAL COALBED METHANE REGULATION.

Any State currently on the list of Affected States established under section 1339(b) of the Energy Policy Act of 1992 (42 U.S.C. 13368(b)) shall be removed from the list if, not later than 3 years after the date of enactment of this Act, the State takes, or prior to the date of enactment has taken, any of the actions required for removal from the list under such section 1339(b).

SEC. 388. ALTERNATE ENERGY-RELATED USES ON THE OUTER CONTINENTAL SHELF.

(a) AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

"(p) LEASES, EASEMENTS, OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other

relevant departments and agencies of the Federal Government, may grant a lease, easement, or right-of-way on the outer Continental Shelf for activities not otherwise authorized in this Act, the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law, if those activities—

"(A) support exploration, development, production, or storage of oil or natural gas, except that a lease, easement, or right-of-way shall not be granted in an area in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium;

"(B) support transportation of oil or natural gas, excluding shipping activities;

"(C) produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

"(D) use, for energy-related purposes or for other authorized marine-related purposes, facilities currently or previously used for activities authorized under this Act, except that any oil and gas energy-related uses shall not be authorized in areas in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium.

"(2) PAYMENTS AND REVENUES.—(A) The Secretary shall establish royalties, fees, rentals, bonuses, or other payments to ensure a fair return to the United States for any lease, easement, or right-of-way granted under this subsection.

"(B) The Secretary shall provide for the payment of 27 percent of the revenues received by the Federal Government as a result of payments under this section from projects that are located wholly or partially within the area extending three nautical miles seaward of State submerged lands. Payments shall be made based on a formula established by the Secretary by rulemaking no later than 180 days after the date of enactment of this section that provides for equitable distribution, based on proximity to the project, among coastal states that have a coastline that is located within 15 miles of the geographic center of the project.

"(3) COMPETITIVE OR NONCOMPETITIVE BASIS.—Except with respect to projects that meet the criteria established under section 388(d) of the Energy Policy Act of 2005, the Secretary shall issue a lease, easement, or right-of-way under paragraph (1) on a competitive basis unless the Secretary determines after public notice of a proposed lease, easement, or right-of-way that there is no competitive interest.

"(4) REQUIREMENTS.—The Secretary shall ensure that any activity under this subsection is carried out in a manner that provides for—

"(A) safety;

"(B) protection of the environment;

"(C) prevention of waste;

"(D) conservation of the natural resources of the outer Continental Shelf;

"(E) coordination with relevant Federal agencies;

"(F) protection of national security interests of the United States;

"(G) protection of correlative rights in the outer Continental Shelf;

"(H) a fair return to the United States for any lease, easement, or right-of-way under this subsection;

"(I) prevention of interference with reasonable uses (as determined by the Secretary) of the exclusive economic zone, the high seas, and the territorial seas;

"(J) consideration of—

"(i) the location of, and any schedule relating to, a lease, easement, or right-of-way for an area of the outer Continental Shelf; and

"(ii) any other use of the sea or seabed, including use for a fishery, a sealane, a potential site of a deepwater port, or navigation;

"(K) public notice and comment on any proposal submitted for a lease, easement, or right-of-way under this subsection; and

"(L) oversight, inspection, research, monitoring, and enforcement relating to a lease, easement, or right-of-way under this subsection.

"(5) LEASE DURATION, SUSPENSION, AND CANCELLATION.—The Secretary shall provide for the duration, issuance, transfer, renewal, suspension, and cancellation of a lease, easement, or right-of-way under this subsection.

"(6) SECURITY.—The Secretary shall require the holder of a lease, easement, or right-of-way granted under this subsection to—

"(A) furnish a surety bond or other form of security, as prescribed by the Secretary;

"(B) comply with such other requirements as the Secretary considers necessary to protect the interests of the public and the United States; and

"(C) provide for the restoration of the lease, easement, or right-of-way.

"(7) COORDINATION AND CONSULTATION WITH AFFECTED STATE AND LOCAL GOVERNMENTS.—The Secretary shall provide for coordination and consultation with the Governor of any State or the executive of any local government that may be affected by a lease, easement, or right-of-way under this subsection.

"(8) REGULATIONS.—Not later than 270 days after the date of enactment of the Energy Policy Act of 2005, the Secretary, in consultation with the Secretary of Defense, the Secretary of the Department in which the Coast Guard is operating, the Secretary of Commerce, heads of other relevant departments and agencies of the Federal Government, and the Governor of any affected State, shall issue any necessary regulations to carry out this subsection.

"(9) EFFECT OF SUBSECTION.—Nothing in this subsection displaces, supersedes, limits, or modifies the jurisdiction, responsibility, or authority of any Federal or State agency under any other Federal law.

"(10) APPLICABILITY.—This subsection does not apply to any area on the outer Continental Shelf within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, or National Marine Sanctuary System, or any National Monument.".

(b) COORDINATED OCS MAPPING INITIATIVE.—

(1) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary of Commerce, the Commandant of the Coast Guard, and the Secretary of Defense, shall establish an interagency comprehensive digital mapping initiative for the outer Continental Shelf to assist in decisionmaking relating to the siting of activities under subsection (p) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) (as added by subsection (a)).

(2) USE OF DATA.—The mapping initiative shall use, and develop procedures for accessing, data collected before the date on which the mapping initiative is established, to the maximum extent practicable.

(3) INCLUSIONS.—Mapping carried out under the mapping initiative shall include an indication of the locations on the outer Continental Shelf of—

(A) Federally-permitted activities;

(B) obstructions to navigation;

(C) submerged cultural resources;

(D) undersea cables;

(E) offshore aquaculture projects; and

(F) any area designated for the purpose of safety, national security, environmental protection, or conservation and management of living marine resources.

(c) CONFORMING AMENDMENT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by striking the section heading and inserting the following: "LEASES, EASEMENTS, AND RIGHTS-OF-WAY ON THE OUTER CONTINENTAL SHELF.—".

(d) SAVINGS PROVISION.—Nothing in the amendment made by subsection (a) requires the resubmittal of any document that was previously submitted or the reauthorization of any action that was previously authorized with respect to a project for which, before the date of enactment of this Act—

(1) an offshore test facility has been constructed; or

(2) a request for a proposal has been issued by a public authority.

(e) STATE CLAIMS TO JURISDICTION OVER SUBMERGED LANDS.—Nothing in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.

SEC. 389. OIL SPILL RECOVERY INSTITUTE.

Title V of the Oil Pollution Act of 1990 (33 U.S.C. 2731 et seq.) is amended—

(1) in section 5001(i), by striking "September 30, 2012" and inserting "1 year after the date on which the Secretary, in consultation with the Secretary of the Interior, determines that oil and gas exploration, development, and production in the State of Alaska have ceased"; and

(2) in section 5006(c), by striking "October 1, 2012" and inserting "1 year after the date on which the Secretary, in consultation with the Secretary of the Interior, determines that oil and gas exploration, development, and production in the State of Alaska have ceased,".

SEC. 390. NEPA REVIEW.

(a) NEPA REVIEW.—Action by the Secretary of the Interior in managing the public lands, or the Secretary of Agriculture in managing National Forest System Lands, with respect to any of the activities described in subsection (b) shall be subject to a rebuttable presumption that the use of a categorical exclusion under the National Environmental Policy Act of 1969 (NEPA) would apply if the activity is conducted pursuant to the Mineral Leasing Act for the purpose of exploration or development of oil or gas.

(b) ACTIVITIES DESCRIBED.—The activities referred to in subsection (a) are the following:

(1) Individual surface disturbances of less than five (5) acres so long as the total surface disturbance on the lease is not greater than 150 acres and site-specific analysis in a document prepared pursuant to NEPA has been previously completed.

(2) Drilling an oil or gas well at a location or well pad site at which drilling has occurred previously within five (5) years prior to the date of spudding the well.

(3) Drilling an oil or gas well within a developed field for which an approved land use plan or any environmental document prepared pursuant to NEPA analyzed such drilling as a reasonably foreseeable activity, so long as such plan or document was approved within five (5) years prior to the date of spudding the well.

(4) Placement of a pipeline in an approved right-of-way corridor, so long as the corridor was approved within five (5) years prior to the date of placement of the pipeline.

(5) Maintenance of a minor activity, other than any construction or major renovation or a building or facility.

Subtitle H—Refinery Revitalization

SEC. 391. FINDINGS AND DEFINITIONS.

(a) FINDINGS.—Congress finds that—

(1) it serves the national interest to increase petroleum refining capacity for gasoline, heating oil, diesel fuel, jet fuel, kerosene, and petrochemical feedstocks wherever located within the United States, to bring more supply to the markets for the use of the American people;

(2) United States demand for refined petroleum products currently exceeds the country's petroleum refining capacity to produce such products;

(3) this excess demand has been met with increased imports;

(4) due to lack of capacity, refined petroleum product imports are expected to grow from 7.9

percent to 10.7 percent of total refined product by 2025;

(5) refiners are still subject to significant environmental and other regulations and face several new requirements under the Clean Air Act (42 U.S.C. 7401 et seq.) over the next decade; and

(6) better coordination of Federal and State regulatory reviews may help facilitate siting and construction of new refineries to meet the demand in the United States for refined products.

(b) Definitions.—In this subtitle:

(1) Administrator.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) State.—The term "State" means—

(A) a State;

(B) the Commonwealth of Puerto Rico; and

(C) any other territory or possession of the United States.

SEC. 392. FEDERAL-STATE REGULATORY COORDINATION AND ASSISTANCE.

(a) In General.—At the request of the Governor of a State, the Administrator may enter into a refinery permitting cooperative agreement with the State, under which each party to the agreement identifies steps, including timelines, that it will take to streamline the consideration of Federal and State environmental permits for a new refinery.

(b) Authority Under Agreement.—The Administrator shall be authorized to—

(1) accept from a refiner a consolidated application for all permits required from the Environmental Protection Agency, to the extent consistent with other applicable law;

(2) enter into memoranda of agreement with other Federal agencies to coordinate consideration of refinery applications and permits among Federal agencies; and

(3) enter into memoranda of agreement with a State, under which Federal and State review of refinery permit applications will be coordinated and concurrently considered, to the extent practicable.

(c) State Assistance.—The Administrator is authorized to provide financial assistance to State governments to facilitate the hiring of additional personnel with expertise in fields relevant to consideration of refinery permits.

(d) Other Assistance.—The Administrator is authorized to provide technical, legal, or other assistance to State governments to facilitate their review of applications to build new refineries.

TITLE IV—COAL

Subtitle A—Clean Coal Power Initiative

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) Clean Coal Power Initiative.—There are authorized to be appropriated to the Secretary to carry out the activities authorized by this subtitle $200,000,000 for each of fiscal years 2006 through 2014, to remain available until expended.

(b) Report.—The Secretary shall submit to Congress the report required by this subsection not later than March 31, 2007. The report shall include, with respect to subsection (a), a plan containing—

(1) a detailed assessment of whether the aggregate funding levels provided under subsection (a) are the appropriate funding levels for that program;

(2) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued; and

(4) a detailed description of how the program will avoid problems enumerated in Government Accountability Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

SEC. 402. PROJECT CRITERIA.

(a) In General.—To be eligible to receive assistance under this subtitle, a project shall advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in commercial service or have been demonstrated on a scale that the Secretary determines is sufficient to demonstrate that commercial service is viable as of the date of enactment of this Act.

(b) Technical Criteria for Clean Coal Power Initiative.—

(1) Gasification projects.—

(A) In general.—In allocating the funds made available under section 401(a), the Secretary shall ensure that at least 70 percent of the funds are used only to fund projects on coal-based gasification technologies, including—

(i) gasification combined cycle;

(ii) gasification fuel cells and turbine combined cycle;

(iii) gasification coproduction;

(iv) hybrid gasification and combustion; and

(v) other advanced coal based technologies capable of producing a concentrated stream of carbon dioxide.

(B) Technical milestones.—

(i) Periodic determination.—

(I) In general.—The Secretary shall periodically set technical milestones specifying the emission and thermal efficiency levels that coal gasification projects under this subtitle shall be designed, and reasonably expected, to achieve.

(II) Prescriptive milestones.—The technical milestones shall become more prescriptive during the period of the clean coal power initiative.

(ii) 2020 goals.—The Secretary shall establish the periodic milestones so as to achieve by the year 2020 coal gasification projects able—

(I) to remove at least 99 percent of sulfur dioxide;

(II) to emit not more than .05 lbs of NO_x per million Btu;

(III) to achieve at least 95 percent reductions in mercury emissions; and

(IV) to achieve a thermal efficiency of at least—

(aa) 50 percent for coal of more than 9,000 Btu;

(bb) 48 percent for coal of 7,000 to 9,000 Btu; and

(cc) 46 percent for coal of less than 7,000 Btu.

(2) Other projects.—

(A) Allocation of funds.—The Secretary shall ensure that up to 30 percent of the funds made available under section 401(a) are used to fund projects other than those described in paragraph (1).

(B) Technical milestones.—

(i) Periodic determination.—

(I) In general.—The Secretary shall periodically establish technical milestones specifying the emission and thermal efficiency levels that projects funded under this paragraph shall be designed, and reasonably expected, to achieve.

(II) Prescriptive milestones.—The technical milestones shall become more prescriptive during the period of the clean coal power initiative.

(ii) 2020 goals.—The Secretary shall set the periodic milestones so as to achieve by the year 2020 projects able—

(I) to remove at least 97 percent of sulfur dioxide;

(II) to emit no more than .08 lbs of NO_x per million Btu;

(III) to achieve at least 90 percent reductions in mercury emissions; and

(IV) to achieve a thermal efficiency of at least—

(aa) 43 percent for coal of more than 9,000 Btu;

(bb) 41 percent for coal of 7,000 to 9,000 Btu; and

(cc) 39 percent for coal of less than 7,000 Btu.

(3) Consultation.—Before setting the technical milestones under paragraphs (1)(B) and (2)(B), the Secretary shall consult with—

(A) the Administrator of the Environmental Protection Agency; and

(B) interested entities, including—

(i) coal producers;

(ii) industries using coal;

(iii) organizations that promote coal or advanced coal technologies;

(iv) environmental organizations;

(v) organizations representing workers; and

(vi) organizations representing consumers.

(4) Existing units.—In the case of projects at units in existence on the date of enactment of this Act, in lieu of the thermal efficiency requirements described in paragraphs (1)(B)(ii)(IV) and (2)(B)(ii)(IV), the milestones shall be designed to achieve an overall thermal design efficiency improvement, compared to the efficiency of the unit as operated, of not less than—

(A) 7 percent for coal of more than 9,000 Btu;

(B) 6 percent for coal of 7,000 to 9,000 Btu; or

(C) 4 percent for coal of less than 7,000 Btu.

(5) Administration.—

(A) Elevation of site.—In evaluating project proposals to achieve thermal efficiency levels established under paragraphs (1)(B)(i) and (2)(B)(i) and in determining progress towards thermal efficiency milestones under paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4), the Secretary shall take into account and make adjustments for the elevation of the site at which a project is proposed to be constructed.

(B) Applicability of milestones.—In applying the thermal efficiency milestones under paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) to projects that separate and capture at least 50 percent of the potential emissions of carbon dioxide by a facility, the energy used for separation and capture of carbon dioxide shall not be counted in calculating the thermal efficiency.

(C) Permitted uses.—In carrying out this section, the Secretary may give priority to projects that include, as part of the project—

(i) the separation or capture of carbon dioxide; or

(ii) the reduction of the demand for natural gas if deployed.

(c) Financial Criteria.—The Secretary shall not provide financial assistance under this subtitle for a project unless the recipient documents to the satisfaction of the Secretary that—

(1) the recipient is financially responsible;

(2) the recipient will provide sufficient information to the Secretary to enable the Secretary to ensure that the funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(d) Financial Assistance.—The Secretary shall provide financial assistance to projects that, as determined by the Secretary—

(1) meet the requirements of subsections (a), (b), and (c); and

(2) are likely—

(A) to achieve overall cost reductions in the use of coal to generate useful forms of energy or chemical feedstocks;

(B) to improve the competitiveness of coal among various forms of energy in order to maintain a diversity of fuel choices in the United States to meet electricity generation requirements; and

(C) to demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities, using various types of coal, that use coal as the primary feedstock as of the date of enactment of this Act.

(e) Cost-Sharing.—In carrying out this subtitle, the Secretary shall require cost sharing in accordance with section 988.

(f) SCHEDULED COMPLETION OF SELECTED PROJECTS.—

(1) IN GENERAL.—In selecting a project for financial assistance under this section, the Secretary shall establish a reasonable period of time during which the owner or operator of the project shall complete the construction or demonstration phase of the project, as the Secretary determines to be appropriate.

(2) CONDITION OF FINANCIAL ASSISTANCE.—The Secretary shall require as a condition of receipt of any financial assistance under this subtitle that the recipient of the assistance enter into an agreement with the Secretary not to request an extension of the time period established for the project by the Secretary under paragraph (1).

(3) EXTENSION OF TIME PERIOD.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may extend the time period established under paragraph (1) if the Secretary determines, in the sole discretion of the Secretary, that the owner or operator of the project cannot complete the construction or demonstration phase of the project within the time period due to circumstances beyond the control of the owner or operator.

(B) LIMITATION.—The Secretary shall not extend a time period under subparagraph (A) by more than 4 years.

(g) FEE TITLE.—The Secretary may vest fee title or other property interests acquired under cost-share clean coal power initiative agreements under this subtitle in any entity, including the United States.

(h) DATA PROTECTION.—For a period not exceeding 5 years after completion of the operations phase of a cooperative agreement, the Secretary may provide appropriate protections (including exemptions from subchapter II of chapter 5 of title 5, United States Code) against the dissemination of information that—

(1) results from demonstration activities carried out under the clean coal power initiative program; and

(2) would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from and first produced by a non-Federal party participating in a clean coal power initiative project.

(i) APPLICABILITY.—No technology, or level of emission reduction, solely by reason of the use of the technology, or the achievement of the emission reduction, by 1 or more facilities receiving assistance under this Act, shall be considered to be—

(1) adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411);

(2) achievable for purposes of section 169 of that Act (42 U.S.C. 7479); or

(3) achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501).

SEC. 403. REPORT.

Not later than 1 year after the date of enactment of this Act, and once every 2 years thereafter through 2014, the Secretary, in consultation with other appropriate Federal agencies, shall submit to Congress a report describing—

(1) the technical milestones set forth in section 402 and how those milestones ensure progress toward meeting the requirements of subsections (b)(1)(B) and (b)(2) of section 402; and

(2) the status of projects funded under this subtitle.

SEC. 404. CLEAN COAL CENTERS OF EXCELLENCE.

(a) IN GENERAL.—As part of the clean coal power initiative, the Secretary shall award competitive, merit-based grants to institutions of higher education for the establishment of centers of excellence for energy systems of the future.

(b) BASIS FOR GRANTS.—The Secretary shall award grants under this section to institutions of higher education that show the greatest potential for advancing new clean coal technologies.

Subtitle B—Clean Power Projects

SEC. 411. INTEGRATED COAL/RENEWABLE ENERGY SYSTEM.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary may provide loan guarantees for a project to produce energy from coal of less than 7,000 Btu/lb using appropriate advanced integrated gasification combined cycle technology, including repowering of existing facilities, that—

(1) is combined with wind and other renewable sources;

(2) minimizes and offers the potential to sequester carbon dioxide emissions; and

(3) provides a ready source of hydrogen for near-site fuel cell demonstrations.

(b) REQUIREMENTS.—The facility—

(1) may be built in stages;

(2) shall have a combined output of at least 200 megawatts at successively more competitive rates; and

(3) shall be located in the Upper Great Plains.

(c) TECHNICAL CRITERIA.—Technical criteria described in section 402(b) shall apply to the facility.

(d) INVESTMENT TAX CREDITS.—

(1) IN GENERAL.—The loan guarantees provided under this section do not preclude the facility from receiving an allocation for investment tax credits under section 48A of the Internal Revenue Code of 1986.

(2) OTHER FUNDING.—Use of the investment tax credit described in paragraph (1) does not prohibit the use of other clean coal program funding.

SEC. 412. LOAN TO PLACE ALASKA CLEAN COAL TECHNOLOGY FACILITY IN SERVICE.

(a) DEFINITIONS.—In this section:

(1) BORROWER.—The term "borrower" means the owner of the clean coal technology plant.

(2) CLEAN COAL TECHNOLOGY PLANT.—The term "clean coal technology plant" means the plant located near Healy, Alaska, constructed under Department cooperative agreement number DE–FC–22–91PC90544.

(3) COST OF A DIRECT LOAN.—The term "cost of a direct loan" has the meaning given the term in section 502(5)(B) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(B)).

(b) AUTHORIZATION.—Subject to subsection (c), the Secretary shall use amounts made available under subsection (e) to provide the cost of a direct loan to the borrower for purposes of placing the clean coal technology plant into reliable operation for the generation of electricity.

(c) REQUIREMENTS.—

(1) MAXIMUM LOAN AMOUNT.—The amount of the direct loan provided under subsection (b) shall not exceed $80,000,000.

(2) DETERMINATIONS BY SECRETARY.—Before providing the direct loan to the borrower under subsection (b), the Secretary shall determine that—

(A) the plan of the borrower for placing the clean coal technology plant in reliable operation has a reasonable prospect of success;

(B) the amount of the loan (when combined with amounts available to the borrower from other sources) will be sufficient to carry out the project; and

(C) there is a reasonable prospect that the borrower will repay the principal and interest on the loan.

(3) INTEREST; TERM.—The direct loan provided under subsection (b) shall bear interest at a rate and for a term that the Secretary determines appropriate, after consultation with the Secretary of the Treasury, taking into account the needs and capacities of the borrower and the prevailing rate of interest for similar loans made by public and private lenders.

(4) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any other terms and conditions that the Secretary determines to be appropriate.

(d) USE OF PAYMENTS.—The Secretary shall retain any payments of principal and interest on the direct loan provided under subsection (b) to support energy research and development activities, to remain available until expended, subject to any other conditions in an applicable appropriations Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to provide the cost of a direct loan under subsection (b).

SEC. 413. WESTERN INTEGRATED COAL GASIFICATION DEMONSTRATION PROJECT.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall carry out a project to demonstrate production of energy from coal mined in the western United States using integrated gasification combined cycle technology (referred to in this section as the "demonstration project").

(b) COMPONENTS.—The demonstration project—

(1) may include repowering of existing facilities;

(2) shall be designed to demonstrate the ability to use coal with an energy content of not more than 9,000 Btu/lb.; and

(3) shall be capable of removing and sequestering carbon dioxide emissions.

(c) ALL TYPES OF WESTERN COALS.—Notwithstanding the foregoing, and to the extent economically feasible, the demonstration project shall also be designed to demonstrate the ability to use a variety of types of coal (including subbituminous and bituminous coal with an energy content of up to 13,000 Btu/lb.) mined in the western United States.

(d) LOCATION.—The demonstration project shall be located in a western State at an altitude of greater than 4,000 feet above sea level.

(e) COST SHARING.—The Federal share of the cost of the demonstration project shall be determined in accordance with section 988.

(f) LOAN GUARANTEES.—Notwithstanding title XIV, the demonstration project shall not be eligible for Federal loan guarantees.

SEC. 414. COAL GASIFICATION.

The Secretary is authorized to provide loan guarantees for a project to produce energy from a plant using integrated gasification combined cycle technology of at least 400 megawatts in capacity that produces power at competitive rates in deregulated energy generation markets and that does not receive any subsidy (direct or indirect) from ratepayers.

SEC. 415. PETROLEUM COKE GASIFICATION.

The Secretary is authorized to provide loan guarantees for at least 5 petroleum coke gasification projects.

SEC. 416. ELECTRON SCRUBBING DEMONSTRATION.

The Secretary shall use $5,000,000 from amounts appropriated to initiate, through the Chicago Operations Office, a project to demonstrate the viability of high-energy electron scrubbing technology on commercial-scale electrical generation using high-sulfur coal.

SEC. 417. DEPARTMENT OF ENERGY TRANSPORTATION FUELS FROM ILLINOIS BASIN COAL.

(a) IN GENERAL.—The Secretary shall carry out a program to evaluate the commercial and technical viability of advanced technologies for the production of Fischer-Tropsch transportation fuels, and other transportation fuels, manufactured from Illinois basin coal, including the capital modification of existing facilities and the construction of testing facilities under subsection (b).

(b) FACILITIES.—For the purpose of evaluating the commercial and technical viability of different processes for producing Fischer-Tropsch transportation fuels, and other transportation fuels, from Illinois basin coal, the Secretary shall support the use and capital modification of existing facilities and the construction of new facilities at—

(1) Southern Illinois University Coal Research Center;

(2) University of Kentucky Center for Applied Energy Research; and

(3) Energy Center at Purdue University.

(c) GASIFICATION PRODUCTS TEST CENTER.—In conjunction with the activities described in subsections (a) and (b), the Secretary shall construct a test center to evaluate and confirm liquid and gas products from syngas catalysis in order that the system has an output of at least 500 gallons of Fischer-Tropsch transportation fuel per day in a 24-hour operation.

(d) MILESTONES.—

(1) SELECTION OF PROCESSES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall select processes for evaluating the commercial and technical viability of different processes of producing Fischer-Tropsch transportation fuels, and other transportation fuels, from Illinois basin coal.

(2) AGREEMENTS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall offer to enter into agreements—

(A) to carry out the activities described in this section, at the facilities described in subsection (b); and

(B) for the capital modifications or construction of the facilities at the locations described in subsection (b).

(3) EVALUATIONS.—Not later than 3 years after the date of enactment of the Act, the Secretary shall begin, at the facilities described in subsection (b), evaluation of the technical and commercial viability of different processes of producing Fischer-Tropsch transportation fuels, and other transportation fuels, from Illinois basin coal.

(4) CONSTRUCTION OF FACILITIES.—

(A) IN GENERAL.—The Secretary shall construct the facilities described in subsection (b) at the lowest cost practicable.

(B) GRANTS OR AGREEMENTS.—The Secretary may make grants or enter into agreements or contracts with the institutions of higher education described in subsection (b).

(e) COST SHARING.—The cost of making grants under this section shall be shared in accordance with section 988.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $85,000,000 for the period of fiscal years 2006 through 2010.

Subtitle C—Coal and Related Programs

SEC. 421. AMENDMENT OF THE ENERGY POLICY ACT OF 1992.

(a) AMENDMENT.—The Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.) is amended by adding at the end the following:

“TITLE XXXI—CLEAN AIR COAL PROGRAM

“SEC. 3101. PURPOSES.

“The purposes of this title are to—

“(1) promote national energy policy and energy security, diversity, and economic competitiveness benefits that result from the increased use of coal;

“(2) mitigate financial risks, reduce the cost of clean coal generation, and increase the marketplace acceptance of clean coal generation and pollution control equipment and processes; and

“(3) facilitate the environmental performance of clean coal generation.

“SEC. 3102. AUTHORIZATION OF PROGRAM.

“(a) IN GENERAL.—The Secretary shall carry out a program of financial assistance to—

“(1) facilitate the production and generation of coal-based power, through the deployment of clean coal electric generating equipment and processes that, compared to equipment or processes that are in operation on a full scale—

“(A) improve—

“(i) energy efficiency; or

“(ii) environmental performance consistent with relevant Federal and State clean air requirements, including those promulgated under the Clean Air Act (42 U.S.C. 7401 et seq.); and

“(B) are not yet cost competitive; and

“(2) facilitate the utilization of existing coal-based electricity generation plants through projects that—

“(A) deploy advanced air pollution control equipment and processes; and

“(B) are designed to voluntarily enhance environmental performance above current applicable obligations under the Clean Air Act and State implementation efforts pursuant to such Act.

“(b) FINANCIAL CRITERIA.—As determined by the Secretary for a particular project, financial assistance under this title shall be in the form of—

“(1) cost-sharing of an appropriate percentage of the total project cost, not to exceed 50 percent as calculated under section 988 of the Energy Policy Act of 2005; or

“(2) financial assistance, including grants, cooperative agreements, or loans as authorized under this Act or other statutory authority of the Secretary.

“SEC. 3103. GENERATION PROJECTS.

“(a) ELIGIBLE PROJECTS.—Projects supported under section 3102(a)(1) may include—

“(1) equipment or processes previously supported by a Department of Energy program;

“(2) advanced combustion equipment and processes that the Secretary determines will be cost-effective and could substantially contribute to meeting environmental or energy needs, including gasification, gasification fuel cells, gasification coproduction, oxidation combustion techniques, ultra-supercritical boilers, and chemical looping; and

“(3) hybrid gasification/combustion systems, including systems integrating fuel cells with gasification or combustion units.

“(b) CRITERIA.—The Secretary shall establish criteria for the selection of generation projects under section 3102(a)(1). The Secretary may modify the criteria as appropriate to reflect improvements in equipment, except that the criteria shall not be modified to be less stringent. The selection criteria shall include—

“(1) prioritization of projects whose installation is likely to result in significant air quality improvements in nonattainment air quality areas;

“(2) prioritization of projects whose installation is likely to result in lower emission rates of pollution;

“(3) prioritization of projects that result in the repowering or replacement of older, less efficient units;

“(4) documented broad interest in the procurement of the equipment and utilization of the processes used in the projects by owners or operators of facilities for electricity generation;

“(5) equipment and processes beginning in 2006 through 2011 that are projected to achieve a thermal efficiency of—

“(A) 40 percent for coal of more than 9,000 Btu per pound based on higher heating values;

“(B) 38 percent for coal of 7,000 to 9,000 Btu per pound passed on higher heating values; and

“(C) 36 percent for coal of less than 7,000 Btu per pound based on higher heating values;

except that energy used for coproduction or cogeneration shall not be counted in calculating the thermal efficiency under this paragraph; and

“(6) equipment and processes beginning in 2012 and 2013 that are projected to achieve a thermal efficiency of—

“(A) 45 percent for coal of more than 9,000 Btu per pound based on higher heating values;

“(B) 44 percent for coal of 7,000 to 9,000 Btu per pound passed on higher heating values; and

“(C) 40 percent for coal of less than 7,000 Btu per pound based on higher heating values;

except that energy used for coproduction or cogeneration shall not be counted in calculating the thermal efficiency under this paragraph

“(c) PROGRAM BALANCE AND PRIORITY.—In carrying out the program under section 3102(a)(1), the Secretary shall ensure, to the extent practicable, that—

“(1) between 25 percent and 75 percent of the projects supported are for the sole purpose of electrical generation; and

“(2) priority is given to projects that use electrical generation equipment and processes that have been developed and demonstrated and applied in actual production of electricity, but are not yet cost-competitive, and that achieve greater efficiency and environmental performance.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out section 3102(a)(1)—

“(1) $250,000,000 for fiscal year 2007;

“(2) $350,000,000 for fiscal year 2008;

“(3) $400,000,000 for each of fiscal years 2009 through 2012; and

“(4) $300,000,000 for fiscal year 2013.

“(e) APPLICABILITY.—No technology, or level of emission reduction shall be treated as adequately demonstrated for purpose of section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of that Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501) solely by reason of the use of such technology, or the achievement of such emission reduction, by 1 or more facilities receiving assistance under section 3102(a)(1).

“SEC. 3104. AIR QUALITY ENHANCEMENT PROGRAM.

“(a) ELIGIBLE PROJECTS.—Projects supported under section 3102(a)(2) shall—

“(1) utilize technologies that meet relevant Federal and State clean air requirements applicable to the unit or facility, including being adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of that Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501); or

“(2) utilize equipment or processes that exceed relevant Federal or State clean air requirements applicable to the unit or facilities included in the projects by achieving greater efficiency or environmental performance.

“(b) PRIORITY IN PROJECT SELECTION.—In making an award under section 3102(a)(2), the Secretary shall give priority to—

“(1) projects whose installation is likely to result in significant air quality improvements in nonattainment air quality areas or substantially reduce the emission level of criteria pollutants and mercury air emissions;

“(2) projects for pollution control that result in the mitigation or collection of more than 1 pollutant; and

“(3) projects designed to allow the use of the waste byproducts or other byproducts of the equipment.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out section 3102(a)(2)—

“(1) $300,000,000 for fiscal year 2007;

“(2) $100,000,000 for fiscal year 2008;

“(3) $40,000,000 for fiscal year 2009;

“(4) $30,000,000 for fiscal year 2010; and

“(5) $30,000,000 for fiscal year 2011.

“(d) APPLICABILITY.—No technology, or level of emission reduction under subsection (a)(2) shall be treated as adequately demonstrated for purpose of Section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of that Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501) solely by reason of the use of such technology, or the achievement of such emission reduction, by 1 or more facilities receiving assistance under section 3102(a)(2).''.

(b) Table of Contents Amendment.—The table of contents of the Energy Policy Act of 1992 (42 U.S.C. prec. 13201) is amended by adding at the end the following:

''TITLE XXXI—CLEAN AIR COAL PROGRAM

''Sec. 3101. Purposes.
''Sec. 3102. Authorization of program.
''Sec. 3103. Generation projects.
''Sec. 3104. Air quality enhancement program.''.

Subtitle D—Federal Coal Leases

SEC. 431. SHORT TITLE.

This subtitle may be cited as the ''Coal Leasing Amendments Act of 2005''.

SEC. 432. REPEAL OF THE 160-ACRE LIMITATION FOR COAL LEASES.

Section 3 of the Mineral Leasing Act (30 U.S.C. 203) is amended—

(1) in the first sentence, by striking ''Any person'' and inserting the following: ''(a)(1) Except as provided in paragraph (3), on a finding by the Secretary under paragraph (2), any person'';

(2) in the second sentence, by striking ''The Secretary'' and inserting the following:

''(b) The Secretary'';

(3) in the third sentence, by striking ''The minimum'' and inserting the following:

''(c) The minimum'';

(4) in subsection (a) (as designated by paragraph (1))—

(A) by striking ''upon'' and all that follows and inserting the following: ''secure modifications of the original coal lease by including additional coal lands or coal deposits contiguous or cornering to those embraced in the lease.''; and

(B) by adding at the end the following:

''(2) A finding referred to in paragraph (1) is a finding by the Secretary that the modifications—

''(A) would be in the interest of the United States;

''(B) would not displace a competitive interest in the lands; and

''(C) would not include lands or deposits that can be developed as part of another potential or existing operation.

''(3) In no case shall the total area added by modifications to an existing coal lease under paragraph (1)—

''(A) exceed 960 acres; or

''(B) add acreage larger than that in the original lease.''.

SEC. 433. APPROVAL OF LOGICAL MINING UNITS.

Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended—

(1) by inserting ''(A)'' after ''(2)''; and

(2) by adding at the end the following:

''(B) The Secretary may establish a period of more than 40 years if the Secretary determines that the longer period—

''(i) will ensure the maximum economic recovery of a coal deposit; or

''(ii) the longer period is in the interest of the orderly, efficient, or economic development of a coal resource.''.

SEC. 434. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

Section 7(b) of the Mineral Leasing Act (30 U.S.C. 207(b)) is amended—

(1) in the first sentence, by striking ''Each lease'' and inserting the following: ''(1) Each lease'';

(2) in the second sentence, by striking ''The Secretary'' and inserting the following:

''(2) The Secretary'';

(3) in the third sentence, by striking ''Such advance royalties'' and inserting the following:

''(3) Advance royalties described in paragraph (2)'';

(4) in the seventh sentence, by striking ''The Secretary'' and inserting the following:

''(6) The Secretary'';

(5) in the last sentence, by striking ''Nothing'' and inserting the following:

''(7) Nothing'';

(6) by striking the fourth, fifth, and sixth sentences; and

(7) by inserting after paragraph (3) (as designated by paragraph (3)) the following:

''(4) Advance royalties described in paragraph (2) shall be computed—

''(A) based on—

''(i) the average price in the spot market for sales of comparable coal from the same region during the last month of each applicable continued operation year; or

''(ii) in the absence of a spot market for comparable coal from the same region, by using a comparable method established by the Secretary of the Interior to capture the commercial value of coal; and

''(B) based on commercial quantities, as defined by regulation by the Secretary of the Interior.

''(5) The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20 years.

''(6) The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under a lease described in paragraph (5) to the extent that the advance royalties have not been used to reduce production royalties for a prior year.''.

SEC. 435. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION AND RECLAMATION PLAN.

Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking ''and not later than three years after a lease is issued,''.

SEC. 436. AMENDMENT RELATING TO FINANCIAL ASSURANCES WITH RESPECT TO BONUS BIDS.

Section 2(a) of the Mineral Leasing Act (30 U.S.C. 201(a)) is amended by adding at the end the following:

''(4)(A) The Secretary shall not require a surety bond or any other financial assurance to guarantee payment of deferred bonus bid installments with respect to any coal lease issued on a cash bonus bid to a lessee or successor in interest having a history of a timely payment of noncontested coal royalties and advanced coal royalties in lieu of production (where applicable) and bonus bid installment payments.

''(B) The Secretary may waive any requirement that a lessee provide a surety bond or other financial assurance to guarantee payment of deferred bonus bid installment with respect to any coal lease issued before the date of the enactment of the Energy Policy Act of 2005 only if the Secretary determines that the lessee has a history of making timely payments referred to in subparagraph (A).

''(5) Notwithstanding any other provision of law, if the lessee under a coal lease fails to pay any installment of a deferred cash bonus bid within 10 days after the Secretary provides written notice that payment of the installment is past due—

''(A) the lease shall automatically terminate; and

''(B) any bonus payments already made to the United States with respect to the lease shall not be returned to the lessee or credited in any future lease sale.''.

SEC. 437. INVENTORY REQUIREMENT.

(a) Review of Assessments.—

(1) In general.—The Secretary of the Interior, in consultation with the Secretary of Agriculture and the Secretary, shall review coal assessments and other available data to identify—

(A) Federal lands with coal resources that are available for development;

(B) the extent and nature of any restrictions on the development of coal resources on Federal lands identified under paragraph (1); and

(C) with respect to areas of such lands for which sufficient data exists, resources of compliant coal and supercompliant coal.

(2) Definitions.—For purposes of this subsection—

(A) the term ''compliant coal'' means coal that contains not less than 1.0 and not more than 1.2 pounds of sulfur dioxide per million Btu; and

(B) the term ''supercompliant coal'' means coal that contains less than 1.0 pounds of sulfur dioxide per million Btu.

(b) Completion and Updating of the Inventory.—The Secretary—

(1) shall complete the inventory under subsection (a) by not later than 2 years after the date of enactment of this Act; and

(2) shall update the inventory as the availability of data and developments in technology warrant.

(c) Report.—The Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and make publicly available—

(1) a report containing the inventory under this section, by not later than 2 years after the effective date of this section; and

(2) each update of such inventory.

SEC. 438. APPLICATION OF AMENDMENTS.

The amendments made by this subtitle apply with respect to any coal lease issued before, on, or after the date of the enactment of this Act.

TITLE V—INDIAN ENERGY

SEC. 501. SHORT TITLE.

This title may be cited as the ''Indian Tribal Energy Development and Self-Determination Act of 2005''.

SEC. 502. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

(a) In General.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

''OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS

''Sec. 217. (a) Establishment.—There is established within the Department an Office of Indian Energy Policy and Programs (referred to in this section as the 'Office'). The Office shall be headed by a Director, who shall be appointed by the Secretary and compensated at a rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) Duties of Director.—The Director, in accordance with Federal policies promoting Indian self-determination and the purposes of this Act, shall provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs of the Department that—

''(1) promote Indian tribal energy development, efficiency, and use;

''(2) reduce or stabilize energy costs;

''(3) enhance and strengthen Indian tribal energy and economic infrastructure relating to natural resource development and electrification; and

''(4) bring electrical power and service to Indian land and the homes of tribal members located on Indian lands or acquired, constructed, or improved (in whole or in part) with Federal funds.''.

(b) Conforming Amendments.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. prec. 7101) is amended—

(A) in the item relating to section 209, by striking "Section" and inserting "Sec."; and

(B) by striking the items relating to sections 213 through 216 and inserting the following:

"Sec. 213. Establishment of policy for National Nuclear Security Administration
"Sec. 214. Establishment of security, counterintelligence, and intelligence policies
"Sec. 215. Office of Counterintelligence
"Sec. 216. Office of Intelligence
"Sec. 217. Office of Indian Energy Policy and Programs".

(2) Section 5315 of title 5, United States Code, is amended by inserting after the item related to the Inspector General, Department of Energy the following new item:

"Director, Office of Indian Energy Policy and Programs, Department of Energy.".

SEC. 503. INDIAN ENERGY.

(a) IN GENERAL.—Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

"TITLE XXVI—INDIAN ENERGY

"SEC. 2601. DEFINITIONS.

"In this title:

"(1) The term 'Director' means the Director of the Office of Indian Energy Policy and Programs, Department of Energy.

"(2) The term 'Indian land' means—

"(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

"(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

"(i) in trust by the United States for the benefit of an Indian tribe or an individual Indian;

"(ii) by an Indian tribe or an individual Indian, subject to restriction against alienation under laws of the United States; or

"(iii) by a dependent Indian community; and

"(C) land that is owned by an Indian tribe and was conveyed by the United States to a Native Corporation pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), or that was conveyed by the United States to a Native Corporation in exchange for such land.

"(3) The term 'Indian reservation' includes—

"(A) an Indian reservation in existence in any State or States as of the date of enactment of this paragraph;

"(B) a public domain Indian allotment; and

"(C) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

"(i) on original or acquired territory of the community; or

"(ii) within or outside the boundaries of any State or States.

"(4)(A) The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(B) For the purpose of paragraph (12) and sections 2603(b)(1)(C) and 2604, the term 'Indian tribe' does not include any Native Corporation.

"(5) The term 'integration of energy resources' means any project or activity that promotes the location and operation of a facility (including any pipeline, gathering system, transportation system or facility, or electric transmission or distribution facility) on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land.

"(6) The term 'Native Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(7) The term 'organization' means a partnership, joint venture, limited liability company, or other unincorporated association or entity that is established to develop Indian energy resources.

"(8) The term 'Program' means the Indian energy resource development program established under section 2602(a).

"(9) The term 'Secretary' means the Secretary of the Interior.

"(10) The term 'sequestration' means the long-term separation, isolation, or removal of greenhouse gases from the atmosphere, including through a biological or geologic method such as reforestation or an underground reservoir.

"(11) The term 'tribal energy resource development organization' means an organization of 2 or more entities, at least 1 of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other assistance under section 2602.

"(12) The term 'tribal land' means any land or interests in land owned by any Indian tribe, title to which is held in trust by the United States, or is subject to a restriction against alienation under laws of the United States.

"SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

"(a) DEPARTMENT OF THE INTERIOR PROGRAM.—

"(1) To assist Indian tribes in the development of energy resources and further the goal of Indian self-determination, the Secretary shall establish and implement an Indian energy resource development program to assist consenting Indian tribes and tribal energy resource development organizations in achieving the purposes of this title.

"(2) In carrying out the Program, the Secretary shall—

"(A) provide development grants to Indian tribes and tribal energy resource development organizations for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land, and to properly account for resulting energy production and revenues;

"(B) provide grants to Indian tribes and tribal energy resource development organizations for use in carrying out projects to promote the integration of energy resources, and to process, use, or develop those energy resources, on Indian land;

"(C) provide low-interest loans to Indian tribes and tribal energy resource development organizations for use in the promotion of energy resource development on Indian land and integration of energy resources; and

"(D) provide grants and technical assistance to an appropriate tribal environmental organization, as determined by the Secretary, that represents multiple Indian tribes to establish a national resource center to develop tribal capacity to establish and carry out tribal environmental programs in support of energy-related programs and activities under this title, including—

"(i) training programs for tribal environmental officials, program managers, and other governmental representatives;

"(ii) the development of model environmental policies and tribal laws, including tribal environmental review codes, and the creation and maintenance of a clearinghouse of best environmental management practices; and

"(iii) recommended standards for reviewing the implementation of tribal environmental laws and policies within tribal judicial or other tribal appeals systems.

"(3) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2006 through 2016.

"(b) DEPARTMENT OF ENERGY INDIAN ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE PROGRAM.—

"(1) The Director shall establish programs to assist consenting Indian tribes in meeting energy education, research and development, planning, and management needs.

"(2) In carrying out this subsection, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal energy resource development organization for use in carrying out—

"(A) energy, energy efficiency, and energy conservation programs;

"(B) studies and other activities supporting tribal acquisitions of energy supplies, services, and facilities, including the creation of tribal utilities to assist in securing electricity to promote electrification of homes and businesses on Indian land;

"(C) planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and

"(D) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.

"(3)(A) The Director shall develop a program to support and implement research projects that provide Indian tribes with opportunities to participate in carbon sequestration practices on Indian land, including—

"(i) geologic sequestration;

"(ii) forest sequestration;

"(iii) agricultural sequestration; and

"(iv) any other sequestration opportunities the Director considers to be appropriate.

"(B) The activities carried out under subparagraph (A) shall be—

"(i) coordinated with other carbon sequestration research and development programs conducted by the Secretary of Energy;

"(ii) conducted to determine methods consistent with existing standardized measurement protocols to account and report the quantity of carbon dioxide or other greenhouse gases sequestered in projects that may be implemented on Indian land; and

"(iii) reviewed periodically to collect and distribute to Indian tribes information on carbon sequestration practices that will increase the sequestration of carbon without threatening the social and economic well-being of Indian tribes.

"(4)(A) The Director, in consultation with Indian tribes, may develop a formula for providing grants under this subsection.

"(B) In providing a grant under this subsection, the Director shall give priority to any application received from an Indian tribe with inadequate electric service (as determined by the Director).

"(C) In providing a grant under this subsection for an activity to provide, or expand the provision of, electricity on Indian land, the Director shall encourage cooperative arrangements between Indian tribes and utilities that provide service to Indian tribes, as the Director determines to be appropriate.

"(5) The Secretary of Energy may issue such regulations as the Secretary determines to be necessary to carry out this subsection.

"(6) There is authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 2006 through 2016.

"(c) DEPARTMENT OF ENERGY LOAN GUARANTEE PROGRAM.—

"(1) Subject to paragraphs (2) and (4), the Secretary of Energy may provide loan guarantees (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for an amount equal to not more than 90 percent of the unpaid principal and interest due on any loan made to an Indian tribe for energy development.

"(2) In providing a loan guarantee under this subsection for an activity to provide, or expand the provision of, electricity on Indian land, the Secretary of Energy shall encourage cooperative arrangements between Indian tribes and utilities that provide service to Indian tribes, as the Secretary determines to be appropriate.

"(3) A loan guarantee under this subsection shall be made by—

"(A) a financial institution subject to examination by the Secretary of Energy; or

"(B) an Indian tribe, from funds of the Indian tribe.

"(4) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed $2,000,000,000.

"(5) The Secretary of Energy may issue such regulations as the Secretary of Energy determines are necessary to carry out this subsection.

"(6) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

"(7) Not later than 1 year after the date of enactment of this section, the Secretary of Energy shall submit to Congress a report on the financing requirements of Indian tribes for energy development on Indian land.

"(d) PREFERENCE.—

"(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

"(2) In carrying out this subsection, a Federal agency or department shall not—

"(A) pay more than the prevailing market price for an energy product or byproduct; or

"(B) obtain less than prevailing market terms and conditions.

"SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULATION.

"(a) GRANTS.—The Secretary may provide to Indian tribes, on an annual basis, grants for use in accordance with subsection (b).

"(b) USE OF FUNDS.—Funds from a grant provided under this section may be used—

"(1)(A) by an Indian tribe for the development of a tribal energy resource inventory or tribal energy resource on Indian land;

"(B) by an Indian tribe for the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

"(C) by an Indian tribe (other than an Indian Tribe in the State of Alaska, except the Metlakatla Indian Community) for—

"(i) the development and enforcement of tribal laws (including regulations) relating to tribal energy resource development; and

"(ii) the development of technical infrastructure to protect the environment under applicable law; or

"(D) by a Native Corporation for the development and implementation of corporate policies and the development of technical infrastructure to protect the environment under applicable law; and

"(2) by an Indian tribe for the training of employees that—

"(A) are engaged in the development of energy resources on Indian land; or

"(B) are responsible for protecting the environment.

"(c) OTHER ASSISTANCE.—

"(1) In carrying out the obligations of the United States under this title, the Secretary shall ensure, to the maximum extent practicable and to the extent of available resources, that on the request of an Indian tribe, the Indian tribe shall have available scientific and technical information and expertise, for use in the regulation, development, and management of energy resources of the Indian tribe on Indian land.

"(2) The Secretary may carry out paragraph (1)—

"(A) directly, through the use of Federal officials; or

"(B) indirectly, by providing financial assistance to an Indian tribe to secure independent assistance.

"SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.

"(a) LEASES AND BUSINESS AGREEMENTS.—In accordance with this section—

"(1) an Indian tribe may, at the discretion of the Indian tribe, enter into a lease or business agreement for the purpose of energy resource development on tribal land, including a lease or business agreement for—

"(A) exploration for, extraction of, processing of, or other development of the energy mineral resources of the Indian tribe located on tribal land; or

"(B) construction or operation of—

"(i) an electric generation, transmission, or distribution facility located on tribal land; or

"(ii) a facility to process or refine energy resources developed on tribal land; and

"(2) a lease or business agreement described in paragraph (1) shall not require review by or the approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81), or any other provision of law, if—

"(A) the lease or business agreement is executed pursuant to a tribal energy resource agreement approved by the Secretary under subsection (e);

"(B) the term of the lease or business agreement does not exceed—

"(i) 30 years; or

"(ii) in the case of a lease for the production of oil resources, gas resources, or both, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

"(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the activities of the Indian tribe under the agreement, to be conducted pursuant to subsection (e)(2)(D)(i)).

"(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electric transmission or distribution line without review or approval by the Secretary if—

"(1) the right-of-way is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

"(2) the term of the right-of-way does not exceed 30 years;

"(3) the pipeline or electric transmission or distribution line serves—

"(A) an electric generation, transmission, or distribution facility located on tribal land; or

"(B) a facility located on tribal land that processes or refines energy resources developed on tribal land; and

"(4) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the activities of the Indian tribe under an agreement described in subparagraphs (D) and (E) of subsection (e)(2)).

"(c) RENEWALS.—A lease or business agreement entered into, or a right-of-way granted, by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

"(d) VALIDITY.—No lease, business agreement, or right-of-way relating to the development of tribal energy resources under this section shall be valid unless the lease, business agreement, or right-of-way is authorized by a tribal energy resource agreement approved by the Secretary under subsection (e)(2).

"(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

"(1) On the date on which regulations are promulgated under paragraph (8), an Indian tribe may submit to the Secretary for approval a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.

"(2)(A) Not later than 270 days after the date on which the Secretary receives a tribal energy resource agreement from an Indian tribe under paragraph (1), or not later than 60 days after the Secretary receives a revised tribal energy resource agreement from an Indian tribe under paragraph (4)(C) (or a later date, as agreed to by the Secretary and the Indian tribe), the Secretary shall approve or disapprove the tribal energy resource agreement.

"(B) The Secretary shall approve a tribal energy resource agreement submitted under paragraph (1) if—

"(i) the Secretary determines that the Indian tribe has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe;

"(ii) the tribal energy resource agreement includes provisions required under subparagraph (D); and

"(iii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

"(I) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

"(II) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

"(III) address amendments and renewals;

"(IV) address the economic return to the Indian tribe under leases, business agreements, and rights-of-way;

"(V) address technical or other relevant requirements;

"(VI) establish requirements for environmental review in accordance with subparagraph (C);

"(VII) ensure compliance with all applicable environmental laws, including a requirement that each lease, business agreement, and right-of-way state that the lessee, operator, or right-of-way grantee shall comply with all such laws;

"(VIII) identify final approval authority;

"(IX) provide for public notification of final approvals;

"(X) establish a process for consultation with any affected States regarding off-reservation impacts, if any, identified under subparagraph (C)(i);

"(XI) describe the remedies for breach of the lease, business agreement, or right-of-way;

"(XII) require each lease, business agreement, and right-of-way to include a statement that, if any of its provisions violates an express term or requirement of the tribal energy resource agreement pursuant to which the lease, business agreement, or right-of-way was executed—

"(aa) the provision shall be null and void; and

"(bb) if the Secretary determines the provision to be material, the Secretary may suspend or rescind the lease, business agreement, or right-of-way or take other appropriate action that the Secretary determines to be in the best interest of the Indian tribe;

"(XIII) require each lease, business agreement, and right-of-way to provide that it will become effective on the date on which a copy of the executed lease, business agreement, or right-of-way is delivered to the Secretary in accordance with regulations promulgated under paragraph (8);

"(XIV) include citations to tribal laws, regulations, or procedures, if any, that set out tribal

remedies that must be exhausted before a petition may be submitted to the Secretary under paragraph (7)(B);

"(XV) specify the financial assistance, if any, to be provided by the Secretary to the Indian tribe to assist in implementation of the tribal energy resource agreement, including environmental review of individual projects; and

"(XVI) in accordance with the regulations promulgated by the Secretary under paragraph (8), require that the Indian tribe, as soon as practicable after receipt of a notice by the Indian tribe, give written notice to the Secretary of—

"(aa) any breach or other violation by another party of any provision in a lease, business agreement, or right-of-way entered into under the tribal energy resource agreement; and

"(bb) any activity or occurrence under a lease, business agreement, or right-of-way that constitutes a violation of Federal or tribal environmental laws.

"(C) Tribal energy resource agreements submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for, at a minimum—

"(i) the identification and evaluation of all significant environmental effects (as compared to a no-action alternative), including effects on cultural resources;

"(ii) the identification of proposed mitigation measures, if any, and incorporation of appropriate mitigation measures into the lease, business agreement, or right-of-way;

"(iii) a process for ensuring that—

"(I) the public is informed of, and has an opportunity to comment on, the environmental impacts of the proposed action; and

"(II) responses to relevant and substantive comments are provided, before tribal approval of the lease, business agreement, or right-of-way;

"(iv) sufficient administrative support and technical capability to carry out the environmental review process; and

"(v) oversight by the Indian tribe of energy development activities by any other party under any lease, business agreement, or right-of-way entered into pursuant to the tribal energy resource agreement, to determine whether the activities are in compliance with the tribal energy resource agreement and applicable Federal environmental laws.

"(D) A tribal energy resource agreement between the Secretary and an Indian tribe under this subsection shall include—

"(i) provisions requiring the Secretary to conduct a periodic review and evaluation to monitor the performance of the activities of the Indian tribe associated with the development of energy resources under the tribal energy resource agreement; and

"(ii) if a periodic review and evaluation, or an investigation, by the Secretary of any breach or violation described in a notice provided by the Indian tribe to the Secretary in accordance with subparagraph (B)(iii)(XVI), results in a finding by the Secretary of imminent jeopardy to a physical trust asset arising from a violation of the tribal energy resource agreement or applicable Federal laws, provisions authorizing the Secretary to take actions determined by the Secretary to be necessary to protect the asset, including reassumption of responsibility for activities associated with the development of energy resources on tribal land until the violation and any condition that caused the jeopardy are corrected.

"(E) Periodic review and evaluation under subparagraph (D) shall be conducted on an annual basis, except that, after the third annual review and evaluation, the Secretary and the Indian tribe may mutually agree to amend the tribal energy resource agreement to authorize the review and evaluation under subparagraph (D) to be conducted once every 2 years.

"(3) The Secretary shall provide notice and opportunity for public comment on tribal energy resource agreements submitted for approval under paragraph (1). The Secretary's review of a tribal energy resource agreement shall be limited to activities specified by the provisions of the tribal energy resource agreement.

"(4) If the Secretary disapproves a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall, not later than 10 days after the date of disapproval—

"(A) notify the Indian tribe in writing of the basis for the disapproval;

"(B) identify what changes or other actions are required to address the concerns of the Secretary; and

"(C) provide the Indian tribe with an opportunity to revise and resubmit the tribal energy resource agreement.

"(5) If an Indian tribe executes a lease or business agreement, or grants a right-of-way, in accordance with a tribal energy resource agreement approved under this subsection, the Indian tribe shall, in accordance with the process and requirements under regulations promulgated under paragraph (8), provide to the Secretary—

"(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

"(B) in the case of a tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payments to be made directly to the Indian tribe, information and documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States to enforce the terms of, and protect the rights of the Indian tribe under, the lease, business agreement, or right-of-way.

"(6)(A) In carrying out this section, the Secretary shall—

"(i) act in accordance with the trust responsibility of the United States relating to mineral and other trust resources; and

"(ii) act in good faith and in the best interests of the Indian tribes.

"(B) Subject to the provisions of subsections (a)(2), (b), and (c) waiving the requirement of Secretarial approval of leases, business agreements, and rights-of-way executed pursuant to tribal energy resource agreements approved under this section, and the provisions of subparagraph (D), nothing in this section shall absolve the United States from any responsibility to Indians or Indian tribes, including, but not limited to, those which derive from the trust relationship or from any treaties, statutes, and other laws of the United States, Executive Orders, or agreements between the United States and any Indian tribe.

"(C) The Secretary shall continue to fulfill the trust obligation of the United States to ensure that the rights and interests of an Indian tribe are protected if—

"(i) any other party to a lease, business agreement, or right-of-way violates any applicable Federal law or the terms of any lease, business agreement, or right-of-way under this section; or

"(ii) any provision in a lease, business agreement, or right-of-way violates the tribal energy resource agreement pursuant to which the lease, business agreement, or right-of-way was executed.

"(D)(i) In this subparagraph, the term 'negotiated term' means any term or provision that is negotiated by an Indian tribe and any other party to a lease, business agreement, or right-of-way entered into pursuant to an approved tribal energy resource agreement.

"(ii) Notwithstanding subparagraph (B), the United States shall not be liable to any party (including any Indian tribe) for any negotiated term of, or any loss resulting from the negotiated terms of, a lease, business agreement, or right-of-way executed pursuant to and in accordance with a tribal energy resource agreement approved by the Secretary under paragraph (2).

"(7)(A) In this paragraph, the term 'interested party' means any person (including an entity) that has demonstrated that an interest of the person has sustained, or will sustain, an adverse environmental impact as a result of the failure of an Indian tribe to comply with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

"(B) After exhaustion of any tribal remedy, and in accordance with regulations promulgated by the Secretary under paragraph (8), an interested party may submit to the Secretary a petition to review the compliance by an Indian tribe with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

"(C)(i) Not later than 20 days after the date on which the Secretary receives a petition under subparagraph (B), the Secretary shall—

"(I) provide to the Indian tribe a copy of the petition; and

"(II) consult with the Indian tribe regarding any noncompliance alleged in the petition.

"(ii) Not later than 45 days after the date on which a consultation under clause (i)(II) takes place, the Indian tribe shall respond to any claim made in a petition under subparagraph (B).

"(iii) The Secretary shall act in accordance with subparagraphs (D) and (E) only if the Indian tribe—

"(I) denies, or fails to respond to, each claim made in the petition within the period described in clause (ii); or

"(II) fails, refuses, or is unable to cure or otherwise resolve each claim made in the petition within a reasonable period, as determined by the Secretary, after the expiration of the period described in clause (ii).

"(D)(i) Not later than 120 days after the date on which the Secretary receives a petition under subparagraph (B), the Secretary shall determine whether the Indian tribe is not in compliance with the tribal energy resource agreement.

"(ii) The Secretary may adopt procedures under paragraph (8) authorizing an extension of time, not to exceed 120 days, for making the determination under clause (i) in any case in which the Secretary determines that additional time is necessary to evaluate the allegations of the petition.

"(iii) Subject to subparagraph (E), if the Secretary determines that the Indian tribe is not in compliance with the tribal energy resource agreement, the Secretary shall take such action as the Secretary determines to be necessary to ensure compliance with the tribal energy resource agreement, including—

"(I) temporarily suspending any activity under a lease, business agreement, or right-of-way under this section until the Indian tribe is in compliance with the approved tribal energy resource agreement; or

"(II) rescinding approval of all or part of the tribal energy resource agreement, and if all of the agreement is rescinded, reassuming the responsibility for approval of any future leases, business agreements, or rights-of-way described in subsection (a) or (b).

"(E) Before taking an action described in subparagraph (D)(iii), the Secretary shall—

"(i) make a written determination that describes the manner in which the tribal energy resource agreement has been violated;

"(ii) provide the Indian tribe with a written notice of the violations together with the written determination; and

"(iii) before taking any action described in subparagraph (D)(iii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal energy resource agreement.

"(F) An Indian tribe described in subparagraph (E) shall retain all rights to appeal under any regulation promulgated by the Secretary.

"(8) Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Secretary shall promulgate regulations that implement this subsection, including—

"(A) criteria to be used in determining the capacity of an Indian tribe under paragraph (2)(B)(i), including the experience of the Indian tribe in managing natural resources and financial and administrative resources available for use by the Indian tribe in implementing the approved tribal energy resource agreement of the Indian tribe;

"(B) a process and requirements in accordance with which an Indian tribe may—

"(i) voluntarily rescind a tribal energy resource agreement approved by the Secretary under this subsection; and

"(ii) return to the Secretary the responsibility to approve any future lease, business agreement, or right-of-way under this subsection;

"(C) provisions establishing the scope of, and procedures for, the periodic review and evaluation described in subparagraphs (D) and (E) of paragraph (2), including provisions for review of transactions, reports, site inspections, and any other review activities the Secretary determines to be appropriate; and

"(D) provisions describing final agency actions after exhaustion of administrative appeals from determinations of the Secretary under paragraph (7).

"(f) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of—

"(1) any Federal environmental law;

"(2) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

"(3) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for each of fiscal years 2006 through 2016 to carry out this section and to make grants or provide other appropriate assistance to Indian tribes to assist the Indian tribes in developing and implementing tribal energy resource agreements in accordance with this section.

"SEC. 2605. FEDERAL POWER MARKETING ADMINISTRATIONS.

"(a) DEFINITIONS.—In this section:

"(1) The term 'Administrator' means the Administrator of the Bonneville Power Administration and the Administrator of the Western Area Power Administration.

"(2) The term 'power marketing administration' means—

"(A) the Bonneville Power Administration;

"(B) the Western Area Power Administration; and

"(C) any other power administration the power allocation of which is used by or for the benefit of an Indian tribe located in the service area of the administration.

"(b) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY DEVELOPMENT.—Each Administrator shall encourage Indian tribal energy development by taking such actions as the Administrators determine to be appropriate, including administration of programs of the power marketing administration, in accordance with this section.

"(c) ACTION BY ADMINISTRATORS.—In carrying out this section, in accordance with laws in existence on the date of enactment of the Energy Policy Act of 2005—

"(1) each Administrator shall consider the unique relationship that exists between the United States and Indian tribes;

"(2) power allocations from the Western Area Power Administration to Indian tribes may be used to meet firming and reserve needs of Indian-owned energy projects on Indian land;

"(3) the Administrator of the Western Area Power Administration may purchase non-federally generated power from Indian tribes to meet the firming and reserve requirements of the Western Area Power Administration; and

"(4) each Administrator shall not—

"(A) pay more than the prevailing market price for an energy product; or

"(B) obtain less than prevailing market terms and conditions.

"(d) ASSISTANCE FOR TRANSMISSION SYSTEM USE.—

"(1) An Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power.

"(2) The costs of technical assistance provided under paragraph (1) shall be funded—

"(A) by the Secretary of Energy using nonreimbursable funds appropriated for that purpose; or

"(B) by any appropriate Indian tribe.

"(e) POWER ALLOCATION STUDY.—Not later than 2 years after the date of enactment of the Energy Policy Act of 2005, the Secretary of Energy shall submit to Congress a report that—

"(1) describes the use by Indian tribes of Federal power allocations of the power marketing administration (or power sold by the Southwestern Power Administration) to or for the benefit of Indian tribes in a service area of the power marketing administration; and

"(2) identifies—

"(A) the quantity of power allocated to, or used for the benefit of, Indian tribes by the Western Area Power Administration;

"(B) the quantity of power sold to Indian tribes by any other power marketing administration; and

"(C) barriers that impede tribal access to and use of Federal power, including an assessment of opportunities to remove those barriers and improve the ability of power marketing administrations to deliver Federal power.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $750,000, non-reimbursable, to remain available until expended.

"SEC. 2606. WIND AND HYDROPOWER FEASIBILITY STUDY.

"(a) STUDY.—The Secretary of Energy, in coordination with the Secretary of the Army and the Secretary, shall conduct a study of the cost and feasibility of developing a demonstration project that uses wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming power to the Western Area Power Administration.

"(b) SCOPE OF STUDY.—The study shall—

"(1) determine the economic and engineering feasibility of blending wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers, including an assessment of the costs and benefits of blending wind energy and hydropower compared to current sources used for firming power to the Western Area Power Administration;

"(2) review historical and projected requirements for, patterns of availability and use of, and reasons for historical patterns concerning the availability of firming power;

"(3) assess the wind energy resource potential on tribal land and projected cost savings through a blend of wind and hydropower over a 30-year period;

"(4) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation and identify costs associated with these activities;

"(5) include an independent tribal engineer and a Western Area Power Administration customer representative as study team members; and

"(6) incorporate, to the extent appropriate, the results of the Dakotas Wind Transmission study prepared by the Western Area Power Administration.

"(c) REPORT.—Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Secretary of Energy, the Secretary and the Secretary of the Army shall submit to Congress a report that describes the results of the study, including—

"(1) an analysis and comparison of the potential energy cost or benefits to the customers of the Western Area Power Administration through the use of combined wind and hydropower;

"(2) an economic and engineering evaluation of whether a combined wind and hydropower system can reduce reservoir fluctuation, enhance efficient and reliable energy production, and provide Missouri River management flexibility;

"(3) if found feasible, recommendations for a demonstration project to be carried out by the Western Area Power Administration, in partnership with an Indian tribal government or tribal energy resource development organization, and Western Area Power Administration customers to demonstrate the feasibility and potential of using wind energy produced on Indian land to supply firming energy to the Western Area Power Administration; and

"(4) an identification of—

"(A) the economic and environmental costs of, or benefits to be realized through, a Federal-tribal-customer partnership; and

"(B) the manner in which a Federal-tribal-customer partnership could contribute to the energy security of the United States.

"(d) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000, to remain available until expended.

"(2) NONREIMBURSABILITY.—Costs incurred by the Secretary in carrying out this section shall be nonreimbursable.".

(b) CONFORMING AMENDMENTS.—The table of contents for the Energy Policy Act of 1992 is amended by striking the items relating to title XXVI and inserting the following:

"Sec. 2601. Definitions.
"Sec. 2602. Indian tribal energy resource development.
"Sec. 2603. Indian tribal energy resource regulation.
"Sec. 2604. Leases, business agreements, and rights-of-way involving energy development or transmission.
"Sec. 2605. Federal Power Marketing Administrations.
"Sec. 2606. Wind and hydropower feasibility study.".

SEC. 504. CONSULTATION WITH INDIAN TRIBES.

In carrying out this title and the amendments made by this title, the Secretary and the Secretary of the Interior shall, as appropriate and to the maximum extent practicable, involve and consult with Indian tribes.

SEC. 505. FOUR CORNERS TRANSMISSION LINE PROJECT AND ELECTRIFICATION.

(a) TRANSMISSION LINE PROJECT.—The Dine Power Authority, an enterprise of the Navajo Nation, shall be eligible to receive grants and other assistance under section 217 of the Department of Energy Organization Act, as added by section 502, and section 2602 of the Energy Policy Act of 1992, as amended by this Act, for activities associated with the development of a transmission line from the Four Corners Area to southern Nevada, including related power generation opportunities.

(b) Navajo Electrification.—Section 602 of Public Law 106–511 (114 Stat. 2376) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "5-year" and inserting "10-year"; and

(B) in the third sentence, by striking "2006" and inserting "2011"; and

(2) in the first sentence of subsection (e) by striking "2006" and inserting "2011".

SEC. 506. ENERGY EFFICIENCY IN FEDERALLY ASSISTED HOUSING.

(a) In General.—The Secretary of Housing and Urban Development shall promote energy conservation in housing that is located on Indian land and assisted with Federal resources through—

(1) the use of energy-efficient technologies and innovations (including the procurement of energy-efficient refrigerators and other appliances);

(2) the promotion of shared savings contracts; and

(3) the use and implementation of such other similar technologies and innovations as the Secretary of Housing and Urban Development considers to be appropriate.

(b) Amendment.—Section 202(2) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(2)) is amended by inserting "improvement to achieve greater energy efficiency," after "planning,".

TITLE VI—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments

SEC. 601. SHORT TITLE.

This subtitle may be cited as the "Price-Anderson Amendments Act of 2005".

SEC. 602. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) Indemnification of Nuclear Regulatory Commission Licensees.—Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking "Licenses" and inserting "Licensees"; and

(2) by striking "December 31, 2003" each place it appears and inserting "December 31, 2025".

(b) Indemnification of Department Contractors.—Section 170 d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking "December 31, 2006" and inserting "December 31, 2025".

(c) Indemnification of Nonprofit Educational Institutions.—Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking "August 1, 2002" each place it appears and inserting "December 31, 2025".

SEC. 603. MAXIMUM ASSESSMENT.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended—

(1) in the second proviso of the third sentence of subsection b.(1)—

(A) by striking "$63,000,000" and inserting "$95,800,000"; and

(B) by striking "$10,000,000 in any 1 year" and inserting "$15,000,000 in any 1 year (subject to adjustment for inflation under subsection t.)"; and

(2) in subsection t.(1)—

(A) by inserting "total and annual" after "amount of the maximum";

(B) by striking "the date of the enactment of the Price-Anderson Amendments Act of 1988" and inserting "August 20, 2003"; and

(C) in subparagraph (A), by striking "such date of enactment" and inserting "August 20, 2003".

SEC. 604. DEPARTMENT LIABILITY LIMIT.

(a) Indemnification of Department Contractors.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:

"(2) In an agreement of indemnification entered into under paragraph (1), the Secretary—

"(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

"(B) shall indemnify the persons indemnified against such liability above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with the contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.".

(b) Contract Amendments.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further amended by striking paragraph (3) and inserting the following—

"(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person under this section shall be deemed to be amended, on the date of enactment of the Price-Anderson Amendments Act of 2005, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.".

(c) Liability Limit.—Section 170 e.(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is amended—

(1) by striking "the maximum amount of financial protection required under subsection b. or"; and

(2) by striking "paragraph (3) of subsection d., whichever amount is more" and inserting "paragraph (2) of subsection d.".

SEC. 605. INCIDENTS OUTSIDE THE UNITED STATES.

(a) Amount of Indemnification.—Section 170 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking "$100,000,000" and inserting "$500,000,000".

(b) Liability Limit.—Section 170 e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking "$100,000,000" and inserting "$500,000,000".

SEC. 606. REPORTS.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking "August 1, 1998" and inserting "December 31, 2021".

SEC. 607. INFLATION ADJUSTMENT.

Section 170 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following July 1, 2003, in accordance with the aggregate percentage change in the Consumer Price Index since—

"(A) that date, in the case of the first adjustment under this paragraph; or

"(B) the previous adjustment under this paragraph.".

SEC. 608. TREATMENT OF MODULAR REACTORS.

Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by adding at the end the following:

"(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

"(B) A combination of facilities referred to in subparagraph (A) is 2 or more facilities located at a single site, each of which has a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.".

SEC. 609. APPLICABILITY.

The amendments made by sections 603, 604, and 605 do not apply to a nuclear incident that occurs before the date of the enactment of this Act.

SEC. 610. CIVIL PENALTIES.

(a) Repeal of Automatic Remission.—Section 234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) Limitation for Not-for-Profit Institutions.—Subsection d. of section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read as follows:

"d.(1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties paid under subsection a. may not exceed the total amount of fees paid within any 1-year period (as determined by the Secretary) under the contract under which the violation occurs.

"(2) For purposes of this section, the term 'not-for-profit' means that no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.".

(c) Effective Date.—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) occurring under a contract entered into before the date of enactment of this section.

Subtitle B—General Nuclear Matters

SEC. 621. LICENSES.

Section 103 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended by inserting "from the authorization to commence operations" after "forty years".

SEC. 622. NUCLEAR REGULATORY COMMISSION SCHOLARSHIP AND FELLOWSHIP PROGRAM.

(a) In General.—Chapter 19 of the Atomic Energy Act of 1954 is amended by inserting after section 242 (42 U.S.C. 2015a) the following:

"SEC. 243. SCHOLARSHIP AND FELLOWSHIP PROGRAM.

"a. Scholarship Program.—To enable students to study, for at least 1 academic semester or equivalent term, science, engineering, or another field of study that the Commission determines is in a critical skill area related to the regulatory mission of the Commission, the Commission may carry out a program to—

"(1) award scholarships to undergraduate students who—

"(A) are United States citizens; and

"(B) enter into an agreement under subsection c. to be employed by the Commission in the area of study for which the scholarship is awarded.

"b. Fellowship Program.—To enable students to pursue education in science, engineering, or another field of study that the Commission determines is in a critical skill area related to its regulatory mission, in a graduate or professional degree program offered by an institution of higher education in the United States, the Commission may carry out a program to—

"(1) award fellowships to graduate students who—

"(A) are United States citizens; and

"(B) enter into an agreement under subsection c. to be employed by the Commission in the area of study for which the fellowship is awarded.

"c. Requirements.—

"(1) In General.—As a condition of receiving a scholarship or fellowship under subsection a. or b., a recipient of the scholarship or fellowship shall enter into an agreement with the Commission under which, in return for the assistance, the recipient shall—

"(A) maintain satisfactory academic progress in the studies of the recipient, as determined by criteria established by the Commission;

"(B) agree that failure to maintain satisfactory academic progress shall constitute grounds on which the Commission may terminate the assistance;

"(C) on completion of the academic course of study in connection with which the assistance was provided, and in accordance with criteria established by the Commission, engage in employment by the Commission for a period specified by the Commission, that shall be not less than 1 time and not more than 3 times the period for which the assistance was provided; and

"(D) if the recipient fails to meet the requirements of subparagraph (A), (B), or (C), reimburse the United States Government for—

"(i) the entire amount of the assistance provided the recipient under the scholarship or fellowship; and

"(ii) interest at a rate determined by the Commission.

"(2) WAIVER OR SUSPENSION.—The Commission may establish criteria for the partial or total waiver or suspension of any obligation of service or payment incurred by a recipient of a scholarship or fellowship under this section.

"d. COMPETITIVE PROCESS.—Recipients of scholarships or fellowships under this section shall be selected through a competitive process primarily on the basis of academic merit and such other criteria as the Commission may establish, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a, 1885b).

"e. DIRECT APPOINTMENT.—The Commission may appoint directly, with no further competition, public notice, or consideration of any other potential candidate, an individual who has—

"(1) received a scholarship or fellowship awarded by the Commission under this section; and

"(2) completed the academic program for which the scholarship or fellowship was awarded.".

(b) CONFORMING AMENDMENT.—The table of sections of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by adding after the item relating to section 242 the following:

"Sec. 243. Scholarship and fellowship program.".

SEC. 623. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended—

(1) by striking "for or is issued" and all that follows through "1702" and inserting "to the Commission for, or is issued by the Commission, a license or certificate";

(2) by striking "483a" and inserting "9701"; and

(3) by striking ", of applicants for, or holders of, such licenses or certificates".

SEC. 624. ELIMINATION OF PENSION OFFSET FOR CERTAIN REHIRED FEDERAL RETIREES.

(a) IN GENERAL.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following:

"SEC. 170C. ELIMINATION OF PENSION OFFSET FOR CERTAIN REHIRED FEDERAL RETIREES.

"a. IN GENERAL.—The Commission may waive the application of section 8344 or 8468 of title 5, United States Code, on a case-by-case basis for employment of an annuitant—

"(1) in a position of the Commission for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

"(2) when a temporary emergency hiring need exists.

"b. PROCEDURES.—The Commission shall prescribe procedures for the exercise of authority under this section, including—

"(1) criteria for any exercise of authority; and

"(2) procedures for a delegation of authority.

"c. EFFECT OF WAIVER.—An employee as to whom a waiver under this section is in effect shall not be considered an employee for purposes of subchapter II of chapter 83, or chapter 84, of title 5, United States Code.".

(b) CONFORMING AMENDMENT.—The table of sections of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by adding at the end of the items relating to chapter 14 the following:

"Sec. 170C. Elimination of pension offset for certain rehired Federal retirees.".

SEC. 625. ANTITRUST REVIEW.

Section 105 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2135(c)) is amended by adding at the end the following:

"(9) APPLICABILITY.—This subsection does not apply to an application for a license to construct or operate a utilization facility or production facility under section 103 or 104 b. that is filed on or after the date of enactment of this paragraph.".

SEC. 626. DECOMMISSIONING.

Section 161 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(i)) is amended—

(1) by striking "and (3)" and inserting "(3)"; and

(2) by inserting before the semicolon at the end the following: ", and (4) to ensure that sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 103 or 104 b., including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this Act that has control over any fund for the decommissioning of the facility".

SEC. 627. LIMITATION ON LEGAL FEE REIMBURSEMENT.

Title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) is amended by adding at the end the following new section:

"LIMITATION ON LEGAL FEE REIMBURSEMENT

"SEC. 212. The Department of Energy shall not, except as required under a contract entered into before the date of enactment of this section, reimburse any contractor or subcontractor of the Department for any legal fees or expenses incurred with respect to a complaint subsequent to—

"(1) an adverse determination on the merits with respect to such complaint against the contractor or subcontractor by the Director of the Department of Energy's Office of Hearings and Appeals pursuant to part 708 of title 10, Code of Federal Regulations, or by a Department of Labor Administrative Law Judge pursuant to section 211 of this Act; or

"(2) an adverse final judgment by any State or Federal court with respect to such complaint against the contractor or subcontractor for wrongful termination or retaliation due to the making of disclosures protected under chapter 12 of title 5, United States Code, section 211 of this Act, or any comparable State law,

unless the adverse determination or final judgment is reversed upon further administrative or judicial review.".

SEC. 628. DECOMMISSIONING PILOT PROGRAM.

(a) PILOT PROGRAM.—The Secretary shall establish a decommissioning pilot program under which the Secretary shall decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas, in accordance with the decommissioning activities contained in the report of the Department relating to the reactor, dated August 31, 1998.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $16,000,000.

SEC. 629. WHISTLEBLOWER PROTECTION.

(a) DEFINITION OF EMPLOYER.—Section 211(a)(2) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(a)(2)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(E) a contractor or subcontractor of the Commission;

"(F) the Commission; and

"(G) the Department of Energy.".

(b) DE NOVO REVIEW.—Subsection (b) of such section 211 is amended by adding at the end the following new paragraph:

"(4) If the Secretary has not issued a final decision within 1 year after the filing of a complaint under paragraph (1), and there is no showing that such delay is due to the bad faith of the person seeking relief under this paragraph, such person may bring an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.".

SEC. 630. MEDICAL ISOTOPE PRODUCTION.

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) is amended—

(1) in subsection a., by striking "a. The Commission" and inserting "a. IN GENERAL.—Except as provided in subsection b., the Commission";

(2) by redesignating subsection b. as subsection c.; and

(3) by inserting after subsection a. the following:

"b. MEDICAL ISOTOPE PRODUCTION.—

"(1) DEFINITIONS.—In this subsection:

"(A) HIGHLY ENRICHED URANIUM.—The term 'highly enriched uranium' means uranium enriched to include concentration of U–235 above 20 percent.

"(B) MEDICAL ISOTOPE.—The term 'medical isotope' includes Molybdenum 99, Iodine 131, Xenon 133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.

"(C) RADIOPHARMACEUTICAL.—The term 'radiopharmaceutical' means a radioactive isotope that—

"(i) contains byproduct material combined with chemical or biological material; and

"(ii) is designed to accumulate temporarily in a part of the body for therapeutic purposes or for enabling the production of a useful image for use in a diagnosis of a medical condition.

"(D) RECIPIENT COUNTRY.—The term 'recipient country' means Canada, Belgium, France, Germany, and the Netherlands.

"(2) LICENSES.—The Commission may issue a license authorizing the export (including shipment to and use at intermediate and ultimate consignees specified in the license) to a recipient country of highly enriched uranium for medical isotope production if, in addition to any other requirements of this Act (except subsection a.), the Commission determines that—

"(A) a recipient country that supplies an assurance letter to the United States Government in connection with the consideration by the Commission of the export license application has informed the United States Government that any intermediate consignees and the ultimate consignee specified in the application are required to use the highly enriched uranium solely to produce medical isotopes; and

"(B) the highly enriched uranium for medical isotope production will be irradiated only in a reactor in a recipient country that—

"(i) uses an alternative nuclear reactor fuel; or *“(ii) is the subject of an agreement with the United States Government to convert to an alternative nuclear reactor fuel when alternative nuclear reactor fuel can be used in the reactor.*

“(3) REVIEW OF PHYSICAL PROTECTION REQUIREMENTS.—

“(A) IN GENERAL.—The Commission shall review the adequacy of physical protection requirements that, as of the date of an application under paragraph (2), are applicable to the transportation and storage of highly enriched uranium for medical isotope production or control of residual material after irradiation and extraction of medical isotopes.

“(B) IMPOSITION OF ADDITIONAL REQUIREMENTS.—If the Commission determines that additional physical protection requirements are necessary (including a limit on the quantity of highly enriched uranium that may be contained in a single shipment), the Commission shall impose such requirements as license conditions or through other appropriate means.

“(4) FIRST REPORT TO CONGRESS.—

“(A) NAS STUDY.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study to determine—

“(i) the feasibility of procuring supplies of medical isotopes from commercial sources that do not use highly enriched uranium;

“(ii) the current and projected demand and availability of medical isotopes in regular current domestic use;

“(iii) the progress that is being made by the Department of Energy and others to eliminate all use of highly enriched uranium in reactor fuel, reactor targets, and medical isotope production facilities; and

“(iv) the potential cost differential in medical isotope production in the reactors and target processing facilities if the products were derived from production systems that do not involve fuels and targets with highly enriched uranium.

“(B) FEASIBILITY.—For the purpose of this subsection, the use of low enriched uranium to produce medical isotopes shall be determined to be feasible if—

“(i) low enriched uranium targets have been developed and demonstrated for use in the reactors and target processing facilities that produce significant quantities of medical isotopes to serve United States needs for such isotopes;

“(ii) sufficient quantities of medical isotopes are available from low enriched uranium targets and fuel to meet United States domestic needs; and

“(iii) the average anticipated total cost increase from production of medical isotopes in such facilities without use of highly enriched uranium is less than 10 percent.

“(C) REPORT BY THE SECRETARY.—Not later than 5 years after the date of enactment of the Energy Policy Act of 2005, the Secretary shall submit to Congress a report that—

“(i) contains the findings of the National Academy of Sciences made in the study under subparagraph (A); and

“(ii) discloses the existence of any commitments from commercial producers to provide domestic requirements for medical isotopes without use of highly enriched uranium consistent with the feasibility criteria described in subparagraph (B) not later than the date that is 4 years after the date of submission of the report.

“(5) SECOND REPORT TO CONGRESS.—If the study of the National Academy of Sciences determines under paragraph (4)(A)(i) that the procurement of supplies of medical isotopes from commercial sources that do not use highly enriched uranium is feasible, but the Secretary is unable to report the existence of commitments under paragraph (4)(C)(ii), not later than the date that is 6 years after the date of enactment of the Energy Policy Act of 2005, the Secretary shall submit to Congress a report that describes options for developing domestic supplies of medical isotopes in quantities that are adequate to meet domestic demand without the use of highly enriched uranium consistent with the cost increase described in paragraph (4)(B)(iii).

“(6) CERTIFICATION.—At such time as commercial facilities that do not use highly enriched uranium are capable of meeting domestic requirements for medical isotopes, within the cost increase described in paragraph (4)(B)(iii) and without impairing the reliable supply of medical isotopes for domestic utilization, the Secretary shall submit to Congress a certification to that effect.

“(7) SUNSET PROVISION.—After the Secretary submits a certification under paragraph (6), the Commission shall, by rule, terminate its review of export license applications under this subsection.”.

SEC. 631. SAFE DISPOSAL OF GREATER-THAN-CLASS C RADIOACTIVE WASTE.

(a) RESPONSIBILITY FOR ACTIVITIES TO PROVIDE STORAGE FACILITY.—The Secretary shall provide to Congress official notification of the final designation of an entity within the Department to have the responsibility of completing activities needed to provide a facility for safely disposing of all greater-than-Class C low-level radioactive waste.

(b) REPORTS AND PLANS.—

(1) REPORT ON PERMANENT DISPOSAL FACILITY.—

(A) PLAN REGARDING COST AND SCHEDULE FOR COMPLETION OF EIS AND ROD.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with Congress, shall submit to Congress a report containing an estimate of the cost and a proposed schedule to complete an environmental impact statement and record of decision for a permanent disposal facility for greater-than-Class C radioactive waste.

(B) ANALYSIS OF ALTERNATIVES.—Before the Secretary makes a final decision on the disposal alternative or alternatives to be implemented, the Secretary shall—

(i) submit to Congress a report that describes all alternatives under consideration, including all information required in the comprehensive report making recommendations for ensuring the safe disposal of all greater-than-Class C low-level radioactive waste that was submitted by the Secretary to Congress in February 1987; and

(ii) await action by Congress.

(2) SHORT-TERM PLAN FOR RECOVERY AND STORAGE.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a plan to ensure the continued recovery and storage of greater-than-Class C low-level radioactive sealed sources that pose a security threat until a permanent disposal facility is available.

(B) CONTENTS.—The plan shall address estimated cost, resource, and facility needs.

SEC. 632. PROHIBITION ON NUCLEAR EXPORTS TO COUNTRIES THAT SPONSOR TERRORISM.

(a) IN GENERAL.—Section 129 of the Atomic Energy Act of 1954 (42 U.S.C. 2158) is amended—

(1) by inserting “a.” before “No nuclear materials and equipment”; and

(2) by adding at the end the following new subsection:

“b.(1) Notwithstanding any other provision of law, including specifically section 121 of this Act, and except as provided in paragraphs (2) and (3), no nuclear materials and equipment or sensitive nuclear technology, including items and assistance authorized by section 57 b. of this Act and regulated under part 810 of title 10, Code of Federal Regulations, and nuclear-related items on the Commerce Control List maintained under part 774 of title 15 of the Code of Federal Regulations, shall be exported or reexported, or transferred or retransferred whether directly or indirectly, and no Federal agency shall issue any license, approval, or authorization for the export or reexport, or transfer, or retransfer, whether directly or indirectly, of these items or assistance (as defined in this paragraph) to any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which has been determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) to have repeatedly provided support for acts of international terrorism).

“(2) This subsection shall not apply to exports, reexports, transfers, or retransfers of radiation monitoring technologies, surveillance equipment, seals, cameras, tamper-indication devices, nuclear detectors, monitoring systems, or equipment necessary to safely store, transport, or remove hazardous materials, whether such items, services, or information are regulated by the Department of Energy, the Department of Commerce, or the Commission, except to the extent that such technologies, equipment, seals, cameras, devices, detectors, or systems are available for use in the design or construction of nuclear reactors or nuclear weapons.

“(3) The President may waive the application of paragraph (1) to a country if the President determines and certifies to Congress that the waiver will not result in any increased risk that the country receiving the waiver will acquire nuclear weapons, nuclear reactors, or any materials or components of nuclear weapons and—

“(A) the government of such country has not within the preceding 12-month period willfully aided or abetted the international proliferation of nuclear explosive devices to individuals or groups or willfully aided and abetted an individual or groups in acquiring unsafeguarded nuclear materials;

“(B) in the judgment of the President, the government of such country has provided adequate, verifiable assurances that it will cease its support for acts of international terrorism;

“(C) the waiver of that paragraph is in the vital national security interest of the United States; or

“(D) such a waiver is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety.”.

(b) APPLICABILITY TO EXPORTS APPROVED FOR TRANSFER BUT NOT TRANSFERRED.—Subsection b. of section 129 of Atomic Energy Act of 1954, as added by subsection (a) of this section, shall apply with respect to exports that have been approved for transfer as of the date of the enactment of this Act but have not yet been transferred as of that date.

SEC. 633. EMPLOYEE BENEFITS.

Section 3110(a) of the USEC Privatization Act (42 U.S.C. 2297h-8(a)) is amended by adding at the end the following new paragraph:

“(8) CONTINUITY OF BENEFITS.—To the extent appropriations are provided in advance for this purpose or are otherwise available, not later than 30 days after the date of enactment of this paragraph, the Secretary shall implement such actions as are necessary to ensure that any employee who—

“(A) is involved in providing infrastructure or environmental remediation services at the Portsmouth, Ohio, or the Paducah, Kentucky, Gaseous Diffusion Plant;

''(B) has been an employee of the Department of Energy's predecessor management and integrating contractor (or its first or second tier subcontractors), or of the Corporation, at the Portsmouth, Ohio, or the Paducah, Kentucky, facility; and

''(C) was eligible as of April 1, 2005, to participate in or transfer into the Multiple Employer Pension Plan or the associated multiple employer retiree health care benefit plans, as defined in those plans,

shall continue to be eligible to participate in or transfer into such pension or health care benefit plans.''.

SEC. 634. DEMONSTRATION HYDROGEN PRODUCTION AT EXISTING NUCLEAR POWER PLANTS.

(a) Demonstration Projects.—The Secretary shall provide for the establishment of 2 projects in geographic areas that are regionally and climatically diverse to demonstrate the commercial production of hydrogen at existing nuclear power plants.

(b) Economic Analysis.—Prior to making an award under subsection (a), the Secretary shall determine whether the use of existing nuclear power plants is a cost-effective means of producing hydrogen.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary for the purposes of carrying out this section not more than $100,000,000.

SEC. 635. PROHIBITION ON ASSUMPTION BY UNITED STATES GOVERNMENT OF LIABILITY FOR CERTAIN FOREIGN INCIDENTS.

(a) In General.—Notwithstanding any other provision of law, no officer of the United States or of any department, agency, or instrumentality of the United States Government may enter into any contract or other arrangement, or into any amendment or modification of a contract or other arrangement, the purpose or effect of which would be to directly or indirectly impose liability on the United States Government, or any department, agency, or instrumentality of the United States Government, or to otherwise directly or indirectly require an indemnity by the United States Government, for nuclear incidents occurring in connection with the design, construction, or operation of a production facility or utilization facility in any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which, as of September 11, 2001, had been determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) to have repeatedly provided support for acts of international terrorism). This section shall not apply to nuclear incidents occurring as a result of missions, carried out under the direction of the Secretary, the Secretary of Defense, or the Secretary of State, that are necessary to safely secure, store, transport, or remove nuclear materials for nuclear safety or nonproliferation purposes.

(b) Definitions.—The terms used in this section shall have the same meaning as those terms have under section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014), unless otherwise expressly provided in this section.

SEC. 636. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle and the amendments made by this subtitle.

SEC. 637. NUCLEAR REGULATORY COMMISSION USER FEES AND ANNUAL CHARGES.

(a) In General.—Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214) is amended—

(1) in subsection (a)—

(A) by striking ''Except as provided in paragraph (3), the'' and inserting ''The'' in paragraph (1); and

(B) by striking paragraph (3); and

(2) in subsection (c)—

(A) by striking ''and'' at the end of paragraph (2)(A)(i);

(B) by striking the period at the end of paragraph (2)(A)(ii) and inserting a semicolon;

(C) by adding at the end of paragraph (2)(A) the following new clauses:

''(iii) amounts appropriated to the Commission for the fiscal year for implementation of section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; and

''(iv) amounts appropriated to the Commission for homeland security activities of the Commission for the fiscal year, except for the costs of fingerprinting and background checks required by section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) and the costs of conducting security inspections.''; and

(D) by amending paragraph (2)(B)(v) to read as follows:

''(v) 90 percent for fiscal year 2005 and each fiscal year thereafter.''.

(b) Repeal.—Section 7601 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (42 U.S.C. 2213) is repealed.

(c) Effective Date.—The amendments made by this section take effect on October 1, 2006.

SEC. 638. STANDBY SUPPORT FOR CERTAIN NUCLEAR PLANT DELAYS.

(a) Definitions.—In this section:

(1) Advanced nuclear facility.—The term ''advanced nuclear facility'' means any nuclear facility the reactor design for which is approved after December 31, 1993, by the Commission (and such design or a substantially similar design of comparable capacity was not approved on or before that date).

(2) Combined license.—The term ''combined license'' means a combined construction and operating license for an advanced nuclear facility issued by the Commission.

(3) Commission.—The term ''Commission'' means the Nuclear Regulatory Commission.

(4) Sponsor.—The term ''sponsor'' means a person who has applied for or been granted a combined license.

(b) Contract Authority.—

(1) In general.—The Secretary may enter into contracts under this section with sponsors of an advanced nuclear facility that cover a total of 6 reactors, with the 6 reactors consisting of not more than 3 different reactor designs, in accordance with paragraph (2).

(2) Requirement for contracts.—

(A) Definition of loan cost.—In this paragraph, the term ''loan cost'' has the meaning given the term ''cost of a loan guarantee'' under section 502(5)(C) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(C)).

(B) Establishment of accounts.—There is established in the Department 2 separate accounts, which shall be known as the—

(i) ''Standby Support Program Account''; and

(ii) ''Standby Support Grant Account''.

(C) Requirement.—The Secretary shall not enter into a contract under this section unless the Secretary deposits—

(i) in the Standby Support Program Account established under subparagraph (B), funds appropriated to the Secretary in advance of the contract or a combination of appropriated funds and loan guarantee fees that are in an amount sufficient to cover the loan costs described in subsection (d)(5)(A); and

(ii) in the Standby Support Grant Account established under subparagraph (B), funds appropriated to the Secretary in advance of the contract, paid to the Secretary by the sponsor of the advanced nuclear facility, or a combination of appropriations and payments that are in an amount sufficient cover the costs described in subparagraphs (B), (C), and (D) of subsection (d)(5).

(c) Covered Delays.—

(1) Inclusions.—Under each contract authorized by this section, the Secretary shall pay the costs specified in subsection (d), using funds appropriated or collected for the covered costs, if full power operation of the advanced nuclear facility is delayed by—

(A) the failure of the Commission to comply with schedules for review and approval of inspections, tests, analyses, and acceptance criteria established under the combined license or the conduct of preoperational hearings by the Commission for the advanced nuclear facility; or

(B) litigation that delays the commencement of full-power operations of the advanced nuclear facility.

(2) Exclusions.—The Secretary may not enter into any contract under this section that would obligate the Secretary to pay any costs resulting from—

(A) the failure of the sponsor to take any action required by law or regulation;

(B) events within the control of the sponsor; or

(C) normal business risks.

(d) Covered Costs.—

(1) In general.—Subject to paragraphs (2), (3), and (4), the costs that shall be paid by the Secretary pursuant to a contract entered into under this section are the costs that result from a delay covered by the contract.

(2) Initial 2 reactors.—In the case of the first 2 reactors that receive combined licenses and on which construction is commenced, the Secretary shall pay—

(A) 100 percent of the covered costs of delay; but

(B) not more than $500,000,000 per contract.

(3) Subsequent 4 reactors.—In the case of the next 4 reactors that receive a combined license and on which construction is commenced, the Secretary shall pay—

(A) 50 percent of the covered costs of delay that occur after the initial 180-day period of covered delay; but

(B) not more than $250,000,000 per contract.

(4) Conditions on payment of certain covered costs.—

(A) In general.—The obligation of the Secretary to pay the covered costs described in subparagraph (B) of paragraph (5) is subject to the Secretary receiving from appropriations or payments from other non-Federal sources amounts sufficient to pay the covered costs.

(B) Non-federal sources.—The Secretary may receive and accept payments from any non-Federal source, which shall be made available without further appropriation for the payment of the covered costs.

(5) Types of covered costs.—Subject to paragraphs (2), (3), and (4), the contract entered into under this section for an advanced nuclear facility shall include as covered costs those costs that result from a delay during construction and in gaining approval for fuel loading and full-power operation, including—

(A) principal or interest on any debt obligation of an advanced nuclear facility owned by a non-Federal entity; and

(B) the incremental difference between—

(i) the fair market price of power purchased to meet the contractual supply agreements that would have been met by the advanced nuclear facility but for the delay; and

(ii) the contractual price of power from the advanced nuclear facility subject to the delay.

(e) Requirements.—Any contract between a sponsor and the Secretary covering an advanced nuclear facility under this section shall require the sponsor to use due diligence to shorten, and to end, the delay covered by the contract.

(f) Reports.—For each advanced nuclear facility that is covered by a contract under this section, the Commission shall submit to Congress and the Secretary quarterly reports summarizing the status of licensing actions associated with the advanced nuclear facility.

(g) Regulations.—

(1) In general.—Subject to paragraphs (2) and (3), the Secretary shall issue such regulations as are necessary to carry out this section.

(2) Interim final rulemaking.—Not later than 270 days after the date of enactment of this Act, the Secretary shall issue for public comment an interim final rule regulating contracts authorized by this section.

(3) Notice of final rulemaking.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a notice of final rulemaking regulating the contracts.

(h) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 639. CONFLICTS OF INTEREST RELATING TO CONTRACTS AND OTHER ARRANGEMENTS.

Section 170A b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210a(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(2) by striking "b. The Commission" and inserting the following:

"b. Evaluation.—

"(1) In general.—Except as provided in paragraph (2), the Nuclear Regulatory Commission"; and

(3) by adding at the end the following:

"(2) Nuclear regulatory commission.—Notwithstanding any conflict of interest, the Nuclear Regulatory Commission may enter into a contract, agreement, or arrangement with the Department of Energy or the operator of a Department of Energy facility, if the Nuclear Regulatory Commission determines that—

"(A) the conflict of interest cannot be mitigated; and

"(B) adequate justification exists to proceed without mitigation of the conflict of interest.".

Subtitle C—Next Generation Nuclear Plant Project

SEC. 641. PROJECT ESTABLISHMENT.

(a) Establishment.—The Secretary shall establish a project to be known as the "Next Generation Nuclear Plant Project" (referred to in this subtitle as the "Project").

(b) Content.—The Project shall consist of the research, development, design, construction, and operation of a prototype plant, including a nuclear reactor that—

(1) is based on research and development activities supported by the Generation IV Nuclear Energy Systems Initiative under section 942(d); and

(2) shall be used—

(A) to generate electricity;

(B) to produce hydrogen; or

(C) both to generate electricity and to produce hydrogen.

SEC. 642. PROJECT MANAGEMENT.

(a) Departmental Management.—

(1) In general.—The Project shall be managed in the Department by the Office of Nuclear Energy, Science, and Technology.

(2) Generation IV nuclear energy systems program.—The Secretary may combine the Project with the Generation IV Nuclear Energy Systems Initiative.

(3) Existing DOE project management expertise.—The Secretary may utilize capabilities for review of construction projects for advanced scientific facilities within the Office of Science to track the progress of the Project.

(b) Laboratory Management.—

(1) Lead laboratory.—The Idaho National Laboratory shall be the lead National Laboratory for the Project and shall collaborate with other National Laboratories, institutions of higher education, other research institutes, industrial researchers, and international researchers to carry out the Project.

(2) Industrial partnerships.—

(A) In general.—The Idaho National Laboratory shall organize a consortium of appropriate industrial partners that will carry out cost-shared research, development, design, and construction activities, and operate research facilities, on behalf of the Project.

(B) Cost-sharing.—Activities of industrial partners funded by the Project shall be cost-shared in accordance with section 988.

(C) Preference.—Preference in determining the final structure of the consortium or any partnerships under this subtitle shall be given to a structure (including designating as a lead industrial partner an entity incorporated in the United States) that retains United States technological leadership in the Project while maximizing cost sharing opportunities and minimizing Federal funding responsibilities.

(3) Prototype plant siting.—The prototype nuclear reactor and associated plant shall be sited at the Idaho National Laboratory in Idaho.

(4) Reactor test capabilities.—The Project shall use, if appropriate, reactor test capabilities at the Idaho National Laboratory.

(5) Other laboratory capabilities.—The Project may use, if appropriate, facilities at other National Laboratories.

SEC. 643. PROJECT ORGANIZATION.

(a) Major Project Elements.—The Project shall consist of the following major program elements:

(1) High-temperature hydrogen production technology development and validation.

(2) Energy conversion technology development and validation.

(3) Nuclear fuel development, characterization, and qualification.

(4) Materials selection, development, testing, and qualification.

(5) Reactor and balance-of-plant design, engineering, safety analysis, and qualification.

(b) Project Phases.—The Project shall be conducted in the following phases:

(1) First project phase.—A first project phase shall be conducted to—

(A) select and validate the appropriate technology under subsection (a)(1);

(B) carry out enabling research, development, and demonstration activities on technologies and components under paragraphs (2) through (4) of subsection (a);

(C) determine whether it is appropriate to combine electricity generation and hydrogen production in a single prototype nuclear reactor and plant; and

(D) carry out initial design activities for a prototype nuclear reactor and plant, including development of design methods and safety analytical methods and studies under subsection (a)(5).

(2) Second project phase.—A second project phase shall be conducted to—

(A) continue appropriate activities under paragraphs (1) though (5) of subsection (a);

(B) develop, through a competitive process, a final design for the prototype nuclear reactor and plant;

(C) apply for licenses to construct and operate the prototype nuclear reactor from the Nuclear Regulatory Commission; and

(D) construct and start up operations of the prototype nuclear reactor and its associated hydrogen or electricity production facilities.

(c) Project Requirements.—

(1) In general.—The Secretary shall ensure that the Project is structured so as to maximize the technical interchange and transfer of technologies and ideas into the Project from other sources of relevant expertise, including—

(A) the nuclear power industry, including nuclear powerplant construction firms, particularly with respect to issues associated with plant design, construction, and operational and safety issues;

(B) the chemical processing industry, particularly with respect to issues relating to—

(i) the use of process energy for production of hydrogen; and

(ii) the integration of technologies developed by the Project into chemical processing environments; and

(C) international efforts in areas related to the Project, particularly with respect to hydrogen production technologies.

(2) International collaboration.—

(A) In general.—The Secretary shall seek international cooperation, participation, and financial contributions for the Project.

(B) Assistance from international partners.—The Secretary, through the Idaho National Laboratory, may contract for assistance from specialists or facilities from member countries of the Generation IV International Forum, the Russian Federation, or other international partners if the specialists or facilities provide access to cost-effective and relevant skills or test capabilities.

(C) Partner nations.—The Project may involve demonstration of selected project objectives in a partner country.

(D) Generation IV international forum.—The Secretary shall ensure that international activities of the Project are coordinated with the Generation IV International Forum.

(3) Review by nuclear energy research advisory committee.—

(A) In general.—The Nuclear Energy Research Advisory Committee of the Department (referred to in this paragraph as the "NERAC") shall—

(i) review all program plans for the Project and all progress under the Project on an ongoing basis; and

(ii) ensure that important scientific, technical, safety, and program management issues receive attention in the Project and by the Secretary.

(B) Additional expertise.—The NERAC shall supplement the expertise of the NERAC or appoint subpanels to incorporate into the review by the NERAC the relevant sources of expertise described under paragraph (1).

(C) Initial review.—Not later than 180 days after the date of enactment of this Act, the NERAC shall—

(i) review existing program plans for the Project in light of the recommendations of the document entitled "Design Features and Technology Uncertainties for the Next Generation Nuclear Plant," dated June 30, 2004; and

(ii) address any recommendations of the document not incorporated in program plans for the Project.

(D) First project phase review.—On a determination by the Secretary that the appropriate activities under the first project phase under subsection (b)(1) are nearly complete, the Secretary shall request the NERAC to conduct a comprehensive review of the Project and to report to the Secretary the recommendation of the NERAC concerning whether the Project is ready to proceed to the second project phase under subsection (b)(2).

(E) Transmittal of reports to Congress.—Not later than 60 days after receiving any report from the NERAC related to the Project, the Secretary shall submit to the appropriate committees of the Senate and the House of Representatives a copy of the report, along with any additional views of the Secretary that the Secretary may consider appropriate.

SEC. 644. NUCLEAR REGULATORY COMMISSION.

(a) In General.—In accordance with section 202 of the Energy Reorganization Act of 1974 (42

U.S.C. 5842), the Nuclear Regulatory Commission shall have licensing and regulatory authority for any reactor authorized under this subtitle.

(b) LICENSING STRATEGY.—Not later than 3 years after the date of enactment of this Act, the Secretary and the Chairman of the Nuclear Regulatory Commission shall jointly submit to the appropriate committees of the Senate and the House of Representatives a licensing strategy for the prototype nuclear reactor, including—

(1) a description of ways in which current licensing requirements relating to light-water reactors need to be adapted for the types of prototype nuclear reactor being considered by the Project;

(2) a description of analytical tools that the Nuclear Regulatory Commission will have to develop to independently verify designs and performance characteristics of components, equipment, systems, or structures associated with the prototype nuclear reactor;

(3) other research or development activities that may be required on the part of the Nuclear Regulatory Commission in order to review a license application for the prototype nuclear reactor; and

(4) an estimate of the budgetary requirements associated with the licensing strategy.

(c) ONGOING INTERACTION.—The Secretary shall seek the active participation of the Nuclear Regulatory Commission throughout the duration of the Project to—

(1) avoid design decisions that will compromise adequate safety margins in the design of the reactor or impair the accessibility of nuclear safety-related components of the prototype reactor for inspection and maintenance;

(2) develop tools to facilitate inspection and maintenance needed for safety purposes; and

(3) develop risk-based criteria for any future commercial development of a similar reactor architectures.

SEC. 645. PROJECT TIMELINES AND AUTHORIZATION OF APPROPRIATIONS.

(a) TARGET DATE TO COMPLETE THE FIRST PROJECT PHASE.—Not later than September 30, 2011, the Secretary shall—

(1) select the technology to be used by the Project for high-temperature hydrogen production and the initial design parameters for the prototype nuclear plant; or

(2) submit to Congress a report establishing an alternative date for making the selection.

(b) DESIGN COMPETITION FOR SECOND PROJECT PHASE.—

(1) IN GENERAL.—The Secretary, acting through the Idaho National Laboratory, shall fund not more than 4 teams for not more than 2 years to develop detailed proposals for competitive evaluation and selection of a single proposal for a final design of the prototype nuclear reactor.

(2) SYSTEMS INTEGRATION.—The Secretary may structure Project activities in the second project phase to use the lead industrial partner of the competitively selected design under paragraph (1) in a systems integration role for final design and construction of the Project.

(c) TARGET DATE TO COMPLETE PROJECT CONSTRUCTION.—Not later than September 30, 2021, the Secretary shall—

(1) complete construction and begin operations of the prototype nuclear reactor and associated energy or hydrogen facilities; or

(2) submit to Congress a report establishing an alternative date for completion.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for research and construction activities under this subtitle (including for transfer to the Nuclear Regulatory Commission for activities under section 644 as appropriate)—

(1) $1,250,000,000 for the period of fiscal years 2006 through 2015; and

(2) such sums as are necessary for each of fiscal years 2016 through 2021.

Subtitle D—Nuclear Security

SEC. 651. NUCLEAR FACILITY AND MATERIALS SECURITY.

(a) SECURITY EVALUATIONS; DESIGN BASIS THREAT RULEMAKING.—

(1) IN GENERAL.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended by section 624(a)) is amended by adding at the end the following:

"SEC. 170D. SECURITY EVALUATIONS.

"a. SECURITY RESPONSE EVALUATIONS.—Not less often than once every 3 years, the Commission shall conduct security evaluations at each licensed facility that is part of a class of licensed facilities, as the Commission considers to be appropriate, to assess the ability of a private security force of a licensed facility to defend against any applicable design basis threat.

"b. FORCE-ON-FORCE EXERCISES.—(1) The security evaluations shall include force-on-force exercises.

"(2) The force-on-force exercises shall, to the maximum extent practicable, simulate security threats in accordance with any design basis threat applicable to a facility.

"(3) In conducting a security evaluation, the Commission shall mitigate any potential conflict of interest that could influence the results of a force-on-force exercise, as the Commission determines to be necessary and appropriate.

"c. ACTION BY LICENSEES.—The Commission shall ensure that an affected licensee corrects those material defects in performance that adversely affect the ability of a private security force at that facility to defend against any applicable design basis threat.

"d. FACILITIES UNDER HEIGHTENED THREAT LEVELS.—The Commission may suspend a security evaluation under this section if the Commission determines that the evaluation would compromise security at a nuclear facility under a heightened threat level.

"e. REPORT.—Not less often than once each year, the Commission shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report, in classified form and unclassified form, that describes the results of each security response evaluation conducted and any relevant corrective action taken by a licensee during the previous year.

"SEC. 170E. DESIGN BASIS THREAT RULEMAKING.

"a. RULEMAKING.—The Commission shall—

"(1) not later than 90 days after the date of enactment of this section, initiate a rulemaking proceeding, including notice and opportunity for public comment, to be completed not later than 18 months after that date, to revise the design basis threats of the Commission; or

"(2) not later than 18 months after the date of enactment of this section, complete any ongoing rulemaking to revise the design basis threats.

"b. FACTORS.—When conducting its rulemaking, the Commission shall consider the following, but not be limited to—

"(1) the events of September 11, 2001;

"(2) an assessment of physical, cyber, biochemical, and other terrorist threats;

"(3) the potential for attack on facilities by multiple coordinated teams of a large number of individuals;

"(4) the potential for assistance in an attack from several persons employed at the facility;

"(5) the potential for suicide attacks;

"(6) the potential for water-based and air-based threats;

"(7) the potential use of explosive devices of considerable size and other modern weaponry;

"(8) the potential for attacks by persons with a sophisticated knowledge of facility operations;

"(9) the potential for fires, especially fires of long duration;

"(10) the potential for attacks on spent fuel shipments by multiple coordinated teams of a large number of individuals;

"(11) the adequacy of planning to protect the public health and safety at and around nuclear facilities, as appropriate, in the event of a terrorist attack against a nuclear facility; and

"(12) the potential for theft and diversion of nuclear materials from such facilities.".

(2) CONFORMING AMENDMENT.—The table of sections of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) (as amended by section 624(b)) is amended by adding at the end of the items relating to chapter 14 the following:

"Sec. 170D. Security evaluations.
"Sec. 170E. Design basis threat rulemaking.".

(3) FEDERAL SECURITY COORDINATORS.—

(A) REGIONAL OFFICES.—Not later than 18 months after the date of enactment of this Act, the Nuclear Regulatory Commission (referred to in this section as the "Commission") shall assign a Federal security coordinator, under the employment of the Commission, to each region of the Commission.

(B) RESPONSIBILITIES.—The Federal security coordinator shall be responsible for—

(i) communicating with the Commission and other Federal, State, and local authorities concerning threats, including threats against such classes of facilities as the Commission determines to be appropriate;

(ii) monitoring such classes of facilities as the Commission determines to be appropriate to ensure that they maintain security consistent with the security plan in accordance with the appropriate threat level; and

(iii) assisting in the coordination of security measures among the private security forces at such classes of facilities as the Commission determines to be appropriate and Federal, State, and local authorities, as appropriate.

(b) BACKUP POWER FOR CERTAIN EMERGENCY NOTIFICATION SYSTEMS.—For any licensed nuclear power plants located where there is a permanent population, as determined by the 2000 decennial census, in excess of 15,000,000 within a 50-mile radius of the power plant, not later than 18 months after enactment of this Act, the Commission shall require that backup power to be available for the emergency notification system of the power plant, including the emergency siren warning system, if the alternating current supply within the 10-mile emergency planning zone of the power plant is lost.

(c) ADDITIONAL PROVISIONS.—

(1) PROVISION OF SUPPORT TO UNIVERSITY NUCLEAR SAFETY, SECURITY, AND ENVIRONMENTAL PROTECTION PROGRAMS.—Section 31 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2051(b)) is amended—

(A) by striking "b. The Commission is further authorized to make" and inserting the following:

"b. GRANTS AND CONTRIBUTIONS.—The Commission is authorized—

"(1) to make";

(B) in paragraph (1) (as designated by subparagraph (A)) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(2) to provide grants, loans, cooperative agreements, contracts, and equipment to institutions of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) to support courses, studies, training, curricula, and disciplines pertaining to nuclear safety, security, or environmental protection, or any other field that the Commission determines to be critical to the regulatory mission of the Commission.".

(2) Recruitment tools.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended by subsection (a)(1)) is amended by adding at the end the following:

"SEC. 170F. RECRUITMENT TOOLS.

"The Commission may purchase promotional items of nominal value for use in the recruitment of individuals for employment.".

(3) Expenses authorized to be paid by the Commission.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended by paragraph (2)) is amended by adding at the end the following:

"SEC. 170G. EXPENSES AUTHORIZED TO BE PAID BY THE COMMISSION.

"The Commission may—

"(1) pay transportation, lodging, and subsistence expenses of employees who—

"(A) assist scientific, professional, administrative, or technical employees of the Commission; and

"(B) are students in good standing at an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) pursuing courses related to the field in which the students are employed by the Commission; and

"(2) pay the costs of health and medical services furnished, pursuant to an agreement between the Commission and the Department of State, to employees of the Commission and dependents of the employees serving in foreign countries.".

(4) Partnership program with institutions of higher education.—

(A) In general.—Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 et seq.) (as amended by section 622(a)) is amended by inserting after section 243 the following:

"SEC. 244. PARTNERSHIP PROGRAM WITH INSTITUTIONS OF HIGHER EDUCATION.

"a. Definitions.—In this section:

"(1) Hispanic-serving institution.—The term 'Hispanic-serving institution' has the meaning given the term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

"(2) Historically Black college and university.—The term 'historically Black college or university' has the meaning given the term 'part B institution' in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

"(3) Tribal college.—The term 'Tribal college' has the meaning given the term 'tribally controlled college or university' in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)).

"b. Partnership Program.—The Commission may establish and participate in activities relating to research, mentoring, instruction, and training with institutions of higher education, including Hispanic-serving institutions, historically Black colleges or universities, and Tribal colleges, to strengthen the capacity of the institutions—

"(1) to educate and train students (including present or potential employees of the Commission); and

"(2) to conduct research in the field of science, engineering, or law, or any other field that the Commission determines is important to the work of the Commission.".

(5) Conforming amendments.—The table of sections of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) (as amended by subsection (a)(2)) is amended—

(A) by adding at the end of the items relating to chapter 14 the following:

"Sec. 170F. Recruitment tools.
"Sec. 170G. Expenses authorized to be paid by the Commission."; and

(B) by inserting after the item relating to section 243 the following:

"Sec. 244. Partnership program with institutions of higher education.".

(d) Radiation Source Protection.—

(1) Amendment.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended by subsection (c)(3)) is amended by adding at the end the following:

"SEC. 170H. RADIATION SOURCE PROTECTION.

"a. Definitions.—In this section:

"(1) Code of conduct.—The term 'Code of Conduct' means the code entitled the 'Code of Conduct on the Safety and Security of Radioactive Sources', approved by the Board of Governors of the International Atomic Energy Agency and dated September 8, 2003.

"(2) Radiation source.—The term 'radiation source' means—

"(A) a Category 1 Source or a Category 2 Source, as defined in the Code of Conduct; and

"(B) any other material that poses a threat such that the material is subject to this section, as determined by the Commission, by regulation, other than spent nuclear fuel and special nuclear materials.

"b. Commission Approval.—Not later than 180 days after the date of enactment of this section, the Commission shall issue regulations prohibiting a person from—

"(1) exporting a radiation source, unless the Commission has specifically determined under section 57 or 82, consistent with the Code of Conduct, with respect to the exportation, that—

"(A) the recipient of the radiation source may receive and possess the radiation source under the laws and regulations of the country of the recipient;

"(B) the recipient country has the appropriate technical and administrative capability, resources, and regulatory structure to ensure that the radiation source will be managed in a safe and secure manner; and

"(C) before the date on which the radiation source is shipped—

"(i) a notification has been provided to the recipient country; and

"(ii) a notification has been received from the recipient country;

as the Commission determines to be appropriate;

"(2) importing a radiation source, unless the Commission has determined, with respect to the importation, that—

"(A) the proposed recipient is authorized by law to receive the radiation source; and

"(B) the shipment will be made in accordance with any applicable Federal or State law or regulation; and

"(3) selling or otherwise transferring ownership of a radiation source, unless the Commission—

"(A) has determined that the licensee has verified that the proposed recipient is authorized under law to receive the radiation source; and

"(B) has required that the transfer shall be made in accordance with any applicable Federal or State law or regulation.

"c. Tracking System.—(1)(A) Not later than 1 year after the date of enactment of this section, the Commission shall issue regulations establishing a mandatory tracking system for radiation sources in the United States.

"(B) In establishing the tracking system under subparagraph (A), the Commission shall coordinate with the Secretary of Transportation to ensure compatibility, to the maximum extent practicable, between the tracking system and any system established by the Secretary of Transportation to track the shipment of radiation sources.

"(2) The tracking system under paragraph (1) shall—

"(A) enable the identification of each radiation source by serial number or other unique identifier;

"(B) require reporting within 7 days of any change of possession of a radiation source;

"(C) require reporting within 24 hours of any loss of control of, or accountability for, a radiation source; and

"(D) provide for reporting under subparagraphs (B) and (C) through a secure Internet connection.

"d. Penalty.—A violation of a regulation issued under subsection a. or b. shall be punishable by a civil penalty not to exceed $1,000,000.

"e. National Academy of Sciences Study.—(1) Not later than 60 days after the date of enactment of this section, the Commission shall enter into an arrangement with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study of industrial, research, and commercial uses for radiation sources.

"(2) The study under paragraph (1) shall include a review of uses of radiation sources in existence on the date on which the study is conducted, including an identification of any industrial or other process that—

"(A) uses a radiation source that could be replaced with an economically and technically equivalent (or improved) process that does not require the use of a radiation source; or

"(B) may be used with a radiation source that would pose a lower risk to public health and safety in the event of an accident or attack involving the radiation source.

"(3) Not later than 2 years after the date of enactment of this section, the Commission shall submit to Congress the results of the study under paragraph (1).

"f. Task Force on Radiation Source Protection and Security.—(1) There is established a task force on radiation source protection and security (referred to in this section as the 'task force').

"(2)(A) The chairperson of the task force shall be the Chairperson of the Commission (or a designee).

"(B) The membership of the task force shall consist of the following:

"(i) The Secretary of Homeland Security (or a designee).

"(ii) The Secretary of Defense (or a designee).

"(iii) The Secretary of Energy (or a designee).

"(iv) The Secretary of Transportation (or a designee).

"(v) The Attorney General (or a designee).

"(vi) The Secretary of State (or a designee).

"(vii) The Director of National Intelligence (or a designee).

"(viii) The Director of the Central Intelligence Agency (or a designee).

"(ix) The Director of the Federal Emergency Management Agency (or a designee).

"(x) The Director of the Federal Bureau of Investigation (or a designee).

"(xi) The Administrator of the Environmental Protection Agency (or a designee).

"(3)(A) The task force, in consultation with Federal, State, and local agencies, the Conference of Radiation Control Program Directors, and the Organization of Agreement States, and after public notice and an opportunity for comment, shall evaluate, and provide recommendations relating to, the security of radiation sources in the United States from potential terrorist threats, including acts of sabotage, theft, or use of a radiation source in a radiological dispersal device.

"(B) Not later than 1 year after the date of enactment of this section, and not less than once every 4 years thereafter, the task force shall submit to Congress and the President a report, in unclassified form with a classified annex if necessary, providing recommendations, including recommendations for appropriate regulatory and legislative changes, for—

"(i) a list of additional radiation sources that should be required to be secured under this Act,

based on the potential attractiveness of the sources to terrorists and the extent of the threat to public health and safety of the sources, taking into consideration—

"(I) radiation source radioactivity levels;

"(II) radioactive half-life of a radiation source;

"(III) dispersability;

"(IV) chemical and material form;

"(V) for radioactive materials with a medical use, the availability of the sources to physicians and patients for medical treatment; and

"(VI) any other factor that the Chairperson of the Commission determines to be appropriate;

"(ii) the establishment of, or modifications to, a national system for recovery of lost or stolen radiation sources;

"(iii) the storage of radiation sources that are not used in a safe and secure manner as of the date on which the report is submitted;

"(iv) modifications to the national tracking system for radiation sources;

"(v) the establishment of, or modifications to, a national system (including user fees and other methods) to provide for the proper disposal of radiation sources secured under this Act;

"(vi) modifications to export controls on radiation sources to ensure that foreign recipients of radiation sources are able and willing to adequately control radiation sources from the United States;

"(vii)(I) any alternative technologies available as of the date on which the report is submitted that may perform some or all of the functions performed by devices or processes that employ radiation sources; and

"(II) the establishment of appropriate regulations and incentives for the replacement of the devices and processes described in subclause (I)—

"(aa) with alternative technologies in order to reduce the number of radiation sources in the United States; or

"(bb) with radiation sources that would pose a lower risk to public health and safety in the event of an accident or attack involving the radiation source; and

"(viii) the creation of, or modifications to, procedures for improving the security of use, transportation, and storage of radiation sources, including—

"(I) periodic audits or inspections by the Commission to ensure that radiation sources are properly secured and can be fully accounted for;

"(II) evaluation of the security measures by the Commission;

"(III) increased fines for violations of Commission regulations relating to security and safety measures applicable to licensees that possess radiation sources;

"(IV) criminal and security background checks for certain individuals with access to radiation sources (including individuals involved with transporting radiation sources);

"(V) requirements for effective and timely exchanges of information relating to the results of criminal and security background checks between the Commission and any State with which the Commission has entered into an agreement under section 274 b.;

"(VI) assurances of the physical security of facilities that contain radiation sources (including facilities used to temporarily store radiation sources being transported); and

"(VII) the screening of shipments to facilities that the Commission determines to be particularly at risk for sabotage of radiation sources to ensure that the shipments do not contain explosives.

"g. ACTION BY COMMISSION.—Not later than 60 days after the date of receipt by Congress and the President of a report under subsection f.(3)(B), the Commission, in accordance with the recommendations of the task force, shall—

"(1) take any action the Commission determines to be appropriate, including revising the system of the Commission for licensing radiation sources; and

"(2) ensure that States that have entered into agreements with the Commission under section 274 b. take similar action in a timely manner.".

(2) CONFORMING AMENDMENT.—The table of sections of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) (as amended by subsection (c)(5)(A)) is amended by adding at the end of the items relating to chapter 14 the following:

"Sec. 170H. Radiation source protection.".

(e) TREATMENT OF ACCELERATOR-PRODUCED AND OTHER RADIOACTIVE MATERIAL AS BYPRODUCT MATERIAL.—

(1) DEFINITION OF BYPRODUCT MATERIAL.—Section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) is amended—

(A) by striking "means (1) any radioactive" and inserting the following: "means—

"(1) any radioactive".

(B) by striking "material, and (2) the tailings" and inserting the following: "material;

"(2) the tailings".

(C) by striking "content." and inserting the following: "content;

"(3)(A) any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph for use for a commercial, medical, or research activity; or

"(B) any material that—

"(i) has been made radioactive by use of a particle accelerator; and

"(ii) is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph for use for a commercial, medical, or research activity; and

"(4) any discrete source of naturally occurring radioactive material, other than source material, that—

"(A) the Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

"(B) before, on, or after the date of enactment of this paragraph is extracted or converted after extraction for use in a commercial, medical, or research activity.".

(2) AGREEMENTS WITH GOVERNORS.—Section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)) is amended by striking "State—" and all that follows through paragraph (4) and inserting the following: "State:

"(1) Byproduct materials (as defined in section 11 e.).

"(2) Source materials.

"(3) Special nuclear materials in quantities not sufficient to form a critical mass.".

(3) WASTE DISPOSAL.—

(A) DOMESTIC DISTRIBUTION.—Section 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2111) is amended—

(i) by striking "No person may" and inserting the following:

"a. IN GENERAL.—No person may".

(ii) by adding at the end the following:

"b. REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), byproduct material, as defined in paragraphs (3) and (4) of section 11 e., may only be transferred to and disposed of in a disposal facility that—

"(A) is adequate to protect public health and safety; and

"(B)(i) is licensed by the Commission; or

"(ii) is licensed by a State that has entered into an agreement with the Commission under section 274 b., if the licensing requirements of the State are compatible with the licensing requirements of the Commission.

"(2) EFFECT OF SUBSECTION.—Nothing in this subsection affects the authority of any entity to dispose of byproduct material, as defined in paragraphs (3) and (4) of section 11 e., at a disposal facility in accordance with any Federal or State solid or hazardous waste law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

"c. TREATMENT AS LOW-LEVEL RADIOACTIVE WASTE.—Byproduct material, as defined in paragraphs (3) and (4) of section 11 e., disposed of under this section shall not be considered to be low-level radioactive waste for the purposes of—

"(1) section 2 of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b); or

"(2) carrying out a compact that is—

"(A) entered into in accordance with that Act (42 U.S.C. 2021b et seq.); and

"(B) approved by Congress.".

(B) DEFINITION OF LOW-LEVEL RADIOACTIVE WASTE.—Section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b(9)) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting the clauses appropriately;

(ii) in the matter preceding clause (i) (as redesignated by subparagraph (A)) by striking "The term" and inserting the following:

"(A) IN GENERAL.—The term"; and

(iii) by adding at the end the following:

"(B) EXCLUSION.—The term 'low-level radioactive waste' does not include byproduct material (as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).".

(4) FINAL REGULATIONS.—

(A) REGULATIONS.—

(i) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Commission, after consultation with States and other stakeholders, shall issue final regulations establishing such requirements as the Commission determines to be necessary to carry out this section and the amendments made by this section.

(ii) INCLUSIONS.—The regulations shall include a definition of the term "discrete source" for purposes of paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) (as amended by paragraph (1)).

(B) COOPERATION.—In promulgating regulations under paragraph (1), the Commission shall, to the maximum extent practicable—

(i) cooperate with States; and

(ii) use model State standards in existence on the date of enactment of this Act.

(C) TRANSITION PLAN.—

(i) DEFINITION OF BYPRODUCT MATERIAL.—In this paragraph, the term "byproduct material" has the meaning given the term in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) (as amended by paragraph (1)).

(ii) PREPARATION AND PUBLICATION.—To facilitate an orderly transition of regulatory authority with respect to byproduct material, the Commission, in issuing regulations under subparagraph (A), shall prepare and publish a transition plan for—

(I) States that have not, before the date on which the plan is published, entered into an agreement with the Commission under section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)); and

(II) States that have entered into an agreement with the Commission under that section before the date on which the plan is published.

(iii) INCLUSIONS.—The transition plan under clause (ii) shall include—

(I) a description of the conditions under which a State may exercise authority over byproduct material; and

(II) a statement of the Commission that any agreement covering byproduct material, as defined in paragraph (1) or (2) of section 11e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)), entered into between the Commission and a State under section 274 b. of that Act (42 U.S.C. 2021(b)) before the date of publication of the transition plan shall be considered to include byproduct material, as defined in paragraph (3) or (4) of section 11e. of that Act (42 U.S.C. 2014(e)) (as amended by paragraph (1)), if the Governor of the State certifies to the Commission on the date of publication of the transition plan that—

(aa) the State has a program for licensing byproduct material, as defined in paragraph (3) or (4) of section 11e. of the Atomic Energy Act of 1954, that is adequate to protect the public health and safety, as determined by the Commission; and

(bb) the State intends to continue to implement the regulatory responsibility of the State with respect to the byproduct material.

(D) AVAILABILITY OF RADIOPHARMACEUTICALS.—In promulgating regulations under subparagraph (A), the Commission shall consider the impact on the availability of radiopharmaceuticals to—

(i) physicians; and

(ii) patients the medical treatment of which relies on radiopharmaceuticals.

(5) WAIVERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission may grant a waiver to any entity of any requirement under this section or an amendment made by this section with respect to a matter relating to byproduct material (as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) (as amended by paragraph (1))) if the Commission determines that the waiver is in accordance with the protection of the public health and safety and the promotion of the common defense and security.

(B) EXCEPTIONS.—

(i) IN GENERAL.—The Commission may not grant a waiver under subparagraph (A) with respect to—

(I) any requirement under the amendments made by subsection (c)(1);

(II) a matter relating to an importation into, or exportation from, the United States for a period ending after the date that is 1 year after the date of enactment of this Act; or

(III) any other matter for a period ending after the date that is 4 years after the date of enactment of this Act.

(ii) WAIVERS TO STATES.—The Commission shall terminate any waiver granted to a State under subparagraph (A) if the Commission determines that—

(I) the State has entered into an agreement with the Commission under section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b));

(II) the agreement described in subclause (I) covers byproduct material (as described in paragraph (3) or (4) of section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) (as amended by paragraph (1))); and

(III) the program of the State for licensing such byproduct material is adequate to protect the public health and safety.

(C) PUBLICATION.—The Commission shall publish in the Federal Register a notice of any waiver granted under this subsection.

SEC. 652. FINGERPRINTING AND CRIMINAL HISTORY RECORD CHECKS.

Section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) is amended—

(1) in subsection a.—

(A) by striking "a. The Nuclear" and all that follows through "section 147." and inserting the following:

"a.(1)(A)(i) The Commission shall require each individual or entity described in clause (ii) to fingerprint each individual described in subparagraph (B) before the individual described in subparagraph (B) is permitted access under subparagraph (B).

"(ii) The individuals and entities referred to in clause (i) are individuals and entities that, on or before the date on which an individual is permitted access under subparagraph (B)—

"(I) are licensed or certified to engage in an activity subject to regulation by the Commission;

"(II) have filed an application for a license or certificate to engage in an activity subject to regulation by the Commission; or

"(III) have notified the Commission in writing of an intent to file an application for licensing, certification, permitting, or approval of a product or activity subject to regulation by the Commission.

"(B) The Commission shall require to be fingerprinted any individual who—

"(i) is permitted unescorted access to—

"(I) a utilization facility; or

"(II) radioactive material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks; or

"(ii) is permitted access to safeguards information under section 147.";

(B) by striking "All fingerprints obtained by a licensee or applicant as required in the preceding sentence" and inserting the following:

"(2) All fingerprints obtained by an individual or entity as required in paragraph (1)";

(C) by striking "The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee or applicant." and inserting the following:

"(3) The costs of an identification or records check under paragraph (2) shall be paid by the individual or entity required to conduct the fingerprinting under paragraph (1)(A)."; and

(D) by striking "Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to licensee or applicant submitting such fingerprints." and inserting the following:

"(4) Notwithstanding any other provision of law—

"(A) the Attorney General may provide any result of an identification or records check under paragraph (2) to the Commission; and

"(B) the Commission, in accordance with regulations prescribed under this section, may provide the results to the individual or entity required to conduct the fingerprinting under paragraph (1)(A).";

(2) in subsection c.—

(A) by striking ", subject to public notice and comment, regulations—" and inserting "requirements—"; and

(B) in paragraph (2)(B), by striking "unescorted access to the facility of a licensee or applicant" and inserting "unescorted access to a utilization facility, radioactive material, or other property described in subsection a.(1)(B)";

(3) by redesignating subsection d. as subsection e.; and

(4) by inserting after subsection c. the following:

"d. The Commission may require a person or individual to conduct fingerprinting under subsection a.(1) by authorizing or requiring the use of any alternative biometric method for identification that has been approved by—

"(1) the Attorney General; and

"(2) the Commission, by regulation.".

SEC. 653. USE OF FIREARMS BY SECURITY PERSONNEL.

The Atomic Energy Act of 1954 is amended by inserting after section 161 (42 U.S.C. 2201) the following:

"SEC. 161A. USE OF FIREARMS BY SECURITY PERSONNEL.

"a. DEFINITIONS.—In this section, the terms 'handgun', 'rifle', 'shotgun', 'firearm', 'ammunition', 'machinegun', 'short-barreled shotgun', and 'short-barreled rifle' have the meanings given the terms in section 921(a) of title 18, United States Code.

"b. AUTHORIZATION.—Notwithstanding subsections (a)(4), (a)(5), (b)(2), (b)(4), and (o) of section 922 of title 18, United States Code, section 925(d)(3) of title 18, United States Code, section 5844 of the Internal Revenue Code of 1986, and any law (including regulations) of a State or a political subdivision of a State that prohibits the transfer, receipt, possession, transportation, importation, or use of a handgun, a rifle, a shotgun, a short-barreled shotgun, a short-barreled rifle, a machinegun, a semiautomatic assault weapon, ammunition for any such gun or weapon, or a large capacity ammunition feeding device, in carrying out the duties of the Commission, the Commission may authorize the security personnel of any licensee or certificate holder of the Commission (including an employee of a contractor of such a licensee or certificate holder) to transfer, receive, possess, transport, import, and use 1 or more such guns, weapons, ammunition, or devices, if the Commission determines that—

"(1) the authorization is necessary to the discharge of the official duties of the security personnel; and

"(2) the security personnel—

"(A) are not otherwise prohibited from possessing or receiving a firearm under Federal or State laws relating to possession of firearms by a certain category of persons;

"(B) have successfully completed any requirement under this section for training in the use of firearms and tactical maneuvers;

"(C) are engaged in the protection of—

"(i) a facility owned or operated by a licensee or certificate holder of the Commission that is designated by the Commission; or

"(ii) radioactive material or other property owned or possessed by a licensee or certificate holder of the Commission, or that is being transported to or from a facility owned or operated by such a licensee or certificate holder, and that has been determined by the Commission to be of significance to the common defense and security or public health and safety; and

"(D) are discharging the official duties of the security personnel in transferring, receiving, possessing, transporting, or importing the weapons, ammunition, or devices.

"c. BACKGROUND CHECKS.—A person that receives, possesses, transports, imports, or uses a weapon, ammunition, or a device under subsection (b) shall be subject to a background check by the Attorney General, based on fingerprints and including a background check under section 103(b) of the Brady Handgun Violence Prevention Act (Public Law 103–159; 18 U.S.C. 922 note) to determine whether the person is prohibited from possessing or receiving a firearm under Federal or State law.

"d. EFFECTIVE DATE.—This section takes effect on the date on which guidelines are issued by the Commission, with the approval of the Attorney General, to carry out this section."

SEC. 654. UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

Section 229 of the Atomic Energy Act of 1954 (42 U.S.C. 2278a) is amended—

(1) by striking "SEC. 229, TRESPASS UPON COMMISSION INSTALLATIONS.—" and inserting the following:

"SEC. 229. TRESPASS ON COMMISSION INSTALLATIONS.";

(2) by adjusting the indentations of subsections a., b., and c. so as to reflect proper subsection indentations; and

(3) in subsection a.—

(A) in the first sentence, by striking "a. The" and inserting the following:

"a.(1) The";

(B) in the second sentence, by striking "Every" and inserting the following:

"(2) Every"; and

(C) in paragraph (1) (as designated by subparagraph (A))—

(i) by striking "or in the custody" and inserting "in the custody"; and

(ii) by inserting ", or subject to the licensing authority of the Commission or certification by the Commission under this Act or any other Act" before the period.

SEC. 655. SABOTAGE OF NUCLEAR FACILITIES, FUEL, OR DESIGNATED MATERIAL.

(a) IN GENERAL.—Section 236a. of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)) is amended—

(1) in paragraph (2), by striking "storage facility" and inserting "treatment, storage, or disposal facility";

(2) in paragraph (3)—

(A) by striking "such a utilization facility" and inserting "a utilization facility licensed under this Act"; and

(B) by striking "or" at the end;

(3) in paragraph (4)—

(A) by striking "facility licensed" and inserting ", uranium conversion, or nuclear fuel fabrication facility licensed or certified"; and

(B) by striking the comma at the end and inserting a semicolon; and

(4) by inserting after paragraph (4) the following:

"(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, uranium conversion, or nuclear fuel fabrication facility subject to licensing or certification under this Act during construction of the facility, if the destruction or damage caused or attempted to be caused could adversely affect public health and safety during the operation of the facility;

"(6) any primary facility or backup facility from which a radiological emergency preparedness alert and warning system is activated; or

"(7) any radioactive material or other property subject to regulation by the Commission that, before the date of the offense, the Commission determines, by order or regulation published in the Federal Register, is of significance to the public health and safety or to common defense and security;".

(b) CONFORMING AMENDMENT.—Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended by striking "intentionally and willfully" each place it appears and inserting "knowingly".

SEC. 656. SECURE TRANSFER OF NUCLEAR MATERIALS.

(a) AMENDMENT.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201–2210b) (as amended by section 651(d)(1)) is amended by adding at the end the following new section:

"SEC. 170I. SECURE TRANSFER OF NUCLEAR MATERIALS.

"a. The Commission shall establish a system to ensure that materials described in subsection b., when transferred or received in the United States by any party pursuant to an import or export license issued pursuant to this Act, are accompanied by a manifest describing the type and amount of materials being transferred or received. Each individual receiving or accompanying the transfer of such materials shall be subject to a security background check conducted by appropriate Federal entities.

"b. Except as otherwise provided by the Commission by regulation, the materials referred to in subsection a. are byproduct materials, source materials, special nuclear materials, high-level radioactive waste, spent nuclear fuel, transuranic waste, and low-level radioactive waste (as defined in section 2(16) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(16)))."

(b) REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, and from time to time thereafter as it considers necessary, the Nuclear Regulatory Commission shall issue regulations identifying radioactive materials or classes of individuals that, consistent with the protection of public health and safety and the common defense and security, are appropriate exceptions to the requirements of section 170D of the Atomic Energy Act of 1954, as added by subsection (a) of this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect upon the issuance of regulations under subsection (b), except that the background check requirement shall become effective on a date established by the Commission.

(d) EFFECT ON OTHER LAW.—Nothing in this section or the amendment made by this section shall waive, modify, or affect the application of chapter 51 of title 49, United States Code, part A of subtitle V of title 49, United States Code, part B of subtitle VI of title 49, United States Code, and title 23, United States Code.

(e) CONFORMING AMENDMENT.—The table of sections of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) (as amended by subsection (a)) is amended by adding at the end of the items relating to chapter 14 the following:

"Sec. 1701. Secure transfer of nuclear materials.".

SEC. 657. DEPARTMENT OF HOMELAND SECURITY CONSULTATION.

Before issuing a license for a utilization facility, the Nuclear Regulatory Commission shall consult with the Department of Homeland Security concerning the potential vulnerabilities of the location of the proposed facility to terrorist attack.

TITLE VII—VEHICLES AND FUELS

Subtitle A—Existing Programs

SEC. 701. USE OF ALTERNATIVE FUELS BY DUAL FUELED VEHICLES.

Section 400AA(a)(3)(E) of the Energy Policy and Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended to read as follows:

"(E)(i) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that an agency qualifies for a waiver of such requirement for vehicles operated by the agency in a particular geographic area in which—

"(I) the alternative fuel otherwise required to be used in the vehicle is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency; or

"(II) the cost of the alternative fuel otherwise required to be used in the vehicle is unreasonably more expensive compared to gasoline, as certified to the Secretary by the head of the agency.

"(III) The Secretary shall monitor compliance with this subparagraph by all such fleets and shall report annually to Congress on the extent to which the requirements of this subparagraph are being achieved. The report shall include information on annual reductions achieved from the use of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels.".

SEC. 702. INCREMENTAL COST ALLOCATION.

Section 303(c) of the Energy Policy Act of 1992 (42 U.S.C. 13212(c)) is amended by striking "may" and inserting "shall".

SEC. 703. ALTERNATIVE COMPLIANCE AND FLEXIBILITY.

(a) ALTERNATIVE COMPLIANCE.—Title V of the Energy Policy Act of 1992 (42 U.S.C. 13251 et seq.) is amended—

(1) by redesignating section 514 (42 U.S.C. 13264) as section 515; and

(2) by inserting after section 513 (42 U.S.C. 13263) the following:

"SEC. 514. ALTERNATIVE COMPLIANCE.

"(a) APPLICATION FOR WAIVER.—Any covered person subject to section 501 and any State subject to section 507(o) may petition the Secretary for a waiver of the applicable requirements of section 501 or 507(o).

"(b) GRANT OF WAIVER.—The Secretary shall grant a waiver of the requirements of section 501 or 507(o) on a showing that the fleet owned, operated, leased, or otherwise controlled by the State or covered person—

"(1) will achieve a reduction in the annual consumption of petroleum fuels by the fleet equal to—

"(A) the reduction in consumption of petroleum that would result from 100 percent cumulative compliance with the fuel use requirements of section 501; or

"(B) in the case of an entity covered under section 507(o), a reduction equal to the annual consumption by the State entity of alternative fuels if all of the cumulative alternative fuel vehicles of the State entity given credit under section 508 were to use alternative fuel 100 percent of the time; and

"(2) is in compliance with all applicable vehicle emission standards established by the Administrator of the Environmental Protection Agency under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(c) REPORTING REQUIREMENT.—Not later than December 31 of a model year, any State or covered person granted a waiver under this section for the preceding model year shall submit to the Secretary an annual report that—

"(1) certifies the quantity of the petroleum motor fuel reduction of the State or covered person during the preceding model year; and

"(2) projects the baseline quantity of the petroleum motor fuel reduction of the State or covered person during the following model year.

"(d) REVOCATION OF WAIVER.—If a State or covered person that receives a waiver under this section fails to comply with this section, the Secretary—

"(1) shall revoke the waiver; and

"(2) may impose on the State or covered person a penalty under section 512.".

(b) CONFORMING AMENDMENT.—Section 511 of the Energy Policy Act of 1992 (42 U.S.C. 13261) is amended by striking "or 507" and inserting "507, or 514".

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 (42 U.S.C. prec. 13201) is amended by striking the item relating to section 514 and inserting the following:

"Sec. 514. Alternative compliance.
"Sec. 515. Authorization of appropriations.".

SEC. 704. REVIEW OF ENERGY POLICY ACT OF 1992 PROGRAMS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall complete a study to determine the effect that titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.) have had on—

(1) the development of alternative fueled vehicle technology;

(2) the availability of that technology in the market; and

(3) the cost of alternative fueled vehicles.

(b) TOPICS.—As part of the study under subsection (a), the Secretary shall specifically identify—

(1) the number of alternative fueled vehicles acquired by fleets or covered persons required to acquire alternative fueled vehicles;

(2) the quantity, by type, of alternative fuel actually used in alternative fueled vehicles acquired by fleets or covered persons;

(3) the quantity of petroleum displaced by the use of alternative fuels in alternative fueled vehicles acquired by fleets or covered persons;

(4) the direct and indirect costs of compliance with requirements under titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.), including—

(A) vehicle acquisition requirements imposed on fleets or covered persons;

(B) administrative and recordkeeping expenses;

(C) fuel and fuel infrastructure costs;

(D) associated training and employee expenses; and

(E) any other factors or expenses the Secretary determines to be necessary to compile reliable estimates of the overall costs and benefits of complying with programs under those titles for fleets, covered persons, and the national economy;

(5) the existence of obstacles preventing compliance with vehicle acquisition requirements and increased use of alternative fuel in alternative fueled vehicles acquired by fleets or covered persons; and

(6) the projected impact of amendments to the Energy Policy Act of 1992 made by this title.

(c) Report.—Upon completion of the study under this section, the Secretary shall submit to Congress a report that describes the results of the study and includes any recommendations of the Secretary for legislative or administrative changes concerning the alternative fueled vehicle requirements under titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.).

SEC. 705. REPORT CONCERNING COMPLIANCE WITH ALTERNATIVE FUELED VEHICLE PURCHASING REQUIREMENTS.

Section 310(b)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13218(b)(1)) is amended by striking "1 year after the date of enactment of this subsection" and inserting "February 15, 2006".

SEC. 706. JOINT FLEXIBLE FUEL/HYBRID VEHICLE COMMERCIALIZATION INITIATIVE.

(a) Definitions.—In this section:

(1) Eligible entity.—The term eligible entity means—

(A) a for-profit corporation;

(B) a nonprofit corporation; or

(C) an institution of higher education.

(2) Program.—The term "program" means a program established under subsection (b).

(b) Establishment.—The Secretary shall establish a program to improve technologies for the commercialization of—

(1) a combination hybrid/flexible fuel vehicle; or

(2) a plug-in hybrid/flexible fuel vehicle.

(c) Grants.—In carrying out the program, the Secretary shall provide grants that give preference to proposals that—

(1) achieve the greatest reduction in miles per gallon of petroleum fuel consumption;

(2) achieve not less than 250 miles per gallon of petroleum fuel consumption; and

(3) have the greatest potential of commercialization to the general public within 5 years.

(d) Verification.—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register procedures to verify—

(1) the hybrid/flexible fuel vehicle technologies to be demonstrated; and

(2) that grants are administered in accordance with this section.

(e) Report.—Not later than 260 days after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report that—

(1) identifies the grant recipients;

(2) describes the technologies to be funded under the program;

(3) assesses the feasibility of the technologies described in paragraph (2) in meeting the goals described in subsection (c);

(4) identifies applications submitted for the program that were not funded; and

(5) makes recommendations for Federal legislation to achieve commercialization of the technology demonstrated.

(f) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, to remain available until expended—

(1) $3,000,000 for fiscal year 2006;

(2) $7,000,000 for fiscal year 2007;

(3) $10,000,000 for fiscal year 2008; and

(4) $20,000,000 for fiscal year 2009.

SEC. 707. EMERGENCY EXEMPTION.

Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended in paragraph (9)(E) by inserting before the semicolon at the end ", including vehicles directly used in the emergency repair of transmission lines and in the restoration of electricity service following power outages, as determined by the Secretary".

Subtitle B—Hybrid Vehicles, Advanced Vehicles, and Fuel Cell Buses

PART 1—HYBRID VEHICLES

SEC. 711. HYBRID VEHICLES.

The Secretary shall accelerate efforts directed toward the improvement of batteries and other rechargeable energy storage systems, power electronics, hybrid systems integration, and other technologies for use in hybrid vehicles.

SEC. 712. EFFICIENT HYBRID AND ADVANCED DIESEL VEHICLES.

(a) Program.—The Secretary shall establish a program to encourage domestic production and sales of efficient hybrid and advanced diesel vehicles. The program shall include grants to automobile manufacturers to encourage domestic production of efficient hybrid and advanced diesel vehicles.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for each of the fiscal years 2006 through 2015.

PART 2—ADVANCED VEHICLES

SEC. 721. PILOT PROGRAM.

(a) Establishment.—The Secretary, in consultation with the Secretary of Transportation, shall establish a competitive grant pilot program (referred to in this part as the "pilot program"), to be administered through the Clean Cities Program of the Department, to provide not more than 30 geographically dispersed project grants to State governments, local governments, or metropolitan transportation authorities to carry out a project or projects for the purposes described in subsection (b).

(b) Grant Purposes.—A grant under this section may be used for the following purposes:

(1) The acquisition of alternative fueled vehicles or fuel cell vehicles, including—

(A) passenger vehicles (including neighborhood electric vehicles); and

(B) motorized 2-wheel bicycles or other vehicles for use by law enforcement personnel or other State or local government or metropolitan transportation authority employees.

(2) The acquisition of alternative fueled vehicles, hybrid vehicles, or fuel cell vehicles, including—

(A) buses used for public transportation or transportation to and from schools;

(B) delivery vehicles for goods or services; and

(C) ground support vehicles at public airports (including vehicles to carry baggage or push or pull airplanes toward or away from terminal gates).

(3) The acquisition of ultra-low sulfur diesel vehicles.

(4) Installation or acquisition of infrastructure necessary to directly support an alternative fueled vehicle, fuel cell vehicle, or hybrid vehicle project funded by the grant, including fueling and other support equipment.

(5) Operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(c) Applications.—

(1) Requirements.—

(A) In general.—The Secretary shall issue requirements for applying for grants under the pilot program.

(B) Minimum requirements.—At a minimum, the Secretary shall require that an application for a grant—

(i) be submitted by the head of a State or local government or a metropolitan transportation authority, or any combination thereof, and a registered participant in the Clean Cities Program of the Department; and

(ii) include—

(I) a description of the project proposed in the application, including how the project meets the requirements of this part;

(II) an estimate of the ridership or degree of use of the project;

(III) an estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the project, and a plan to collect and disseminate environmental data, related to the project to be funded under the grant, over the life of the project;

(IV) a description of how the project will be sustainable without Federal assistance after the completion of the term of the grant;

(V) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(VI) a description of which costs of the project will be supported by Federal assistance under this part; and

(VII) documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the project, and a commitment by the applicant to use such fuel in carrying out the project.

(2) Partners.—An applicant under paragraph (1) may carry out a project under the pilot program in partnership with public and private entities.

(d) Selection Criteria.—In evaluating applications under the pilot program, the Secretary shall—

(1) consider each applicant's previous experience with similar projects; and

(2) give priority consideration to applications that—

(A) are most likely to maximize protection of the environment;

(B) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this part is completed; and

(C) exceed the minimum requirements of subsection (c)(1)(B)(ii).

(e) Pilot Project Requirements.—

(1) Maximum amount.—The Secretary shall not provide more than $15,000,000 in Federal assistance under the pilot program to any applicant.

(2) Cost sharing.—The Secretary shall not provide more than 50 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

(3) Maximum period of grants.—The Secretary shall not fund any applicant under the pilot program for more than 5 years.

(4) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to ensure a broad geographic distribution of project sites.

(5) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(f) SCHEDULE.—

(1) PUBLICATION.—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and elsewhere as appropriate, a request for applications to undertake projects under the pilot program. Applications shall be due not later than 180 days after the date of publication of the notice.

(2) SELECTION.—Not later than 180 days after the date by which applications for grants are due, the Secretary shall select by competitive, peer reviewed proposal, all applications for projects to be awarded a grant under the pilot program.

(g) DEFINITIONS.—For purposes of carrying out the pilot program, the Secretary shall issue regulations defining any term, as the Secretary determines to be necessary.

SEC. 722. REPORTS TO CONGRESS.

(a) INITIAL REPORT.—Not later than 60 days after the date on which grants are awarded under this part, the Secretary shall submit to Congress a report containing—

(1) an identification of the grant recipients and a description of the projects to be funded;

(2) an identification of other applicants that submitted applications for the pilot program; and

(3) a description of the mechanisms used by the Secretary to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(b) EVALUATION.—Not later than 3 years after the date of enactment of this Act, and annually thereafter until the pilot program ends, the Secretary shall submit to Congress a report containing an evaluation of the effectiveness of the pilot program, including—

(1) an assessment of the benefits to the environment derived from the projects included in the pilot program; and

(2) an estimate of the potential benefits to the environment to be derived from widespread application of alternative fueled vehicles and ultra-low sulfur diesel vehicles.

SEC. 723. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this part $200,000,000, to remain available until expended.

PART 3—FUEL CELL BUSES

SEC. 731. FUEL CELL TRANSIT BUS DEMONSTRATION.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, shall establish a transit bus demonstration program to make competitive, merit-based awards for 5-year projects to demonstrate not more than 25 fuel cell transit buses (and necessary infrastructure) in 5 geographically dispersed localities.

(b) PREFERENCE.—In selecting projects under this section, the Secretary shall give preference to projects that are most likely to mitigate congestion and improve air quality.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2006 through 2010.

Subtitle C—Clean School Buses

SEC. 741. CLEAN SCHOOL BUS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ALTERNATIVE FUEL.—The term "alternative fuel" means—

(A) liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, or propane;

(B) methanol or ethanol at no less than 85 percent by volume; or

(C) biodiesel conforming with standards published by the American Society for Testing and Materials as of the date of enactment of this Act.

(3) CLEAN SCHOOL BUS.—The term "clean school bus" means a school bus with a gross vehicle weight of greater than 14,000 pounds that—

(A) is powered by a heavy duty engine; and

(B) is operated solely on an alternative fuel or ultra-low sulfur diesel fuel.

(4) ELIGIBLE RECIPIENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the term "eligible recipient" means—

(i) 1 or more local or State governmental entities responsible for—

(I) providing school bus service to 1 or more public school systems; or

(II) the purchase of school buses;

(ii) 1 or more contracting entities that provide school bus service to 1 or more public school systems; or

(iii) a nonprofit school transportation association.

(B) SPECIAL REQUIREMENTS.—In the case of eligible recipients identified under clauses (ii) and (iii), the Administrator shall establish timely and appropriate requirements for notice and may establish timely and appropriate requirements for approval by the public school systems that would be served by buses purchased or retrofit using grant funds made available under this section.

(5) RETROFIT TECHNOLOGY.—The term "retrofit technology" means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

(6) ULTRA LOW SULFUR DIESEL FUEL.—The term "ultra-low sulfur diesel fuel" means diesel fuel that contains sulfur at not more than 15 parts per million.

(b) PROGRAM FOR RETROFIT OR REPLACEMENT OF CERTAIN EXISTING SCHOOL BUSES WITH CLEAN SCHOOL BUSES.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible recipients for the replacement, or retrofit (including repowering, aftertreatment, and remanufactured engines) of, certain existing school buses.

(B) BALANCING.—In awarding grants under this section, the Administrator shall, to the maximum extent practicable, achieve an appropriate balance between awarding grants—

(i) to replace school buses; and

(ii) to install retrofit technologies.

(2) PRIORITY OF GRANT APPLICATIONS.—

(A) REPLACEMENT.—In the case of grant applications to replace school buses, the Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(B) RETROFITTING.—In the case of grant applications to retrofit school buses, the Administrator shall give priority to applicants that propose to retrofit school buses manufactured in or after model year 1991.

(3) USE OF SCHOOL BUS FLEET.—

(A) IN GENERAL.—All school buses acquired or retrofitted with funds provided under this section shall be operated as part of the school bus fleet for which the grant was made for not less than 5 years.

(B) MAINTENANCE, OPERATION, AND FUELING.—New school buses and retrofit technology shall be maintained, operated, and fueled according to manufacturer recommendations or State requirements.

(4) RETROFIT GRANTS.—The Administrator may award grants for up to 100 percent of the retrofit technologies and installation costs.

(5) REPLACEMENT GRANTS.—

(A) ELIGIBILITY FOR 50 PERCENT GRANTS.—The Administrator may award grants for replacement of school buses in the amount of up to ½ of the acquisition costs (including fueling infrastructure) for—

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 1.8 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007, 2008, or 2009 that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter to be applicable for school buses manufactured in model year 2010.

(B) ELIGIBILITY FOR 25 PERCENT GRANTS.—The Administrator may award grants for replacement of school buses in the amount of up to ¼ of the acquisition costs (including fueling infrastructure) for—

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 2.5 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007 or thereafter that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter from school buses manufactured in that model year.

(6) ULTRA LOW SULFUR DIESEL FUEL.—

(A) IN GENERAL.—In the case of a grant recipient receiving a grant for the acquisition of ultra-low sulfur diesel fuel school buses with engines manufactured in model year 2005 or 2006, the grant recipient shall provide, to the satisfaction of the Administrator—

(i) documentation that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant; and

(ii) a commitment by the applicant to use that fuel in carrying out the purposes of the grant.

(7) DEPLOYMENT AND DISTRIBUTION.—The Administrator shall, to the maximum extent practicable—

(A) achieve nationwide deployment of clean school buses through the program under this section; and

(B) ensure a broad geographic distribution of grant awards, with no State receiving more than 10 percent of the grant funding made available under this section during a fiscal year.

(8) ANNUAL REPORT.—

(A) IN GENERAL.—Not later than January 31 of each year, the Administrator shall submit to Congress a report that—

(i) evaluates the implementation of this section; and

(ii) describes—

(I) the total number of grant applications received;

(II) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(III) grants awarded and the criteria used to select the grant recipients;

(IV) certified engine emission levels of all buses purchased or retrofitted under this section;

(V) an evaluation of the in-use emission level of buses purchased or retrofitted under this section; and

(VI) any other information the Administrator considers appropriate.

(c) EDUCATION.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall develop an education outreach program to promote and explain the grant program.

(2) COORDINATION WITH STAKEHOLDERS.—The outreach program shall be designed and conducted in conjunction with national school bus transportation associations and other stakeholders.

(3) COMPONENTS.—The outreach program shall—

(A) inform potential grant recipients on the process of applying for grants;

(B) describe the available technologies and the benefits of the technologies;

(C) explain the benefits of participating in the grant program; and

(D) include, as appropriate, information from the annual report required under subsection (b)(8).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $55,000,000 for each of fiscal years 2006 and 2007; and

(2) such sums as are necessary for each of fiscal years 2008, 2009, and 2010.

SEC. 742. DIESEL TRUCK RETROFIT AND FLEET MODERNIZATION PROGRAM.

(a) ESTABLISHMENT.—The Administrator, in consultation with the Secretary, shall establish a program for awarding grants on a competitive basis to public agencies and entities for fleet modernization programs including installation of retrofit technologies for diesel trucks.

(b) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only to a State or local government or an agency or instrumentality of a State or local government or of two or more State or local governments who will allocate funds, with preference to ports and other major hauling operations.

(c) AWARDS.—

(1) IN GENERAL.—The Administrator shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of grants under this section.

(2) PREFERENCES.—In making awards of grants under this section, the Administrator shall give preference to proposals that—

(A) will achieve the greatest reductions in emissions of nonmethane hydrocarbons, oxides of nitrogen, and/or particulate matter per proposal or per truck; or

(B) involve the use of Environmental Protection Agency or California Air Resources Board verified emissions control retrofit technology on diesel trucks that operate solely on ultra-low sulfur diesel fuel after September 2006.

(d) CONDITIONS OF GRANT.—A grant shall be provided under this section on the conditions that—

(1) trucks which are replacing scrapped trucks and on which retrofit emissions-control technology are to be demonstrated—

(A) will operate on ultra-low sulfur diesel fuel where such fuel is reasonably available or required for sale by State or local law or regulation;

(B) were manufactured in model year 1998 and before; and

(C) will be used for the transportation of cargo goods especially in port areas or used in goods movement and major hauling operations;

(2) grant funds will be used for the purchase of emission control retrofit technology, including State taxes and contract fees; and

(3) grant recipients will provide at least 50 percent of the total cost of the retrofit, including the purchase of emission control retrofit technology and all necessary labor for installation of the retrofit, from any source other than this section.

(e) VERIFICATION.—Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register procedures to—

(1) make grants pursuant to this section;

(2) verify that trucks powered by ultra-low sulfur diesel fuel on which retrofit emissions-control technology are to be demonstrated will operate on diesel fuel containing not more than 15 parts per million of sulfur after September 2006; and

(3) verify that grants are administered in accordance with this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended the following sums:

(1) $20,000,000 for fiscal year 2006.

(2) $35,000,000 for fiscal year 2007.

(3) $45,000,000 for fiscal year 2008.

(4) Such sums as are necessary for each of fiscal years 2009 and 2010.

SEC. 743. FUEL CELL SCHOOL BUSES.

(a) ESTABLISHMENT.—The Secretary shall establish a program for entering into cooperative agreements—

(1) with private sector fuel cell bus developers for the development of fuel cell-powered school buses; and

(2) subsequently, with not less than 2 units of local government using natural gas-powered school buses and such private sector fuel cell bus developers to demonstrate the use of fuel cell-powered school buses.

(b) COST SHARING.—The non-Federal contribution for activities funded under this section shall be not less than—

(1) 20 percent for fuel infrastructure development activities; and

(2) 50 percent for demonstration activities and for development activities not described in paragraph (1).

(c) REPORTS TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report that—

(1) evaluates the process of converting natural gas infrastructure to accommodate fuel cell-powered school buses; and

(2) assesses the results of the development and demonstration program under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $25,000,000 for the period of fiscal years 2006 through 2009.

Subtitle D—Miscellaneous

SEC. 751. RAILROAD EFFICIENCY.

(a) ESTABLISHMENT.—The Secretary shall (in cooperation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency) establish a cost-shared, public-private research partnership involving the Federal Government, railroad carriers, locomotive manufacturers and equipment suppliers, and the Association of American Railroads, to develop and demonstrate railroad locomotive technologies that increase fuel economy, reduce emissions, and lower costs of operation.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $15,000,000 for fiscal year 2006;

(2) $20,000,000 for fiscal year 2007; and

(3) $30,000,000 for fiscal year 2008.

SEC. 752. MOBILE EMISSION REDUCTIONS TRADING AND CREDITING.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to Congress a report on the experience of the Administrator with the trading of mobile source emission reduction credits for use by owners and operators of stationary source emission sources to meet emission offset requirements within a nonattainment area.

(b) CONTENTS.—The report shall describe—

(1) projects approved by the Administrator that include the trading of mobile source emission reduction credits for use by stationary sources in complying with offset requirements, including a description of—

(A) project and stationary sources location;

(B) volumes of emissions offset and traded;

(C) the sources of mobile emission reduction credits; and

(D) if available, the cost of the credits;

(2) the significant issues identified by the Administrator in consideration and approval of trading in the projects;

(3) the requirements for monitoring and assessing the air quality benefits of any approved project;

(4) the statutory authority on which the Administrator has based approval of the projects;

(5) an evaluation of how the resolution of issues in approved projects could be used in other projects and whether the emission reduction credits may be considered to be additional in relation to other requirements;

(6) the potential, for attainment purposes, of emission reduction credits relating to transit and land use policies; and

(7) any other issues that the Administrator considers relevant to the trading and generation of mobile source emission reduction credits for use by stationary sources or for other purposes.

SEC. 753. AVIATION FUEL CONSERVATION AND EMISSIONS.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly initiate a study to identify—

(1) the impact of aircraft emissions on air quality in nonattainment areas;

(2) ways to promote fuel conservation measures for aviation to enhance fuel efficiency and reduce emissions; and

(3) opportunities to reduce air traffic inefficiencies that increase fuel burn and emissions.

(b) FOCUS.—The study under subsection (a) shall focus on how air traffic management inefficiencies, such as aircraft idling at airports, result in unnecessary fuel burn and air emissions.

(c) REPORT.—Not later than 1 year after the date of the initiation of the study under subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly submit to the Committee on Energy and Commerce and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(1) describes the results of the study; and

(2) includes any recommendations on ways in which unnecessary fuel use and emissions affecting air quality may be reduced—

(A) without adversely affecting safety and security and increasing individual aircraft noise; and

(B) while taking into account all aircraft emissions and the impact of those emissions on the human health.

(d) RISK ASSESSMENTS.—Any assessment of risk to human health and the environment prepared by the Administrator of the Federal Aviation Administration or the Administrator of the Environmental Protection Agency to support the report in this section shall be based on sound and objective scientific practices, shall consider the best available science, and shall present the weight of the scientific evidence concerning such risks.

SEC. 754. DIESEL FUELED VEHICLES.

(a) DEFINITION OF TIER 2 EMISSION STANDARDS.—In this section, the term "tier 2 emission standards" means the motor vehicle emission standards that apply to passenger cars, light trucks, and larger passenger vehicles manufactured after the 2003 model year, as issued on February 10, 2000, by the Administrator of the Environmental Protection Agency under sections 202 and 211 of the Clean Air Act (42 U.S.C. 7521, 7545).

(b) DIESEL COMBUSTION AND AFTER-TREATMENT TECHNOLOGIES.—The Secretary shall accelerate efforts to improve diesel combustion and after-treatment technologies for use in diesel fueled motor vehicles.

(c) GOALS.—The Secretary shall carry out subsection (b) with a view toward achieving the following goals:

(1) Developing and demonstrating diesel technologies that, not later than 2010, meet the following standards:

(A) Tier 2 emission standards.

(B) The heavy-duty emissions standards of 2007 that are applicable to heavy-duty vehicles under regulations issued by the Administrator of the Environmental Protection Agency as of the date of enactment of this Act.

(2) Developing the next generation of low-emission, high efficiency diesel engine technologies, including homogeneous charge compression ignition technology.

SEC. 755. CONSERVE BY BICYCLING PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term "program" means the Conserve by Bicycling Program established by subsection (b).

(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(b) ESTABLISHMENT.—There is established within the Department of Transportation a program to be known as the "Conserve by Bicycling Program".

(c) PROJECTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) REQUIREMENTS.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) COST SHARING.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from non-Federal sources.

(d) ENERGY AND BICYCLING RESEARCH STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) COMPONENTS.—The study shall—

(A) document the results or progress of the pilot projects under subsection (c);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $750,000 shall be used to carry out subsection (d).

SEC. 756. REDUCTION OF ENGINE IDLING.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term "advanced truck stop electrification system" means a stationary system that delivers heat, air conditioning, electricity, or communications, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle with or without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(3) AUXILIARY POWER UNIT.—The term "auxiliary power unit" means an integrated system that—

(A) provides heat, air conditioning, engine warming, or electricity to components on a heavy-duty vehicle; and

(B) is certified by the Administrator under part 89 of title 40, Code of Federal Regulations (or any successor regulation), as meeting applicable emission standards.

(4) HEAVY-DUTY VEHICLE.—The term "heavy-duty vehicle" means a vehicle that—

(A) has a gross vehicle weight rating greater than 8,500 pounds; and

(B) is powered by a diesel engine.

(5) IDLE REDUCTION TECHNOLOGY.—The term "idle reduction technology" means an advanced truck stop electrification system, auxiliary power unit, or other technology that—

(A) is used to reduce long-duration idling, and

(B) allows for the main drive engine or auxiliary refrigeration engine to be shut down.

(6) ENERGY CONSERVATION TECHNOLOGY.—the term "energy conservation technology" means any device, system of devices, or equipment that improves the fuel economy.

(7) LONG-DURATION IDLING.—

(A) IN GENERAL.—The term "long-duration idling" means the operation of a main drive engine or auxiliary refrigeration engine, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(B) EXCLUSIONS.—The term "long-duration idling" does not include the operation of a main drive engine or auxiliary refrigeration engine during a routine stoppage associated with traffic movement or congestion.

(b) IDLE REDUCTION TECHNOLOGY BENEFITS, PROGRAMS, AND STUDIES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(A)(i) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7401 et seq.) to determine whether the models accurately reflect the emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles and engines; and

(ii) update those models as the Administrator determines to be appropriate; and

(B)(i) commence a review of the emission reductions achieved by the use of idle reduction technology; and

(ii) complete such revisions of the regulations and guidance of the Environmental Protection Agency as the Administrator determines to be appropriate.

(2) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(A) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and

(B) prepare and make publicly available 1 or more reports on the results of the reviews.

(3) DISCRETIONARY INCLUSIONS.—The reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

(4) IDLE REDUCTION AND ENERGY CONSERVATION DEPLOYMENT PROGRAM.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation shall, through the Environmental Protection Agency's SmartWay Transport Partnership, establish a program to support deployment of idle reduction and energy conservation technologies.

(ii) PRIORITY.—The Administrator shall give priority to the deployment of idle reduction and energy conservation technologies based on the costs and beneficial effects on air quality and ability to lessen the emission of criteria air pollutants.

(B) FUNDING.—

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out subparagraph (A) for the purpose of reducing extended idling from heavy-duty vehicles $19,500,000 for fiscal year 2006, $30,000,000 for fiscal year 2007, and $45,000,000 for fiscal year 2008.

(ii) LOCOMOTIVES.—There are authorized to be appropriated to the administrator to carry out subparagraph (A) for the purpose of reducing extended idling from locomotives $10,000,000 for fiscal year 2006, $15,000,000 for fiscal year 2007, and $20,000,000 for fiscal year 2008.

(iii) COST SHARING.—Subject to clause (iv), the Administrator shall require at least 50 percent of the costs directly and specifically related to any project under this section to be provided from non-Federal sources.

(iv) NECESSARY AND APPROPRIATE REDUCTIONS.—The Administrator may reduce the non-Federal requirement under clause (iii) if the Administrator determines that the reduction is necessary and appropriate to meet the objectives of this section.

(5) IDLING LOCATION STUDY.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall commence a study to analyze all locations at which heavy-duty vehicles stop for long-duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(B) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(i) complete the study under subparagraph (A); and

(ii) prepare and make publicly available 1 or more reports of the results of the study.

(c) VEHICLE WEIGHT EXEMPTION.—Section 127(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(2) by adding at the end the following:

"(12) HEAVY DUTY VEHICLES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions because of engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

"(B) MAXIMUM WEIGHT INCREASE.—The weight increase under subparagraph (A) shall be not greater than 400 pounds.

"(C) PROOF.—On request by a regulatory agency or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

"(i) the idle reduction technology is fully functional at all times; and

"(ii) the 400-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A).".

(d) REPORT.—Not later than 60 days after the date on which funds are initially awarded under this section, and on an annual basis thereafter, the Administrator shall submit to Congress a report containing—

(1) an identification of the grant recipients, a description of the projects to be funded and the amount of funding provided; and

(2) an identification of all other applicants that submitted applications under the program.

SEC. 757. BIODIESEL ENGINE TESTING PROGRAM.

(a) IN GENERAL.—Not later that 180 days after the date of enactment of this Act, the Secretary shall initiate a partnership with diesel engine, diesel fuel injection system, and diesel vehicle manufacturers and diesel and biodiesel fuel providers, to include biodiesel testing in advanced diesel engine and fuel system technology.

(b) SCOPE.—The program shall provide for testing to determine the impact of biodiesel from different sources on current and future emission control technologies, with emphasis on—

(1) the impact of biodiesel on emissions warranty, in-use liability, and antitampering provisions;

(2) the impact of long-term use of biodiesel on engine operations;

(3) the options for optimizing these technologies for both emissions and performance when switching between biodiesel and diesel fuel; and

(4) the impact of using biodiesel in these fueling systems and engines when used as a blend with 2006 Environmental Protection Agency-mandated diesel fuel containing a maximum of 15-parts-per-million sulfur content.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall provide an interim report to Congress on the findings of the program, including a comprehensive analysis of impacts from biodiesel on engine operation for both existing and expected future diesel technologies, and recommendations for ensuring optimal emissions reductions and engine performance with biodiesel.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2006 through 2010 to carry out this section.

(e) DEFINITION.—For purposes of this section, the term "biodiesel" means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545) and that meets the American Society for Testing and Materials D6751–02a Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

SEC. 758. ULTRA-EFFICIENT ENGINE TECHNOLOGY FOR AIRCRAFT.

(a) ULTRA-EFFICIENT ENGINE TECHNOLOGY PARTNERSHIP.—The Secretary shall enter into a cooperative agreement with the National Aeronautics and Space Administration for the development of ultra-efficient engine technology for aircraft.

(b) PERFORMANCE OBJECTIVE.—The Secretary shall establish the following performance objectives for the program set forth in subsection (a):

(1) A fuel efficiency increase of at least 10 percent.

(2) A reduction in the impact of landing and takeoff nitrogen oxides emissions on local air quality of 70 percent.

(3) Exploring advanced concepts, alternate propulsion, and power configurations, including hybrid fuel cell powered systems.

(4) Exploring the use of alternate fuel in conventional or nonconventional turbine-based systems.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $50,000,000 for each of the fiscal years 2006, 2007, 2008, 2009, and 2010.

SEC. 759. FUEL ECONOMY INCENTIVE REQUIREMENTS.

Section 32905 of title 49, United States Code, is amended by adding the following new subsection at the end thereof:

"(h) FUEL ECONOMY INCENTIVE REQUIREMENTS.—In order for any model of dual fueled automobile to be eligible to receive the fuel economy incentives included in section 32906(a) and (b), a label shall be attached to the fuel compartment of each dual fueled automobile of that model, notifying that the vehicle can be operated on an alternative fuel and on gasoline or diesel, with the form of alternative fuel stated on the notice. This requirement applies to dual fueled automobiles manufactured on or after September 1, 2006.".

Subtitle E—Automobile Efficiency

SEC. 771. AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION AND ENFORCEMENT OF FUEL ECONOMY STANDARDS.

In addition to any other funds authorized by law, there are authorized to be appropriated to the National Highway Traffic Safety Administration to carry out its obligations with respect to average fuel economy standards $3,500,000 for each of the fiscal years 2006 through 2010.

SEC. 772. EXTENSION OF MAXIMUM FUEL ECONOMY INCREASE FOR ALTERNATIVE FUELED VEHICLES.

(a) MANUFACTURING INCENTIVES.—Section 32905 of title 49, United States Code, is amended—

(1) in each of subsections (b) and (d), by striking "1993–2004" and inserting "1993–2010";

(2) in subsection (f), by striking "2001" and inserting "2007"; and

(3) in subsection (f)(1), by striking "2004" and inserting "2010".

(b) MAXIMUM FUEL ECONOMY INCREASE.—Subsection (a)(1) of section 32906 of title 49, United States Code, is amended—

(1) in subparagraph (A), by striking "the model years 1993–2004" and inserting "model years 1993–2010"; and

(2) in subparagraph (B), by striking "the model years 2005–2008" and inserting "model years 2011–2014".

SEC. 773. STUDY OF FEASIBILITY AND EFFECTS OF REDUCING USE OF FUEL FOR AUTOMOBILES.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall initiate a study of the feasibility and effects of reducing by model year 2014, by a significant percentage, the amount of fuel consumed by automobiles.

(b) SUBJECTS OF STUDY.—The study under this section shall include—

(1) examination of, and recommendation of alternatives to, the policy under current Federal law of establishing average fuel economy standards for automobiles and requiring each automobile manufacturer to comply with average fuel economy standards that apply to the automobiles it manufactures;

(2) examination of how automobile manufacturers could contribute toward achieving the reduction referred to in subsection (a);

(3) examination of the potential of fuel cell technology in motor vehicles in order to determine the extent to which such technology may contribute to achieving the reduction referred to in subsection (a); and

(4) examination of the effects of the reduction referred to in subsection (a) on—

(A) gasoline supplies;

(B) the automobile industry, including sales of automobiles manufactured in the United States;

(C) motor vehicle safety; and

(D) air quality.

(c) REPORT.—The Administrator shall submit to Congress a report on the findings, conclusion, and recommendations of the study under this section by not later than 1 year after the date of the enactment of this Act.

SEC. 774. UPDATE TESTING PROCEDURES.

The Administrator of the Environmental Protection Agency shall update or revise the adjustment factors in sections 600.209–85 and 600.209–95, of the Code of Federal Regulations, CFR Part 600 (1995) Fuel Economy Regulations for 1977 and Later Model Year Automobiles to take into consideration higher speed limits, faster acceleration rates, variations in temperature, use of air conditioning, shorter city test cycle lengths, current reference fuels, and the use of other fuel depleting features.

Subtitle F—Federal and State Procurement

SEC. 781. DEFINITIONS.

In this subtitle:

(1) FUEL CELL.—The term "fuel cell" means a device that directly converts the chemical energy of a fuel and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.

(2) LIGHT-DUTY OR HEAVY-DUTY VEHICLE FLEET.—The term "light-duty or heavy-duty vehicle fleet" does not include any vehicle designed or procured for combat or combat-related missions.

(3) STATIONARY; PORTABLE.—The terms "stationary" and "portable", when used in reference to a fuel cell, include—

(A) continuous electric power; and

(B) backup electric power.

(4) TASK FORCE.—The term "Task Force" means the Hydrogen and Fuel Cell Technical Task Force established under section 806 of this Act.

(5) TECHNICAL ADVISORY COMMITTEE.—The term "Technical Advisory Committee" means the independent Technical Advisory Committee selected under section 807 of this Act.

SEC. 782. FEDERAL AND STATE PROCUREMENT OF FUEL CELL VEHICLES AND HYDROGEN ENERGY SYSTEMS.

(a) PURPOSES.—The purposes of this section are—

(1) to stimulate acceptance by the market of fuel cell vehicles and hydrogen energy systems;

(2) to support development of technologies relating to fuel cell vehicles, public refueling stations, and hydrogen energy systems; and

(3) to require the Federal government, which is the largest single user of energy in the United States, to adopt those technologies as soon as practicable after the technologies are developed, in conjunction with private industry partners.

(b) FEDERAL LEASES AND PURCHASES.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Not later than January 1, 2010, the head of any Federal agency that uses a light-duty or heavy-duty vehicle fleet shall lease or purchase fuel cell vehicles and hydrogen energy systems to meet any applicable energy savings goal described in subsection (c).

(B) LEARNING DEMONSTRATION VEHICLES.—The Secretary may lease or purchase appropriate vehicles developed under subsections (a)(10) and (b)(1)(A) of section 808 to meet the requirement in subparagraph (A).

(2) COSTS OF LEASES AND PURCHASES.—

(A) IN GENERAL.—The Secretary, in cooperation with the Task Force and the Technical Advisory Committee, shall pay to Federal agencies (or share the cost under interagency agreements) the difference in cost between—

(i) the cost to the agencies of leasing or purchasing fuel cell vehicles and hydrogen energy systems under paragraph (1); and

(ii) the cost to the agencies of a feasible alternative to leasing or purchasing fuel cell vehicles and hydrogen energy systems, as determined by the Secretary.

(B) COMPETITIVE COSTS AND MANAGEMENT STRUCTURES.—In carrying out subparagraph (A), the Secretary, in consultation with the agency, may use the General Services Administration or any commercial vendor to ensure—

(i) a cost-effective purchase of a fuel cell vehicle or hydrogen energy system; or

(ii) a cost-effective management structure of the lease of a fuel cell vehicle or hydrogen energy system.

(3) EXCEPTION.—

(A) IN GENERAL.—If the Secretary determines that the head of an agency described in paragraph (1) cannot find an appropriately efficient and reliable fuel cell vehicle or hydrogen energy system in accordance with paragraph (1), that agency shall be excepted from compliance with paragraph (1).

(B) CONSIDERATION.—In making a determination under subparagraph (A), the Secretary shall consider—

(i) the needs of the agency; and

(ii) an evaluation performed by—

(I) the Task Force; or

(II) the Technical Advisory Committee.

(c) ENERGY SAVINGS GOALS.—

(1) IN GENERAL.—

(A) REGULATIONS.—Not later than December 31, 2006, the Secretary shall—

(i) in cooperation with the Task Force, promulgate regulations for the period of 2008 through 2010 that extend and augment energy savings goals for each Federal agency, in accordance with any Executive order issued after March 2000; and

(ii) promulgate regulations to expand the minimum Federal fleet requirement and credit allowances for fuel cell vehicle systems under section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212).

(B) REVIEW, EVALUATION, AND NEW REGULATIONS.—Not later than December 31, 2010, the Secretary shall—

(i) review the regulations promulgated under subparagraph (A);

(ii) evaluate any progress made toward achieving energy savings by Federal agencies; and

(iii) promulgate new regulations for the period of 2011 through 2015 to achieve additional energy savings by Federal agencies relating to technical and cost-performance standards.

(2) OFFSETTING ENERGY SAVINGS GOALS.—An agency that leases or purchases a fuel cell vehicle or hydrogen energy system in accordance with subsection (b)(1) may use that lease or purchase to count toward an energy savings goal of the agency.

(d) COOPERATIVE PROGRAM WITH STATE AGENCIES.—

(1) IN GENERAL.—The Secretary may establish a cooperative program with State agencies managing motor vehicle fleets to encourage purchase of fuel cell vehicles by the agencies.

(2) INCENTIVES.—In carrying out the cooperative program, the Secretary may offer incentive payments to a State agency to assist with the cost of planning, differential purchases, and administration.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) $15,000,000 for fiscal year 2008;

(2) $25,000,000 for fiscal year 2009;

(3) $65,000,000 for fiscal year 2010; and

(4) such sums as are necessary for each of fiscal years 2011 through 2015.

SEC. 783. FEDERAL PROCUREMENT OF STATIONARY, PORTABLE, AND MICRO FUEL CELLS.

(a) PURPOSES.—The purposes of this section are—

(1) to stimulate acceptance by the market of stationary, portable, and micro fuel cells; and

(2) to support development of technologies relating to stationary, portable, and micro fuel cells.

(b) FEDERAL LEASES AND PURCHASES.—

(1) IN GENERAL.—Not later than January 1, 2006, the head of any Federal agency that uses electrical power from stationary, portable, or microportable devices shall lease or purchase a stationary, portable, or micro fuel cell to meet any applicable energy savings goal described in subsection (c).

(2) COSTS OF LEASES AND PURCHASES.—

(A) IN GENERAL.—The Secretary, in cooperation with the Task Force and the Technical Advisory Committee, shall pay the cost to Federal agencies (or share the cost under interagency agreements) of leasing or purchasing stationary, portable, and micro fuel cells under paragraph (1).

(B) COMPETITIVE COSTS AND MANAGEMENT STRUCTURES.—In carrying out subparagraph (A), the Secretary, in consultation with the agency, may use the General Services Administration or any commercial vendor to ensure—

(i) a cost-effective purchase of a stationary, portable, or micro fuel cell; or

(ii) a cost-effective management structure of the lease of a stationary, portable, or micro fuel cell.

(3) EXCEPTION.—

(A) IN GENERAL.—If the Secretary determines that the head of an agency described in paragraph (1) cannot find an appropriately efficient and reliable stationary, portable, or micro fuel cell in accordance with paragraph (1), that agency shall be excepted from compliance with paragraph (1).

(B) CONSIDERATION.—In making a determination under subparagraph (A), the Secretary shall consider—

(i) the needs of the agency; and

(ii) an evaluation performed by—

(I) the Task Force; or

(II) the Technical Advisory Committee of the Task Force.

(c) ENERGY SAVINGS GOALS.—An agency that leases or purchases a stationary, portable, or micro fuel cell in accordance with subsection (b)(1) may use that lease or purchase to count toward an energy savings goal described in section 808 of this Act that is applicable to the agency.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) $20,000,000 for fiscal year 2006;

(2) $50,000,000 for fiscal year 2007;

(3) $75,000,000 for fiscal year 2008;

(4) $100,000,000 for fiscal year 2009;

(5) $100,000,000 for fiscal year 2010; and

(6) such sums as are necessary for each of fiscal years 2011 through 2015.

Subtitle G—Diesel Emissions Reduction

SEC. 791. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) CERTIFIED ENGINE CONFIGURATION.—The term "certified engine configuration" means a new, rebuilt, or remanufactured engine configuration—

(A) that has been certified or verified by—

(i) the Administrator; or

(ii) the California Air Resources Board;

(B) that meets or is rebuilt or remanufactured to a more stringent set of engine emission standards, as determined by the Administrator; and

(C) in the case of a certified engine configuration involving the replacement of an existing engine or vehicle, an engine configuration that replaced an engine that was—

(i) removed from the vehicle; and

(ii) returned to the supplier for remanufacturing to a more stringent set of engine emissions standards or for scrappage.

(3) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a regional, State, local, or tribal agency or port authority with jurisdiction over transportation or air quality; and

(B) a nonprofit organization or institution that—

(i) represents or provides pollution reduction or educational services to persons or organizations that own or operate diesel fleets; or

(ii) has, as its principal purpose, the promotion of transportation or air quality.

(4) EMERGING TECHNOLOGY.—The term "emerging technology" means a technology that is not certified or verified by the Administrator or the California Air Resources Board but for which an approvable application and test plan has been submitted for verification to the Administrator or the California Air Resources Board.

(5) FLEET.—The term "fleet" means 1 or more diesel vehicles or mobile or stationary diesel engines.

(6) HEAVY-DUTY TRUCK.—The term "heavy-duty truck" has the meaning given the term "heavy duty vehicle" in section 202 of the Clean Air Act (42 U.S.C. 7521).

(7) MEDIUM-DUTY TRUCK.—The term "medium-duty truck" has such meaning as shall be determined by the Administrator, by regulation.

(8) VERIFIED TECHNOLOGY.—The term "verified technology" means a pollution control technology, including a retrofit technology, advanced truckstop electrification system, or auxiliary power unit, that has been verified by—

(A) the Administrator; or

(B) the California Air Resources Board.

SEC. 792. NATIONAL GRANT AND LOAN PROGRAMS.

(a) IN GENERAL.—The Administrator shall use 70 percent of the funds made available to carry out this subtitle for each fiscal year to provide grants and low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities to achieve significant reductions in diesel emissions in terms of—

(1) tons of pollution produced; and

(2) diesel emissions exposure, particularly from fleets operating in areas designated by the Administrator as poor air quality areas.

(b) DISTRIBUTION.—

(1) IN GENERAL.—The Administrator shall distribute funds made available for a fiscal year under this subtitle in accordance with this section.

(2) FLEETS.—The Administrator shall provide not less than 50 percent of funds available for a fiscal year under this section to eligible entities for the benefit of public fleets.

(3) ENGINE CONFIGURATIONS AND TECHNOLOGIES.—

(A) CERTIFIED ENGINE CONFIGURATIONS AND VERIFIED TECHNOLOGIES.—The Administrator shall provide not less than 90 percent of funds available for a fiscal year under this section to eligible entities for projects using—

(i) a certified engine configuration; or

(ii) a verified technology.

(B) EMERGING TECHNOLOGIES.—

(i) IN GENERAL.—The Administrator shall provide not more than 10 percent of funds available for a fiscal year under this section to eligible entities for the development and commercialization of emerging technologies.

(ii) APPLICATION AND TEST PLAN.—To receive funds under clause (i), a manufacturer, in consultation with an eligible entity, shall submit for verification to the Administrator or the California Air Resources Board a test plan for the emerging technology, together with the application under subsection (c).

(c) APPLICATIONS.—

(1) IN GENERAL.—To receive a grant or loan under this section, an eligible entity shall submit to the Administrator an application at a time, in a manner, and including such information as the Administrator may require.

(2) INCLUSIONS.—An application under this subsection shall include—

(A) a description of the air quality of the area served by the eligible entity;

(B) the quantity of air pollution produced by the diesel fleets in the area served by the eligible entity;

(C) a description of the project proposed by the eligible entity, including—

(i) any certified engine configuration, verified technology, or emerging technology to be used or funded by the eligible entity; and

(ii) the means by which the project will achieve a significant reduction in diesel emissions;

(D) an evaluation (using methodology approved by the Administrator or the National Academy of Sciences) of the quantifiable and unquantifiable benefits of the emissions reductions of the proposed project;

(E) an estimate of the cost of the proposed project;

(F) a description of the age and expected lifetime control of the equipment used or funded by the eligible entity;

(G) a description of the diesel fuel available in the areas to be served by the eligible entity, including the sulfur content of the fuel; and

(H) provisions for the monitoring and verification of the project.

(3) PRIORITY.—In providing a grant or loan under this section, the Administrator shall give priority to proposed projects that, as determined by the Administrator—

(A) maximize public health benefits;

(B) are the most cost-effective;

(C) serve areas—

(i) with the highest population density;

(ii) that are poor air quality areas, including areas identified by the Administrator as—

(I) in nonattainment or maintenance of national ambient air quality standards for a criteria pollutant;

(II) Federal Class I areas; or

(III) areas with toxic air pollutant concerns;

(iii) that receive a disproportionate quantity of air pollution from a diesel fleets, including truckstops, ports, rail yards, terminals, and distribution centers; or

(iv) that use a community-based multistakeholder collaborative process to reduce toxic emissions;

(D) include a certified engine configuration, verified technology, or emerging technology that has a long expected useful life;

(E) will maximize the useful life of any certified engine configuration, verified technology, or emerging technology used or funded by the eligible entity;

(F) conserve diesel fuel; and

(G) use diesel fuel with a sulfur content of less than or equal to 15 parts per million, as the Administrator determines to be appropriate.

(d) USE OF FUNDS.—

(1) IN GENERAL.—An eligible entity may use a grant or loan provided under this section to fund the costs of—

(A) a retrofit technology (including any incremental costs of a repowered or new diesel engine) that significantly reduces emissions through development and implementation of a certified engine configuration, verified technology, or emerging technology for—

(i) a bus;

(ii) a medium-duty truck or a heavy-duty truck;

(iii) a marine engine;

(iv) a locomotive; or

(v) a nonroad engine or vehicle used in—

(I) construction;

(II) handling of cargo (including at a port or airport); .

(III) agriculture;

(IV) mining; or

(V) energy production; or

(B) programs or projects to reduce long-duration idling using verified technology involving a vehicle or equipment described in subparagraph (A).

(2) REGULATORY PROGRAMS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), no grant or loan provided under this section shall be used to fund the costs of emissions reductions that are mandated under Federal, State or local law.

(B) MANDATED.—For purposes of subparagraph (A), voluntary or elective emission reduction measures shall not be considered "mandated", regardless of whether the reductions are included in the State implementation plan of a State.

SEC. 793. STATE GRANT AND LOAN PROGRAMS.

(a) IN GENERAL.—Subject to the availability of adequate appropriations, the Administrator shall use 30 percent of the funds made available for a fiscal year under this subtitle to support grant and loan programs administered by States that are designed to achieve significant reductions in diesel emissions.

(b) APPLICATIONS.—The Administrator shall—

(1) provide to States guidance for use in applying for grant or loan funds under this section, including information regarding—

(A) the process and forms for applications;

(B) permissible uses of funds received; and

(C) the cost-effectiveness of various emission reduction technologies eligible to be carried out using funds provided under this section; and

(2) establish, for applications described in paragraph (1)—

(A) an annual deadline for submission of the applications;

(B) a process by which the Administrator shall approve or disapprove each application; and

(C) a streamlined process by which a State may renew an application described in paragraph (1) for subsequent fiscal years.

(c) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—For each fiscal year, the Administrator shall allocate among States for which applications are approved by the Administrator under subsection (b)(2)(B) funds made available to carry out this section for the fiscal year.

(2) ALLOCATION.—Using not more than 20 percent of the funds made available to carry out this subtitle for a fiscal year, the Administrator shall provide to each State described in paragraph (1) for the fiscal year an allocation of funds that is equal to—

(A) if each of the 50 States qualifies for an allocation, an amount equal to 2 percent of the funds made available to carry out this section; or

(B) if fewer than 50 States qualifies for an allocation, an amount equal to the amount described in subparagraph (A), plus an additional amount equal to the product obtained by multiplying—

(i) the proportion that—

(I) the population of the State; bears to

(II) the population of all States described in paragraph (1); by

(ii) the amount of funds remaining after each State described in paragraph (1) receives the 2-percent allocation under this paragraph.

(3) STATE MATCHING INCENTIVE.—

(A) IN GENERAL.—If a State agrees to match the allocation provided to the State under paragraph (2) for a fiscal year, the Administrator shall provide to the State for the fiscal year an additional amount equal to 50 percent of the allocation of the State under paragraph (2).

(B) REQUIREMENTS.—A State—

(i) may not use funds received under this subtitle to pay a matching share required under this subsection; and

(ii) shall not be required to provide a matching share for any additional amount received under subparagraph (A).

(4) UNCLAIMED FUNDS.—Any funds that are not claimed by a State for a fiscal year under this subsection shall be used to carry out section 792.

(d) ADMINISTRATION.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3) and, to the extent practicable, the priority areas listed in section 792(c)(3), a State shall use any funds provided under this section to develop and implement such grant and low-cost revolving loan programs in the State as are appropriate to meet State needs and goals relating to the reduction of diesel emissions.

(2) APPORTIONMENT OF FUNDS.—The Governor of a State that receives funding under this section may determine the portion of funds to be provided as grants or loans.

(3) USE OF FUNDS.—A grant or loan provided under this section may be used for a project relating to—

(A) a certified engine configuration; or

(B) a verified technology.

SEC. 794. EVALUATION AND REPORT.

(a) IN GENERAL.—Not later than 1 year after the date on which funds are made available under this subtitle, and biennially thereafter,

the Administrator shall submit to Congress a report evaluating the implementation of the programs under this subtitle.

(b) INCLUSIONS.—The report shall include a description of—

(1) the total number of grant applications received;

(2) each grant or loan made under this subtitle, including the amount of the grant or loan;

(3) each project for which a grant or loan is provided under this subtitle, including the criteria used to select the grant or loan recipients;

(4) the actual and estimated air quality and diesel fuel conservation benefits, cost-effectiveness, and cost-benefits of the grant and loan programs under this subtitle;

(5) the problems encountered by projects for which a grant or loan is provided under this subtitle; and

(6) any other information the Administrator considers to be appropriate.

SEC. 795. OUTREACH AND INCENTIVES.

(a) DEFINITION OF ELIGIBLE TECHNOLOGY.—In this section, the term "eligible technology" means—

(1) a verified technology; or

(2) an emerging technology.

(b) TECHNOLOGY TRANSFER PROGRAM.—

(1) IN GENERAL.—The Administrator shall establish a program under which the Administrator—

(A) informs stakeholders of the benefits of eligible technologies; and

(B) develops nonfinancial incentives to promote the use of eligible technologies.

(2) ELIGIBLE STAKEHOLDERS.—Eligible stakeholders under this section include—

(A) equipment owners and operators;

(B) emission and pollution control technology manufacturers;

(C) engine and equipment manufacturers;

(D) State and local officials responsible for air quality management;

(E) community organizations; and

(F) public health, educational, and environmental organizations.

(c) STATE IMPLEMENTATION PLANS.—The Administrator shall develop appropriate guidance to provide credit to a State for emission reductions in the State created by the use of eligible technologies through a State implementation plan under section 110 of the Clean Air Act (42 U.S.C. 7410).

(d) INTERNATIONAL MARKETS.—The Administrator, in coordination with the Department of Commerce and industry stakeholders, shall inform foreign countries with air quality problems of the potential of technology developed or used in the United States to provide emission reductions in those countries.

SEC. 796. EFFECT OF SUBTITLE.

Nothing in this subtitle affects any authority under the Clean Air Act (42 U.S.C. 7401 et seq.) in existence on the day before the date of enactment of this Act.

SEC. 797. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $200,000,000 for each of fiscal years 2007 through 2011, to remain available until expended.

TITLE VIII—HYDROGEN

SEC. 801. HYDROGEN AND FUEL CELL PROGRAM.

This title may be cited as the "Spark M. Matsunaga Hydrogen Act of 2005".

SEC. 802. PURPOSES.

The purposes of this title are—

(1) to enable and promote comprehensive development, demonstration, and commercialization of hydrogen and fuel cell technology in partnership with industry;

(2) to make critical public investments in building strong links to private industry, institutions of higher education, National Laboratories, and research institutions to expand innovation and industrial growth;

(3) to build a mature hydrogen economy that creates fuel diversity in the massive transportation sector of the United States;

(4) to sharply decrease the dependency of the United States on imported oil, eliminate most emissions from the transportation sector, and greatly enhance our energy security; and

(5) to create, strengthen, and protect a sustainable national energy economy.

SEC. 803. DEFINITIONS.

In this title:

(1) FUEL CELL.—The term "fuel cell" means a device that directly converts the chemical energy of a fuel, which is supplied from an external source, and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.

(2) HEAVY-DUTY VEHICLE.—The term "heavy-duty vehicle" means a motor vehicle that—

(A) is rated at more than 8,500 pounds gross vehicle weight;

(B) has a curb weight of more than 6,000 pounds; or

(C) has a basic vehicle frontal area in excess of 45 square feet.

(3) INFRASTRUCTURE.—The term "infrastructure" means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen (except for onboard storage).

(4) LIGHT-DUTY VEHICLE.—The term "light-duty vehicle" means a motor vehicle that is rated at 8,500 or less pounds gross vehicle weight.

(5) STATIONARY; PORTABLE.—The terms "stationary" and "portable",. when used in reference to a fuel cell, include—

(A) continuous electric power; and

(B) backup electric power.

(6) TASK FORCE.—The term "Task Force" means the Hydrogen and Fuel Cell Technical Task Force established under section 806.

(7) TECHNICAL ADVISORY COMMITTEE.—The term "Technical Advisory Committee" means the independent Technical Advisory Committee established under section 807.

SEC. 804. PLAN.

Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to Congress a coordinated plan for the programs described in this title and any other programs of the Department that are directly related to fuel cells or hydrogen. The plan shall describe, at a minimum—

(1) the agenda for the next 5 years for the programs authorized under this title, including the agenda for each activity enumerated in section 805(e);

(2) the types of entities that will carry out the activities under this title and what role each entity is expected to play;

(3) the milestones that will be used to evaluate the programs for the next 5 years;

(4) the most significant technical and nontechnical hurdles that stand in the way of achieving the goals described in section 805, and how the programs will address those hurdles; and

(5) the policy assumptions that are implicit in the plan, including any assumptions that would affect the sources of hydrogen or the marketability of hydrogen-related products.

SEC. 805. PROGRAMS.

(a) IN GENERAL.—The Secretary, in consultation with other Federal agencies and the private sector, shall conduct a research and development program on technologies relating to the production, purification, distribution, storage, and use of hydrogen energy, fuel cells, and related infrastructure.

(b) GOAL.—The goal of the program shall be to demonstrate and commercialize the use of hydrogen for transportation (in light-duty vehicles and heavy-duty vehicles), utility, industrial, commercial, and residential applications.

(c) FOCUS.—In carrying out activities under this section, the Secretary shall focus on factors that are common to the development of hydrogen infrastructure and the supply of vehicle and electric power for critical consumer and commercial applications, and that achieve continuous technical evolution and cost reduction, particularly for hydrogen production, the supply of hydrogen, storage of hydrogen, and end uses of hydrogen that—

(1) steadily increase production, distribution, and end use efficiency and reduce life-cycle emissions;

(2) resolve critical problems relating to catalysts, membranes, storage, lightweight materials, electronic controls, manufacturability, and other problems that emerge from the program;

(3) enhance sources of renewable fuels and biofuels for hydrogen production; and

(4) enable widespread use of distributed electricity generation and storage.

(d) PUBLIC EDUCATION AND RESEARCH.—In carrying out this section, the Secretary shall support enhanced public education and research conducted at institutions of higher education in fundamental sciences, application design, and systems concepts (including education and research relating to materials, subsystems, manufacturability, maintenance, and safety) relating to hydrogen and fuel cells.

(e) ACTIVITIES.—The Secretary, in partnership with the private sector, shall conduct programs to address—

(1) production of hydrogen from diverse energy sources, including—

(A) fossil fuels, which may include carbon capture and sequestration;

(B) hydrogen-carrier fuels (including ethanol and methanol);

(C) renewable energy resources, including biomass; and

(D) nuclear energy;

(2) use of hydrogen for commercial, industrial, and residential electric power generation;

(3) safe delivery of hydrogen or hydrogen-carrier fuels, including—

(A) transmission by pipeline and other distribution methods; and

(B) convenient and economic refueling of vehicles either at central refueling stations or through distributed onsite generation;

(4) advanced vehicle technologies, including—

(A) engine and emission control systems;

(B) energy storage, electric propulsion, and hybrid systems;

(C) automotive materials; and

(D) other advanced vehicle technologies;

(5) storage of hydrogen or hydrogen-carrier fuels, including development of materials for safe and economic storage in gaseous, liquid, or solid form at refueling facilities and onboard vehicles;

(6) development of safe, durable, affordable, and efficient fuel cells, including fuel-flexible fuel cell power systems, improved manufacturing processes, high-temperature membranes, cost-effective fuel processing for natural gas, fuel cell stack and system reliability, low temperature operation, and cold start capability; and

(7) the ability of domestic automobile manufacturers to manufacture commercially available competitive hybrid vehicle technologies in the United States.

(f) PROGRAM GOALS.—

(1) VEHICLES.—For vehicles, the goals of the program are—

(A) to enable a commitment by automakers no later than year 2015 to offer safe, affordable, and technically viable hydrogen fuel cell vehicles in the mass consumer market; and

(B) to enable production, delivery, and acceptance by consumers of model year 2020 hydrogen fuel cell and other hydrogen-powered vehicles that will have, when compared to light duty vehicles in model year 2005—

(i) fuel economy that is substantially higher;

(ii) substantially lower emissions of air pollutants; and

(iii) equivalent or improved vehicle fuel system crash integrity and occupant protection.

(2) HYDROGEN ENERGY AND ENERGY INFRASTRUCTURE.—For hydrogen energy and energy infrastructure, the goals of the program are to enable a commitment not later than 2015 that will lead to infrastructure by 2020 that will provide—

(A) safe and convenient refueling;

(B) improved overall efficiency;

(C) widespread availability of hydrogen from domestic energy sources through—

(i) production, with consideration of emissions levels;

(ii) delivery, including transmission by pipeline and other distribution methods for hydrogen; and

(iii) storage, including storage in surface transportation vehicles;

(D) hydrogen for fuel cells, internal combustion engines, and other energy conversion devices for portable, stationary, micro, critical needs facilities, and transportation applications; and

(E) other technologies consistent with the Department's plan.

(3) FUEL CELLS.—The goals for fuel cells and their portable, stationary, and transportation applications are to enable—

(A) safe, economical, and environmentally sound hydrogen fuel cells;

(B) fuel cells for light duty and other vehicles; and

(C) other technologies consistent with the Department's plan.

(g) FUNDING.—

(1) IN GENERAL.—The Secretary shall carry out the programs under this section using a competitive, merit-based review process and consistent with the generally applicable Federal laws and regulations governing awards of financial assistance, contracts, or other agreements.

(2) RESEARCH CENTERS.—Activities under this section may be carried out by funding nationally recognized university-based or Federal laboratory research centers.

(h) HYDROGEN SUPPLY.—There are authorized to be appropriated to carry out projects and activities relating to hydrogen production, storage, distribution and dispensing, transport, education and coordination, and technology transfer under this section—

(1) $160,000,000 for fiscal year 2006;

(2) $200,000,000 for fiscal year 2007;

(3) $220,000,000 for fiscal year 2008;

(4) $230,000,000 for fiscal year 2009;

(5) $250,000,000 for fiscal year 2010; and

(6) such sums as are necessary for each of fiscal years 2011 through 2020.

SEC. 806. HYDROGEN AND FUEL CELL TECHNICAL TASK FORCE.

(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the President shall establish an interagency task force chaired by the Secretary with representatives from each of the following:

(1) The Office of Science and Technology Policy within the Executive Office of the President.

(2) The Department of Transportation.

(3) The Department of Defense.

(4) The Department of Commerce (including the National Institute of Standards and Technology).

(5) The Department of State.

(6) The Environmental Protection Agency.

(7) The National Aeronautics and Space Administration.

(8) Other Federal agencies as the Secretary determines appropriate.

(b) DUTIES.—

(1) PLANNING.—The Task Force shall work toward—

(A) a safe, economical, and environmentally sound fuel infrastructure for hydrogen and hydrogen-carrier fuels, including an infrastructure that supports buses and other fleet transportation;

(B) fuel cells in government and other applications, including portable, stationary, and transportation applications;

(C) distributed power generation, including the generation of combined heat, power, and clean fuels including hydrogen;

(D) uniform hydrogen codes, standards, and safety protocols; and

(E) vehicle hydrogen fuel system integrity safety performance.

(2) ACTIVITIES.—The Task Force may organize workshops and conferences, may issue publications, and may create databases to carry out its duties. The Task Force shall—

(A) foster the exchange of generic, nonproprietary information and technology among industry, academia, and government;

(B) develop and maintain an inventory and assessment of hydrogen, fuel cells, and other advanced technologies, including the commercial capability of each technology for the economic and environmentally safe production, distribution, delivery, storage, and use of hydrogen;

(C) integrate technical and other information made available as a result of the programs and activities under this title;

(D) promote the marketplace introduction of infrastructure for hydrogen fuel vehicles; and

(E) conduct an education program to provide hydrogen and fuel cell information to potential end-users..

(c) AGENCY COOPERATION.—The heads of all agencies, including those whose agencies are not represented on the Task Force, shall cooperate with and furnish information to the Task Force, the Technical Advisory Committee, and the Department.

SEC. 807. TECHNICAL ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Hydrogen Technical and Fuel Cell Advisory Committee is established to advise the Secretary on the programs and activities under this title.

(b) MEMBERSHIP.—

(1) MEMBERS.—The Technical Advisory Committee shall be comprised of not fewer than 12 nor more than 25 members. The members shall be appointed by the Secretary to represent domestic industry, academia, professional societies, government agencies, Federal laboratories, previous advisory panels, and financial, environmental, and other appropriate organizations based on the Department's assessment of the technical and other qualifications of Technical Advisory Committee members and the needs of the Technical Advisory Committee.

(2) TERMS.—The term of a member of the Technical Advisory Committee shall not be more than 3 years. The Secretary may appoint members of the Technical Advisory Committee in a manner that allows the terms of the members serving at any time to expire at spaced intervals so as to ensure continuity in the functioning of the Technical Advisory Committee. A member of the Technical Advisory Committee whose term is expiring may be reappointed.

(3) CHAIRPERSON.—The Technical Advisory Committee shall have a chairperson, who shall be elected by the members from among their number.

(c) REVIEW.—The Technical Advisory Committee shall review and make recommendations to the Secretary on—

(1) the implementation of programs and activities under this title;

(2) the safety, economical, and environmental consequences of technologies for the production, distribution, delivery, storage, or use of hydrogen energy and fuel cells; and

(3) the plan under section 804.

(d) RESPONSE.—

(1) CONSIDERATION OF RECOMMENDATIONS.—The Secretary shall consider, but need not adopt, any recommendations of the Technical Advisory Committee under subsection (c).

(2) BIENNIAL REPORT.—The Secretary shall transmit a biennial report to Congress describing any recommendations made by the Technical Advisory Committee since the previous report. The report shall include a description of how the Secretary has implemented or plans to implement the recommendations, or an explanation of the reasons that a recommendation will not be implemented. The report shall be transmitted along with the President's budget proposal.

(e) SUPPORT.—The Secretary shall provide resources necessary in the judgment of the Secretary for the Technical Advisory Committee to carry out its responsibilities under this title.

SEC. 808. DEMONSTRATION.

(a) IN GENERAL.—In carrying out the programs under this section, the Secretary shall fund a limited number of demonstration projects, consistent with this title and a determination of the maturity, cost-effectiveness, and environmental impacts of technologies supporting each project. In selecting projects under this subsection, the Secretary shall, to the extent practicable and in the public interest, select projects that—

(1) involve using hydrogen and related products at existing facilities or installations, such as existing office buildings, military bases, vehicle fleet centers, transit bus authorities, or units of the National Park System;

(2) depend on reliable power from hydrogen to carry out essential activities;

(3) lead to the replication of hydrogen technologies and draw such technologies into the marketplace;

(4) include vehicle, portable, and stationary demonstrations of fuel cell and hydrogen-based energy technologies;

(5) address the interdependency of demand for hydrogen fuel cell applications and hydrogen fuel infrastructure;

(6) raise awareness of hydrogen technology among the public;

(7) facilitate identification of an optimum technology among competing alternatives;

(8) address distributed generation using renewable sources;

(9) carry out demonstrations of evolving hydrogen and fuel cell technologies in national parks, remote island areas, and on Indian tribal land, as selected by the Secretary;

(10) carry out a program to demonstrate developmental hydrogen and fuel cell systems for mobile, portable, and stationary uses, using improved versions of the learning demonstrations program concept of the Department including demonstrations involving—

(A) light-duty vehicles;

(B) heavy-duty vehicles;

(C) fleet vehicles;

(D) specialty industrial and farm vehicles; and

(E) commercial and residential portable, continuous, and backup electric power generation;

(11) in accordance with any code or standards developed in a region, fund prototype, pilot fleet, and infrastructure regional hydrogen supply corridors along the interstate highway system in varied climates across the United States; and

(12) fund demonstration programs that explore the use of hydrogen blends, hybrid hydrogen,

and hydrogen reformed from renewable agricultural fuels, including the use of hydrogen in hybrid electric, heavier duty, and advanced internal combustion-powered vehicles.

The Secretary shall give preference to projects which address multiple elements contained in paragraphs (1) through (12).

(b) System Demonstrations.—

(1) In general.—As a component of the demonstration program under this section, the Secretary shall provide grants, on a cost share basis as appropriate, to eligible entities (as determined by the Secretary) for use in—

(A) devising system design concepts that provide for the use of advanced composite vehicles in programs under section 782 that—

(i) have as a primary goal the reduction of drive energy requirements;

(ii) after 2010, add another research and development phase, as defined in subsection (c), including the vehicle and infrastructure partnerships developed under the learning demonstrations program concept of the Department; and

(iii) are managed through an enhanced FreedomCAR program within the Department that encourages involvement in cost-shared projects by manufacturers and governments; and

(B) designing a local distributed energy system that—

(i) incorporates renewable hydrogen production, off-grid electricity production, and fleet applications in industrial or commercial service;

(ii) integrates energy or applications described in clause (i), such as stationary, portable, micro, and mobile fuel cells, into a high-density commercial or residential building complex or agricultural community; and

(iii) is managed in cooperation with industry, State, tribal, and local governments, agricultural organizations, and nonprofit generators and distributors of electricity.

(c) Identification of New Program Requirements.—In carrying out the demonstrations under subsection (a), the Secretary, in consultation with the Task Force and the Technical Advisory Committee, shall—

(1) after 2008 for stationary and portable applications, and after 2010 for vehicles, identify new requirements that refine technological concepts, planning, and applications; and

(2) during the second phase of the learning demonstrations under subsection (b)(1)(A)(ii), redesign subsequent program work to incorporate those requirements.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section—

(1) $185,000,000 for fiscal year 2006;

(2) $200,000,000 for fiscal year 2007;

(3) $250,000,000 for fiscal year 2008;

(4) $300,000,000 for fiscal year 2009;

(5) $375,000,000 for fiscal year 2010; and

(6) such sums as are necessary for each of fiscal years 2011 through 2020.

SEC. 809. CODES AND STANDARDS.

(a) In General.—The Secretary, in cooperation with the Task Force, shall provide grants to, or offer to enter into contracts with, such professional organizations, public service organizations, and government agencies as the Secretary determines appropriate to support timely and extensive development of safety codes and standards relating to fuel cell vehicles, hydrogen energy systems, and stationary, portable, and micro fuel cells.

(b) Educational Efforts.—The Secretary shall support educational efforts by organizations and agencies described in subsection (a) to share information, including information relating to best practices, among those organizations and agencies.

(c) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section—

(1) $4,000,000 for fiscal year 2006;

(2) $7,000,000 for fiscal year 2007;

(3) $8,000,000 for fiscal year 2008;

(4) $10,000,000 for fiscal year 2009;

(5) $9,000,000 for fiscal year 2010; and

(6) such sums as are necessary for each of fiscal years 2011 through 2020.

SEC. 810. DISCLOSURE.

Section 623 of the Energy Policy Act of 1992 (42 U.S.C. 13293) shall apply to any project carried out through a grant, cooperative agreement, or contract under this title.

SEC. 811. REPORTS.

(a) Secretary.—Subject to subsection (c), not later than 2 years after the date of enactment of this Act, and triennially thereafter, the Secretary shall submit to Congress a report describing—

(1) activities carried out by the Department under this title, for hydrogen and fuel cell technology;

(2) measures the Secretary has taken during the preceding 3 years to support the transition of primary industry (or a related industry) to a fully commercialized hydrogen economy;

(3) any change made to the strategy relating to hydrogen and fuel cell technology to reflect the results of a learning demonstrations;

(4) progress, including progress in infrastructure, made toward achieving the goal of producing and deploying not less than—

(A) 100,000 hydrogen-fueled vehicles in the United States by 2010; and

(B) 2,500,000 hydrogen-fueled vehicles in the United States by 2020;

(5) progress made toward achieving the goal of supplying hydrogen at a sufficient number of fueling stations in the United States by 2010 including by integrating—

(A) hydrogen activities; and

(B) associated targets and timetables for the development of hydrogen technologies;

(6) any problem relating to the design, execution, or funding of a program under this title;

(7) progress made toward and goals achieved in carrying out this title and updates to the developmental roadmap, including the results of the reviews conducted by the National Academy of Sciences under subsection (b) for the fiscal years covered by the report; and

(8) any updates to strategic plans that are necessary to meet the goals described in paragraph (4).

(b) External Review.—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy will review the programs under sections 805 and 808 every fourth year following the date of enactment of this Act. The Academy's review shall include the program priorities and technical milestones, and evaluate the progress toward achieving them. The first review shall be completed not later than 5 years after the date of enactment of this Act. Not later than 45 days after receiving the review, the Secretary shall transmit the review to Congress along with a plan to implement the review's recommendations or an explanation for the reasons that a recommendation will not be implemented.

(c) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $1,500,000 for each of fiscal years 2006 through 2020.

SEC. 812. SOLAR AND WIND TECHNOLOGIKS.

(a) Solar Energy Technologies.—The Secretary shall—

(1) prepare a detailed roadmap for carrying out the provisions in this title related to solar energy technologies and for implementing the recommendations related to solar energy technologies that are included in the report transmitted under subsection (e);

(2) provide for the establishment of 5 projects in geographic areas that are regionally and climatically diverse to demonstrate the production of hydrogen at solar energy facilities, including one demonstration project at a National Laboratory or institution of higher education;

(3) establish a program—

(A) to develop optimized concentrating solar power devices that may be used for the production of both electricity and hydrogen; and

(B) to evaluate the use of thermochemical cycles for hydrogen production at the temperatures attainable with concentrating solar power devices;

(4) coordinate with activities sponsored by the Department's Office of Nuclear Energy, Science, and Technology on high-temperature materials, thermochemical cycles, and economic issues related to solar energy;

(5) provide for the construction and operation of new concentrating solar power devices or solar power cogeneration facilities that produce hydrogen either concurrently with, or independently of, the production of electricity;

(6) support existing facilities and programs of study related to concentrating solar power devices; and

(7) establish a program—

(A) to develop methods that use electricity from photovoltaic devices for the onsite production of hydrogen, such that no intermediate transmission or distribution infrastructure is required or used and future demand growth may be accommodated;

(B) to evaluate the economics of small-scale electrolysis for hydrogen production; and

(C) to study the potential of modular photovoltaic devices for the development of a hydrogen infrastructure, the security implications of a hydrogen infrastructure, and the benefits potentially derived from a hydrogen infrastructure.

(b) Wind Energy Technologies.—The Secretary shall—

(1) prepare a detailed roadmap for carrying out the provisions in this title related to wind energy technologies and for implementing the recommendations related to wind energy technologies that are included in the report transmitted under subsection (e); and

(2) provide for the establishment of 5 projects in geographic areas that are regionally and climatically diverse to demonstrate the production of hydrogen at existing wind energy facilities, including one demonstration project at a National Laboratory or institution of higher education.

(c) Program Support.—The Secretary shall support programs at institutions of higher education for the development of solar energy technologies and wind energy technologies for the production of hydrogen. The programs supported under this subsection shall—

(1) enhance fellowship and faculty assistance programs;

(2) provide support for fundamental research;

(3) encourage collaborative research among industry, National Laboratories, and institutions of higher education;

(4) support communication and outreach; and

(5) to the greatest extent possible—

(A) be located in geographic areas that are regionally and climatically diverse; and

(B) be located at part B institutions, minority institutions, and institutions of higher education located in States participating in the Experimental Program to Stimulate Competitive Research of the Department.

(d) Institutions of Higher Education and National Laboratory Interactions.—In conjunction with the programs supported under this section, the Secretary shall develop sabbatical, fellowship, and visiting scientist programs to encourage National Laboratories and institutions of higher education to share and exchange personnel.

(e) Report.—The Secretary shall transmit to the Congress not later than 120 days after the

date of enactment of this Act a report containing detailed summaries of the roadmaps prepared under subsections (a)(1) and (b)(1), descriptions of the Secretary's progress in establishing the projects and other programs required under this section, and recommendations for promoting the availability of advanced solor and wind energy technologies for the production of hydrogen.

(f) DEFINITIONS.—For purposes of this section—

(1) the term ''concentrating solar power devices'' means devices that concentrate the power of the sun by reflection or refraction to improve the efficiency of a photovoltaic or thermal generation process;

(2) the term ''minority institution'' has the meaning given to that term in section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k);

(3) the term ''part B institution'' has the meaning given to that term in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061); and

(4) the term ''photovoltaic devices'' means devices that convert light directly into electricity through a solid-state, semiconductor process.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary for carrying out the activities under this section for each of fiscal years 2006 through 2020.

SEC. 813. TECHNOLOGY TRANSFER.

In carrying out this title, the Secretary shall carry out programs that—

(1) provide for the transfer of critical hydrogen and fuel cell technologies to the private sector;

(2) accelerate wider application of those technologies in the global market;

(3) foster the exchange of generic, nonproprietary information; and

(4) assess technical and commercial viability of technologies relating to the production, distribution, storage, and use of hydrogen energy and fuel cells.

SEC. 814. MISCELLANEOUS PROVISIONS.

(a) REPRESENTATION.—The Secretary may represent the United States interests with respect to activities and programs under this title, in coordination with the Department of Transportation, the National Institute of Standards and Technology, and other relevant Federal agencies, before governments and nongovernmental organizations including—

(1) other Federal, State, regional, and local governments and their representatives;

(2) industry and its representatives, including members of the energy and transportation industries; and

(3) in consultation with the Department of State, foreign governments and their representatives including international organizations.

(b) REGULATORY AUTHORITY.—Nothing in this title shall be construed to alter the regulatory authority of the Department.

SEC. 815. COST SHARING.

The costs of carrying out projects and activities under this title shall be shared in accordance with section 988.

SEC. 816. SAVINGS CLAUSE.

Nothing in this title shall be construed to affect the authority of the Secretary of Transportation that may exist prior to the date of enactment of this Act with respect to—

(1) research into, and regulation of, hydrogen-powered vehicles fuel systems integrity, standards, and safety under subtitle VI of title 49, United States Code;

(2) regulation of hazardous materials transportation under chapter 51 of title 49, United States Code;

(3) regulation of pipeline safety under chapter 601 of title 49, United States Code;

(4) encouragement and promotion of research, development, and deployment activities relating to advanced vehicle technologies under section 5506 of title 49, United States Code;

(5) regulation of motor vehicle safety under chapter 301 of title 49, United States Code;

(6) automobile fuel economy under chapter 329 of title 49, United States Code; or

(7) representation of the interests of the United States with respect to the activities and programs under the authority of title 49, United States Code.

TITLE IX—RESEARCH AND DEVELOPMENT

SEC. 901. SHORT TITLE.

This title may be cited as the ''Energy Research, Development, Demonstration, and Commercial Application Act of 2005''.

SEC. 902. GOALS.

(a) IN GENERAL.—In order to achieve the purposes of this title, the Secretary shall conduct a balanced set of programs of energy research, development, demonstration, and commercial application with the general goals of—

(1) increasing the efficiency of all energy intensive sectors through conservation and improved technologies;

(2) promoting diversity of energy supply;

(3) decreasing the dependence of the United States on foreign energy supplies;

(4) improving the energy security of the United States; and

(5) decreasing the environmental impact of energy-related activities.

(b) GOALS.—The Secretary shall publish measurable cost and performance-based goals, comparable over time, with each annual budget submission in at least the following areas:

(1) Energy efficiency for buildings, energy-consuming industries, and vehicles.

(2) Electric energy generation (including distributed generation), transmission, and storage.

(3) Renewable energy technologies, including wind power, photovoltaics, solar thermal systems, geothermal energy, hydrogen-fueled systems, biomass-based systems, biofuels, and hydropower.

(4) Fossil energy, including power generation, onshore and offshore oil and gas resource recovery, and transportation fuels.

(5) Nuclear energy, including programs for existing and advanced reactors, and education of future specialists.

(c) PUBLIC COMMENT.—The Secretary shall provide mechanisms for input on the annually published goals from industry, institutions of higher education, and other public sources.

(d) EFFECT OF GOALS.—Nothing in subsection (a) or the annually published goals creates any new authority for any Federal agency, or may be used by any Federal agency, to support the establishment of regulatory standards or regulatory requirements.

SEC. 903. DEFINITIONS.

In this title:

(1) DEPARTMENTAL MISSION.—The term ''departmental mission'' means any of the functions vested in the Secretary by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law.

(2) HISPANIC-SERVING INSTITUTION.—The term ''Hispanic-serving institution'' has the meaning given the term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

(3) NONMILITARY ENERGY LABORATORY.—The term ''nonmilitary energy laboratory'' means a National Laboratory other than a National Laboratory listed in subparagraph (G), (H), or (N) of section 2(3).

(4) PART B INSTITUTION.—The term ''part B institution'' has the meaning given the term in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(5) SINGLE-PURPOSE RESEARCH FACILITY.—The term ''single-purpose research facility'' means—

(A) any of the primarily single-purpose entities owned by the Department; or

(B) any other organization of the Department designated by the Secretary.

(6) UNIVERSITY.—The term ''university'' has the meaning given the term ''institution of higher education'' in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

Subtitle A—Energy Efficiency

SEC. 911. ENERGY EFFICIENCY.

(a) IN GENERAL.—

(1) OBJECTIVES.—The Secretary shall conduct programs of energy efficiency research, development, demonstration, and commercial application, including activities described in this subtitle. Such programs shall take into consideration the following objectives:

(A) Increasing the energy efficiency of vehicles, buildings, and industrial processes.

(B) Reducing the demand of the United States for energy, especially energy from foreign sources.

(C) Reducing the cost of energy and making the economy more efficient and competitive.

(D) Improving the energy security of the United States.

(E) Reducing the environmental impact of energy-related activities.

(2) PROGRAMS.—Programs under this subtitle shall include research, development, demonstration, and commercial application of—

(A) advanced, cost-effective technologies to improve the energy efficiency and environmental performance of vehicles, including—

(i) hybrid and electric propulsion systems;

(ii) plug-in hybrid systems;

(iii) advanced combustion engines;

(iv) weight and drag reduction technologies;

(v) whole-vehicle design optimization; and

(vi) advanced drive trains;

(B) cost-effective technologies, for new construction and retrofit, to improve the energy efficiency and environmental performance of buildings, using a whole-buildings approach, including onsite renewable energy generation;

(C) advanced technologies to improve the energy efficiency, environmental performance, and process efficiency of energy-intensive and waste-intensive industries; and

(D) advanced control devices to improve the energy efficiency of electric motors, including those used in industrial processes, heating, ventilation, and cooling.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out energy efficiency and conservation research, development, demonstration, and commercial application activities, including activities authorized under this subtitle—

(1) $783,000,000 for fiscal year 2007;

(2) $865,000,000 for fiscal year 2008; and

(3) $952,000,000 for fiscal year 2009.

(c) ALLOCATIONS.—From amounts authorized under subsection (b), the following sums are authorized:

(1) For activities under section 912, $50,000,000 for each of fiscal years 2007 through 2009.

(2) For activities under section 915, $7,000,000 for each of fiscal years 2007 through 2009.

(3) For activities under subsection (a)(2)(A)—

(A) $200,000,000 for fiscal year 2007;

(B) $270,000,000 for fiscal year 2008; and

(C) $310,000,000 for fiscal year 2009.

(4) For activities under subsection (a)(2)(D), $2,000,000 for each of fiscal years 2007 and 2008.

(d) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the Secretary to carry out section 912 $50,000,000 for each of fiscal years 2010 through 2013.

(e) LIMITATIONS.—None of the funds authorized to be appropriated under this section may be used for—

(1) the issuance or implementation of energy efficiency regulations;

(2) the weatherization program established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.);

(3) a State energy conservation plan established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.); or

(4) a Federal energy management measure carried out under part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.).

SEC. 912. NEXT GENERATION LIGHTING INITIATIVE.

(a) DEFINITIONS.—In this section:

(1) ADVANCED SOLID-STATE LIGHTING.—The term "advanced solid-state lighting" means a semiconducting device package and delivery system that produces white light using externally applied voltage.

(2) INDUSTRY ALLIANCE.—The term "Industry Alliance" means an entity selected by the Secretary under subsection (d).

(3) INITIATIVE.—The term "Initiative" means the Next Generation Lighting Initiative carried out under this section.

(4) RESEARCH.—The term "research" includes research on the technologies, materials, and manufacturing processes required for white light emitting diodes.

(5) WHITE LIGHT EMITTING DIODE.—The term "white light emitting diode" means a semiconducting package, using either organic or inorganic materials, that produces white light using externally applied voltage.

(b) INITIATIVE.—The Secretary shall carry out a Next Generation Lighting Initiative in accordance with this section to support research, development, demonstration, and commercial application activities related to advanced solid-state lighting technologies based on white light emitting diodes.

(c) OBJECTIVES.—The objectives of the Initiative shall be to develop advanced solid-state organic and inorganic lighting technologies based on white light emitting diodes that, compared to incandescent and fluorescent lighting technologies, are longer lasting, are more energy-efficient and cost-competitive, and have less environmental impact.

(d) INDUSTRY ALLIANCE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall competitively select an Industry Alliance to represent participants who are private, for-profit firms, open to large and small businesses, that, as a group, are broadly representative of United States solid state lighting research, development, infrastructure, and manufacturing expertise as a whole.

(e) RESEARCH.—

(1) GRANTS.—The Secretary shall carry out the research activities of the Initiative through competitively awarded grants to—

(A) researchers, including Industry Alliance participants;

(B) small businesses;

(C) National Laboratories; and

(D) institutions of higher education.

(2) INDUSTRY ALLIANCE.—The Secretary shall annually solicit from the Industry Alliance—

(A) comments to identify solid-state lighting technology needs;

(B) an assessment of the progress of the research activities of the Initiative; and

(C) assistance in annually updating solid-state lighting technology roadmaps.

(3) AVAILABILITY TO PUBLIC.—The information and roadmaps under paragraph (2) shall be available to the public.

(f) DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION.—

(1) IN GENERAL.—The Secretary shall carry out a development, demonstration, and commercial application program for the Initiative through competitively selected awards.

(2) PREFERENCE.—In making the awards, the Secretary may give preference to participants in the Industry Alliance.

(g) COST SHARING.—In carrying out this section, the Secretary shall require cost sharing in accordance with section 988.

(h) INTELLECTUAL PROPERTY.—The Secretary may require (in accordance with section 202(a)(ii) of title 35, United States Code, section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), and section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908)) that for any new invention developed under subsection (e)—

(1) that the Industry Alliance participants who are active participants in research, development, and demonstration activities related to the advanced solid-state lighting technologies that are covered by this section shall be granted the first option to negotiate with the invention owner, at least in the field of solid-state lighting, nonexclusive licenses and royalties on terms that are reasonable under the circumstances;

(2)(A) that, for 1 year after a United States patent is issued for the invention, the patent holder shall not negotiate any license or royalty with any entity that is not a participant in the Industry Alliance described in paragraph (1); and

(B) that, during the year described in subparagraph (A), the patent holder shall negotiate nonexclusive licenses and royalties in good faith with any interested participant in the Industry Alliance described in paragraph (1); and

(3) such other terms as the Secretary determines are required to promote accelerated commercialization of inventions made under the Initiative.

(i) NATIONAL ACADEMY REVIEW.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct periodic reviews of the Initiative.

SEC. 913. NATIONAL BUILDING PERFORMANCE INITIATIVE.

(a) INTERAGENCY GROUP.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall establish an interagency group to develop, in coordination with the advisory committee established under subsection (e), a National Building Performance Initiative (referred to in this section as the "Initiative").

(2) COCHAIRS.—The interagency group shall be co-chaired by appropriate officials of the Department and the Department of Commerce, who shall jointly arrange for the provision of necessary administrative support to the group.

(b) INTEGRATION OF EFFORTS.—The Initiative shall integrate Federal, State, and voluntary private sector efforts to reduce the costs of construction, operation, maintenance, and renovation of commercial, industrial, institutional, and residential buildings.

(c) PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the interagency group shall submit to Congress a plan for carrying out the appropriate Federal role in the Initiative.

(2) INCLUSIONS.—The plan shall include—

(A) research, development, demonstration, and commercial application of energy technology systems and materials for new construction and retrofit relating to the building envelope and building system components;

(B) research, development, demonstration, and commercial application of energy technology and infrastructure enabling the energy efficient, automated operation of buildings and building equipment; and

(C) the collection, analysis, and dissemination of research results and other pertinent information on enhancing building performance to industry, government entities, and the public.

(d) DEPARTMENT OF ENERGY ROLE.—Within the Federal portion of the Initiative, the Department shall be the lead agency for all aspects of building performance related to use and conservation of energy.

(e) ADVISORY COMMITTEE.—The Director of the Office of Science and Technology Policy shall establish an advisory committee to—

(1) analyze and provide recommendations on potential private sector roles and participation in the Initiative; and

(2) review and provide recommendations on the plan described in subsection (c).

(f) ADMINISTRATION.—Nothing in this section provides any Federal agency with new authority to regulate building performance.

SEC. 914. BUILDING STANDARDS.

(a) DEFINITION OF HIGH PERFORMANCE BUILDING.—In this section, the term "high performance building" means a building that integrates and optimizes all major high-performance building attributes, including energy efficiency, durability, life-cycle performance, and occupant productivity.

(b) ASSESSMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Institute of Building Sciences to—

(1) conduct an assessment (in cooperation with industry, standards development organizations, and other entities, as appropriate) of whether the current voluntary consensus standards and rating systems for high performance buildings are consistent with the current technological state of the art, including relevant results from the research, development and demonstration activities of the Department;

(2) determine if additional research is required, based on the findings of the assessment; and

(3) recommend steps for the Secretary to accelerate the development of voluntary consensus-based standards for high performance buildings that are based on the findings of the assessment.

(c) GRANT AND TECHNICAL ASSISTANCE PROGRAM.—Consistent with subsection (b) and section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), the Secretary shall establish a grant and technical assistance program to support the development of voluntary consensus-based standards for high performance buildings.

SEC. 915. SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) BATTERY.—The term "battery" means an energy storage device that previously has been used to provide motive power in a vehicle powered in whole or in part by electricity.

(2) ASSOCIATED EQUIPMENT.—The term "associated equipment" means equipment located where the batteries will be used that is necessary to enable the use of the energy stored in the batteries.

(b) PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish and conduct a program of research, development, demonstration, and commercial application of energy technology for the secondary use of batteries, if the Secretary finds that there are sufficient numbers of batteries to support the program.

(2) ADMINISTRATION.—The program shall be—

(A) designed to demonstrate the use of batteries in secondary applications, including utility and commercial power storage and power quality;

(B) structured to evaluate the performance, including useful service life and costs, of such batteries in field operations, and the necessary supporting infrastructure, including reuse and disposal of batteries; and

(C) coordinated with ongoing secondary battery use programs at the National Laboratories and in industry.

(c) SOLICITATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall solicit proposals to demonstrate the secondary use of batteries and associated equipment and supporting infrastructure in geographic locations throughout the United States.

(2) ADDITIONAL SOLICITATIONS.—The Secretary may make additional solicitations for proposals if the Secretary determines that the solicitations are necessary to carry out this section.

(d) SELECTION OF PROPOSALS.—

(1) IN GENERAL.—Not later than 90 days after the closing date established by the Secretary for receipt of proposals under subsection (c), the Secretary shall select up to 5 proposals that may receive financial assistance under this section once the Department receives appropriated funds to carry out this section.

(2) FACTORS.—In selecting proposals, the Secretary shall consider—

(A) the diversity of battery type;

(B) geographic and climatic diversity; and

(C) life-cycle environmental effects of the approaches.

(3) LIMITATION.—No 1 project selected under this section shall receive more than 25 percent of the funds made available to carry out the program under this section.

(4) NON-FEDERAL INVOLVEMENT.—In selecting proposals, the Secretary shall consider the extent of involvement of State or local government and other persons in each demonstration project to optimize use of Federal resources.

(5) OTHER CRITERIA.—In selecting proposals, the Secretary may consider such other criteria as the Secretary considers appropriate.

(e) CONDITIONS.—In carrying out this section, the Secretary shall require that—

(1) relevant information be provided to—

(A) the Department;

(B) the users of the batteries;

(C) the proposers of a project under this section; and

(D) the battery manufacturers; and

(2) the costs of carrying out projects and activities under this section are shared in accordance with section 988.

SEC. 916. ENERGY EFFICIENCY SCIENCE INITIATIVE.

(a) ESTABLISHMENT.—The Secretary shall establish an Energy Efficiency Science Initiative to be managed by the Assistant Secretary in the Department with responsibility for energy conservation under section 203(a)(9) of the Department of Energy Organization Act (42 U.S.C. 7133(a)(9)), in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

(b) REPORT.—The Secretary shall submit to Congress, along with the annual budget request of the President submitted to Congress, a report on the activities of the Energy Efficiency Science Initiative, including a description of the process used to award the funds and an explanation of how the research relates to energy efficiency.

SEC. 917. ADVANCED ENERGY EFFICIENCY TECHNOLOGY TRANSFER CENTERS.

(a) GRANTS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall make grants to nonprofit institutions, State and local governments, or universities (or consortia thereof), to establish a geographically dispersed network of Advanced Energy Efficiency Technology Transfer Centers, to be located in areas the Secretary determines have the greatest need of the services of such Centers. In establishing the network, the Secretary shall consider the special needs and opportunities for increased energy efficiency for manufactured and site-built housing.

(b) ACTIVITIES.—

(1) IN GENERAL.—Each Center shall operate a program to encourage demonstration and commercial application of advanced energy methods and technologies through education and outreach to building and industrial professionals, and to other individuals and organizations with an interest in efficient energy use.

(2) ADVISORY PANEL.—Each Center shall establish an advisory panel to advise the Center on how best to accomplish the activities under paragraph (1).

(c) APPLICATION.—A person seeking a grant under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require. The Secretary may award a grant under this section to an entity already in existence if the entity is otherwise eligible under this section.

(d) SELECTION CRITERIA.—The Secretary shall award grants under this section on the basis of the following criteria, at a minimum:

(1) The ability of the applicant to carry out the activities described in subsection (b)(1).

(2) The extent to which the applicant will coordinate the activities of the Center with other entities, such as State and local governments, utilities, and educational and research institutions.

(e) COST-SHARING.—In carrying out this section, the Secretary shall require cost-sharing in accordance with the requirements of section 988 for commercial application activities.

(f) ADVISORY COMMITTEE.—The Secretary shall establish an advisory committee to advise the Secretary on the establishment of Centers under this section. The advisory committee shall be composed of individuals with expertise in the area of advanced energy methods and technologies, including at least 1 representative from—

(1) State or local energy offices;

(2) energy professionals;

(3) trade or professional associations;

(4) architects, engineers, or construction professionals;

(5) manufacturers;

(6) the research community; and

(7) nonprofit energy or environmental organizations.

(g) DEFINITIONS.—For purposes of this section:

(1) ADVANCED ENERGY METHODS AND TECHNOLOGIES.—The term "advanced energy methods and technologies" means all methods and technologies that promote energy efficiency and conservation, including distributed generation technologies, and life-cycle analysis of energy use.

(2) CENTER.—The term "Center" means an Advanced Energy Technology Transfer Center established pursuant to this section.

(3) DISTRIBUTED GENERATION.—The term "distributed generation" means an electric power generation facility that is designed to serve retail electric consumers at or near the facility site.

(h) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated in section 911, there are authorized to be appropriated for the program under this section such sums as may be appropriated.

Subtitle B—Distributed Energy and Electric Energy Systems

SEC. 921. DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS.

(a) IN GENERAL.—The Secretary shall carry out programs of research, development, demonstration, and commercial application on distributed energy resources and systems reliability and efficiency, to improve the reliability and efficiency of distributed energy resources and systems, integrating advanced energy technologies with grid connectivity, including activities described in this subtitle. The programs shall address advanced energy technologies and systems and advanced grid reliability technologies.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS ACTIVITIES.—There are authorized to be appropriated to the Secretary to carry out distributed energy and electric energy systems activities, including activities authorized under this subtitle—

(A) $240,000,000 for fiscal year 2007;

(B) $255,000,000 for fiscal year 2008; and

(C) $273,000,000 for fiscal year 2009.

(2) POWER DELIVERY RESEARCH INITIATIVE.—There are authorized to be appropriated to the Secretary to carry out the Power Delivery Research Initiative under subsection 925(e) such sums as may be necessary for each of fiscal years 2007 through 2009.

(c) MICRO-COGENERATION ENERGY TECHNOLOGY.—From amounts authorized under subsection (b), $20,000,000 for each of fiscal years 2007 and 2008 shall be available to carry out activities under section 923.

(d) HIGH-VOLTAGE TRANSMISSION LINES.—From amounts authorized under subsection (b), $2,000,000 for fiscal year 2007 shall be available to carry out activities under section 925(g).

SEC. 922. HIGH POWER DENSITY INDUSTRY PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a comprehensive research, development, demonstration, and commercial application to improve the energy efficiency of high power density facilities, including data centers, server farms, and telecommunications facilities.

(b) TECHNOLOGIES.—The program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak load reduction, or the efficient cooling of electronics.

SEC. 923. MICRO-COGENERATION ENERGY TECHNOLOGY.

(a) IN GENERAL.—The Secretary shall make competitive, merit-based grants to consortia for the development of micro-cogeneration energy technology.

(b) USES.—The consortia shall explore—

(1) the use of small-scale combined heat and power in residential heating appliances;

(2) the use of excess power to operate other appliances within the residence; and

(3) the supply of excess generated power to the power grid.

SEC. 924. DISTRIBUTED ENERGY TECHNOLOGY DEMONSTRATION PROGRAMS.

(a) COORDINATING CONSORTIA PROGRAM.—The Secretary may provide financial assistance to coordinating consortia of interdisciplinary participants for demonstrations designed to accelerate the use of distributed energy technologies (such as fuel cells, microturbines, reciprocating engines, thermally activated technologies, and combined heat and power systems) in highly energy intensive commercial applications.

(b) SMALL-SCALE PORTABLE POWER PROGRAM.—

(1) IN GENERAL.—The Secretary shall—

(A) establish a research, development, and demonstration program to develop working models of small scale portable power devices; and

(B) to the fullest extent practicable, identify and utilize the resources of universities that have shown expertise with respect to advanced portable power devices for either civilian or military use.

(2) ORGANIZATION.—The universities identified and utilized under paragraph (1)(B) are authorized to establish an organization to promote small scale portable power devices.

(3) DEFINITION.—For purposes of this subsection, the term "small scale portable power device" means a field-deployable portable mechanical or electromechanical device that can be used for applications such as communications, computation, mobility enhancement, weapons systems, optical devices, cooling, sensors, medical devices, and active biological agent detection systems.

SEC. 925. ELECTRIC TRANSMISSION AND DISTRIBUTION PROGRAMS.

(a) Program.—The Secretary shall establish a comprehensive research, development, and demonstration program to ensure the reliability, efficiency, and environmental integrity of electrical transmission and distribution systems, which shall include—

(1) advanced energy delivery technologies, energy storage technologies, materials, and systems, giving priority to new transmission technologies, including composite conductor materials and other technologies that enhance reliability, operational flexibility, or power-carrying capability;

(2) advanced grid reliability and efficiency technology development;

(3) technologies contributing to significant load reductions;

(4) advanced metering, load management, and control technologies;

(5) technologies to enhance existing grid components;

(6) the development and use of high-temperature superconductors to—

(A) enhance the reliability, operational flexibility, or power-carrying capability of electric transmission or distribution systems; or

(B) increase the efficiency of electric energy generation, transmission, distribution, or storage systems;

(7) integration of power systems, including systems to deliver high-quality electric power, electric power reliability, and combined heat and power;

(8) supply of electricity to the power grid by small scale, distributed and residential-based power generators;

(9) the development and use of advanced grid design, operation, and planning tools;

(10) any other infrastructure technologies, as appropriate; and

(11) technology transfer and education.

(b) Program Plan.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and submit to Congress a 5-year program plan to guide activities under this section.

(2) Consultation.—In preparing the program plan, the Secretary shall consult with—

(A) utilities;

(B) energy service providers;

(C) manufacturers;

(D) institutions of higher education;

(E) other appropriate State and local agencies;

(F) environmental organizations;

(G) professional and technical societies; and

(H) any other persons the Secretary considers appropriate.

(c) Implementation.—The Secretary shall consider implementing the program under this section using a consortium of participants from industry, institutions of higher education, and National Laboratories.

(d) Report.—Not later than 2 years after the submission of the plan under subsection (b), the Secretary shall submit to Congress a report—

(1) describing the progress made under this section; and

(2) identifying any additional resources needed to continue the development and commercial application of transmission and distribution of infrastructure technologies.

(e) Power Delivery Research Initiative.—

(1) In general.—The Secretary shall establish a research, development, and demonstration initiative specifically focused on power delivery using components incorporating high temperature superconductivity.

(2) Goals.—The goals of the Initiative shall be—

(A) to establish world-class facilities to develop high temperature superconductivity power applications in partnership with manufacturers and utilities;

(B) to provide technical leadership for establishing reliability for high temperature superconductivity power applications, including suitable modeling and analysis;

(C) to facilitate the commercial transition toward direct current power transmission, storage, and use for high power systems using high temperature superconductivity; and

(D) to facilitate the integration of very low impedance high temperature superconducting wires and cables in existing electric networks to improve system performance, power flow control, and reliability.

(3) Inclusions.—The Initiative shall include—

(A) feasibility analysis, planning, research, and design to construct demonstrations of superconducting links in high power, direct current, and controllable alternating current transmission systems;

(B) public-private partnerships to demonstrate deployment of high temperature superconducting cable into testbeds simulating a realistic transmission grid and under varying transmission conditions, including actual grid insertions; and

(C) testbeds developed in cooperation with National Laboratories, industries, and institutions of higher education to—

(i) demonstrate those technologies;

(ii) prepare the technologies for commercial introduction; and

(iii) address cost or performance roadblocks to successful commercial use.

(f) Transmission and Distribution Grid Planning and Operations Initiative.—

(1) In general.—The Secretary shall establish a research, development, and demonstration initiative specifically focused on tools needed to plan, operate, and expand the transmission and distribution grids in the presence of competitive market mechanisms for energy, load demand, customer response, and ancillary services.

(2) Goals.—The goals of the Initiative shall be—

(A)(i) to develop and use a geographically distributed center, consisting of institutions of higher education, and National Laboratories, with expertise and facilities to develop the underlying theory and software for power system application; and

(ii) to ensure commercial development in partnership with software vendors and utilities;

(B) to provide technical leadership in engineering and economic analysis for the reliability and efficiency of power systems planning and operations in the presence of competitive markets for electricity;

(C) to model, simulate, and experiment with new market mechanisms and operating practices to understand and optimize those new methods before actual use; and

(D) to provide technical support and technology transfer to electric utilities and other participants in the domestic electric industry and marketplace.

(g) High-voltage Transmission Lines.—As part of the program described in subsection (a), the Secretary shall award a grant to a university research program to design and test, in consultation with the Tennessee Valley Authority, state-of-the-art optimization techniques for power flow through existing high voltage transmission lines.

Subtitle C—Renewable Energy

SEC. 931. RENEWABLE ENERGY.

(a) In General.—

(1) Objectives.—The Secretary shall conduct programs of renewable energy research, development, demonstration, and commercial application, including activities described in this subtitle. Such programs shall take into consideration the following objectives:

(A) Increasing the conversion efficiency of all forms of renewable energy through improved technologies.

(B) Decreasing the cost of renewable energy generation and delivery.

(C) Promoting the diversity of the energy supply.

(D) Decreasing the dependence of the United States on foreign energy supplies.

(E) Improving United States energy security.

(F) Decreasing the environmental impact of energy-related activities.

(G) Increasing the export of renewable generation equipment from the United States.

(2) Programs.—

(A) Solar energy.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for solar energy, including—

(i) photovoltaics;

(ii) solar hot water and solar space heating;

(iii) concentrating solar power;

(iv) lighting systems that integrate sunlight and electrical lighting in complement to each other in common lighting fixtures for the purpose of improving energy efficiency;

(v) manufacturability of low cost high, quality solar systems; and

(vi) development of products that can be easily integrated into new and existing buildings.

(B) Wind energy.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for wind energy, including—

(i) low speed wind energy;

(ii) offshore wind energy;

(iii) testing and verification (including construction and operation of a research and testing facility capable of testing wind turbines); and

(iv) distributed wind energy generation.

(C) Geothermal.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for geothermal energy. The program shall focus on developing improved technologies for reducing the costs of geothermal energy installations, including technologies for—

(i) improving detection of geothermal resources;

(ii) decreasing drilling costs;

(iii) decreasing maintenance costs through improved materials;

(iv) increasing the potential for other revenue sources, such as mineral production; and

(v) increasing the understanding of reservoir life cycle and management.

(D) Hydropower.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for cost competitive technologies that enable the development of new and incremental hydropower capacity, adding to the diversity of the energy supply of the United States, including:

(i) Fish-friendly large turbines.

(ii) Advanced technologies to enhance environmental performance and yield greater energy efficiencies.

(E) Miscellaneous projects.—The Secretary shall conduct research, development, demonstration, and commercial application programs for—

(i) ocean energy, including wave energy;

(ii) the combined use of renewable energy technologies with one another and with other energy technologies, including the combined use of wind power and coal gasification technologies;

(iii) renewable energy technologies for cogeneration of hydrogen and electricity; and

(iv) kinetic hydro turbines.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary to carry out renewable energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle—

(1) $632,000,000 for fiscal year 2007;

(2) $743,000,000 for fiscal year 2008; and

(3) $852,000,000 for fiscal year 2009.

(c) BIOENERGY.—From the amounts authorized under subsection (b), there are authorized to be appropriated to carry out section 932—

(1) $213,000,000 for fiscal year 2007, of which $100,000,000 shall be for section 932 (d);

(2) $251,000,000 for fiscal year 2008, of which $125,000,000 shall be for section 932 (d); and

(3) $274,000,000 for fiscal year 2009, of which $150,000,000 shall be for section 932 (d) .

(d) SOLAR POWER.—From amounts authorized under subsection (b), there is authorized to be appropriated to carry out activities under subsection (a)(2)(A)—

(1) $140,000,000 for fiscal year 2007, of which $40,000,000 shall be for activities under section 935;

(2) $200,000,000 for fiscal year 2008, of which $50,000,000 shall be for activities under section 935; and

(3) $250,000,000 for fiscal year 2009, of which $50,000,000 shall be for activities under section 935.

(e) ADMINISTRATION.—Of the funds authorized under subsection (c), not less than $5,000,000 for each fiscal year shall be made available for grants to—

(1) part B institutions;

(2) Tribal Colleges or Universities (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))); and

(3) Hispanic-serving institutions.

(f) RURAL DEMONSTRATION PROJECTS.—In carrying out this section, the Secretary, in consultation with the Secretary of Agriculture, shall demonstrate the use of renewable energy technologies to assist in delivering electricity to rural and remote locations including —

(1) advanced wind power technology, including combined use with coal gasification;

(2) biomass; and

(3) geothermal energy systems.

(g) ANALYSIS AND EVALUATION.—

(1) IN GENERAL.—The Secretary shall conduct analysis and evaluation in support of the renewable energy programs under this subtitle. These activities shall be used to guide budget and program decisions, and shall include—

(A) economic and technical analysis of renewable energy potential, including resource assessment;

(B) analysis of past program performance, both in terms of technical advances and in market introduction of renewable energy; and

(C) any other analysis or evaluation that the Secretary considers appropriate.

(2) FUNDING.—The Secretary may designate up to 1 percent of the funds appropriated for carrying out this subtitle for analysis and evaluation activities under this subsection.

SEC. 932. BIOENERGY PROGRAM.

(a) DEFINITIONS.—In this section:

(1) BIOMASS.—The term "biomass" means—

(A) any organic material grown for the purpose of being converted to energy;

(B) any organic byproduct of agriculture (including wastes from food production and processing) that can be converted into energy; or

(C) any waste material that can be converted to energy, is segregated from other waste materials, and is derived from–

(i) any of the following forest-related resources: mill residues, precommercial thinnings, slash, brush, or otherwise nonmerchantable material; or

(ii) wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of municipal solid waste, or paper that is commonly recycled.

(2) LIGNOCELLULOSIC FEEDSTOCK.—The term "lignocellulosic feedstock" means any portion of a plant or coproduct from conversion, including crops, trees, forest residues, and agricultural residues not specifically grown for food, including from barley grain, grapeseed, rice bran, rice hulls, rice straw, soybean matter, and sugarcane bagasse.

(b) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for bioenergy, including—

(1) biopower energy systems;

(2) biofuels;

(3) bioproducts;

(4) integrated biorefineries that may produce biopower, biofuels, and bioproducts;

(5) cross-cutting research and development in feedstocks; and

(6) economic analysis.

(c) BIOFUELS AND BIOPRODUCTS.—The goals of the biofuels and bioproducts programs shall be to develop, in partnership with industry and institutions of higher education—

(1) advanced biochemical and thermochemical conversion technologies capable of making fuels from lignocellulosic feedstocks that are price-competitive with gasoline or diesel in either internal combustion engines or fuel cell-powered vehicles;

(2) advanced biotechnology processes capable of making biofuels and bioproducts with emphasis on development of biorefinery technologies using enzyme-based processing systems;

(3) advanced biotechnology processes capable of increasing energy production from lignocellulosic feedstocks, with emphasis on reducing the dependence of industry on fossil fuels in manufacturing facilities; and

(4) other advanced processes that will enable the development of cost-effective bioproducts, including biofuels.

(d) INTEGRATED BIOREFINERY DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—The Secretary shall carry out a program to demonstrate the commercial application of integrated biorefineries. The Secretary shall ensure geographical distribution of biorefinery demonstrations under this subsection. The Secretary shall not provide more than $100,000,000 under this subsection for any single biorefinery demonstration. In making awards under this subsection, the Secretary shall encourage—

(A) the demonstration of a wide variety of lignocellulosic feedstocks;

(B) the commercial application of biomass technologies for a variety of uses, including—

(i) liquid transportation fuels;

(ii) high-value biobased chemicals;

(iii) substitutes for petroleum-based feedstocks and products; and

(iv) energy in the form of electricity or useful heat; and

(C) the demonstration of the collection and treatment of a variety of biomass feedstocks.

(2) PROPOSALS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall solicit proposals for demonstration of advanced biorefineries. The Secretary shall select only proposals that—

(A) demonstrate that the project will be able to operate profitably without direct Federal subsidy after initial construction costs are paid; and

(B) enable the biorefinery to be easily replicated.

(e) UNIVERSITY BIODIESEL PROGRAM.—The Secretary shall establish a demonstration program to determine the feasibility of the operation of diesel electric power generators, using biodiesel fuels with ratings as high as B100, at electric generation facilities owned by institutions of higher education. The program shall examine—

(1) heat rates of diesel fuels with large quantities of cellulosic content;

(2) the reliability of operation of various fuel blends;

(3) performance in cold or freezing weather;

(4) stability of fuel after extended storage; and

(5) other criteria, as determined by the Secretary.

SEC. 933. LOW-COST RENEWABLE HYDROGEN AND INFRASTRUCTURE FOR VEHICLE PROPULSION.

The Secretary shall—

(1) establish a research, development, and demonstration program to determine the feasibility of using hydrogen propulsion in light-weight vehicles and the integration of the associated hydrogen production infrastructure using off-the-shelf components; and

(2) identify universities and institutions that—

(A) have expertise in researching and testing vehicles fueled by hydrogen, methane, and other fuels;

(B) have expertise in integrating off-the-shelf components to minimize cost; and

(C) within 2 years can test a vehicle based on an existing commercially available platform with a curb weight of not less than 2,000 pounds before modifications, that—

(i) operates solely on hydrogen;

(ii) qualifies as a light-duty passenger vehicle; and

(iii) uses hydrogen produced from water using only solar energy.

SEC. 934. CONCENTRATING SOLAR POWER RESEARCH PROGRAM.

(a) IN GENERAL.—The Secretary shall conduct a program of research and development to evaluate the potential for concentrating solar power for hydrogen production, including cogeneration approaches for both hydrogen and electricity.

(b) ADMINISTRATION.—The program shall take advantage of existing facilities to the extent practicable and shall include—

(1) development of optimized technologies that are common to both electricity and hydrogen production;

(2) evaluation of thermochemical cycles for hydrogen production at the temperatures attainable with concentrating solar power;

(3) evaluation of materials issues for the thermochemical cycles described in paragraph (2);

(4) cogeneration of solar thermal electric power and photo-synthetic-based hydrogen production;

(5) system architectures and economics studies; and

(6) coordination with activities under the Next Generation Nuclear Plant Project established under subtitle C of title VI on high temperature materials, thermochemical cycles, and economic issues.

(c) ASSESSMENT.—In carrying out the program under this section, the Secretary shall—

(1) assess conflicting guidance on the economic potential of concentrating solar power for electricity production received from the National Research Council in the report entitled "Renewable Power Pathways: A Review of the U.S. Department of Energy's Renewable Energy Programs" and dated 2000 and subsequent reviews of that report funded by the Department; and

(2) provide an assessment of the potential impact of technology used to concentrate solar power for electricity before, or concurrent with, submission of the budget for fiscal year 2008.

(d) REPORT.—Not later than 5 years after the date of enactment of this Act, the Secretary shall provide to Congress a report on the economic and technical potential for electricity or *hydrogen production, with or without cogeneration, with concentrating solar power, including the economic and technical feasibility of potential construction of a pilot demonstration facility suitable for commercial production of electricity or hydrogen from concentrating solar power.*

SEC. 935. RENEWABLE ENERGY IN PUBLIC BUILDINGS.

(a) Demonstration and Technology Transfer Program.—The Secretary shall establish a program for the demonstration of innovative technologies for solar and other renewable energy sources in buildings owned or operated by a State or local government, and for the dissemination of information resulting from such demonstration to interested parties.

(b) Limit on Federal Funding.—Notwithstanding section 988, the Secretary shall provide under this section no more than 40 percent of the incremental costs of the solar or other renewable energy source project funded.

(c) Requirements.—As part of the application for awards under this section, the Secretary shall require all applicants—

(1) to demonstrate a continuing commitment to the use of solar and other renewable energy sources in buildings they own or operate; and

(2) to state how they expect any award to further their transition to the significant use of renewable energy.

Subtitle D—Agricultural Biomass Research and Development Programs

SEC. 941. AMENDMENTS TO THE BIOMASS RESEARCH AND DEVELOPMENT ACT OF 2000.

(a) Definitions.—Section 303 of the Biomass Research and Development Act of 2000 (Public Law 106-224; 7 U.S.C. 8101 note) is amended—

(1) by striking paragraphs (2), (9), and (10);

(2) by redesignating paragraphs (3), (4), (5), (6), (7), and (8) as paragraphs (4), (5), (7), (8), (9), and (10), respectively;

(3) by inserting after paragraph (1) the following:

"(2) Biobased fuel.—The term 'biobased fuel' means any transportation fuel produced from biomass.

"(3) Biobased product.—The term 'biobased product' means an industrial product (including chemicals, materials, and polymers) produced from biomass, or a commercial or industrial product (including animal feed and electric power) derived in connection with the conversion of biomass to fuel.";

(4) by inserting after paragraph (5) (as redesignated by paragraph (2)) the following:

"(6) Demonstration.—The term 'demonstration' means demonstration of technology in a pilot plant or semi-works scale facility."; and

(5) by striking paragraph (9) (as redesignated by paragraph (2)) and inserting the following:

"(9) National laboratory.—The term 'National Laboratory' has the meaning given that term in section 2 of the Energy Policy Act of 2005."

(b) Cooperation and Coordination in Biomass Research and Development.—Section 304 of the Biomass Research and Development Act of 2000 (Public Law 106-224; 7 U.S.C. 8101 note) is amended—

(1) in subsections (a) and (d), by striking "industrial products" each place it appears and inserting "fuels and biobased products";

(2) by striking subsections (b) and (c); and

(3) by redesignating subsection (d) as subsection (b).

(c) Biomass Research and Development Board.—Section 305 of the Biomass Research and Development Act of 2000 (Public Law 106-224; 7 U.S.C. 8101 note) is amended—

(1) in subsections (a) and (c), by striking "industrial products" each place it appears and inserting "fuels and biobased products";

(2) in subsection (b)—

(A) in paragraph (1), by striking "304(d)(1)(B)" and inserting "304(b)(1)(B)"; and

(B) in paragraph (2), by striking "304(d)(1)(A)" and inserting "304(b)(1)(A)"; and

(3) in subsection (c)—

(A) in paragraph (1)(B), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(3) ensure that—

"(A) solicitations are open and competitive with awards made annually; and

"(B) objectives and evaluation criteria of the solicitations are clearly stated and minimally prescriptive, with no areas of special interest; and

"(4) ensure that the panel of scientific and technical peers assembled under section 307(g)(1)(C) to review proposals is composed predominantly of independent experts selected from outside the Departments of Agriculture and Energy.".

(d) Biomass Research and Development Technical Advisory Committee.—Section 306 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A), by striking "biobased industrial products" and inserting "biofuels";

(B) by redesignating subparagraphs (B) through (J) as subparagraphs (C) through (K), respectively;

(C) by inserting after subparagraph (A) the following:

"(B) an individual affiliated with the biobased industrial and commercial products industry;";

(D) in subparagraph (F) (as redesignated by subparagraph (B)) by striking "an individual has" and inserting "2 individuals have";

(E) in subparagraphs (C), (D), (G), and (I) (as redesignated by subparagraph (B)) by striking "industrial products" each place it appears and inserting "fuels and biobased products"; and

(F) in subparagraph (H) (as redesignated by subparagraph (B)), by inserting "and environmental" before "analysis";

(2) in subsection (c)(2)—

(A) in subparagraph (A), by striking "goals" and inserting "objectives, purposes, and considerations";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following:

"(B) solicitations are open and competitive with awards made annually and that objectives and evaluation criteria of the solicitations are clearly stated and minimally prescriptive, with no areas of special interest;"; and

(D) in subparagraph (C) (as redesignated by subparagraph (B)) by inserting "predominantly from outside the Departments of Agriculture and Energy" after "technical peers".

(e) Biomass Research and Development Initiative.—Section 307 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) in subsection (a), by striking "research on biobased industrial products" and inserting "research on, and development and demonstration of, biobased fuels and biobased products, and the methods, practices and technologies, for their production"; and

(2) by striking subsections (b) through (e) and inserting the following:

"(b) Objectives.—The objectives of the Initiative are to develop—

"(1) technologies and processes necessary for abundant commercial production of biobased fuels at prices competitive with fossil fuels;

"(2) high-value biobased products—

"(A) to enhance the economic viability of biobased fuels and power; and

"(B) as substitutes for petroleum-based feedstocks and products; and

"(3) a diversity of sustainable domestic sources of biomass for conversion to biobased fuels and biobased products.

"(c) Purposes.—The purposes of the Initiative are—

"(1) to increase the energy security of the United States;

"(2) to create jobs and enhance the economic development of the rural economy;

"(3) to enhance the environment and public health; and

"(4) to diversify markets for raw agricultural and forestry products.

"(d) Technical Areas.—To advance the objectives and purposes of the Initiative, the Secretary of Agriculture and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency and heads of other appropriate departments and agencies (referred to in this section as the 'Secretaries'), shall direct research and development toward—

"(1) feedstock production through the development of crops and cropping systems relevant to production of raw materials for conversion to biobased fuels and biobased products, including—

"(A) development of advanced and dedicated crops with desired features, including enhanced productivity, broader site range, low requirements for chemical inputs, and enhanced processing;

"(B) advanced crop production methods to achieve the features described in subparagraph (A);

"(C) feedstock harvest, handling, transport, and storage; and

"(D) strategies for integrating feedstock production into existing managed land;

"(2) overcoming recalcitrance of cellulosic biomass through developing technologies for converting cellulosic biomass into intermediates that can subsequently be converted into biobased fuels and biobased products, including—

"(A) pretreatment in combination with enzymatic or microbial hydrolysis; and

"(B) thermochemical approaches, including gasification and pyrolysis;

"(3) product diversification through technologies relevant to production of a range of biobased products (including chemicals, animal feeds, and cogenerated power) that eventually can increase the feasibility of fuel production in a biorefinery, including—

"(A) catalytic processing, including thermochemical fuel production;

"(B) metabolic engineering, enzyme engineering, and fermentation systems for biological production of desired products or cogeneration of power;

"(C) product recovery;

"(D) power production technologies; and

"(E) integration into existing biomass processing facilities, including starch ethanol plants, paper mills, and power plants; and

"(4) analysis that provides strategic guidance for the application of biomass technologies in accordance with realization of improved sustainability and environmental quality, cost effectiveness, security, and rural economic development, usually featuring system-wide approaches.

"(e) Additional Considerations.—Within the technical areas described in subsection (d), and in addition to advancing the purposes described in subsection (c) and the objectives described in subsection (b), the Secretaries shall support research and development—

"(1) to create continuously expanding opportunities for participants in existing biofuels production by seeking synergies and continuity

with current technologies and practices, such as the use of dried distillers grains as a bridge feedstock;

"(2) to maximize the environmental, economic, and social benefits of production of biobased fuels and biobased products on a large scale through life-cycle economic and environmental analysis and other means; and

"(3) to assess the potential of Federal land and land management programs as feedstock resources for biobased fuels and biobased products, consistent with the integrity of soil and water resources and with other environmental considerations.

"(f) ELIGIBLE ENTITIES.—To be eligible for a grant, contract, or assistance under this section, an applicant shall be—

"(1) an institution of higher education;

"(2) a National Laboratory;

"(3) a Federal research agency;

"(4) a State research agency;

"(5) a private sector entity;

"(6) a nonprofit organization; or

"(7) a consortium of 2 of more entities described in paragraphs (1) through (6).

"(g) ADMINISTRATION.—

"(1) IN GENERAL.—After consultation with the Board, the points of contact shall—

"(A) publish annually 1 or more joint requests for proposals for grants, contracts, and assistance under this section;

"(B) require that grants, contracts, and assistance under this section be awarded competitively, on the basis of merit, after the establishment of procedures that provide for scientific peer review by an independent panel of scientific and technical peers; and

"(C) give some preference to applications that—

"(i) involve a consortia of experts from multiple institutions;

"(ii) encourage the integration of disciplines and application of the best technical resources; and

"(iii) increase the geographic diversity of demonstration projects.

"(2) DISTRIBUTION OF FUNDING BY TECHNICAL AREA.—Of the funds authorized to be appropriated for activities described in this section, funds shall be distributed for each of fiscal years 2007 through 2010 so as to achieve an approximate distribution of—

"(A) 20 percent of the funds to carry out activities for feedstock production under subsection (d)(1);

"(B) 45 percent of the funds to carry out activities for overcoming recalcitrance of cellulosic biomass under subsection (d)(2);

"(C) 30 percent of the funds to carry out activities for product diversification under subsection (d)(3); and

"(D) 5 percent of the funds to carry out activities for strategic guidance under subsection (d)(4).

"(3) DISTRIBUTION OF FUNDING WITHIN EACH TECHNICAL AREA.—Within each technical area described in paragraphs (1) through (3) of subsection (d), funds shall be distributed for each of fiscal years 2007 through 2010 so as to achieve an approximate distribution of—

"(A) 15 percent of the funds for applied fundamentals;

"(B) 35 percent of the funds for innovation; and

"(C) 50 percent of the funds for demonstration.

"(4) MATCHING FUNDS.—

"(A) IN GENERAL.—A minimum 20 percent funding match shall be required for demonstration projects under this title.

"(B) COMMERCIAL APPLICATIONS.—A minimum of 50 percent funding match shall be required for commercial application projects under this title.

"(5) TECHNOLOGY AND INFORMATION TRANSFER TO AGRICULTURAL USERS.—The Administrator of the Cooperative State Research, Education, and Extension Service and the Chief of the Natural Resources Conservation Service shall ensure that applicable research results and technologies from the Initiative are adapted, made available, and disseminated through those services, as appropriate.".

(f) ANNUAL REPORTS.—Section 309 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "purposes described in section 307(b)" and inserting "objectives, purposes, and additional considerations described in subsections (b) through (e) of section 307";

(ii) in subparagraph (B), by striking "and" at the end;

(iii) by redesignating subparagraph (C) as subparagraph (D); and

(iv) by inserting after subparagraph (B) the following:

"(C) achieves the distribution of funds described in paragraphs (2) and (3) of section 307(g); and"; and

(B) in paragraph (2), by striking "industrial products" and inserting "fuels and biobased products"; and

(2) by adding at the end the following:

"(c) UPDATES.—The Secretary and the Secretary of Energy shall update the Vision and Roadmap documents prepared for Federal biomass research and development activities.".

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 310(b) of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended by striking "title $51,000,000 for each of fiscal years 2002 through 2007" and inserting "title $200,000,000 for each of fiscal years 2006 through 2015".

(h) REPEAL OF SUNSET PROVISION.—Section 311 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is repealed.

SEC. 942. PRODUCTION INCENTIVES FOR CELLULOSIC BIOFUELS.

(a) PURPOSE.—The purpose of this section is to—

(1) accelerate deployment and commercialization of biofuels;

(2) deliver the first 1,000,000,000 gallons in annual cellulosic biofuels production by 2015;

(3) ensure biofuels produced after 2015 are cost competitive with gasoline and diesel; and

(4) ensure that small feedstock producers and rural small businesses are full participants in the development of the cellulosic biofuels industry.

(b) DEFINITIONS.—In this section:

(1) CELLULOSIC BIOFUELS.—The term "cellulosic biofuels" means any fuel that is produced from cellulosic feedstocks.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means a producer of fuel from cellulosic biofuels the production facility of which—

(A) is located in the United States;

(B) meets all applicable Federal and State permitting requirements; and

(C) meets any financial criteria established by the Secretary.

(c) PROGRAM.—

(1) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Defense, and the Administrator of the Environmental Protection Agency, shall establish an incentive program for the production of cellulosic biofuels.

(2) BASIS OF INCENTIVES.—Under the program, the Secretary shall award production incentives on a per gallon basis of cellulosic biofuels from eligible entities, through—

(A) set payments per gallon of cellulosic biofuels produced in an amount determined by the Secretary, until initiation of the first reverse auction; and

(B) reverse auction thereafter.

(3) FIRST REVERSE AUCTION.—The first reverse auction shall be held on the earlier of—

(A) not later than 1 year after the first year of annual production in the United States of 100,000,000 gallons of cellulosic biofuels, as determined by the Secretary; or

(B) not later than 3 years after the date of enactment of this Act.

(4) REVERSE AUCTION PROCEDURE.—

(A) IN GENERAL.—On initiation of the first reverse auction, and each year thereafter until the earlier of the first year of annual production in the United States of 1,000,000,000 gallons of cellulosic biofuels, as determined by the Secretary, or 10 years after the date of enactment of this Act, the Secretary shall conduct a reverse auction at which—

(i) the Secretary shall solicit bids from eligible entities;

(ii) eligible entities shall submit—

(I) a desired level of production incentive on a per gallon basis; and

(II) an estimated annual production amount in gallons; and

(iii) the Secretary shall issue awards for the production amount submitted, beginning with the eligible entity submitting the bid for the lowest level of production incentive on a per gallon basis and meeting such other criteria as are established by the Secretary, until the amount of funds available for the reverse auction is committed.

(B) AMOUNT OF INCENTIVE RECEIVED.—An eligible entity selected by the Secretary through a reverse auction shall receive the amount of performance incentive requested in the auction for each gallon produced and sold by the entity during the first 6 years of operation.

(C) COMMENCEMENT OF PRODUCTION OF CELLULOSIC BIOFUELS.—As a condition of the receipt of an award under this section, an eligible entity shall enter into an agreement with the Secretary under which the eligible entity agrees to begin production of cellulosic biofuels not later than 3 years after the date of the reverse auction in which the eligible entity participates.

(d) LIMITATIONS.—Awards under this section shall be limited to—

(1) a per gallon amount determined by the Secretary during the first 4 years of the program;

(2) a declining per gallon cap over the remaining lifetime of the program, to be established by the Secretary so that cellulosic biofuels produced after the first year of annual cellulosic biofuels production in the United States in excess of 1,000,000,000 gallons are cost competitive with gasoline and diesel;

(3) not more than 25 percent of the funds committed within each reverse auction to any 1 project;

(4) not more than $1[illegible],000,000 in any 1 year; and

(5) not more than $1,000,000,000 over the lifetime of the program.

(e) PRIORITY.—In selecting a project under the program, the Secretary shall give priority to projects that—

(1) demonstrate outstanding potential for local and regional economic development;

(2) include agricultural producers or cooperatives of agricultural producers as equity partners in the ventures; and

(3) have a strategic agreement in place to fairly reward feedstock suppliers.

(f) AUTHORIZATIONS OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $250,000,000.

SEC. 943. PROCUREMENT OF BIOBASED PRODUCTS.

(a) FEDERAL PROCUREMENT.—

(1) DEFINITION OF PROCURING AGENCY.—Section 9001 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101) is amended—

(A) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) PROCURING AGENCY.—The term 'procuring agency' means—

"(A) any Federal agency that is using Federal funds for procurement; or

"(B) any person contracting with any Federal agency with respect to work performed under the contract.".

(2) PROCUREMENT.—Section 9002 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102) is amended—

(A) by striking "Federal agency" each place it appears (other than in subsections (f) and (g)) and inserting "procuring agency";

(B) in subsection (c)(2)—

(i) by striking "(2)" and all that follows through "Notwithstanding" and inserting the following:

"(2) FLEXIBILITY.—Notwithstanding";

(ii) by striking "an agency" and inserting "a procuring agency"; and

(iii) by striking "the agency" and inserting "the procuring agency";

(C) in subsection (d), by striking "procured by Federal agencies" and inserting "procured by procuring agencies"; and

(D) in subsection (j), by striking "Federal agencies" and inserting "procuring agencies" .

(b) CAPITOL COMPLEX PROCUREMENT.—Section 9002 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102) (as amended by subsection (a)(2)) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following:

"(j) INCLUSION.—Not later than 90 days after the date of enactment of the Energy Policy Act of 2005, the Architect of the Capitol, the Sergeant at Arms of the Senate, and the Chief Administrative Officer of the House of Representatives shall establish procedures that apply the requirements of this section to procurement for the Capitol Complex.".

(c) EDUCATION.—

(1) IN GENERAL.—The Architect of the Capitol shall establish in the Capitol Complex a program of public education regarding use by the Architect of the Capitol of biobased products.

(2) PURPOSES.—The purposes of the program shall be—

(A) to establish the Capitol Complex as a showcase for the existence and benefits of biobased products; and

(B) to provide access to further information on biobased products to occupants and visitors.

(d) PROCEDURE.—Requirements issued under the amendments made by subsection (b) shall be made in accordance with directives issued by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.

SEC. 944. SMALL BUSINESS BIOPRODUCT MARKETING AND CERTIFICATION GRANTS.

(a) IN GENERAL.—Using amounts made available under subsection (g), the Secretary of Agriculture (referred to in this section as the "Secretary") shall make available on a competitive basis grants to eligible entities described in subsection (b) for the biobased product marketing and certification purposes described in subsection (c).

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—An entity eligible for a grant under this section is any manufacturer of biobased products that—

(A) proposes to use the grant for the biobased product marketing and certification purposes described in subsection (c); and

(B) has not previously received a grant under this section.

(2) PREFERENCE.—In making grants under this section, the Secretary shall provide a preference to an eligible entity that has fewer than 50 employees.

(c) BIOBASED PRODUCT MARKETING AND CERTIFICATION GRANT PURPOSES.—A grant made under this section shall be used—

(1) to provide working capital for marketing of biobased products; and

(2) to provide for the certification of biobased products to—

(A) qualify for the label described in section 9002(h)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102(h)(1)); or

(B) meet other biobased standards determined appropriate by the Secretary.

(d) MATCHING FUNDS.—

(1) IN GENERAL.—Grant recipients shall provide matching non-Federal funds equal to the amount of the grant received.

(2) EXPENDITURE.—Matching funds shall be expended in advance of grant funding, so that for every dollar of grant that is advanced, an equal amount of matching funds shall have been funded prior to submitting the request for reimbursement.

(e) AMOUNT.—A grant made under this section shall not exceed $100,000.

(f) ADMINISTRATION.—The Secretary shall establish such administrative requirements for grants under this section, including requirements for applications for the grants, as the Secretary considers appropriate.

(g) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section—

(1) $1,000,000 for fiscal year 2006; and

(2) such sums as are necessary for each of fiscal years 2007 through 2015.

SEC. 945. REGIONAL BIOECONOMY DEVELOPMENT GRANTS.

(a) IN GENERAL.—Using amounts made available under subsection (g), the Secretary of Agriculture (referred to in this section as the "Secretary") shall make available on a competitive basis grants to eligible entities described in subsection (b) for the purposes described in subsection (c).

(b) ELIGIBLE ENTITIES.—An entity eligible for a grant under this section is any regional bioeconomy development association, agricultural or energy trade association, or Land Grant institution that—

(1) proposes to use the grant for the purposes described in subsection (c); and

(2) has not previously received a grant under this section.

(c) REGIONAL BIOECONOMY DEVELOPMENT ASSOCIATION GRANT PURPOSES.—A grant made under this section shall be used to support and promote the growth and development of the bioeconomy within the region served by the eligible entity, through coordination, education, outreach, and other endeavors by the eligible entity.

(d) MATCHING FUNDS.—

(1) IN GENERAL.—Grant recipients shall provide matching non-Federal funds equal to the amount of the grant received.

(2) EXPENDITURE.—Matching funds shall be expended in advance of grant funding, so that for every dollar of grant that is advanced, an equal amount of matching funds shall have been funded prior to submitting the request for reimbursement.

(e) ADMINISTRATION.—The Secretary shall establish such administrative requirements for grants under this section, including requirements for applications for the grants, as the Secretary considers appropriate.

(f) AMOUNT.—A grant made under this section shall not exceed $500,000.

(g) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section—

(1) $1,000,000 for fiscal year 2006; and

(2) such sums as are necessary for each of fiscal years 2007 through 2015.

SEC. 946. PREPROCESSING AND HARVESTING DEMONSTRATION GRANTS.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the "Secretary") shall make grants available on a competitive basis to enterprises owned by agricultural producers, for the purposes of demonstrating cost-effective, cellulosic biomass innovations in—

(1) preprocessing of feedstocks, including cleaning, separating and sorting, mixing or blending, and chemical or biochemical treatments, to add value and lower the cost of feedstock processing at a biorefinery; or

(2) 1-pass or other efficient, multiple crop harvesting techniques.

(b) LIMITATIONS ON GRANTS.—

(1) NUMBER OF GRANTS.—Not more than 5 demonstration projects per fiscal year shall be funded under this section.

(2) NON-FEDERAL COST SHARE.—The non-Federal cost share of a project under this section shall be not less than 20 percent, as determined by the Secretary.

(c) CONDITION OF GRANT.—To be eligible for a grant for a project under this section, a recipient of a grant or a participating entity shall agree to use the material harvested under the project—

(1) to produce ethanol; or

(2) for another energy purpose, such as the generation of heat or electricity.

(d) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2010.

SEC. 947. EDUCATION AND OUTREACH.

(a) IN GENERAL.—The Secretary of Agriculture shall establish, within the Department of Agriculture or through an independent contracting entity, a program of education and outreach on biobased fuels and biobased products consisting of—

(1) training and technical assistance programs for feedstock producers to promote producer ownership, investment, and participation in the operation of processing facilities; and

(2) public education and outreach to familiarize consumers with the biobased fuels and biobased products.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2006 through 2010.

SEC. 948. REPORTS.

(a) BIOBASED PRODUCT POTENTIAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture (referred to in this section as the "Secretary") shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(1) describes the economic potential for the United States of the widespread production and use of commercial and industrial biobased products through calendar year 2025; and

(2) as the maximum extent practicable, identifies the economic potential by product area.

(b) ANALYSIS OF ECONOMIC INDICATORS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress an analysis of economic indicators of the biobased economy.

Subtitle E—Nuclear Energy

SEC. 951. NUCLEAR ENERGY.

(a) IN GENERAL.—The Secretary shall conduct programs of civilian nuclear energy research,

development, demonstration, and commercial application, including activities described in this subtitle. Programs under this subtitle shall take into consideration the following objectives:

(1) Enhancing nuclear power's viability as part of the United States energy portfolio.

(2) Providing the technical means to reduce the likelihood of nuclear proliferation.

(3) Maintaining a cadre of nuclear scientists and engineers.

(4) Maintaining National Laboratory and university nuclear programs, including their infrastructure.

(5) Supporting both individual researchers and multidisciplinary teams of researchers to pioneer new approaches in nuclear energy, science, and technology.

(6) Developing, planning, constructing, acquiring, and operating special equipment and facilities for the use of researchers.

(7) Supporting technology transfer and other appropriate activities to assist the nuclear energy industry, and other users of nuclear science and engineering, including activities addressing reliability, availability, productivity, component aging, safety, and security of nuclear power plants.

(8) Reducing the environmental impact of nuclear energy-related activities.

(b) AUTHORIZATION OF APPROPRIATIONS FOR CORE PROGRAMS.—There are authorized to be appropriated to the Secretary to carry out nuclear energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle, other than those described in subsection (c)—

(1) $330,000,000 for fiscal year 2007;

(2) $355,000,000 for fiscal year 2008; and

(3) $495,000,000 for fiscal year 2009.

(c) NUCLEAR INFRASTRUCTURE AND FACILITIES.—There are authorized to be appropriated to the Secretary to carry out activities under section 955—

(1) $135,000,000 for fiscal year 2007;

(2) $140,000,000 for fiscal year 2008; and

(3) $145,000,000 for fiscal year 2009.

(d) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 953—

(A) $150,000,000 for fiscal year 2007;

(B) $155,000,000 for fiscal year 2008; and

(C) $275,000,000 for fiscal year 2009.

(2) For activities under section 954—

(A) $43,600,000 for fiscal year 2007;

(B) $50,100,000 for fiscal year 2008; and

(C) $56,000,000 for fiscal year 2009.

(3) For activities under section 957, $6,000,000 for each of fiscal years 2007 through 2009.

(e) LIMITATION.—None of the funds authorized under this section may be used to decommission the Fast Flux Test Facility.

SEC. 952. NUCLEAR ENERGY RESEARCH PROGRAMS.

(a) NUCLEAR ENERGY RESEARCH INITIATIVE.—The Secretary shall carry out a Nuclear Energy Research Initiative for research and development related to nuclear energy.

(b) NUCLEAR ENERGY SYSTEMS SUPPORT PROGRAM.—The Secretary shall carry out a Nuclear Energy Systems Support Program to support research and development activities addressing reliability, availability, productivity, component aging, safety, and security of existing nuclear power plants.

(c) NUCLEAR POWER 2010 PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a Nuclear Power 2010 Program, consistent with recommendations of the Nuclear Energy Research Advisory Committee of the Department in the report entitled "A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010" and dated October 2001.

(2) ADMINISTRATION.—The Program shall include—

(A) use of the expertise and capabilities of industry, institutions of higher education, and National Laboratories in evaluation of advanced nuclear fuel cycles and fuels testing;

(B) consideration of a variety of reactor designs suitable for both developed and developing nations;

(C) participation of international collaborators in research, development, and design efforts, as appropriate; and

(D) encouragement for participation by institutions of higher education and industry.

(d) GENERATION IV NUCLEAR ENERGY SYSTEMS INITIATIVE.—

(1) IN GENERAL.—The Secretary shall carry out a Generation IV Nuclear Energy Systems Initiative to develop an overall technology plan for and to support research and development necessary to make an informed technical decision about the most promising candidates for eventual commercial application.

(2) ADMINISTRATION.—In conducting the Initiative, the Secretary shall examine advanced proliferation-resistant and passively safe reactor designs, including designs that—

(A) are economically competitive with other electric power generation plants;

(B) have higher efficiency, lower cost, and improved safety compared to reactors in operation on the date of enactment of this Act;

(C) use fuels that are proliferation resistant and have substantially reduced production of high-level waste per unit of output; and

(D) use improved instrumentation.

(e) REACTOR PRODUCTION OF HYDROGEN.—The Secretary shall carry out research to examine designs for high-temperature reactors capable of producing large-scale quantities of hydrogen.

SEC. 953. ADVANCED FUEL CYCLE INITIATIVE.

(a) IN GENERAL.—The Secretary, acting through the Director of the Office of Nuclear Energy, Science and Technology, shall conduct an advanced fuel recycling technology research, development, and demonstration program (referred to in this section as the "program") to evaluate proliferation-resistant fuel recycling and transmutation technologies that minimize environmental and public health and safety impacts as an alternative to aqueous reprocessing technologies deployed as of the date of enactment of this Act in support of evaluation of alternative national strategies for spent nuclear fuel and the Generation IV advanced reactor concepts.

(b) ANNUAL REVIEW.—The program shall be subject to annual review by the Nuclear Energy Research Advisory Committee of the Department or other independent entity, as appropriate.

(c) INTERNATIONAL COOPERATION.—In carrying out the program, the Secretary is encouraged to seek opportunities to enhance the progress of the program through international cooperation.

(d) REPORTS.—The Secretary shall submit, as part of the annual budget submission of the Department, a report on the activities of the program.

SEC. 954. UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.

(a) IN GENERAL.—The Secretary shall conduct a program to invest in human resources and infrastructure in the nuclear sciences and related fields, including health physics, nuclear engineering, and radiochemistry, consistent with missions of the Department related to civilian nuclear research, development, demonstration, and commercial application.

(b) REQUIREMENTS.—In carrying out the program under this section, the Secretary shall—

(1) conduct a graduate and undergraduate fellowship program to attract new and talented students, which may include fellowships for students to spend time at National Laboratories in the areas of nuclear science, engineering, and health physics with a member of the National Laboratory staff acting as a mentor;

(2) conduct a junior faculty research initiation grant program to assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering by awarding grants to junior faculty for research on issues related to nuclear energy engineering and science;

(3) support fundamental nuclear sciences, engineering, and health physics research through a nuclear engineering education and research program;

(4) encourage collaborative nuclear research among industry, National Laboratories, and universities; and

(5) support communication and outreach related to nuclear science, engineering, and health physics.

(c) UNIVERSITY-NATIONAL LABORATORY INTERACTIONS.—The Secretary shall conduct—

(1) a fellowship program for professors at universities to spend sabbaticals at National Laboratories in the areas of nuclear science and technology; and

(2) a visiting scientist program in which National Laboratory staff can spend time in academic nuclear science and engineering departments.

(d) STRENGTHENING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—In carrying out the program under this section, the Secretary may support—

(1) converting research reactors from high-enrichment fuels to low-enrichment fuels and upgrading operational instrumentation;

(2) consortia of universities to broaden access to university research reactors;

(3) student training programs, in collaboration with the United States nuclear industry, in relicensing and upgrading reactors, including through the provision of technical assistance; and

(4) reactor improvements as part of a taking into consideration effort that emphasizes research, training, and education, including through the Innovations in Nuclear Infrastructure and Education Program or any similar program.

(e) OPERATIONS AND MAINTENANCE.—Funding for a project provided under this section may be used for a portion of the operating and maintenance costs of a research reactor at a university used in the project.

(f) DEFINITION.—In this section, the term "junior faculty" means a faculty member who was awarded a doctorate less than 10 years before receipt of an award from the grant program described in subsection (b)(2).

SEC. 955. DEPARTMENT OF ENERGY CIVILIAN NUCLEAR INFRASTRUCTURE AND FACILITIES.

(a) IN GENERAL.—The Secretary shall operate and maintain infrastructure and facilities to support the nuclear energy research, development, demonstration, and commercial application programs, including radiological facilities management, isotope production, and facilities management.

(b) DUTIES.—In carrying this section, the Secretary shall—

(1) develop an inventory of nuclear science and engineering facilities, equipment, expertise, and other assets at all of the National Laboratories;

(2) develop a prioritized list of nuclear science and engineering plant and equipment improvements needed at each of the National Laboratories;

(3) consider the available facilities and expertise at all National Laboratories and emphasize investments which complement rather than duplicate capabilities; and

(4) develop a timeline and a proposed budget for the completion of deferred maintenance on

plant and equipment, with the goal of ensuring that Department programs under this subtitle will be generally recognized to be among the best in the world.

(c) PLAN.—The Secretary shall develop a comprehensive plan for the facilities at the Idaho National Laboratory, especially taking into account the resources available at other National Laboratories. In developing the plan, the Secretary shall—

(1) evaluate the facilities planning processes utilized by other physical science and engineering research and development institutions, both in the United States and abroad, that are generally recognized as being among the best in the world, and consider how those processes might be adapted toward developing such facilities plan;

(2) avoid duplicating, moving, or transferring nuclear science and engineering facilities, equipment, expertise, and other assets that currently exist at other National Laboratories;

(3) consider the establishment of a national transuranic analytic chemistry laboratory as a user facility at the Idaho National Laboratory;

(4) include a plan to develop, if feasible, the Advanced Test Reactor and Test Reactor Area into a user facility that is more readily accessible to academic and industrial researchers;

(5) consider the establishment of a fast neutron source as a user facility;

(6) consider the establishment of new hot cells and the configuration of hot cells most likely to advance research, development, demonstration, and commercial application in nuclear science and engineering, especially in the context of the condition and availability of these facilities elsewhere in the National Laboratories; and

(7) include a timeline and a proposed budget for the completion of deferred maintenance on plant and equipment.

(d) TRANSMITTAL TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit the plan under subsection (c) to Congress.

SEC. 956. SECURITY OF NUCLEAR FACILITIES.

The Secretary, acting through the Director of the Office of Nuclear Energy, Science and Technology, shall conduct a research and development program on cost-effective technologies for increasing—

(1) the safety of nuclear facilities from natural phenomena; and

(2) the security of nuclear facilities from deliberate attacks.

SEC. 957. ALTERNATIVES TO INDUSTRIAL RADIOACTIVE SOURCES.

(a) SURVEY.—

(1) IN GENERAL.—Not later than August 1, 2006, the Secretary shall submit to Congress the results of a survey of industrial applications of large radioactive sources.

(2) ADMINISTRATION.—The survey shall—

(A) consider well-logging sources as 1 class of industrial sources;

(B) include information on current domestic and international Department, Department of Defense, State Department, and commercial programs to manage and dispose of radioactive sources; and

(C) analyze available disposal options for currently deployed or future sources and, if deficiencies are noted for either deployed or future sources, recommend legislative options that Congress may consider to remedy identified deficiencies.

(b) PLAN.—

(1) IN GENERAL.—In conjunction with the survey conducted under subsection (a), the Secretary shall establish a research and development program to develop alternatives to sources described in subsection (a) that reduce safety, environmental, or proliferation risks to either workers using the sources or the public.

(2) ACCELERATORS.—Miniaturized particle accelerators for well-logging or other industrial applications and portable accelerators for production of short-lived radioactive materials at an industrial site shall be considered as part of the research and development efforts.

(3) REPORT.—Not later than August 1, 2006, the Secretary shall submit to Congress a report describing the details of the program plan.

Subtitle F—Fossil Energy

SEC. 961. FOSSIL ENERGY.

(a) IN GENERAL.—The Secretary shall carry out research, development, demonstration, and commercial application programs in fossil energy, including activities under this subtitle, with the goal of improving the efficiency, effectiveness, and environmental performance of fossil energy production, upgrading, conversion, and consumption. Such programs take into consideration the following objectives:

(1) Increasing the energy conversion efficiency of all forms of fossil energy through improved technologies.

(2) Decreasing the cost of all fossil energy production, generation, and delivery.

(3) Promoting diversity of energy supply.

(4) Decreasing the dependence of the United States on foreign energy supplies.

(5) Improving United States energy security.

(6) Decreasing the environmental impact of energy-related activities.

(7) Increasing the export of fossil energy-related equipment, technology, and services from the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out fossil energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle—

(1) $611,000,000 for fiscal year 2007;

(2) $626,000,000 for fiscal year 2008; and

(3) $641,000,000 for fiscal year 2009.

(c) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 962—

(A) $367,000,000 for fiscal year 2007;

(B) $376,000,000 for fiscal year 2008; and

(C) $394,000,000 for fiscal year 2009.

(2) For activities under section 964—

(A) $20,000,000 for fiscal year 2007;

(B) $25,000,000 for fiscal year 2008; and

(C) $30,000,000 for fiscal year 2009.

(3) For activities under section 966—

(A) $1,500,000 for fiscal year 2007; and

(B) $450,000 for each of fiscal years 2008 and 2009.

(4) For the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (42 U.S.C. 7144d) $25,000,000 for each of fiscal years 2007 through 2009.

(d) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the Secretary for the Office of Arctic Energy established under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (42 U.S.C. 7144d) $25,000,000 for each of fiscal years 2010 through 2012.

(e) LIMITATIONS.—

(1) USES.—None of the funds authorized under this section may be used for Fossil Energy Environmental Restoration or Import/Export Authorization.

(2) INSTITUTIONS OF HIGHER EDUCATION.—Of the funds authorized under subsection (c)(2), not less than 20 percent of the funds appropriated for each fiscal year shall be dedicated to research and development carried out at institutions of higher education.

SEC. 962. COAL AND RELATED TECHNOLOGIES PROGRAM.

(a) IN GENERAL.—In addition to the programs authorized under title IV, the Secretary shall conduct a program of technology research, development, demonstration, and commercial application for coal and power systems, including programs to facilitate production and generation of coal-based power through—

(1) innovations for existing plants (including mercury removal);

(2) gasification systems;

(3) advanced combustion systems;

(4) turbines for synthesis gas derived from coal;

(5) carbon capture and sequestration research and development;

(6) coal-derived chemicals and transportation fuels;

(7) liquid fuels derived from low rank coal water slurry;

(8) solid fuels and feedstocks;

(9) advanced coal-related research;

(10) advanced separation technologies; and

(11) fuel cells for the operation of synthesis gas derived from coal.

(b) COST AND PERFORMANCE GOALS.—

(1) IN GENERAL.—In carrying out programs authorized by this section, during each of calendar years 2008, 2010, 2012, and 2016, and during each fiscal year beginning after September 30, 2021, the Secretary shall identify cost and performance goals for coal-based technologies that would permit the continued cost-competitive use of coal for the production of electricity, chemical feedstocks, and transportation fuels.

(2) ADMINISTRATION.—In establishing the cost and performance goals, the Secretary shall—

(A) consider activities and studies undertaken as of the date of enactment of this Act by industry in cooperation with the Department in support of the identification of the goals;

(B) consult with interested entities, including—

(i) coal producers;

(ii) industries using coal;

(iii) organizations that promote coal and advanced coal technologies;

(iv) environmental organizations;

(v) organizations representing workers; and

(vi) organizations representing consumers;

(C) not later than 120 days after the date of enactment of this Act, publish in the Federal Register proposed draft cost and performance goals for public comments; and

(D) not later than 180 days after the date of enactment of this Act and every 4 years thereafter, submit to Congress a report describing the final cost and performance goals for the technologies that includes—

(i) a list of technical milestones; and

(ii) an explanation of how programs authorized in this section will not duplicate the activities authorized under the Clean Coal Power Initiative authorized under title IV.

(c) POWDER RIVER BASIN AND FORT UNION LIGNITE COAL MERCURY REMOVAL.—

(1) IN GENERAL.—In addition to the programs authorized by subsection (a), the Secretary shall establish a program to test and develop technologies to control and remove mercury emissions from subbituminous coal mined in the Powder River Basin, and Fort Union lignite coals, that are used for the generation of electricity.

(2) EFFICACY OF MERCURY REMOVAL TECHNOLOGY.—In carrying out the program under paragraph (1), the Secretary shall examine the efficacy of mercury removal technologies on coals described in that paragraph that are blended with other types of coal.

(d) FUEL CELLS.—

(1) IN GENERAL.—The Secretary shall conduct a program of research, development, demonstration, and commercial application on fuel cells for low-cost, high-efficiency, fuel-flexible, modular power systems.

(2) DEMONSTRATIONS.—The demonstrations referred to in paragraph (1) shall include solid

oxide fuel cell technology for commercial, residential, and transportation applications, and distributed generation systems, using improved manufacturing production and processes.

SEC. 963. CARBON CAPTURE RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a 10-year carbon capture research and development program to develop carbon dioxide capture technologies on combustion-based systems for use—

(1) in new coal utilization facilities; and

(2) on the fleet of coal-based units in existence on the date of enactment of this Act.

(b) OBJECTIVES.—The objectives of the program under subsection (a) shall be—

(1) to develop carbon dioxide capture technologies, including adsorption and absorption techniques and chemical processes, to remove the carbon dioxide from gas streams containing carbon dioxide potentially amenable to sequestration;

(2) to develop technologies that would directly produce concentrated streams of carbon dioxide potentially amenable to sequestration;

(3) to increase the efficiency of the overall system to reduce the quantity of carbon dioxide emissions released from the system per megawatt generated; and

(4) in accordance with the carbon dioxide capture program, to promote a robust carbon sequestration program and continue the work of the Department, in conjunction with the private sector, through regional carbon sequestration partnerships.

(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 961(b), the following sums are authorized for activities described in subsection (a)(2):

(1) $25,000,000 for fiscal year 2006;

(2) $30,000,000 for fiscal year 2007; and

(3) $35,000,000 for fiscal year 2008

SEC. 964. RESEARCH AND DEVELOPMENT FOR COAL MINING TECHNOLOGIES.

(a) ESTABLISHMENT.—The Secretary shall carry out a program for research and development on coal mining technologies.

(b) COOPERATION.—In carrying out the program, the Secretary shall cooperate with appropriate Federal agencies, coal producers, trade associations, equipment manufacturers, institutions of higher education with mining engineering departments, and other relevant entities.

(c) PROGRAM.—The research and development activities carried out under this section shall—

(1) be guided by the mining research and development priorities identified by the Mining Industry of the Future Program and in the recommendations from relevant reports of the National Academy of Sciences on mining technologies;

(2) include activities exploring minimization of contaminants in mined coal that contribute to environmental concerns including development and demonstration of electromagnetic wave imaging ahead of mining operations;

(3) develop and demonstrate coal bed electromagnetic wave imaging, spectroscopic reservoir analysis technology, and techniques for horizontal drilling in order to—

(A) identify areas of high coal gas content;

(B) increase methane recovery efficiency;

(C) prevent spoilage of domestic coal reserves; and

(D) minimize water disposal associated with methane extraction; and

(4) expand mining research capabilities at institutions of higher education.

SEC. 965. OIL AND GAS RESEARCH PROGRAMS.

(a) IN GENERAL.—The Secretary shall conduct a program of research, development, demonstration, and commercial application of oil and gas, including—

(1) exploration and production;

(2) gas hydrates;

(3) reservoir life and extension;

(4) transportation and distribution infrastructure;

(5) ultraclean fuels;

(6) heavy oil, oil shale, and tar sands; and

(7) related environmental research.

(b) OBJECTIVES.—The objectives of this program shall include advancing the science and technology available to domestic petroleum producers, particularly independent operators, to minimize the economic dislocation caused by the decline of domestic supplies of oil and natural gas resources.

(c) NATURAL GAS AND OIL DEPOSITS REPORT.—Not later than 2 years after the date of enactment of this Act and every 2 years thereafter, the Secretary of the Interior, in consultation with other appropriate Federal agencies, shall submit to Congress a report on the latest estimates of natural gas and oil reserves, reserves growth, and undiscovered resources in Federal and State waters off the coast of Louisiana, Texas, Alabama, and Mississippi.

(d) INTEGRATED CLEAN POWER AND ENERGY RESEARCH.—

(1) ESTABLISHMENT OF CENTER.—The Secretary shall establish a national center or consortium of excellence in clean energy and power generation, using the resources of the Clean Power and Energy Research Consortium in existence on the date of enactment of this Act, to address the critical dependence of the United States on energy and the need to reduce emissions.

(2) FOCUS AREAS.—The center or consortium shall conduct a program of research, development, demonstration, and commercial application on integrating the following 6 focus areas:

(A) Efficiency and reliability of gas turbines for power generation.

(B) Reduction in emissions from power generation.

(C) Promotion of energy conservation issues.

(D) Effectively using alternative fuels and renewable energy.

(E) Development of advanced materials technology for oil and gas exploration and use in harsh environments.

(F) Education on energy and power generation issues.

SEC. 966. LOW-VOLUME OIL AND GAS RESERVOIR RESEARCH PROGRAM.

(a) DEFINITIONS OF GIS.—In this section, the term "GIS" means geographic information systems technology that facilitates the organization and management of data with a geographic component.

(b) PROGRAM.—The Secretary shall establish a program of research, development, demonstration, and commercial application to maximize the productive capacity of marginal wells and reservoirs.

(c) DATA COLLECTION.—Under the program, the Secretary shall collect data on—

(1) the status and location of marginal wells and oil and gas reservoirs;

(2) the production capacity of marginal wells and oil and gas reservoirs;

(3) the location of low-pressure gathering facilities and pipelines; and

(4) the quantity of natural gas vented or flared in association with crude oil production.

(d) ANALYSIS.—Under the program, the Secretary shall—

(1) estimate the remaining producible reserves based on variable pipeline pressures; and

(2) recommend measures that will enable the continued production of those resources.

(e) STUDY.—

(1) IN GENERAL.—The Secretary may award a grant to an organization of States that contain significant numbers of marginal oil and natural gas wells to conduct an annual study of low-volume natural gas reservoirs.

(2) ORGANIZATION WITH NO GIS CAPABILITIES.—If an organization receiving a grant under paragraph (1) does not have GIS capabilities, the organization shall contract with an institution of higher education with GIS capabilities.

(3) STATE GEOLOGISTS.—The organization receiving a grant under paragraph (1) shall collaborate with the State geologist of each State being studied.

(f) PUBLIC INFORMATION.—The Secretary may use the data collected and analyzed under this section to produce maps and literature to disseminate to States to promote conservation of natural gas reserves.

SEC. 967. COMPLEX WELL TECHNOLOGY TESTING FACILITY.

The Secretary, in coordination with industry leaders in extended research drilling technology, shall establish a Complex Well Technology Testing Facility at the Rocky Mountain Oilfield Testing Center to increase the range of extended drilling technologies.

SEC. 968. METHANE HYDRATE RESEARCH.

(a) IN GENERAL.—The Methane Hydrate Research and Development Act of 2000 (30 U.S.C. 1902 note; Public Law 106–193) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Methane Hydrate Research and Development Act of 2000'.

"SEC. 2. FINDINGS.

"Congress finds that—

"(1) in order to promote energy independence and meet the increasing demand for energy, the United States will require a diversified portfolio of substantially increased quantities of electricity, natural gas, and transportation fuels;

"(2) according to the report submitted to Congress by the National Research Council entitled 'Charting the Future of Methane Hydrate Research in the United States', the total United States resources of gas hydrates have been estimated to be on the order of 200,000 trillion cubic feet;

"(3) according to the report of the National Commission on Energy Policy entitled 'Ending the Energy Stalemate—A Bipartisan Strategy to Meet America's Energy Challenge', and dated December 2004, the United States may be endowed with over 1/4 of the methane hydrate deposits in the world;

"(4) according to the Energy Information Administration, a shortfall in natural gas supply from conventional and unconventional sources is expected to occur in or about 2020; and

"(5) the National Academy of Sciences states that methane hydrate may have the potential to alleviate the projected shortfall in the natural gas supply.

"SEC. 3. DEFINITIONS.

"In this Act:

"(1) CONTRACT.—The term 'contract' means a procurement contract within the meaning of section 6303 of title 31, United States Code.

"(2) COOPERATIVE AGREEMENT.—The term 'cooperative agreement' means a cooperative agreement within the meaning of section 6305 of title 31, United States Code.

"(3) DIRECTOR.—The term 'Director' means the Director of the National Science Foundation.

"(4) GRANT.—The term 'grant' means a grant awarded under a grant agreement (within the meaning of section 6304 of title 31, United States Code).

"(5) INDUSTRIAL ENTERPRISE.—The term 'industrial enterprise' means a private, nongovernmental enterprise that has an expertise or capability that relates to methane hydrate research and development.

"(6) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution of higher education (as defined in *section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)).*

"(7) SECRETARY.—The term 'Secretary' means the Secretary of Energy, acting through the Assistant Secretary for Fossil Energy.

"(8) SECRETARY OF COMMERCE.—The term 'Secretary of Commerce' means the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration.

"(9) SECRETARY OF DEFENSE.—The term 'Secretary of Defense' means the Secretary of Defense, acting through the Secretary of the Navy.

"(10) SECRETARY OF THE INTERIOR.—The term 'Secretary of the Interior' means the Secretary of the Interior, acting through the Director of the United States Geological Survey, the Director of the Bureau of Land Management, and the Director of the Minerals Management Service.

"SEC. 4. METHANE HYDRATE RESEARCH AND DEVELOPMENT PROGRAM.

"(a) IN GENERAL.—

"(1) COMMENCEMENT OF PROGRAM.—Not later than 90 days after the date of enactment of the Energy Research, Development, Demonstration, and Commercial Application Act of 2005, the Secretary, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of the Interior, and the Director, shall commence a program of methane hydrate research and development in accordance with this section.

"(2) DESIGNATIONS.—The Secretary, the Secretary of Commerce, the Secretary of Defense, the Secretary of the Interior, and the Director shall designate individuals to carry out this section.

"(3) COORDINATION.—The individual designated by the Secretary shall coordinate all activities within the Department of Energy relating to methane hydrate research and development.

"(4) MEETINGS.—The individuals designated under paragraph (2) shall meet not later than 180 days after the date of enactment of the Energy Research, Development, Demonstration, and Commercial Application Act of 2005 and not less frequently than every 180 days thereafter to—

"(A) review the progress of the program under paragraph (1); and

"(B) coordinate interagency research and partnership efforts in carrying out the program.

"(b) GRANTS, CONTRACTS, COOPERATIVE AGREEMENTS, INTERAGENCY FUNDS TRANSFER AGREEMENTS, AND FIELD WORK PROPOSALS.—

"(1) ASSISTANCE AND COORDINATION.—In carrying out the program of methane hydrate research and development authorized by this section, the Secretary may award grants to, or enter into contracts or cooperative agreements with, institutions of higher education, oceanographic institutions, and industrial enterprises to—

"(A) conduct basic and applied research to identify, explore, assess, and develop methane hydrate as a commercially viable source of energy;

"(B) identify methane hydrate resources through remote sensing;

"(C) acquire and reprocess seismic data suitable for characterizing methane hydrate accumulations;

"(D) assist in developing technologies required for efficient and environmentally sound development of methane hydrate resources;

"(E) promote education and training in methane hydrate resource research and resource development through fellowships or other means for graduate education and training;

"(F) conduct basic and applied research to assess and mitigate the environmental impact of hydrate degassing (including both natural degassing and degassing associated with commercial development);

"(G) develop technologies to reduce the risks of drilling through methane hydrates; and

"(H) conduct exploratory drilling, well testing, and production testing operations on permafrost and non-permafrost gas hydrates in support of the activities authorized by this paragraph, including drilling of 1 or more full-scale production test wells.

"(2) COMPETITIVE PEER REVIEW.—Funds made available under paragraph (1) shall be made available based on a competitive process using external scientific peer review of proposed research.

"(c) METHANE HYDRATES ADVISORY PANEL.—

"(1) IN GENERAL.—The Secretary shall establish an advisory panel (including the hiring of appropriate staff) consisting of representatives of industrial enterprises, institutions of higher education, oceanographic institutions, State agencies, and environmental organizations with knowledge and expertise in the natural gas hydrates field, to—

"(A) assist in developing recommendations and broad programmatic priorities for the methane hydrate research and development program carried out under subsection (a)(1);

"(B) provide scientific oversight for the methane hydrates program, including assessing progress toward program goals, evaluating program balance, and providing recommendations to enhance the quality of the program over time; and

"(C) not later than 2 years after the date of enactment of the Energy Research, Development, Demonstration, and Commercial Application Act of 2005, and at such later dates as the panel considers advisable, submit to Congress—

"(i) an assessment of the methane hydrate research program; and

"(ii) an assessment of the 5-year research plan of the Department of Energy.

"(2) CONFLICTS OF INTEREST.—In appointing each member of the advisory panel established under paragraph (1), the Secretary shall ensure, to the maximum extent practicable, that the appointment of the member does not pose a conflict of interest with respect to the duties of the member under this Act.

"(3) MEETINGS.—The advisory panel shall—

"(A) hold the initial meeting of the advisory panel not later than 180 days after the date of establishment of the advisory panel; and

"(B) meet biennially thereafter.

"(4) COORDINATION.—The advisory panel shall coordinate activities of the advisory panel with program managers of the Department of Energy at appropriate National Laboratories.

"(d) CONSTRUCTION COSTS.—None of the funds made available to carry out this section may be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

"(e) RESPONSIBILITIES OF THE SECRETARY.—In carrying out subsection (b)(1), the Secretary shall—

"(1) facilitate and develop partnerships among government, industrial enterprises, and institutions of higher education to research, identify, assess, and explore methane hydrate resources;

"(2) undertake programs to develop basic information necessary for promoting long-term interest in methane hydrate resources as an energy source;

"(3) ensure that the data and information developed through the program are accessible and widely disseminated as needed and appropriate;

"(4) promote cooperation among agencies that are developing technologies that may hold promise for methane hydrate resource development;

"(5) report annually to Congress on the results of actions taken to carry out this Act; and

"(6) ensure, to the maximum extent practicable, greater participation by the Department of Energy in international cooperative efforts.

"SEC. 5. NATIONAL RESEARCH COUNCIL STUDY.

"(a) AGREEMENT FOR STUDY.—The Secretary shall offer to enter into an agreement with the National Research Council under which the National Research Council shall—

"(1) conduct a study of the progress made under the methane hydrate research and development program implemented under this Act; and

"(2) make recommendations for future methane hydrate research and development needs.

"(b) REPORT.—Not later than September 30, 2009, the Secretary shall submit to Congress a report containing the findings and recommendations of the National Research Council under this section.

"SEC. 6. REPORTS AND STUDIES FOR CONGRESS.

"The Secretary shall provide to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate copies of any report or study that the Department of Energy prepares at the direction of any committee of Congress relating to the methane hydrate research and development program implemented under this Act.

"SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary to carry out this Act, to remain available until expended—

"(1) $15,000,000 for fiscal year 2006;

"(2) $20,000,000 for fiscal year 2007;

"(3) $30,000,000 for fiscal year 2008;

"(4) $40,000,000 for fiscal year 2009; and

"(5) $50,000,000 for fiscal year 2010.".

(b) RECLASSIFICATION.—The Law Revision Counsel shall reclassify the Methane Hydrate Research and Development Act of 2000 (30 U.S.C. 1902 note; Public Law 106–193) to a new chapter at the end of title 30, United States Code.

Subtitle G—Science

SEC. 971. SCIENCE.

(a) IN GENERAL.—The Secretary shall conduct, through the Office of Science, programs of research, development, demonstration, and commercial application in high energy physics, nuclear physics, biological and environmental research, basic energy sciences, advanced scientific computing research, and fusion energy sciences, including activities described in this subtitle. The programs shall include support for facilities and infrastructure, education, outreach, information, analysis, and coordination activities.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out research, development, demonstration, and commercial application activities of the Office of Science, including activities authorized under this subtitle (including the amounts authorized under the amendment made by section 976(b) and including basic energy sciences, advanced scientific and computing research, biological and environmental research, fusion energy sciences, high energy physics, nuclear physics, research analysis, and infrastructure support)—

(1) $4,153,000,000 for fiscal year 2007;

(2) $4,586,000,000 for fiscal year 2008; and

(3) $5,200,000,000 for fiscal year 2009.

(c) ALLOCATIONS.—From amounts authorized under subsection (b), the following sums are authorized:

(1) For activities under the Fusion Energy Sciences program (including activities under section 972)—

(A) $355,500,000 for fiscal year 2007;

(B) $369,500,000 for fiscal year 2008;

(C) $384,800,000 for fiscal year 2009; and

(D) in addition to the amounts authorized under subparagraphs (A), (B), and (C), such sums as may be necessary for ITER construction, consistent with the limitations of section 972(c)(5).

(2) For activities under the catalysis research program under section 973—

(A) $36,500,000 for fiscal year 2007;

(B) $38,200,000 for fiscal year 2008; and

(C) such sums as may be necessary for fiscal year 2009.

(3) For activities under the Systems Biology Program under section 977 such sums as may be necessary for each of fiscal years 2007 through 2009.

(4) For activities under the Energy and Water Supplies program under section 979, $30,000,000 for each of fiscal years 2007 through 2009.

(5) For the energy research fellowships programs under section 984, $40,000,000 for each of fiscal years 2007 through 2009.

(6) For the advanced scientific computing activities under section 976—

(A) $270,000,000 for fiscal year 2007;

(B) $350,000,000 for fiscal year 2008; and

(C) $375,000,000 for fiscal year 2009.

(7) For the science and engineering education pilot program under section 983—

(A) $4,000,000 for each of fiscal years 2007 and 2008; and

(B) $8,000,000 for fiscal year 2009.

(d) INTEGRATED BIOENERGY RESEARCH AND DEVELOPMENT.—In addition to amounts otherwise authorized by this section, there are authorized to be appropriated to the Secretary for integrated bioenergy research and development programs, projects, and activities, $49,000,000 for each of the fiscal years 2005 through 2009. Activities funded under this subsection shall be coordinated with ongoing related programs of other Federal agencies, including the Plant Genome Program of the National Science Foundation. Of the funds authorized under this subsection, at least $5,000,000 for each fiscal year shall be for training and education targeted to minority and socially disadvantaged farmers and ranchers.

SEC. 972. FUSION ENERGY SCIENCES PROGRAM.

(a) DECLARATION OF POLICY.—It shall be the policy of the United States to conduct research, development, demonstration, and commercial applications to provide for the scientific, engineering, and commercial infrastructure necessary to ensure that the United States is competitive with other countries in providing fusion energy for its own needs and the needs of other countries, including by demonstrating electric power or hydrogen production for the United States energy grid using fusion energy at the earliest date.

(b) PLANNING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a plan (with proposed cost estimates, budgets, and lists of potential international partners) for the implementation of the policy described in subsection (a) in a manner that ensures that—

(A) existing fusion research facilities are more fully used;

(B) fusion science, technology, theory, advanced computation, modeling, and simulation are strengthened;

(C) new magnetic and inertial fusion research and development facilities are selected based on scientific innovation and cost effectiveness, and the potential of the facilities to advance the goal of practical fusion energy at the earliest date practicable;

(D) facilities that are selected are funded at a cost-effective rate;

(E) communication of scientific results and methods between the fusion energy science community and the broader scientific and technology communities is improved;

(F) inertial confinement fusion facilities are used to the extent practicable for the purpose of inertial fusion energy research and development;

(G) attractive alternative inertial and magnetic fusion energy approaches are more fully explored; and

(H) to the extent practicable, the recommendations of the Fusion Energy Sciences Advisory Committee in the report on workforce planning, dated March 2004, are carried out, including periodic reassessment of program needs.

(2) COSTS AND SCHEDULES.—The plan shall also address the status of and, to the extent practicable, costs and schedules for—

(A) the design and implementation of international or national facilities for the testing of fusion materials; and

(B) the design and implementation of international or national facilities for the testing and development of key fusion technologies.

(c) UNITED STATES PARTICIPATION IN ITER.—

(1) DEFINITIONS.—In this subsection:

(A) CONSTRUCTION.—

(i) IN GENERAL.—The term "construction" means—

(I) the physical construction of the ITER facility; and

(II) the physical construction, purchase, or manufacture of equipment or components that are specifically designed for the ITER facility.

(ii) EXCLUSIONS.—The term "construction" does not include the design of the facility, equipment, or components.

(B) ITER.—The term "ITER" means the international burning plasma fusion research project in which the President announced United States participation on January 30, 2003, or any similar international project.

(2) PARTICIPATION.—The United States may participate in the ITER only in accordance with this subsection.

(3) AGREEMENT.—

(A) IN GENERAL.—The Secretary may negotiate an agreement for United States participation in the ITER.

(B) CONTENTS.—Any agreement for United States participation in the ITER shall, at a minimum—

(i) clearly define the United States financial contribution to construction and operating costs, as well as any other costs associated with a project;

(ii) ensure that the share of high-technology components of the ITER manufactured in the United States is at least proportionate to the United States financial contribution to the ITER;

(iii) ensure that the United States will not be financially responsible for cost overruns in components manufactured in other ITER participating countries;

(iv) guarantee the United States full access to all data generated by the ITER;

(v) enable United States researchers to propose and carry out an equitable share of the experiments at the ITER;

(vi) provide the United States with a role in all collective decisionmaking related to the ITER; and

(vii) describe the process for discontinuing or decommissioning the ITER and any United States role in that process.

(4) PLAN.—

(A) DEVELOPMENT.—The Secretary, in consultation with the Fusion Energy Sciences Advisory Committee, shall develop a plan for the participation of United States scientists in the ITER that shall include—

(i) the United States research agenda for the ITER;

(ii) methods to evaluate whether the ITER is promoting progress toward making fusion a reliable and affordable source of power; and

(iii) a description of how work at the ITER will relate to other elements of the United States fusion program.

(B) REVIEW.—The Secretary shall request a review of the plan by the National Academy of Sciences.

(5) LIMITATION.—No Federal funds shall be expended for the construction of the ITER until the Secretary has submitted to Congress—

(A) the agreement negotiated in accordance with paragraph (3) and 120 days have elapsed since that submission;

(B) a report describing the management structure of the ITER and providing a fixed dollar estimate of the cost of United States participation in the construction of the ITER, and 120 days have elapsed since that submission;

(C) a report describing how United States participation in the ITER will be funded without reducing funding for other programs in the Office of Science (including other fusion programs), and 60 days have elapsed since that submission; and

(D) the plan required by paragraph (4) (but not the National Academy of Sciences review of that plan), and 60 days have elapsed since that submission.

(6) ALTERNATIVE TO ITER.—

(A) IN GENERAL.—If at any time during the negotiations on the ITER, the Secretary determines that construction and operation of the ITER is unlikely or infeasible, the Secretary shall submit to Congress, along with the budget request of the President submitted to Congress for the following fiscal year, a plan for implementing a domestic burning plasma experiment such as the Fusion Ignition Research Experiment, including costs and schedules for the plan.

(B) ADMINISTRATION.—The Secretary shall—

(i) refine the plan in full consultation with the Fusion Energy Sciences Advisory Committee; and

(ii) transmit the plan to the National Academy of Sciences for review.

SEC. 973. CATALYSIS RESEARCH PROGRAM.

(a) ESTABLISHMENT.—The Secretary, acting through the Office of Science, shall support a program of research and development in catalysis science consistent with the statutory authorities of the Department related to research and development.

(b) COMPONENTS.—The program shall include efforts to—

(1) enable catalyst design using combinations of experimental and mechanistic methodologies coupled with computational modeling of catalytic reactions at the molecular level;

(2) develop techniques for high throughput synthesis, assay, and characterization at nanometer and subnanometer scales in-situ under actual operating conditions;

(3) synthesize catalysts with specific site architectures;

(4) conduct research on the use of precious metals for catalysis; and

(5) translate molecular understanding to the design of catalytic compounds.

(c) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program, the Director of the Office of Science shall—

(1) support both individual investigators and multidisciplinary teams of investigators to pioneer new approaches in catalytic design;

(2) develop, plan, construct, acquire, share, or operate special equipment or facilities for the use of investigators in collaboration with national user facilities, such as nanoscience and engineering centers;

(3) support technology transfer activities to benefit industry and other users of catalysis science and engineering; and

(4) coordinate research and development activities with industry and other Federal agencies.

(d) ASSESSMENT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences to—

(1) review the catalysis program to measure—

(A) gains made in the fundamental science of catalysis; and

(B) progress towards developing new fuels for energy production and material fabrication processes; and

(2) submit to Congress a report describing the results of the review.

SEC. 974. HYDROGEN.

(a) IN GENERAL.—The Secretary shall conduct a program of fundamental research and development in support of programs authorized under title VIII.

(b) METHODS.—The program shall include support for methods of generating hydrogen without the use of natural gas.

SEC. 975. SOLID STATE LIGHTING.

The Secretary shall conduct a program of fundamental research on solid state lighting in support of the Next Generation Lighting Initiative carried out under section 912.

SEC. 976. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.

(a) PROGRAM.—

(1) IN GENERAL.—The Secretary shall conduct an advanced scientific computing research and development program that includes activities related to applied mathematics and activities authorized by the Department of Energy High-End Computing Revitalization Act of 2004 (15 U.S.C. 5541 et seq.).

(2) GOAL.—The Secretary shall carry out the program with the goal of supporting departmental missions, and providing the high-performance computational, networking, advanced visualization technologies, and workforce resources, that are required for world leadership in science.

(b) HIGH-PERFORMANCE COMPUTING.—Section 203 of the High-Performance Computing Act of 1991 (15 U.S.C. 5523) is amended to read as follows:

"SEC. 203. DEPARTMENT OF ENERGY ACTIVITIES.

"(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the Secretary of Energy shall—

"(1) conduct and support basic and applied research in high-performance computing and networking to support fundamental research in science and engineering disciplines related to energy applications; and

"(2) provide computing and networking infrastructure support, including—

"(A) the provision of high-performance computing systems that are among the most advanced in the world in terms of performance in solving scientific and engineering problems; and

"(B) support for advanced software and applications development for science and engineering disciplines related to energy applications.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy such sums as are necessary to carry out this section.".

SEC. 977. SYSTEMS BIOLOGY PROGRAM.

(a) PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a research, development, and demonstration program in microbial and plant systems biology, protein science, and computational biology to support the energy, national security, and environmental missions of the Department.

(2) GRANTS.—The program shall support individual researchers and multidisciplinary teams of researchers through competitive, merit-reviewed grants.

(3) CONSULTATION.—In carrying out the program, the Secretary shall consult with other Federal agencies that conduct genetic and protein research.

(b) GOALS.—The program shall have the goal of developing technologies and methods based on the biological functions of genomes, microbes, and plants that—

(1) can facilitate the production of fuels, including hydrogen;

(2) convert carbon dioxide to organic carbon;

(3) detoxify soils and water, including at facilities of the Department, contaminated with heavy metals and radiological materials; and

(4) address other Department missions as identified by the Secretary.

(c) PLAN.—

(1) DEVELOPMENT OF PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prepare and transmit to Congress a research plan describing how the program authorized pursuant to this section will be undertaken to accomplish the program goals established in subsection (b).

(2) REVIEW OF PLAN.—The Secretary shall contract with the National Academy of Sciences to review the research plan developed under this subsection. The Secretary shall transmit the review to Congress not later than 18 months after transmittal of the research plan under paragraph (1), along with the Secretary's response to the recommendations contained in the review.

(d) USER FACILITIES AND ANCILLARY EQUIPMENT.—Within the funds authorized to be appropriated pursuant to this subtitle, amounts shall be available for projects to develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities, including user facilities at National Laboratories, for researchers conducting research, development, demonstration, and commercial application in systems biology and proteomics and associated biological disciplines.

(e) PROHIBITION ON BIOMEDICAL AND HUMAN CELL AND HUMAN SUBJECT RESEARCH.—

(1) NO BIOMEDICAL RESEARCH.—In carrying out the program under this section, the Secretary shall not conduct biomedical research.

(2) LIMITATIONS.—Nothing in this section shall authorize the Secretary to conduct any research or demonstrations—

(A) on human cells or human subjects; or

(B) designed to have direct application with respect to human cells or human subjects.

SEC. 978. FISSION AND FUSION ENERGY MATERIALS RESEARCH PROGRAM.

(a) IN GENERAL.—Along with the budget request of the President submitted to Congress for fiscal year 2007, the Secretary shall establish a research and development program on material science issues presented by advanced fission reactors and the fusion energy program of the Department.

(b) ADMINISTRATION.—In carrying out the program, the Secretary shall develop—

(1) a catalog of material properties required for applications described in subsection (a);

(2) theoretical models for materials possessing the required properties;

(3) benchmark models against existing data; and

(4) a roadmap to guide further research and development in the area covered by the program.

SEC. 979. ENERGY AND WATER SUPPLIES.

(a) IN GENERAL.—The Secretary shall carry out a program of research, development, demonstration, and commercial application to—

(1) address energy-related issues associated with provision of adequate water supplies, optimal management, and efficient use of water;

(2) address water-related issues associated with the provision of adequate supplies, optimal management, and efficient use of energy; and

(3) assess the effectiveness of existing programs within the Department and other Federal agencies to address these energy and water related issues.

(b) PROGRAM ELEMENTS.—The program under this section shall include—

(1) arsenic treatment;

(2) desalination; and

(3) planning, analysis, and modeling of energy and water supply and demand.

(c) COLLABORATION.—In carrying out this section, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of the Interior, the Chief Engineer of the Army Corps of Engineers, the Secretary of Commerce, the Secretary of Defense, and other Federal agencies as appropriate.

(d) FACILITIES.—The Secretary may utilize all existing facilities within the Department and may design and construct additional facilities as needed to carry out the purposes of this program.

(e) ADVISORY COMMITTEE.—The Secretary shall establish or utilize an advisory committee to provide independent advice and review of the program.

(f) REPORTS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the assessment described in subsection (b) and recommendations for future actions.

SEC. 980. SPALLATION NEUTRON SOURCE.

(a) DEFINITIONS.—In this section:

(1) SING.—The term "SING" means the Spallation Neutron Source Instruments Next Generation major item of equipment.

(2) SNS POWER UPGRADE.—The term "SNS power upgrade" means the Spallation Neutron Source power upgrade described in the 20-year facilities plan of the Office of Science of the Department.

(3) SNS SECOND TARGET STATION.—The term "SNS second target station" the Spallation Neutron Source second target station described in the 20-year facilities plan of the Office of Science of the Department.

(4) SPALLATION NEUTRON SOURCE FACILITY.—The terms "Spallation Neutron Source Facility" and "Facility" mean the completed Spallation Neutron Source scientific user facility located at Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(5) SPALLATION NEUTRON SOURCE PROJECT.—The terms "Spallation Neutron Source Project" and "Project" means Department Project 99–E–334, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(b) SPALLATION NEUTRON SOURCE PROJECT.—

(1) IN GENERAL.—The Secretary shall submit to Congress, as part of the annual budget request of the President submitted to Congress, a report on progress on the Spallation Neutron Source Project.

(2) CONTENTS.—The report shall include for the Project—

(A) a description of the achievement of milestones;

(B) a comparison of actual costs to estimated costs; and

(C) any changes in estimated Project costs or schedule.

(c) SPALLATION NEUTRON SOURCE FACILITY PLAN.—

(1) IN GENERAL.—The Secretary shall develop an operational plan for the Spallation Neutron Source Facility that ensures that the Facility is employed to the full capability of the Facility in support of the study of advanced materials, nanoscience, and other missions of the Office of Science of the Department.

(2) PLAN.—The operational plan shall—

(A) include a plan for the operation of an effective scientific user program that—

(i) is based on peer review of proposals submitted for use of the Facility;

(ii) includes scientific and technical support to ensure that external users, including researchers based at institutions of higher education, are able to make full use of a variety of high quality scientific instruments; and

(iii) phases in systems upgrades to ensure that the Facility remains at the forefront of international scientific endeavors in the field of the

Facility throughout the operating life of the Facility;

(B) include an ongoing program to develop new instruments that builds on the high performance neutron source and that allows neutron scattering techniques to be applied to a growing range of scientific problems and disciplines; and

(C) address the status of and, to the maximum extent practicable, costs and schedules for—

(i) full user mode operations of the Facility;

(ii) instrumentation built at the Facility during the operating phase through full use of the experimental hall, including the SING;

(iii) the SNS power upgrade; and

(iv) the SNS second target station.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) SPALLATION NEUTRON SOURCE PROJECT.—There is authorized to be appropriated to carry out the Spallation Neutron Source Project for the lifetime of the Project $1,411,700,000 for total project costs, of which—

(A) $1,192,700,000 shall be used for the costs of construction; and

(B) $219,000,000 shall be used for other Project costs.

(2) SPALLATION NEUTRON SOURCE FACILITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), there is authorized to be appropriated for the Spallation Neutron Source Facility for—

(i) the SING, $75,000,000 for each of fiscal year 2007 through 2009; and

(ii) the SNS power upgrade, $160,000,000, to remain available until expended.

(B) INSUFFICIENT STOCKPILES OF HEAVY WATER.—If stockpiles of heavy water of the Department are insufficient to meet the needs of the Facility, there is authorized to be appropriated for the Facility $12,000,000 for fiscal year 2007.

SEC. 981. RARE ISOTOPE ACCELERATOR.

(a) ESTABLISHMENT.—The Secretary shall construct and operate a Rare Isotope Accelerator. The Secretary shall commence construction no later than September 30, 2008.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section. The Secretary shall not spend more than $1,100,000,000 in Federal funds for all activities associated with the Rare Isotope Accelerator, prior to operation of the Accelerator.

SEC. 982. OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.

The Secretary, through the Office of Scientific and Technical Information, shall maintain within the Department publicly available collections of scientific and technical information resulting from research, development, demonstration, and commercial applications activities supported by the Department.

SEC. 983. SCIENCE AND ENGINEERING EDUCATION PILOT PROGRAM.

(a) ESTABLISHMENT OF PILOT PROGRAM.—The Secretary shall award a grant to a Southeastern United States consortium of major research universities that currently advances science and education by partnering with National Laboratories, to establish a regional pilot program of its SEEK-16 program for enhancing scientific, technological, engineering, and mathematical literacy, creativity, and decision-making. The consortium shall include leading research universities, 1 or more universities that train substantial numbers of elementary and secondary school teachers, and (where appropriate) National Laboratories.

(b) PROGRAM ELEMENTS.—The regional pilot program shall include—

(1) expanding strategic, formal partnerships among universities with strength in research, universities that train substantial numbers of elementary and secondary school teachers, and the private sector;

(2) combining Department expertise with 1 or more National Aeronautics and Space Administration Educator Resource Centers;

(3) developing programs to permit current and future teachers to participate in ongoing research projects at National Laboratories and research universities and to adapt lessons learned to the classroom;

(4) designing and implementing course work;

(5) designing and implementing a strategy for measuring and assessing progress under the program; and

(6) developing models for transferring knowledge gained under the pilot program to other institutions and areas of the United States.

(c) CATEGORIZATION.—A grant under this section shall be considered an authorized activity under section 3165 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381b).

(d) REPORT.—No later than 2 years after the award of the grant, the Secretary shall transmit to Congress a report outlining lessons learned and, if determined appropriate by the Secretary, containing a plan for expanding the program throughout the United States.

SEC. 984. ENERGY RESEARCH FELLOWSHIPS.

(a) POSTDOCTORAL FELLOWSHIP PROGRAM.—The Secretary shall establish a program under which the Secretary provides fellowships to encourage outstanding young scientists and engineers to pursue postdoctoral research appointments in energy research and development at institutions of higher education of their choice.

(b) SENIOR RESEARCH FELLOWSHIPS.—

(1) IN GENERAL.—The Secretary shall establish a program under which the Secretary provides fellowships to allow outstanding senior researchers and their research groups in energy research and development to explore research and development topics of their choosing for a period of not less than 3 years, to be determined by the Secretary.

(2) CONSIDERATION.—In providing a fellowship under the program described in paragraph (1), the Secretary shall consider—

(A) the past scientific or technical accomplishment of a senior researcher; and

(B) the potential for continued accomplishment by the researcher during the period of the fellowship.

SEC. 984A. SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM.

(a) IN GENERAL.—The Secretary is authorized to establish a Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the Department and National Laboratories.

(b) SERVICE REQUIREMENT.—The Secretary may require that an individual receiving a scholarship under this section serve as a full-time employee of the Department or a National Laboratory for a fixed period in return for receiving the scholarship.

Subtitle H—International Cooperation

SEC. 985. WESTERN HEMISPHERE ENERGY COOPERATION.

(a) PROGRAM.—The Secretary shall carry out a program to promote cooperation on energy issues with countries of the Western Hemisphere.

(b) ACTIVITIES.—Under the program, the Secretary shall fund activities to work with countries of the Western Hemisphere to—

(1) increase the production of energy supplies;

(2) improve energy efficiency; and

(3) assist in the development and transfer of energy supply and efficiency technologies that would have a beneficial impact on world energy markets.

(c) PARTICIPATION BY INSTITUTIONS OF HIGHER EDUCATION.—To the extent practicable, the Secretary shall carry out the program under this section with the participation of institutions of higher education so as to take advantage of the acceptance of institutions of higher education by countries of the Western Hemisphere as sources of unbiased technical and policy expertise when assisting the Secretary in—

(1) evaluating new technologies;

(2) resolving technical issues;

(3) working with those countries in the development of new policies; and

(4) training policymakers, particularly in the case of institutions of higher education that involve the participation of minority students, such as—

(A) Hispanic-serving institutions; and

(B) part B institutions.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 2007;

(2) $13,000,000 for fiscal year 2008; and

(3) $16,000,000 for fiscal year 2009.

SEC. 986. COOPERATION BETWEEN UNITED STATES AND ISRAEL.

(a) FINDINGS.—Congress finds that—

(1) on February 1, 1996, the United States and Israel signed the agreement entitled "Agreement between the Department of Energy of the United States of America and the Ministry of Energy and Infrastructure of Israel Concerning Energy Cooperation", (referred to in this section as the "Agreement") to establish a framework for collaboration between the United States and Israel in energy research and development activities;

(2) the Agreement entered into force in February 2000;

(3) in February 2005, the Agreement was automatically renewed for 1 additional 5-year period pursuant to Article X of the Agreement; and

(4) under the Agreement, the United States and Israel may cooperate in energy research and development in a variety of alternative and advanced energy sectors.

(b) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources and the Committee on Foreign Relations of the Senate and the Committee on Energy and Commerce and the Committee on International Relations of the House of Representatives a report that describes—

(1) the ways in which the United States and Israel have cooperated on energy research and development activities under the Agreement;

(2) projects initiated pursuant to the Agreement; and

(3) plans for future cooperation and joint projects under the Agreement.

(c) SENSE OF CONGRESS.—It is the sense of Congress that energy cooperation between the Governments of the United States and Israel is mutually beneficial in the development of energy technology.

SEC. 986A. INTERNATIONAL ENERGY TRAINING.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Commerce, the Secretary of the Interior, and Secretary of State, and the Federal Energy Regulatory Commission, shall coordinate training and outreach efforts for international commercial energy markets in countries with developing and restructuring economies.

(b) COMPONENTS.—The training and outreach efforts referred to in subsection (a) may include—

(1) production-related fiscal regimes;

(2) grid and network issues;

(3) energy user and demand side response;

(4) international trade of energy; and

(5) international transportation of energy.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry

out this section $1,500,000 for each of fiscal years 2007 through 2010.

Subtitle I—Research Administration and Operations

SEC. 987. AVAILABILITY OF FUNDS.

Funds authorized to be appropriated to the Department under this Act or an amendment made by this Act shall remain available until expended.

SEC. 988. COST SHARING.

(a) APPLICABILITY.—Notwithstanding any other provision of law, in carrying out a research, development, demonstration, or commercial application program or activity that is initiated after the date of enactment of this section, the Secretary shall require cost-sharing in accordance with this section.

(b) RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) and subsection (f), the Secretary shall require not less than 20 percent of the cost of a research or development activity described in subsection (a) to be provided by a non-Federal source.

(2) EXCLUSION.—Paragraph (1) shall not apply to a research or development activity described in subsection (a) that is of a basic or fundamental nature, as determined by the appropriate officer of the Department.

(3) REDUCTION.—The Secretary may reduce or eliminate the requirement of paragraph (1) for a research and development activity of an applied nature if the Secretary determines that the reduction is necessary and appropriate.

(c) DEMONSTRATION AND COMMERCIAL APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (f), the Secretary shall require that not less than 50 percent of the cost of a demonstration or commercial application activity described in subsection (a) to be provided by a non-Federal source.

(2) REDUCTION OF NON-FEDERAL SHARE.—The Secretary may reduce the non-Federal share required under paragraph (1) if the Secretary determines the reduction to be necessary and appropriate, taking into consideration any technological risk relating to the activity.

(d) CALCULATION OF AMOUNT.—In calculating the amount of a non-Federal contribution under this section, the Secretary—

(1) may include allowable costs in accordance with the applicable cost principles, including—

(A) cash;

(B) personnel costs;

(C) the value of a service, other resource, or third party in-kind contribution determined in accordance with the applicable circular of the Office of Management and Budget;

(D) indirect costs or facilities and administrative costs; or

(E) any funds received under the power program of the Tennessee Valley Authority (except to the extent that such funds are made available under an annual appropriation Acts); and

(2) shall not include—

(A) revenues or royalties from the prospective operation of an activity beyond the time considered in the award;

(B) proceeds from the prospective sale of an asset of an activity; or

(C) other appropriated Federal funds.

(e) REPAYMENT OF FEDERAL SHARE.—The Secretary shall not require repayment of the Federal share of a cost-shared activity under this section as a condition of making an award.

(f) EXCLUSIONS.—This section shall not apply to—

(1) a cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.);

(2) a fee charged for the use of a Department facility; or

(3) an award under—

(A) the small business innovation research program under section 9 of the Small Business Act (15 U.S.C. 638); or

(B) the small business technology transfer program under that section.

SEC. 989. MERIT REVIEW OF PROPOSALS.

(a) AWARDS.—Awards of funds authorized under this Act or an amendment made by this Act shall be made only after an impartial review of the scientific and technical merit of the proposals for the awards has been carried out by or for the Department.

(b) COMPETITION.—Competitive awards under this Act shall involve competitions open to all qualified entities within 1 or more of the following categories:

(1) Institutions of higher education.

(2) National Laboratories.

(3) Nonprofit and for-profit private entities.

(4) State and local governments.

(5) Consortia of entities described in paragraphs (1) through (4).

(c) SENSE OF CONGRESS.—It is the sense of Congress that research, development, demonstration, and commercial application activities carried out by the Department should be awarded using competitive procedures, to the maximum extent practicable.

SEC. 990. EXTERNAL TECHNICAL REVIEW OF DEPARTMENTAL PROGRAMS.

(a) NATIONAL ENERGY RESEARCH AND DEVELOPMENT ADVISORY BOARDS.—

(1) ESTABLISHMENT.—The Secretary shall establish 1 or more advisory boards to review research, development, demonstration, and commercial application programs of the Department in energy efficiency, renewable energy, nuclear energy, and fossil energy.

(2) ALTERNATIVES.—The Secretary may—

(A) designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under this section; and

(B) enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.

(b) USE OF EXISTING COMMITTEES.—The Secretary shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act (5 U.S.C. App.) by the Office of Science to oversee research and development programs under that Office.

(c) MEMBERSHIP.—Each advisory board under this section shall consist of persons with appropriate expertise representing a diverse range of interests.

(d) MEETINGS AND GOALS.—

(1) MEETINGS.—Each advisory board under this section shall meet at least semiannually to review and advise on the progress made by the respective 1 or more research, development, demonstration, and commercial application programs.

(2) GOALS.—The advisory board shall review the measurable cost and performance-based goals for the programs as established under section 902, and the progress on meeting the goals.

(e) PERIODIC REVIEWS AND ASSESSMENTS.—

(1) IN GENERAL.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to conduct periodic reviews and assessments of—

(A) the research, development, demonstration, and commercial application programs authorized by this Act and amendments made by this Act;

(B) the measurable cost and performance-based goals for the programs as established under section 902, if any; and

(C) the progress on meeting the goals.

(2) TIMING.—The reviews and assessments shall be conducted every 5 years or more often as the Secretary considers necessary.

(3) REPORTS.—The Secretary shall submit to Congress reports describing the results of all the reviews and assessments.

SEC. 991. NATIONAL LABORATORY DESIGNATION.

After the date of enactment of this Act, the Secretary shall not designate a facility that is not listed in section 2(3) as a National Laboratory.

SEC. 992. REPORT ON EQUAL EMPLOYMENT OPPORTUNITY PRACTICES.

Not later than 12 months after the date of enactment of this Act, and biennially thereafter, the Secretary shall transmit to Congress a report on the equal employment opportunity practices at National Laboratories. Such report shall include—

(1) a thorough review of each National Laboratory contractor's equal employment opportunity policies, including promotion to management and professional positions and pay raises;

(2) a statistical report on complaints and their disposition in the National Laboratories;

(3) a description of how equal employment opportunity practices at the National Laboratories are treated in the contract and in calculating award fees for each contractor;

(4) a summary of disciplinary actions and their disposition by either the Department or the relevant contractors for each National Laboratory;

(5) a summary of outreach efforts to attract women and minorities to the National Laboratories;

(6) a summary of efforts to retain women and minorities in the National Laboratories; and

(7) a summary of collaboration efforts with the Office of Federal Contract Compliance Programs to improve equal employment opportunity practices at the National Laboratories.

SEC. 993. STRATEGY AND PLAN FOR SCIENCE AND ENERGY FACILITIES AND INFRASTRUCTURE.

(a) FACILITY AND INFRASTRUCTURE POLICY.—

(1) IN GENERAL.—The Secretary shall develop and implement a strategy for facilities and infrastructure supported primarily from the Office of Science, the Office of Energy Efficiency and Renewable Energy, the Office of Fossil Energy, or the Office of Nuclear Energy, Science and Technology Programs at all National Laboratories and single-purpose research facilities.

(2) STRATEGY.—The strategy shall provide cost-effective means for—

(A) maintaining existing facilities and infrastructure;

(B) closing unneeded facilities;

(C) making facility modifications; and

(D) building new facilities.

(b) REPORT.—

(1) IN GENERAL.—The Secretary shall prepare and submit, along with the budget request of the President submitted to Congress for fiscal year 2008, a report describing the strategy developed under subsection (a).

(2) CONTENTS.—For each National Laboratory and single-purpose research facility that is primarily used for science and energy research, the report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current 10-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the total current budget for all facilities and infrastructure funding; and

(D) the current status of each facility and infrastructure project compared to the original baseline cost, schedule, and scope.

SEC. 994. STRATEGIC RESEARCH PORTFOLIO ANALYSIS AND COORDINATION PLAN.

(a) IN GENERAL.—The Secretary shall periodically review all of the science and technology activities of the Department in a strategic

framework that takes into account both the frontiers of science to which the Department can contribute and the national needs relevant to the Department's statutory missions.

(b) Coordination Analysis and Plan.—As part of the review under subsection (a), the Secretary shall develop a coordination plan to improve coordination and collaboration in research, development, demonstration, and commercial application activities across Department organizational boundaries.

(c) Plan Contents.—The plan shall describe—

(1) cross-cutting scientific and technical issues and research questions that span more than 1 program or major office of the Department;

(2) how the applied technology programs of the Department are coordinating their activities, and addressing those questions;

(3) ways in which the technical interchange within the Department, particularly between the Office of Science and the applied technology programs, can be enhanced, including ways in which the research agendas of the Office of Science and the applied programs can interact and assist each other;

(4) a description of how the Secretary will ensure that the Department's overall research agenda include, in addition to fundamental, curiosity-driven research, fundamental research related to topics of concern to the applied programs, and applications in Departmental technology programs of research results generated by fundamental, curiosity-driven research.

(d) Plan Transmittal.—Not later than 12 months after the date of enactment of this Act, and every 4 years thereafter, the Secretary shall transmit to Congress the results of the review under subsection (a) and the coordination plan under subsection (b).

SEC. 995. COMPETITIVE AWARD OF MANAGEMENT CONTRACTS.

None of the funds authorized to be appropriated to the Secretary by this title may be used to award a management and operating contract for a National Laboratory (excluding those named in subparagraphs (G), (H), (N), and (O) of section 2 (3)), unless such contract is competitively awarded, or the Secretary grants, on a case-by-case basis, a waiver. The Secretary may not delegate the authority to grant such a waiver and shall submit to Congress a report notifying it of the waiver, and setting forth the reasons for the waiver, at least 60 days prior to the date of the award of such contract.

SEC. 996. WESTERN MICHIGAN DEMONSTRATION PROJECT.

The Administrator of the Environmental Protection Agency, in consultation with the State of Michigan and affected local officials, shall conduct a demonstration project to address the effect of transported ozone and ozone precursors in Southwestern Michigan. The demonstration program shall address projected nonattainment areas in Southwestern Michigan that include counties with design values for ozone of less than .095 based on years 2000 to 2002 or the most current 3-year period of air quality data. The Administrator shall assess any difficulties such areas may experience in meeting the 8-hour national ambient air quality standard for ozone due to the effect of transported ozone or ozone precursors into the areas. The Administrator shall work with State and local officials to determine the extent of ozone and ozone precursor transport, to assess alternatives to achieve compliance with the 8-hour standard apart from local controls, and to determine the timeframe in which such compliance could take place. The Administrator shall complete this demonstration project no later than 2 years after the date of enactment of this section and shall not impose any requirement or sanction under the Clean Air Act (42 U.S.C. 7401 et seq.) that might otherwise apply during the pendency of the demonstration project.

SEC. 997. ARCTIC ENGINEERING RESEARCH CENTER.

(a) In General.—The Secretary of Transportation, in consultation with the Secretary and the United States Arctic Research Commission, shall provide annual grants to a university located adjacent to the Arctic Energy Office of the Department of Energy, to establish and operate a university research center to be headquartered in Fairbanks and to be known as the "Arctic Engineering Research Center" (referred to in this section as the "Center").

(b) Purpose.—The purpose of the Center shall be to conduct research on, and develop improved methods of, construction and use of materials to improve the overall performance of roads, bridges, residential, commercial, and industrial structures, and other infrastructure in the Arctic region, with an emphasis on developing—

(1) new construction techniques for roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure that are capable of withstanding the Arctic environment and using limited energy resources as efficiently as practicable;

(2) technologies and procedures for increasing road, bridge, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure safety, reliability, and integrity in the Arctic region;

(3) new materials and improving the performance and energy efficiency of existing materials for the construction of roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure in the Arctic region; and

(4) recommendations for new local, regional, and State permitting and building codes to ensure transportation and building safety and efficient energy use when constructing, using, and occupying such infrastructure in the Arctic region.

(c) Objectives.—The Center shall carry out—

(1) basic and applied research in the subjects described in subsection (b), the products of which shall be judged by peers or other experts in the field to advance the body of knowledge in road, bridge, rail, and infrastructure engineering in the Arctic region; and

(2) an ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented.

(d) Amount of Grant.—For each of fiscal years 2006 through 2011, the Secretary shall provide a grant in the amount of $3,000,000 to the institution specified in subsection (a) to carry out this section.

(e) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2006 through 2011.

SEC. 998. BARROW GEOPHYSICAL RESEARCH FACILITY.

(a) Establishment.—The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility in Barrow, Alaska, to be known as the "Barrow Geophysical Research Facility", to support scientific research activities in the Arctic.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the Secretaries of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency for the planning, design, construction, and support of the Barrow Geophysical Research Facility, $61,000,000.

Subtitle J—Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources

SEC. 999A. PROGRAM AUTHORITY.

(a) In General.—The Secretary shall carry out a program under this subtitle of research, development, demonstration, and commercial application of technologies for ultra-deepwater and unconventional natural gas and other petroleum resource exploration and production, including addressing the technology challenges for small producers, safe operations, and environmental mitigation (including reduction of greenhouse gas emissions and sequestration of carbon).

(b) Program Elements.—The program under this subtitle shall address the following areas, including improving safety and minimizing environmental impacts of activities within each area:

(1) Ultra-deepwater architecture and technology, including drilling to formations in the Outer Continental Shelf to depths greater than 15,000 feet.

(2) Unconventional natural gas and other petroleum resource exploration and production technology.

(3) The technology challenges of small producers.

(4) Complementary research performed by the National Energy Technology Laboratory for the Department.

(c) Limitation on Location of Field Activities.—Field activities under the program under this subtitle shall be carried out only—

(1) in—

(A) areas in the territorial waters of the United States not under any Outer Continental Shelf moratorium as of September 30, 2002;

(B) areas onshore in the United States on public land administered by the Secretary of the Interior available for oil and gas leasing, where consistent with applicable law and land use plans; and

(C) areas onshore in the United States on State or private land, subject to applicable law; and

(2) with the approval of the appropriate Federal or State land management agency or private land owner.

(d) Activities at the National Energy Technology Laboratory.—The Secretary, through the National Energy Technology Laboratory, shall carry out a program of research and other activities complementary to and supportive of the research programs under subsection (b).

(e) Consultation With Secretary of the Interior.—In carrying out this subtitle, the Secretary shall consult regularly with the Secretary of the Interior.

SEC. 999B. ULTRA-DEEPWATER AND UNCONVENTIONAL ONSHORE NATURAL GAS AND OTHER PETROLEUM RESEARCH AND DEVELOPMENT PROGRAM.

(a) In General.—The Secretary shall carry out the activities under section 999A, to maximize the value of natural gas and other petroleum resources of the United States, by increasing the supply of such resources, through reducing the cost and increasing the efficiency of exploration for and production of such resources, while improving safety and minimizing environmental impacts.

(b) Role of the Secretary.—The Secretary shall have ultimate responsibility for, and oversight of, all aspects of the program under this section.

(c) Role of the Program Consortium.—

(1) In general.—The Secretary shall contract with a corporation that is structured as a consortium to administer the programmatic activities outlined in this chapter. The program consortium shall—

(A) administer the program pursuant to subsection (f)(3), utilizing program administration funds only ;

(B) issue research project solicitations upon approval of the Secretary or the Secretary's designee;

(C) make project awards to research performers upon approval of the Secretary or the Secretary's designee;

(D) disburse research funds to research performers awarded under subsection (f) as directed by the Secretary in accordance with the annual plan under subsection (e); and

(E) carry out other activities assigned to the program consortium by this section.

(2) LIMITATION.—The Secretary may not assign any activities to the program consortium except as specifically authorized under this section.

(3) CONFLICT OF INTEREST.—

(A) PROCEDURES.—The Secretary shall establish procedures—

(i) to ensure that each board member, officer, or employee of the program consortium who is in a decisionmaking capacity under subsection (f)(3) shall disclose to the Secretary any financial interests in, or financial relationships with, applicants for or recipients of awards under this section, including those of his or her spouse or minor child, unless such relationships or interests would be considered to be remote or inconsequential; and

(ii) to require any board member, officer, or employee with a financial relationship or interest disclosed under clause (i) to recuse himself or herself from any oversight under subsection (f)(4) with respect to such applicant or recipient.

(B) FAILURE TO COMPLY.—The Secretary may disqualify an application or revoke an award under this section if a board member, officer, or employee has failed to comply with procedures required under subparagraph (A)(ii).

(d) SELECTION OF THE PROGRAM CONSORTIUM.—

(1) IN GENERAL.—The Secretary shall select the program consortium through an open, competitive process.

(2) MEMBERS.—The program consortium may include corporations, trade associations, institutions of higher education, National Laboratories, or other research institutions. After submitting a proposal under paragraph (4), the program consortium may not add members without the consent of the Secretary.

(3) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall not select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(a) of such Code.

(4) SCHEDULE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall solicit proposals from eligible consortia to perform the duties in subsection (c)(1), which shall be submitted not later than 180 days after the date of enactment of this Act. The Secretary shall select the program consortium not later than 270 days after such date of enactment.

(5) APPLICATION.—Applicants shall submit a proposal including such information as the Secretary may require. At a minimum, each proposal shall—

(A) list all members of the consortium;

(B) fully describe the structure of the consortium, including any provisions relating to intellectual property; and

(C) describe how the applicant would carry out the activities of the program consortium under this section.

(6) ELIGIBILITY.—To be eligible to be selected as the program consortium, an applicant must be an entity whose members have collectively demonstrated capabilities and experience in planning and managing research, development, demonstration, and commercial application programs for ultra-deepwater and unconventional natural gas or other petroleum exploration or production.

(7) FOCUS AREAS FOR AWARDS.—

(A) ULTRA-DEEPWATER RESOURCES.—Awards from allocations under section 999H(d)(1) shall focus on the development and demonstration of individual exploration and production technologies as well as integrated systems technologies including new architectures for production in ultra-deepwater.

(B) UNCONVENTIONAL RESOURCES.—Awards from allocations under section 999H(d)(2) shall focus on areas including advanced coalbed methane, deep drilling, natural gas production from tight sands, natural gas production from gas shales, stranded gas, innovative exploration and production techniques, enhanced recovery techniques, and environmental mitigation of unconventional natural gas and other petroleum resources exploration and production.

(C) SMALL PRODUCERS.—Awards from allocations under section 999H(d)(3) shall be made to consortia consisting of small producers or organized primarily for the benefit of small producers, and shall focus on areas including complex geology involving rapid changes in the type and quality of the oil and gas reservoirs across the reservoir; low reservoir pressure; unconventional natural gas reservoirs in coalbeds, deep reservoirs, tight sands, or shales; and unconventional oil reservoirs in tar sands and oil shales.

(e) ANNUAL PLAN.—

(1) IN GENERAL.—The program under this section shall be carried out pursuant to an annual plan prepared by the Secretary in accordance with paragraph (2).

(2) DEVELOPMENT.—

(A) SOLICITATION OF RECOMMENDATIONS.—Before drafting an annual plan under this subsection, the Secretary shall solicit specific written recommendations from the program consortium for each element to be addressed in the plan, including those described in paragraph (4). The program consortium shall submit its recommendations in the form of a draft annual plan.

(B) SUBMISSION OF RECOMMENDATIONS; OTHER COMMENT.—The Secretary shall submit the recommendations of the program consortium under subparagraph (A) to the Ultra-Deepwater Advisory Committee established under section 999D(a) and to the Unconventional Resources Technology Advisory Committee established under section 999D(b), and such Advisory Committees shall provide to the Secretary written comments by a date determined by the Secretary. The Secretary may also solicit comments from any other experts.

(C) CONSULTATION.—The Secretary shall consult regularly with the program consortium throughout the preparation of the annual plan.

(3) PUBLICATION.—The Secretary shall transmit to Congress and publish in the Federal Register the annual plan, along with any written comments received under paragraph (2)(A) and (B).

(4) CONTENTS.—The annual plan shall describe the ongoing and prospective activities of the program under this section and shall include—

(A) a list of any solicitations for awards to carry out research, development, demonstration, or commercial application activities, including the topics for such work, who would be eligible to apply, selection criteria, and the duration of awards; and

(B) a description of the activities expected of the program consortium to carry out subsection (f)(3).

(5) ESTIMATES OF INCREASED ROYALTY RECEIPTS.—The Secretary, in consultation with the Secretary of the Interior, shall provide an annual report to Congress with the President's budget on the estimated cumulative increase in Federal royalty receipts (if any) resulting from the implementation of this subtitle. The initial report under this paragraph shall be submitted in the first President's budget following the completion of the first annual plan required under this subsection.

(f) AWARDS.—

(1) IN GENERAL.—Upon approval of the Secretary the program consortium shall make awards to research performers to carry out research, development, demonstration, and commercial application activities under the program under this section. The program consortium shall not be eligible to receive such awards, but provided that conflict of interest procedures in section 999B(c)(3) are followed, entities who are members of the program consortium are not precluded from receiving research awards as either individual research performers or as research performers who are members of a research collaboration.

(2) PROPOSALS.—Upon approval of the Secretary the program consortium shall solicit proposals for awards under this subsection in such manner and at such time as the Secretary may prescribe, in consultation with the program consortium.

(3) OVERSIGHT.—

(A) IN GENERAL.—The program consortium shall oversee the implementation of awards under this subsection, consistent with the annual plan under subsection (e), including disbursing funds and monitoring activities carried out under such awards for compliance with the terms and conditions of the awards.

(B) EFFECT.—Nothing in subparagraph (A) shall limit the authority or responsibility of the Secretary to oversee awards, or limit the authority of the Secretary to review or revoke awards.

(g) ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—To compensate the program consortium for carrying out its activities under this section, the Secretary shall provide to the program consortium funds sufficient to administer the program. This compensation may include a management fee consistent with Department of Energy contracting practices and procedures.

(2) ADVANCE.—The Secretary shall advance funds to the program consortium upon selection of the consortium, which shall be deducted from amounts to be provided under paragraph (1).

(h) AUDIT.—The Secretary shall retain an independent auditor, which shall include a review by the General Accountability Office, to determine the extent to which funds provided to the program consortium, and funds provided under awards made under subsection (f), have been expended in a manner consistent with the purposes and requirements of this subtitle. The auditor shall transmit a report (including any review by the General Accountability Office) annually to the Secretary, who shall transmit the report to Congress, along with a plan to remedy any deficiencies cited in the report.

(i) ACTIVITIES BY THE UNITED STATES GEOLOGICAL SURVEY.—The Secretary of the Interior, through the United States Geological Survey, shall, where appropriate, carry out programs of long-term research to complement the programs under this section.

(j) PROGRAM REVIEW AND OVERSIGHT.—The National Energy Technology Laboratory, on behalf of the Secretary, shall (1) issue a competitive solicitation for the program consortium, (2) evaluate, select, and award a contract or other agreement to a qualified program consortium, and (3) have primary review and oversight responsibility for the program consortium, including review and approval of research awards proposed to be made by the program consortium, to

ensure that its activities are consistent with the purposes and requirements described in this subtitle. Up to 5 percent of program funds allocated under paragraphs (1) through (3) of section 999H(d) may be used for this purpose, including program direction and the establishment of a site office if determined to be necessary to carry out the purposes of this subsection.

SEC. 999C. ADDITIONAL REQUIREMENTS FOR AWARDS.

(a) DEMONSTRATION PROJECTS.—An application for an award under this subtitle for a demonstration project shall describe with specificity the intended commercial use of the technology to be demonstrated.

(b) FLEXIBILITY IN LOCATING DEMONSTRATION PROJECTS.—Subject to the limitation in section 999A(c), a demonstration project under this subtitle relating to an ultra-deepwater technology or an ultra-deepwater architecture may be conducted in deepwater depths.

(c) INTELLECTUAL PROPERTY AGREEMENTS.—If an award under this subtitle is made to a consortium (other than the program consortium), the consortium shall provide to the Secretary a signed contract agreed to by all members of the consortium describing the rights of each member to intellectual property used or developed under the award.

(d) TECHNOLOGY TRANSFER.—2.5 percent of the amount of each award made under this subtitle shall be designated for technology transfer and outreach activities under this subtitle.

(e) COST SHARING REDUCTION FOR INDEPENDENT PRODUCERS.—In applying the cost sharing requirements under section 988 to an award under this subtitle the Secretary may reduce or eliminate the non-Federal requirement if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project.

(f) INFORMATION SHARING.—All results of the research administered by the program consortium shall be made available to the public consistent with Department policy and practice on information sharing and intellectual property agreements.

SEC. 999D. ADVISORY COMMITTEES.

(a) ULTRA-DEEPWATER ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall establish an advisory committee to be known as the Ultra-Deepwater Advisory Committee.

(2) MEMBERSHIP.—The Advisory Committee under this subsection shall be composed of members appointed by the Secretary, including—

(A) individuals with extensive research experience or operational knowledge of offshore natural gas and other petroleum exploration and production;

(B) individuals broadly representative of the affected interests in ultra-deepwater natural gas and other petroleum production, including interests in environmental protection and safe operations;

(C) no individuals who are Federal employees; and

(D) no individuals who are board members, officers, or employees of the program consortium.

(3) DUTIES.—The Advisory Committee under this subsection shall—

(A) advise the Secretary on the development and implementation of programs under this subtitle related to ultra-deepwater natural gas and other petroleum resources; and

(B) carry out section 999B(e)(2)(B).

(4) COMPENSATION.—A member of the Advisory Committee under this subsection shall serve without compensation but shall receive travel expenses in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(b) UNCONVENTIONAL RESOURCES TECHNOLOGY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall establish an advisory committee to be known as the Unconventional Resources Technology Advisory Committee.

(2) MEMBERSHIP.—The Secretary shall endeavor to have a balanced representation of members on the Advisory Committee to reflect the breadth of geographic areas of potential gas supply. The Advisory Committee under this subsection shall be composed of members appointed by the Secretary, including—

(A) a majority of members who are employees or representatives of independent producers of natural gas and other petroleum, including small producers;

(B) individuals with extensive research experience or operational knowledge of unconventional natural gas and other petroleum resource exploration and production;

(C) individuals broadly representative of the affected interests in unconventional natural gas and other petroleum resource exploration and production, including interests in environmental protection and safe operations;

(D) individuals with expertise in the various geographic areas of potential supply of unconventional onshore natural gas and other petroleum in the United States;

(E) no individuals who are Federal employees; and

(F) no individuals who are board members, officers, or employees of the program consortium.

(3) DUTIES.—The Advisory Committee under this subsection shall—

(A) advise the Secretary on the development and implementation of activities under this subtitle related to unconventional natural gas and other petroleum resources; and

(B) carry out section 999B(e)(2)(B).

(4) COMPENSATION.—A member of the Advisory Committee under this subsection shall serve without compensation but shall receive travel expenses in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(c) PROHIBITION.—No advisory committee established under this section shall make recommendations on funding awards to particular consortia or other entities, or for specific projects.

SEC. 999E. LIMITS ON PARTICIPATION.

An entity shall be eligible to receive an award under this subtitle only if the Secretary finds—

(1) that the entity's participation in the program under this subtitle would be in the economic interest of the United States; and

(2) that either—

(A) the entity is a United States-owned entity organized under the laws of the United States; or

(B) the entity is organized under the laws of the United States and has a parent entity organized under the laws of a country that affords—

(i) to United States-owned entities opportunities, comparable to those afforded to any other entity, to participate in any cooperative research venture similar to those authorized under this subtitle;

(ii) to United States-owned entities local investment opportunities comparable to those afforded to any other entity; and

(iii) adequate and effective protection for the intellectual property rights of United States-owned entities.

SEC. 999F. SUNSET.

The authority provided by this subtitle shall terminate on September 30, 2014.

SEC. 999G. DEFINITIONS.

In this subtitle:

(1) DEEPWATER.—The term "deepwater" means a water depth that is greater than 200 but less than 1,500 meters.

(2) INDEPENDENT PRODUCER OF OIL OR GAS.—

(A) IN GENERAL.—The term "independent producer of oil or gas" means any person that produces oil or gas other than a person to whom subsection (c) of section 613A of the Internal Revenue Code of 1986 does not apply by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 613A(d) of such Code.

(B) RULES FOR APPLYING PARAGRAPHS (2) AND (4) OF SECTION 613A(d).—For purposes of subparagraph (A), paragraphs (2) and (4) of section 613A(d) of the Internal Revenue Code of 1986 shall be applied by substituting "calendar year" for "taxable year" each place it appears in such paragraphs.

(3) PROGRAM ADMINISTRATION FUNDS.—The term "program administration funds" means funds used by the program consortium to administer the program under this subtitle, but not to exceed 10 percent of the total funds allocated under paragraphs (1) through (3) of section 999H(d).

(4) PROGRAM CONSORTIUM.—The term "program consortium" means the consortium selected under section 999B(d).

(5) PROGRAM RESEARCH FUNDS.—The term "program research funds" means funds awarded to research performers by the program consortium consistent with the annual plan.

(6) REMOTE OR INCONSEQUENTIAL.—The term "remote or inconsequential" has the meaning given that term in regulations issued by the Office of Government Ethics under section 208(b)(2) of title 18, United States Code.

(7) SMALL PRODUCER.—The term "small producer" means an entity organized under the laws of the United States with production levels of less than 1,000 barrels per day of oil equivalent.

(8) ULTRA-DEEPWATER.—The term "ultra-deepwater" means a water depth that is equal to or greater than 1,500 meters.

(9) ULTRA-DEEPWATER ARCHITECTURE.—The term "ultra-deepwater architecture" means the integration of technologies for the exploration for, or production of, natural gas or other petroleum resources located at ultra-deepwater depths.

(10) ULTRA-DEEPWATER TECHNOLOGY.—The term "ultra-deepwater technology" means a discrete technology that is specially suited to address 1 or more challenges associated with the exploration for, or production of, natural gas or other petroleum resources located at ultra-deepwater depths.

(11) UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCE.—The term "unconventional natural gas and other petroleum resource" means natural gas and other petroleum resource located onshore in an economically inaccessible geological formation, including resources of small producers.

SEC. 999H. FUNDING.

(a) OIL AND GAS LEASE INCOME.—For each of fiscal years 2007 through 2017, from any Federal royalties, rents, and bonuses derived from Federal onshore and offshore oil and gas leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and the Mineral Leasing Act (30 U.S.C. 181 et seq.) which are deposited in the Treasury, and after distribution of any such funds as described in subsection (c), $50,000,000 shall be deposited into the Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund (in this section referred to as the "Fund"). For purposes of this section, the term "royalties" excludes proceeds from the sale of royalty production taken in kind and royalty production that is transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)).

(b) OBLIGATIONAL AUTHORITY.—Monies in the Fund shall be available to the Secretary for obligation under this part without fiscal year limitation, to remain available until expended.

(c) PRIOR DISTRIBUTIONS.—The distributions described in subsection (a) are those required by law—

(1) to States and to the Reclamation Fund under the Mineral Leasing Act (30 U.S.C. 191(a)); and

(2) to other funds receiving monies from Federal oil and gas leasing programs, including—

(A) any recipients pursuant to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g));

(B) the Land and Water Conservation Fund, pursuant to section 2(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-5(c));

(C) the Historic Preservation Fund, pursuant to section 108 of the National Historic Preservation Act (16 U.S.C. 470h); and

(D) the coastal impact assistance program established under section 31 of the Outer Continental Shelf Lands Act (as amended by section 384).

(d) ALLOCATION.—Amounts obligated from the Fund under subsection (a)(1) in each fiscal year shall be allocated as follows:

(1) 35 percent shall be for activities under section 999A(b)(1).

(2) 32.5 percent shall be for activities under section 999A(b)(2).

(3) 7.5 percent shall be for activities under section 999A(b)(3).

(4) 25 percent shall be for complementary research under section 999A(b)(4) and other activities under section 999A(b) to include program direction funds, overall program oversight, contract management, and the establishment and operation of a technical committee to ensure that in-house research activities funded under section 999A(b)(4) are technically complementary to, and not duplicative of, research conducted under paragraphs (1), (2), and (3) of section 999A(b).

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to other amounts that are made available to carry out this section, there is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2007 through 2016.

(f) FUND.—There is hereby established in the Treasury of the United States a separate fund to be known as the "Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund".

TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

SEC. 1001. IMPROVED TECHNOLOGY TRANSFER OF ENERGY TECHNOLOGIES.

(a) TECHNOLOGY TRANSFER COORDINATOR.—The Secretary shall appoint a Technology Transfer Coordinator to be the principal advisor to the Secretary on all matters relating to technology transfer and commercialization.

(b) QUALIFICATIONS.—The Coordinator shall be an individual who, by reason of professional background and experience, is specially qualified to advise the Secretary on matters pertaining to technology transfer at the Department.

(c) DUTIES OF THE COORDINATOR.—The Coordinator shall oversee—

(1) the activities of the Technology Transfer Working Group established under subsection (d);

(2) the expenditure of funds allocated for technology transfer within the Department;

(3) the activities of each technology partnership ombudsman appointed under section 11 of the Technology Transfer Commercialization Act of 2000 (42 U.S.C. 7261c); and

(4) efforts to engage private sector entities, including venture capital companies.

(d) TECHNOLOGY TRANSFER WORKING GROUP.—The Secretary shall establish a Technology Transfer Working Group, which shall consist of representatives of the National Laboratories and single-purpose research facilities, to—

(1) coordinate technology transfer activities occurring at National Laboratories and single-purpose research facilities;

(2) exchange information about technology transfer practices, including alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters; and

(3) develop and disseminate to the public and prospective technology partners information about opportunities and procedures for technology transfer with the Department, including opportunities and procedures related to alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters.

(e) TECHNOLOGY COMMERCIALIZATION FUND.—The Secretary shall establish an Energy Technology Commercialization Fund, using 0.9 percent of the amount made available to the Department for applied energy research, development, demonstration, and commercial application for each fiscal year, to be used to provide matching funds with private partners to promote promising energy technologies for commercial purposes.

(f) TECHNOLOGY TRANSFER RESPONSIBILITY.—Nothing in this section affects the technology transfer responsibilities of Federal employees under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(g) PLANNING AND REPORTING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a technology transfer execution plan.

(2) UPDATES.—Each year after the submission of the plan under paragraph (1), the Secretary shall submit to Congress an updated execution plan and reports that describe progress toward meeting goals set forth in the execution plan and the funds expended under subsection (e).

SEC. 1002. TECHNOLOGY INFRASTRUCTURE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term "Program" means the Technology Infrastructure Program established under subsection (b).

(2) TECHNOLOGY CLUSTER.—The term "technology cluster" means a concentration of technology-related business concerns, institutions of higher education, or nonprofit institutions, that reinforce each other's performance in the areas of technology development through formal or informal relationships.

(3) TECHNOLOGY-RELATED BUSINESS CONCERN.—The term "technology-related business concern" means a for-profit corporation, company, association, firm, partnership, or small business concern that—

(A) conducts scientific or engineering research;

(B) develops new technologies;

(C) manufactures products based on new technologies; or

(D) performs technological services.

(b) ESTABLISHMENT.—The Secretary shall establish a Technology Infrastructure Program in accordance with this section.

(c) PURPOSE.—The purpose of the Program shall be to improve the ability of National Laboratories and single-purpose research facilities to support departmental missions by—

(1) stimulating the development of technology clusters that can support departmental missions at the National Laboratories or single-purpose research facilities;

(2) improving the ability of National Laboratories and single-purpose research facilities to leverage and benefit from commercial research, technology, products, processes, and services; and

(3) encouraging the exchange of scientific and technological expertise between—

(A) National Laboratories or single-purpose research facilities; and

(B) entities that can support departmental missions at the National Laboratories or single-purpose research facilities, such as—

(i) institutions of higher education;

(ii) technology-related business concerns;

(iii) nonprofit institutions; and

(iv) agencies of State, tribal, or local governments.

(d) PROJECTS.—The Secretary shall authorize the director of each National Laboratory or single-purpose research facility to implement the Program at the National Laboratory or facility through 1 or more projects that meet the requirements of subsections (e) and (f).

(e) PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—Each project funded under this section shall meet the requirements of this subsection.

(2) ENTITIES.—Each project shall include at least 1 of each of the following entities:

(A) A business.

(B) An institution of higher education.

(C) A nonprofit institution.

(D) An agency of a State, local, or tribal government.

(3) COST-SHARING.—

(A) IN GENERAL.—The costs of carrying out projects under this section shall be shared in accordance with section 988.

(B) SOURCES.—The calculation of costs paid by the non-Federal sources for a project shall include cash, personnel, services, equipment, and other resources expended on the project after the commencement of the project.

(C) RESEARCH AND DEVELOPMENT EXPENSES.—Independent research and development expenses of Government contractors that qualify for reimbursement under section 31.205–18(e) of title 48, Code of Federal Regulations, issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), may be credited towards costs paid by non-Federal sources to a project, if the expenses meet the other requirements of this section.

(4) COMPETITIVE SELECTION.—A project under this section shall be competitively selected using procedures determined by the Secretary.

(5) ACCOUNTING.—Any participant that receives funds under this section may use generally accepted accounting principles for maintaining accounts, books, and records relating to the project.

(6) DURATION.—No Federal funds shall be made available under this section for a construction project or for any project with a duration of more than 5 years.

(f) SELECTION CRITERIA.—

(1) DEPARTMENTAL MISSIONS.—The Secretary shall allocate funds under this section only if the Director of the National Laboratory or single-purpose research facility managing the project determines that the project is likely to improve the ability of the National Laboratory or single-purpose research facility to achieve technical success in meeting departmental missions.

(2) OTHER CRITERIA.—In selecting a project to receive Federal funds, the Secretary shall consider—

(A) the potential of the project to promote the development of a commercially sustainable technology cluster following the period of investment by the Department, which will derive most of the demand for its products or services from the private sector, and which will support departmental missions at the participating National Laboratory or single-purpose research facility;

(B) the potential of the project to promote the use of commercial research, technology, products, processes, and services by the participating National Laboratory or single-purpose research facility to achieve its mission or the commercial development of technological innovations made at the participating National Laboratory or single-purpose research facility;

(C) the extent to which the project involves a wide variety and number of institutions of higher education, nonprofit institutions, and technology-related business concerns that can support the missions of the participating National Laboratory or single-purpose research facility and that will make substantive contributions to achieving the goals of the project;

(D) the extent to which the project focuses on promoting the development of technology-related business concerns that are small businesses or involves such small businesses substantively in the project; and

(E) such other criteria as the Secretary determines to be appropriate.

(g) ALLOCATION.—In allocating funds for projects approved under this section, the Secretary shall provide—

(1) the Federal share of the project costs; and

(2) additional funds to the National Laboratory or single-purpose research facility managing the project to permit the National Laboratory or single-purpose research facility to carry out activities relating to the project, and to coordinate the activities with the project.

(h) REPORT TO CONGRESS.—Not later than July 1, 2008, the Secretary shall submit to Congress a report on whether the Program should be continued and, if so, how the program should be managed.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for activities under this section $10,000,000 for each of fiscal years 2006 through 2008.

SEC. 1003. SMALL BUSINESS ADVOCACY AND ASSISTANCE.

(a) SMALL BUSINESS ADVOCATE.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to designate a small business advocate to—

(1) increase the participation of small business concerns, including socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4))), in procurement, collaborative research, technology licensing, and technology transfer activities conducted by the National Laboratory or single-purpose research facility;

(2) report to the Director of the National Laboratory or single-purpose research facility on the actual participation of small business concerns in procurement and collaborative research along with recommendations, if appropriate, on how to improve participation;

(3) make available to small business concerns training, mentoring, and information on how to participate in procurement and collaborative research activities;

(4) increase the awareness inside the National Laboratory or single-purpose research facility of the capabilities and opportunities presented by small business concerns; and

(5) establish guidelines for the program under subsection (b) and report on the effectiveness of the program to the Director of the National Laboratory or single-purpose research facility.

(b) ESTABLISHMENT OF SMALL BUSINESS ASSISTANCE PROGRAM.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to establish a program to provide small business concerns with—

(1) assistance directed at making the small business concerns more effective and efficient subcontractors or suppliers to the National Laboratory or single-purpose research facilities; or

(2) general technical assistance, the cost of which shall not exceed $10,000 per instance of assistance, to improve the products or services of the small business concern.

(c) USE OF FUNDS.—None of the funds expended under subsection (b) may be used for direct grants to small business concerns.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for activities under this section $5,000,000 for each of fiscal years 2006 through 2008.

SEC. 1004. OUTREACH.

The Secretary shall ensure that each program authorized by this Act or an amendment made by this Act includes an outreach component to provide information, as appropriate, to manufacturers, consumers, engineers, architects, builders, energy service companies, institutions of higher education, facility planners and managers, State and local governments, and other entities.

SEC. 1005. RELATIONSHIP TO OTHER LAWS.

Except as otherwise provided in this Act or an amendment made by this Act, the Secretary shall carry out the research, development, demonstration, and commercial application programs, projects, and activities authorized by this Act or an amendment made by this Act in accordance with the applicable provisions of—

(1) the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

(2) the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.);

(3) the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.);

(4) the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.);

(5) chapter 18 of title 35, United States Code (commonly known as the ''Bayh-Dole Act''); and

(6) any other Act under which the Secretary is authorized to carry out the programs, projects, and activities.

SEC. 1006. IMPROVED COORDINATION AND MANAGEMENT OF CIVILIAN SCIENCE AND TECHNOLOGY PROGRAMS.

(a) EFFECTIVE TOP-LEVEL COORDINATION OF RESEARCH AND DEVELOPMENT PROGRAMS.—Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) is amended by striking subsection (b) and inserting the following:

''(b)(1) There shall be in the Department an Under Secretary for Science, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(3) The Under Secretary for Science shall be appointed from among persons who—

''(A) have extensive background in scientific or engineering fields; and

''(B) are well qualified to manage the civilian research and development programs of the Department.

''(4) The Under Secretary for Science shall—

''(A) serve as the Science and Technology Advisor to the Secretary;

''(B) monitor the research and development programs of the Department in order to advise the Secretary with respect to any undesirable duplication or gaps in the programs;

''(C) advise the Secretary with respect to the well-being and management of the multipurpose laboratories under the jurisdiction of the Department;

''(D) advise the Secretary with respect to education and training activities required for effective short- and long-term basic and applied research activities of the Department;

''(E) advise the Secretary with respect to grants and other forms of financial assistance required for effective short- and long-term basic and applied research activities of the Department;

''(F) advise the Secretary with respect to long-term planning, coordination, and development of a strategic framework for Department research and development activities; and

''(G) carry out such additional duties assigned to the Under Secretary by the Secretary relating to basic and applied research, including supervision or support of research activities carried out by any of the Assistant Secretaries designated by section 203 of this Act, as the Secretary considers advantageous.''.

(b) ADDITIONAL ASSISTANT SECRETARY POSITION.—

(1) IN GENERAL.—Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended in the first sentence by striking ''six Assistant Secretaries'' and inserting ''7 Assistant Secretaries''.

(2) ASSISTANT SECRETARY LEVEL.—It is the sense of Congress that the leadership for departmental missions in nuclear energy should be at the Assistant Secretary level.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) is amended by adding at the end the following:

''(d)(1) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe, consistent with this section.

''(2) The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(e)(1) There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe.

''(2) The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.''.

(2) Section 5314 of title 5, United States Code, is amended by striking ''Under Secretaries of Energy (2)'' and inserting ''Under Secretaries of Energy (3)''.

(3) Section 5315 of title 5, United States Code, is amended by striking ''Assistant Secretaries of Energy (6)'' and inserting ''Assistant Secretaries of Energy (7)''.

(4) Section 209(b) of the Department of Energy Organization Act (42 U.S.C. 7139(b)) is amended by striking paragraph (6) and inserting the following:

''(6) to carry out such additional duties assigned to the Office by the Secretary.''.

SEC. 1007. OTHER TRANSACTIONS AUTHORITY.

Section 646 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended by adding at the end the following:

''(g)(1) In addition to authority granted to the Secretary under any other provision of law, the Secretary may exercise the same authority to enter into transactions (other than contracts, cooperative agreements, and grants), subject to the same terms and conditions as the Secretary of Defense under section 2371 of title 10, United States Code (other than subsections (b) and (f) of that section).

''(2) In applying section 2371 of title 10, United States Code, to the Secretary under paragraph (1)—

''(A) the term 'basic' shall be replaced by the term 'research';

''(B) the term 'applied' shall be replaced by the term 'development'; and

"(C) the terms 'advanced research projects' and 'advanced research' shall be replaced by the term 'demonstration projects'.

"(3) The authority of the Secretary under paragraph (1) shall not be subject to—

"(A) section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908); or

"(B) section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182).

"(4)(A) The Secretary shall use such competitive, merit-based selection procedures in entering into transactions under paragraph (1), as the Secretary determines in writing to be practicable.

"(B) A transaction under paragraph (1) shall relate to a research, development, or demonstration project only if the Secretary determines in writing that the use of a standard contract, grant, or cooperative agreement for the project is not feasible or appropriate.

"(5) The Secretary may protect from disclosure, for up to 5 years after the date on which the information is developed, any information developed pursuant to a transaction under paragraph (1) that would be protected from disclosure under section 552(b)(4) of title 5, United States Code, if obtained from a person other than a Federal agency.

"(6)(A) Not later than 90 days after the date of enactment of this subsection, the Secretary shall issue guidelines for transactions under paragraph (1).

"(B) The guidelines shall be published in the Federal Register for public comment in accordance with rulemaking procedures of the Department.

"(C) The Secretary shall not have authority to carry out transactions under paragraph (1) until the guidelines for transactions required under subparagraph (A) are final.

"(7) The annual report of the head of an executive agency under section 2371(h) of title 10, United States Code, shall be submitted to Congress.

"(8)(A) In this paragraph, the term 'nontraditional Government contractor' has the meaning given the term 'nontraditional defense contractor' in section 845(f) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note).

"(B) Not later than 1 year after the date on which the final guidelines are published under paragraph (6), the Comptroller General of the United States shall submit to Congress a report describing—

"(i) the use by the Department of authorities under this section, including the ability to attract nontraditional Government contractors; and

"(ii) whether additional safeguards are necessary to carry out the authorities.

"(9) The authority of the Secretary under this subsection may be delegated only to an officer of the Department who is appointed by the President by and with the advice and consent of the Senate.

"(10) Notwithstanding any other provision of law, the authority to enter into transactions under paragraph (1) shall terminate on September 30, 2010.".

SEC. 1008. PRIZES FOR ACHIEVEMENT IN GRAND CHALLENGES OF SCIENCE AND TECHNOLOGY.

(a) Authority.—The Secretary may carry out a program to award cash prizes in recognition of breakthrough achievements in research, development, demonstration, and commercial application that have the potential for application to the performance of the mission of the Department.

(b) Competition Requirements.—The program under subsection (a) may include prizes for the achievement of goals articulated by the Secretary in a specific area through a widely advertised solicitation of submission of results for research, development, demonstration, or commercial application projects.

(c) Prizes for Processes and Technologies to Reduce Dependence on Imported Oil.—The Secretary, in cooperation with the Freedom Prize Foundation, shall support a program of awarding prizes, to be known as Freedom Prizes, to encourage and recognize the development and deployment of processes and technologies that serve to reduce the dependence of the United States on imported oil.

(d) Relationship to Other Authority.—The program under subsection (a) may be carried out in conjunction with or in addition to the exercise of any other authority of the Secretary to acquire, support, or stimulate research, development, demonstration, or commercial application projects.

(e) Authorization of Appropriations.—There are authorized to be appropriated—

(1) $10,000,000 to carry out the program under subsection (a); and

(2) $5,000,000 to carry out the program under subsection (c).

SEC. 1009. TECHNICAL CORRECTIONS.

(a) Coal Research and Development.—

(1) In general.—Public Law 86–599 (30 U.S.C. 661 et seq.) is amended—

(A) by striking the first section (30 U.S.C. 661) and inserting the following:

"Sec. 1. (a) This Act may be cited as the 'Coal Research and Development Act of 1960'.

"(b) In this Act:

"(1) The term 'research' means scientific, technical, and economic research and the practical application of that research.

"(2) The term 'Secretary' means the Secretary of Energy.";

(B) in section 2 (30 U.S.C. 662), by striking "shall establish within" and all that follows through "such Office";

(C) by striking sections 3, 4, and 7 (30 U.S.C. 663, 664, 667); and

(D) by redesignating sections 5, 6, and 8 (30 U.S.C. 665, 666, 668) as sections 3, 4, and 5, respectively.

(2) Patents.—Section 210(a)(8) of title 35, United States Code, is amended by striking "Coal Research Development Act of 1960" and inserting "Coal Research and Development Act of 1960".

(b) Nonnuclear Energy Research and Development.—

(1) Short title; definitions.—Section 1 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5902) is amended to read as follows:

"SHORT TITLE AND DEFINITIONS

"Sec. 1. (a) This Act may be cited as the 'Federal Nonnuclear Energy Research and Development Act of 1974'.

"(b) In this Act:

"(1) The term 'Department' means the Department of Energy.

"(2) The term 'Secretary' means the Secretary of Energy.".

(2) Statement of policy.—Section 3(b) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5902(b)) is amended—

(A) in paragraph (1), by striking "Energy Research and Development Administration" and inserting "Department";

(B) in paragraph (2), by striking "Administrator of the Energy Research and Development Administration (hereinafter in this Act referred to as the 'Administrator')" and inserting "Secretary"; and

(C) in paragraph (3)—

(i) by striking "Administrator" and inserting "Secretary"; and

(ii) by inserting "Demonstration" after "Cooling".

(3) Duties and authorities.—Section 4 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5903) is amended—

(A) by striking the section heading and inserting the following: "DUTIES AND AUTHORITIES OF THE SECRETARY"; and

(B) in the matter preceding subsection (a), by striking "Administrator" and inserting "Secretary".

(4) Comprehensive planning and programming.—Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(A) by striking "Administrator" each place it appears and inserting "Secretary"; and

(B) in subsection (b)(3)—

(i) in subparagraph (I), by inserting "Demonstration" after "Cooling"; and

(ii) in subparagraph (L), by inserting "Energy" after "Solar".

(5) Forms of federal assistance.—Section 7 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(A) by striking "Administrator" each place it appears and inserting "Secretary"; and

(B) in subsection (a)(4), by striking "of the section".

(6) Demonstrations.—Section 8 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5907) is amended—

(A) in subsections (a) through (c), by striking "Administrator" each place it appears and inserting "Secretary";

(B) in subsection (d)—

(i) in the first sentence of paragraph (1), by inserting "of the Energy Research and Development Administration" after "Administrator"; and

(ii) in paragraph (3), by striking "Administrator" and inserting "Secretary"; and

(C) in subsection (f)—

(i) by striking "Administrator" each place it appears and inserting "Secretary"; and

(ii) in the proviso of the first sentence, by striking "Administrator's" and inserting "Secretary's".

(7) Patent policy.—Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) is amended—

(A) by striking "Administration" each place it appears and inserting "Department";

(B) by striking "Administrator" each place it appears and inserting "Secretary"; and

(C) in subsection (c)(3), by striking "Administration's" and inserting "Department's".

(8) Acquisition of essential materials.—Section 12 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5911) is amended by striking subsection (b) and inserting the following:

"(b) A rule or order under subsection (a) shall be considered to be a major rule subject to chapter 8 of title 5, United States Code.".

(9) Water resource evaluation.—Section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912) is amended by striking "Administrator" each place it appears and inserting "Secretary".

(10) Authorization of appropriations.—Section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915) is amended—

(A) by striking the section heading and inserting the following: "AUTHORIZATION OF APPROPRIATIONS";

(B) by striking "(a) There may be appropriated to the Administrator" and inserting "There may be appropriated to the Secretary"; and

(C) by striking subsections (b) and (c).

(11) Central source of nonnuclear energy information.—Section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5916) is amended—

(A) by striking "Administrator" each place it appears and inserting "Secretary";

(B) in the first sentence, by striking "Administrator's";

(C) in the second sentence, by striking "he" and inserting "the Secretary";

(D) in the third sentence—

(i) in paragraph (2) of the first proviso, by striking "section 1905 or title 18" and inserting "section 1905 of title 18"; and

(ii) in subparagraph (B) of the second proviso—

(I) by striking "the Federal Energy Administration,";

(II) by striking "the Federal Power Commission," and inserting "the Federal Energy Regulatory Commission"; and

(III) by striking "General Accounting Office" and inserting "Government Accountability Office"; and

(E) in the last sentence, by inserting "or ranking minority member" after "chairman".

(12) ENERGY INFORMATION, LOAN GUARANTEES, AND FINANCIAL SUPPORT.—Sections 18 through 20 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5917 through 5920) are repealed.

(c) STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—Section 20 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3712) is amended by striking "and the National Science Foundation" and inserting ", the Secretary of Energy, and the Director of the National Science Foundation".

SEC. 1010. UNIVERSITY COLLABORATION.

Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Congress a report that examines the feasibility of promoting collaborations between major universities and other colleges and universities in grants, contracts, and cooperative agreements made by the Secretary for energy projects. For purposes of this section, major universities are schools listed by the Carnegie Foundation as Doctoral Research Extensive Universities. The Secretary shall also consider providing incentives to increase the inclusion of small institutions of higher education, including minority-serving institutions, in energy grants, contracts, and cooperative agreements.

SEC. 1011. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the Secretary should develop and implement more stringent procurement and inventory controls, including controls on the purchase card program, to prevent waste, fraud, and abuse of taxpayer funds by employees and contractors of the Department; and

(2) the Department's Inspector General should continue to closely review purchase card purchases and other procurement and inventory practices at the Department.

TITLE XI—PERSONNEL AND TRAINING

SEC. 1101. WORKFORCE TRENDS AND TRAINEESHIP GRANTS.

(a) DEFINITIONS.—In this section:

(1) ENERGY TECHNOLOGY INDUSTRY.—The term "energy technology industry" includes—

(A) a renewable energy industry;

(B) a company that develops or commercializes a device to increase energy efficiency;

(C) the oil and gas industry;

(D) the nuclear power industry;

(E) the coal industry;

(F) the electric utility industry; and

(G) any other industrial sector, as the Secretary determines to be appropriate.

(2) SKILLED TECHNICAL PERSONNEL.—The term "skilled technical personnel" means—

(A) journey- and apprentice-level workers who are enrolled in, or have completed, a federally-recognized or State-recognized apprenticeship program; and

(B) other skilled workers in energy technology industries, as determined by the Secretary.

(b) WORKFORCE TRENDS.—

(1) MONITORING.—The Secretary, in consultation with, and using data collected by, the Secretary of Labor, shall monitor trends in the workforce of—

(A) skilled technical personnel that support energy technology industries; and

(B) electric power and transmission engineers.

(2) REPORT ON TRENDS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on current trends under paragraph (1), with recommendations (as appropriate) to meet the future labor requirements for the energy technology industries.

(3) REPORT ON SHORTAGE.—As soon as practicable after the date on which the Secretary identifies or predicts a significant national shortage of skilled technical personnel in 1 or more energy technology industries, the Secretary shall submit to Congress a report describing the shortage.

(c) TRAINEESHIP GRANTS FOR SKILLED TECHNICAL PERSONNEL.—The Secretary, in consultation with the Secretary of Labor, may establish programs in the appropriate offices of the Department under which the Secretary provides grants to enhance training (including distance learning) for any workforce category for which a shortage is identified or predicted under subsection (b)(2).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2006 through 2008.

SEC. 1102. EDUCATIONAL PROGRAMS IN SCIENCE AND MATHEMATICS.

(a) SCIENCE EDUCATION ENHANCEMENT FUND.—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended by adding at the end:

"(c) SCIENCE EDUCATION ENHANCEMENT FUND.—The Secretary shall use not less than 0.3 percent of the amount made available to the Department for research, development, demonstration, and commercial application for fiscal year 2006 and each fiscal year thereafter to carry out activities authorized by this part.".

(b) AUTHORIZED EDUCATION ACTIVITIES.—Section 3165 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381b) is amended by adding at the end the following:

"(14) Support competitive events for students under the supervision of teachers, designed to encourage student interest and knowledge in science and mathematics.

"(15) Support competitively-awarded, peer-reviewed programs to promote professional development for mathematics teachers and science teachers who teach in grades from kindergarten through grade 12 at Department research and development facilities.

"(16) Support summer internships at Department research and development facilities, for mathematics teachers and science teachers who teach in grades from kindergarten through grade 12.

"(17) Sponsor and assist in educational and training activities identified as critical skills needs for future workforce development at Department research and development facilities.".

(c) EDUCATIONAL PARTNERSHIPS.—Section 3166(b) of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381c(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) loaning or transferring equipment to the institution;";

(2) in paragraph (5), by striking "and" at the end;

(3) in paragraph (6), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(7) providing funds to educational institutions to hire personnel to facilitate interactions between local school systems, Department research and development facilities, and corporate and governmental entities.".

(d) DEFINITION OF DEPARTMENT RESEARCH AND DEVELOPMENT FACILITIES.—Section 3167(3) of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381d(3)) is amended by striking "from the Office of Science of the Department of Energy" and inserting "by the Department of Energy".

(e) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Education, shall enter into an arrangement with the National Academy of Public Administration to conduct a study of the priorities, quality, local and regional flexibility, and plans for educational programs at Department research and development facilities.

(2) INCLUSION.—The study shall recommend measures that the Secretary may take to improve Department-wide coordination of educational, workforce development, and critical skills development activities.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under this subsection.

SEC. 1103. TRAINING GUIDELINES FOR NONNUCLEAR ELECTRIC ENERGY INDUSTRY PERSONNEL.

(a) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary and in conjunction with the electric industry and recognized employee representatives, shall develop model personnel training guidelines to support the reliability and safety of the nonnuclear electric system.

(b) REQUIREMENTS.—The training guidelines under subsection (a) shall, at a minimum—

(1) include training requirements for workers engaged in the construction, operation, inspection, or maintenance of nonnuclear electric generation, transmission, or distribution systems, including requirements relating to—

(A) competency;

(B) certification; and

(C) assessment, including—

(i) initial and continuous evaluation of workers;

(ii) recertification procedures; and

(iii) methods for examining or testing the qualification of an individual who performs a covered task; and

(2) consolidate training guidelines in existence on the date on which the guidelines under subsection (a) are developed relating to the construction, operation, maintenance, and inspection of nonnuclear electric generation, transmission, and distribution facilities, such as guidelines established by the National Electric Safety Code and other industry consensus standards.

SEC. 1104. NATIONAL CENTER FOR ENERGY MANAGEMENT AND BUILDING TECHNOLOGIES.

The Secretary shall support the ongoing activities of and explore opportunities for expansion of the National Center for Energy Management and Building Technologies to carry out research, education, and training activities to facilitate the improvement of energy efficiency, indoor environmental quality, and security of industrial, commercial, residential, and public buildings.

SEC. 1105. IMPROVED ACCESS TO ENERGY-RELATED SCIENTIFIC AND TECHNICAL CAREERS.

(a) SCIENCE EDUCATION PROGRAMS.—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) (as *amended by section 1102(a)) is amended by adding at the end the following:*

"(d) PROGRAMS FOR STUDENTS FROM UNDER-REPRESENTED GROUPS.—In carrying out a program under subsection (a), the Secretary shall give priority to activities that are designed to encourage students from under-represented groups to pursue scientific and technical careers.".

(b) PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVICING INSTITUTIONS, AND TRIBAL COLLEGES.—The Department of Energy Science Education Enhancement Act (42 U.S.C. 7381 et seq.) is amended—

(1) by redesignating sections 3167 and 3168 as sections 3168 and 3169, respectively; and

(2) by inserting after section 3166 the following:

"SEC. 3167. PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVING INSTITUTIONS, AND TRIBAL COLLEGES.

"(a) DEFINITIONS.—In this section:

"(1) HISPANIC-SERVING INSTITUTION.—The term 'Hispanic-serving institution' has the meaning given the term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

"(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term 'historically Black college or university' has the meaning given the term 'part B institution' in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

"(3) NATIONAL LABORATORY.—The term 'National Laboratory' has the meaning given the term in section 2 of the Energy Policy Act of 2005.

"(4) SCIENCE FACILITY.—The term 'science facility' has the meaning given the term 'single-purpose research facility' in section 903 of the Energy Policy Act of 2005.

"(5) TRIBAL COLLEGE.—The term 'tribal college' has the meaning given the term 'tribally controlled college or university' in section 2(a) of the Tribally Controlled College Assistance Act of 1978 (25 U.S.C. 1801(a)).

"(b) EDUCATION PARTNERSHIP.—The Secretary shall require the director of each National Laboratory, and may require the head of any science facility, to increase the participation of historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges in any activity that increases the capacity of the historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges to train personnel in science or engineering.

"(c) ACTIVITIES.—An activity described in subsection (b) includes—

"(1) collaborative research;

"(2) equipment transfer;

"(3) training activities carried out at a National Laboratory or science facility; and

"(4) mentoring activities carried out at a National Laboratory or science facility.

"(d) REPORT.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall submit to Congress a report describing the activities carried out under this section.".

SEC. 1106. NATIONAL POWER PLANT OPERATIONS TECHNOLOGY AND EDUCATIONAL CENTER.

(a) ESTABLISHMENT.—The Secretary shall support the establishment of a National Power Plant Operations Technology and Education Center (referred to in this section as the "Center"), to address the need for training and educating certified operators and technicians for the electric power industry.

(b) LOCATION OF CENTER.—The Secretary shall support the establishment of the Center at an institution of higher education that has—

(1) expertise in providing degree programs in electric power generation, transmission, and distribution technologies;

(2) expertise in providing onsite and Internet-based training; and

(3) demonstrated responsiveness to workforce and training requirements in the electric power industry.

(c) TRAINING AND CONTINUING EDUCATION.—

(1) IN GENERAL.—The Center shall provide training and continuing education in electric power generation, transmission, and distribution technologies and operations.

(2) LOCATION.—The Center shall carry out training and education activities under paragraph (1)—

(A) at the Center; and

(B) through Internet-based information technologies that allow for learning at remote sites.

TITLE XII—ELECTRICITY

SEC. 1201. SHORT TITLE.

This title may be cited as the "Electricity Modernization Act of 2005".

Subtitle A—Reliability Standards

SEC. 1211. ELECTRIC RELIABILITY STANDARDS.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C 824 et seq.) is amended by adding at the end the following:

"SEC. 215. ELECTRIC RELIABILITY.

"(a) DEFINITIONS.—For purposes of this section:

"(1) The term 'bulk-power system' means—

"(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

"(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

"(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

"(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

"(4) The term 'reliable operation' means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.

"(5) The term 'Interconnection' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of 1 or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

"(6) The term 'transmission organization' means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

"(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

"(8) The term 'cybersecurity incident' means a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communication networks including hardware, software and data that are essential to the reliable operation of the bulk power system.

"(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

"(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

"(c) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify 1 such ERO if the Commission determines that such ERO—

"(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

"(2) has established rules that—

"(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

"(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

"(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

"(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

"(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

"(d) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

"(2) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

"(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or

modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

“(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

“(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

“(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

“(A) the Commission finds a conflict exists between a reliability standard and any such provision;

“(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

“(C) the ordered change becomes effective under this part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

“(e) Enforcement.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

“(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

“(B) files notice and the record of the proceeding with the Commission.

“(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

“(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

“(4) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

“(A) the regional entity is governed by—

“(i) an independent board;

“(ii) a balanced stakeholder board; or

“(iii) a combination independent and balanced stakeholder board.

“(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

“(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

“(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

“(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

“(f) Changes in Electric Reliability Organization Rules.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

“(g) Reliability Reports.—The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

“(h) Coordination With Canada and Mexico.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

“(i) Savings Provisions.—(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

“(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

“(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard, except that the State of New York may establish rules that result in greater reliability within that State, as long as such action does not result in lesser reliability outside the State than that provided by the reliability standards.

“(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

“(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

“(j) Regional Advisory Bodies.—The Commission shall establish a regional advisory body on the petition of at least ⅔ of the States within a region that have more than ½ of their electric load served within the region. A regional advisory body shall be composed of 1 member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

“(k) Alaska and Hawaii.—The provisions of this section do not apply to Alaska or Hawaii.”.

(b) Status of ERO.—The Electric Reliability Organization certified by the Federal Energy Regulatory Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e)(4) of that Act are not departments, agencies, or instrumentalities of the United States Government.

(c) Access Approvals by Federal Agencies.—Federal agencies responsible for approving access to electric transmission or distribution facilities located on lands within the United States shall, in accordance with applicable law, expedite any Federal agency approvals that are necessary to allow the owners or operators of such facilities to comply with any reliability standard, approved by the Commission under section 215 of the Federal Power Act, that pertains to vegetation management, electric service restoration, or resolution of situations that imminently endanger the reliability or safety of the facilities.

Subtitle B—Transmission Infrastructure Modernization

SEC. 1221. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

(a) In General.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

“SEC. 216. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

“(a) Designation of National Interest Electric Transmission Corridors.—(1) Not later than 1 year after the date of enactment of this section and every 3 years thereafter, the Secretary of Energy (referred to in this section as the ‘Secretary’), in consultation with affected States, shall conduct a study of electric transmission congestion.

“(2) After considering alternatives and recommendations from interested parties (including an opportunity for comment from affected States), the Secretary shall issue a report, based on the study, which may designate any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a national interest electric transmission corridor.

“(3) The Secretary shall conduct the study and issue the report in consultation with any appropriate regional entity referred to in section 215.

“(4) In determining whether to designate a national interest electric transmission corridor under paragraph (2), the Secretary may consider whether—

“(A) the economic vitality and development of the corridor, or the end markets served by the corridor, may be constrained by lack of adequate or reasonably priced electricity;

“(B)(i) economic growth in the corridor, or the end markets served by the corridor, may be jeopardized by reliance on limited sources of energy; and

“(ii) a diversification of supply is warranted;

“(C) the energy independence of the United States would be served by the designation;

“(D) the designation would be in the interest of national energy policy; and

“(E) the designation would enhance national defense and homeland security.

“(b) Construction Permit.—Except as provided in subsection (i), the Commission may, after notice and an opportunity for hearing, issue 1 or more permits for the construction or modification of electric transmission facilities in a national interest electric transmission corridor designated by the Secretary under subsection (a) if the Commission finds that—

“(1)(A) a State in which the transmission facilities are to be constructed or modified does not have authority to—

“(i) approve the siting of the facilities; or

“(ii) consider the interstate benefits expected to be achieved by the proposed construction or modification of transmission facilities in the State;

“(B) the applicant for a permit is a transmitting utility under this Act but does not qualify to apply for a permit or siting approval for the proposed project in a State because the applicant does not serve end-use customers in the State; or

“(C) a State commission or other entity that has authority to approve the siting of the facilities has—

“(i) withheld approval for more than 1 year after the filing of an application seeking approval pursuant to applicable law or 1 year after the designation of the relevant national interest electric transmission corridor, whichever is later; or

“(ii) conditioned its approval in such a manner that the proposed construction or modification will not significantly reduce transmission congestion in interstate commerce or is not economically feasible;

“(2) the facilities to be authorized by the permit will be used for the transmission of electric energy in interstate commerce;

“(3) the proposed construction or modification is consistent with the public interest;

“(4) the proposed construction or modification will significantly reduce transmission congestion in interstate commerce and protects or benefits consumers;

“(5) the proposed construction or modification is consistent with sound national energy policy and will enhance energy independence; and

“(6) the proposed modification will maximize, to the extent reasonable and economical, the transmission capabilities of existing towers or structures.

“(c) Permit Applications.—(1) Permit applications under subsection (b) shall be made in writing to the Commission.

“(2) The Commission shall issue rules specifying—

“(A) the form of the application;

“(B) the information to be contained in the application; and

“(C) the manner of service of notice of the permit application on interested persons.

“(d) Comments.—In any proceeding before the Commission under subsection (b), the Commission shall afford each State in which a transmission facility covered by the permit is or will be located, each affected Federal agency and Indian tribe, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the need for and impact of a facility covered by the permit.

“(e) Rights-of-Way.—(1) In the case of a permit under subsection (b) for electric transmission facilities to be located on property other than property owned by the United States or a State, if the permit holder cannot acquire by contract, or is unable to agree with the owner of the property to the compensation to be paid for, the necessary right-of-way to construct or modify the transmission facilities, the permit holder may acquire the right-of-way by the exercise of the right of eminent domain in the district court of the United States for the district in which the property concerned is located, or in the appropriate court of the State in which the property is located.

“(2) Any right-of-way acquired under paragraph (1) shall be used exclusively for the construction or modification of electric transmission facilities within a reasonable period of time after the acquisition.

“(3) The practice and procedure in any action or proceeding under this subsection in the district court of the United States shall conform as nearly as practicable to the practice and procedure in a similar action or proceeding in the courts of the State in which the property is located.

“(4) Nothing in this subsection shall be construed to authorize the use of eminent domain to acquire a right-of-way for any purpose other than the construction, modification, operation, or maintenance of electric transmission facilities and related facilities. The right-of-way cannot be used for any other purpose, and the right-of-way shall terminate upon the termination of the use for which the right-of-way was acquired.

“(f) Compensation.—(1) Any right-of-way acquired pursuant to subsection (e) shall be considered a taking of private property for which just compensation is due.

“(2) Just compensation shall be an amount equal to the fair market value (including applicable severance damages) of the property taken on the date of the exercise of eminent domain authority.

“(g) State Law.—Nothing in this section precludes any person from constructing or modifying any transmission facility in accordance with State law.

“(h) Coordination of Federal Authorizations for Transmission Facilities.—(1) In this subsection:

“(A) The term ‘Federal authorization’ means any authorization required under Federal law in order to site a transmission facility.

“(B) The term ‘Federal authorization’ includes such permits, special use authorizations, certifications, opinions, or other approvals as may be required under Federal law in order to site a transmission facility.

“(2) The Department of Energy shall act as the lead agency for purposes of coordinating all applicable Federal authorizations and related environmental reviews of the facility.

“(3) To the maximum extent practicable under applicable Federal law, the Secretary shall coordinate the Federal authorization and review process under this subsection with any Indian tribes, multistate entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the facility, to ensure timely and efficient review and permit decisions.

“(4)(A) As head of the lead agency, the Secretary, in consultation with agencies responsible for Federal authorizations and, as appropriate, with Indian tribes, multistate entities, and State agencies that are willing to coordinate their own separate permitting and environmental reviews with the Federal authorization and environmental reviews, shall establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, the proposed facility.

“(B) The Secretary shall ensure that, once an application has been submitted with such data as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed—

“(i) within 1 year; or

“(ii) if a requirement of another provision of Federal law does not permit compliance with clause (i), as soon thereafter as is practicable.

“(C) The Secretary shall provide an expeditious pre-application mechanism for prospective applicants to confer with the agencies involved to have each such agency determine and communicate to the prospective applicant not later than 60 days after the prospective applicant submits a request for such information concerning—

“(i) the likelihood of approval for a potential facility; and

“(ii) key issues of concern to the agencies and public.

“(5)(A) As lead agency head, the Secretary, in consultation with the affected agencies, shall prepare a single environmental review document, which shall be used as the basis for all decisions on the proposed project under Federal law.

“(B) The Secretary and the heads of other agencies shall streamline the review and permitting of transmission within corridors designated under section 503 of the Federal Land Policy and Management Act (43 U.S.C. 1763) by fully taking into account prior analyses and decisions relating to the corridors.

“(C) The document shall include consideration by the relevant agencies of any applicable criteria or other matters as required under applicable law.

“(6)(A) If any agency has denied a Federal authorization required for a transmission facility, or has failed to act by the deadline established by the Secretary pursuant to this section for deciding whether to issue the authorization, the applicant or any State in which the facility would be located may file an appeal with the President, who shall, in consultation with the affected agency, review the denial or failure to take action on the pending application.

“(B) Based on the overall record and in consultation with the affected agency, the President may—

“(i) issue the necessary authorization with any appropriate conditions; or

“(ii) deny the application.

“(C) The President shall issue a decision not later than 90 days after the date of the filing of the appeal.

“(D) In making a decision under this paragraph, the President shall comply with applicable requirements of Federal law, including any requirements of—

“(i) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

"(ii) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(iii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(iv) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(v) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

"(7)(A) Not later than 18 months after the date of enactment of this section, the Secretary shall issue any regulations necessary to implement this subsection.

"(B)(i) Not later than 1 year after the date of enactment of this section, the Secretary and the heads of all Federal agencies with authority to issue Federal authorizations shall enter into a memorandum of understanding to ensure the timely and coordinated review and permitting of electricity transmission facilities.

"(ii) Interested Indian tribes, multistate entities, and State agencies may enter the memorandum of understanding.

"(C) The head of each Federal agency with authority to issue a Federal authorization shall designate a senior official responsible for, and dedicate sufficient other staff and resources to ensure, full implementation of the regulations and memorandum required under this paragraph.

"(8)(A) Each Federal land use authorization for an electricity transmission facility shall be issued—

"(i) for a duration, as determined by the Secretary, commensurate with the anticipated use of the facility; and

"(ii) with appropriate authority to manage the right-of-way for reliability and environmental protection.

"(B) On the expiration of the authorization (including an authorization issued before the date of enactment of this section), the authorization shall be reviewed for renewal taking fully into account reliance on such electricity infrastructure, recognizing the importance of the authorization for public health, safety, and economic welfare and as a legitimate use of Federal land.

"(9) In exercising the responsibilities under this section, the Secretary shall consult regularly with—

"(A) the Federal Energy Regulatory Commission;

"(B) electric reliability organizations (including related regional entities) approved by the Commission; and

"(C) Transmission Organizations approved by the Commission.

"(i) Interstate Compacts.—(1) The consent of Congress is given for 3 or more contiguous States to enter into an interstate compact, subject to approval by Congress, establishing regional transmission siting agencies to—

"(A) facilitate siting of future electric energy transmission facilities within those States; and

"(B) carry out the electric energy transmission siting responsibilities of those States.

"(2) The Secretary may provide technical assistance to regional transmission siting agencies established under this subsection.

"(3) The regional transmission siting agencies shall have the authority to review, certify, and permit siting of transmission facilities, including facilities in national interest electric transmission corridors (other than facilities on property owned by the United States).

"(4) The Commission shall have no authority to issue a permit for the construction or modification of an electric transmission facility within a State that is a party to a compact, unless the members of the compact are in disagreement and the Secretary makes, after notice and an opportunity for a hearing, the finding described in subsection (b)(1)(C).

"(j) Relationship to Other Laws.—(1) Except as specifically provided, nothing in this section affects any requirement of an environmental law of the United States, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) Subsection (h)(6) shall not apply to any unit of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Trails System, the National Wilderness Preservation System, or a National Monument.

"(k) ERCOT.—This section shall not apply within the area referred to in section 212(k)(2)(A).".

(b) Reports to Congress on Corridors and Rights of Way on Federal Lands.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, the Secretary, the Secretary of Agriculture, and the Chairman of the Council on Environmental Quality shall submit to Congress a joint report identifying—

(1)(A) all existing designated transmission and distribution corridors on Federal land and the status of work related to proposed transmission and distribution corridor designations under title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.);

(B) the schedule for completing the work;

(C) any impediments to completing the work; and

(D) steps that Congress could take to expedite the process;

(2)(A) the number of pending applications to locate transmission facilities on Federal land;

(B) key information relating to each such facility;

(C) how long each application has been pending;

(D) the schedule for issuing a timely decision as to each facility; and

(E) progress in incorporating existing and new such rights-of-way into relevant land use and resource management plans or the equivalent of those plans; and

(3)(A) the number of existing transmission and distribution rights-of-way on Federal land that will come up for renewal within the following 5-, 10-, and 15-year periods; and

(B) a description of how the Secretaries plan to manage the renewals.

SEC. 1222. THIRD-PARTY FINANCE.

(a) Existing Facilities.—The Secretary, acting through the Administrator of the Western Area Power Administration (hereinafter in this section referred to as "WAPA"), or through the Administrator of the Southwestern Power Administration (hereinafter in this section referred to as "SWPA"), or both, may design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning, an electric power transmission facility and related facilities ("Project") needed to upgrade existing transmission facilities owned by SWPA or WAPA if the Secretary, in consultation with the applicable Administrator, determines that the proposed Project—

(1)(A) is located in a national interest electric transmission corridor designated under section 216(a) of the Federal Power Act and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) transmission needs identified, in a transmission expansion plan or otherwise, by the appropriate Transmission Organization (as defined in the Federal Power Act), if any, or approved regional reliability organization; and

(B) efficient and reliable operation of the transmission grid; and

(3) would be operated in conformance with prudent utility practice.

(b) New Facilities.—The Secretary, acting through WAPA or SWPA, or both, may design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning, a new electric power transmission facility and related facilities ("Project") located within any State in which WAPA or SWPA operates if the Secretary, in consultation with the applicable Administrator, determines that the proposed Project—

(1)(A) is located in an area designated under section 216(a) of the Federal Power Act and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) transmission needs identified, in a transmission expansion plan or otherwise, by the appropriate Transmission Organization (as defined in the Federal Power Act) if any, or approved regional reliability organization; and

(B) efficient and reliable operation of the transmission grid;

(3) will be operated in conformance with prudent utility practice;

(4) will be operated by, or in conformance with the rules of, the appropriate (A) Transmission Organization, if any, or (B) if such an organization does not exist, regional reliability organization; and

(5) will not duplicate the functions of existing transmission facilities or proposed facilities which are the subject of ongoing or approved siting and related permitting proceedings.

(c) Other Funds.—

(1) In General.—In carrying out a Project under subsection (a) or (b), the Secretary may accept and use funds contributed by another entity for the purpose of carrying out the Project.

(2) Availability.—The contributed funds shall be available for expenditure for the purpose of carrying out the Project—

(A) without fiscal year limitation; and

(B) as if the funds had been appropriated specifically for that Project.

(3) Allocation of costs.—In carrying out a Project under subsection (a) or (b), any costs of the Project not paid for by contributions from another entity shall be collected through rates charged to customers using the new transmission capability provided by the Project and allocated equitably among these project beneficiaries using the new transmission capability.

(d) Relationship to Other Laws.—Nothing in this section affects any requirement of—

(1) any Federal environmental law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) any Federal or State law relating to the siting of energy facilities; or

(3) any existing authorizing statutes.

(e) Savings Clause.—Nothing in this section shall constrain or restrict an Administrator in the utilization of other authority delegated to the Administrator of WAPA or SWPA.

(f) Secretarial Determinations.—Any determination made pursuant to subsections (a) or (b) shall be based on findings by the Secretary using the best available data.

(g) Maximum Funding Amount.—The Secretary shall not accept and use more than $100,000,000 under subsection (c)(1) for the period encompassing fiscal years 2006 through 2015.

SEC. 1223. ADVANCED TRANSMISSION TECHNOLOGIES.

(a) Definition of Advanced Transmission Technology.—In this section, the term "advanced transmission technology" means a technology that increases the capacity, efficiency, or reliability of an existing or new transmission facility, including—

(1) high-temperature lines (including superconducting cables);

(2) underground cables;

(3) advanced conductor technology (including advanced composite conductors, high-temperature low-sag conductors, and fiber optic temperature sensing conductors);

(4) high-capacity ceramic electric wire, connectors, and insulators;

(5) optimized transmission line configurations (including multiple phased transmission lines);

(6) modular equipment;

(7) wireless power transmission;

(8) ultra-high voltage lines;

(9) high-voltage DC technology;

(10) flexible AC transmission systems;

(11) energy storage devices (including pumped hydro, compressed air, superconducting magnetic energy storage, flywheels, and batteries);

(12) controllable load;

(13) distributed generation (including PV, fuel cells, and microturbines);

(14) enhanced power device monitoring;

(15) direct system state sensors;

(16) fiber optic technologies;

(17) power electronics and related software (including real time monitoring and analytical software);

(18) mobile transformers and mobile substations; and

(19) any other technologies the Commission considers appropriate.

(b) AUTHORITY.—In carrying out the Federal Power Act (16 U.S.C. 791a et seq.) and the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.), the Commission shall encourage, as appropriate, the deployment of advanced transmission technologies.

SEC. 1224. ADVANCED POWER SYSTEM TECHNOLOGY INCENTIVE PROGRAM.

(a) PROGRAM.—The Secretary is authorized to establish an Advanced Power System Technology Incentive Program to support the deployment of certain advanced power system technologies and to improve and protect certain critical governmental, industrial, and commercial processes. Funds provided under this section shall be used by the Secretary to make incentive payments to eligible owners or operators of advanced power system technologies to increase power generation through enhanced operational, economic, and environmental performance. Payments under this section may only be made upon receipt by the Secretary of an incentive payment application establishing an applicant as either—

(1) a qualifying advanced power system technology facility; or

(2) a qualifying security and assured power facility.

(b) INCENTIVES.—Subject to availability of funds, a payment of 1.8 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying advanced power system technology facility under this section for electricity generated at such facility. An additional 0.7 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying security and assured power facility for electricity generated at such facility. Any facility qualifying under this section shall be eligible for an incentive payment for up to, but not more than, the first 10,000,000 kilowatt-hours produced in any fiscal year.

(c) ELIGIBILITY.—For purposes of this section:

(1) QUALIFYING ADVANCED POWER SYSTEM TECHNOLOGY FACILITY.—The term "qualifying advanced power system technology facility" means a facility using an advanced fuel cell, turbine, or hybrid power system or power storage system to generate or store electric energy.

(2) QUALIFYING SECURITY AND ASSURED POWER FACILITY.—The term "qualifying security and assured power facility" means a qualifying advanced power system technology facility determined by the Secretary, in consultation with the Secretary of Homeland Security, to be in critical need of secure, reliable, rapidly available, high-quality power for critical governmental, industrial, or commercial applications.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Secretary for the purposes of this section, $10,000,000 for each of the fiscal years 2006 through 2012.

Subtitle C—Transmission Operation Improvements

SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 (16 U.S.C. 824j) the following:

"SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.

"(a) DEFINITION OF UNREGULATED TRANSMITTING UTILITY.—In this section, the term 'unregulated transmitting utility' means an entity that—

"(1) owns or operates facilities used for the transmission of electric energy in interstate commerce; and

"(2) is an entity described in section 201(f).

"(b) TRANSMISSION OPERATION SERVICES.—Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

"(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

"(2) on terms and conditions (not relating to rates) that are comparable to those under which the unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

"(c) EXEMPTION.—The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—

"(1) sells not more than 4,000,000 megawatt hours of electricity per year;

"(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion of the system); or

"(3) meets other criteria the Commission determines to be in the public interest.

"(d) LOCAL DISTRIBUTION FACILITIES.—The requirements of subsection (b) shall not apply to facilities used in local distribution.

"(e) EXEMPTION TERMINATION.—If the Commission, after an evidentiary hearing held on a complaint and after giving consideration to reliability standards established under section 215, finds on the basis of a preponderance of the evidence that any exemption granted pursuant to subsection (c) unreasonably impairs the continued reliability of an interconnected transmission system, the Commission shall revoke the exemption granted to the transmitting utility.

"(f) APPLICATION TO UNREGULATED TRANSMITTING UTILITIES.—The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

"(g) REMAND.—In exercising authority under subsection (b)(1), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision if necessary to meet the requirements of subsection (b).

"(h) OTHER REQUESTS.—The provision of transmission services under subsection (b) does not preclude a request for transmission services under section 211.

"(i) LIMITATION.—The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 141 of the Internal Revenue Code of 1986.

"(j) TRANSFER OF CONTROL OF TRANSMITTING FACILITIES.—Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to a Transmission Organization that is designated to provide nondiscriminatory transmission access.".

SEC. 1232. FEDERAL UTILITY PARTICIPATION IN TRANSMISSION ORGANIZATIONS.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE FEDERAL REGULATORY AUTHORITY.—The term "appropriate Federal regulatory authority" means—

(A) in the case of a Federal power marketing agency, the Secretary, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of the Federal power marketing agency; and

(B) in the case of the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) FEDERAL POWER MARKETING AGENCY.—The term "Federal power marketing agency" has the meaning given the term in section 3 of the Federal Power Act (16 U.S.C. 796).

(3) FEDERAL UTILITY.—The term "Federal utility" means—

(A) a Federal power marketing agency; or

(B) the Tennessee Valley Authority.

(4) TRANSMISSION ORGANIZATION.—The term "Transmission Organization" has the meaning given the term in section 3 of the Federal Power Act (16 U.S.C. 796).

(5) TRANSMISSION SYSTEM.—The term "transmission system" means an electric transmission facility owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) TRANSFER.—The appropriate Federal regulatory authority may enter into a contract, agreement, or other arrangement transferring control and use of all or part of the transmission system of a Federal utility to a Transmission Organization.

(c) CONTENTS.—The contract, agreement, or arrangement shall include—

(1) performance standards for operation and use of the transmission system that the head of the Federal utility determines are necessary or appropriate, including standards that ensure—

(A) recovery of all of the costs and expenses of the Federal utility related to the transmission facilities that are the subject of the contract, agreement, or other arrangement;

(B) consistency with existing contracts and third-party financing arrangements; and

(C) consistency with the statutory authorities, obligations, and limitations of the Federal utility;

(2) provisions for monitoring and oversight by the Federal utility of the Transmission Organization's terms and conditions of the contract, agreement, or other arrangement, including a provision for the resolution of disputes through arbitration or other means with the Transmission Organization or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(3) a provision that allows the Federal utility to withdraw from the Transmission Organization and terminate the contract, agreement, or other arrangement in accordance with its terms.

(d) COMMISSION.—Neither this section, actions taken pursuant to this section, nor any other transaction of a Federal utility participating in a Transmission Organization shall confer on the Commission jurisdiction or authority over—

(1) the electric generation assets, electric capacity, or energy of the Federal utility that the Federal utility is authorized by law to market; or

(2) the power sales activities of the Federal utility.

(e) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

(1) SYSTEM OPERATION REQUIREMENTS.—No statutory provision requiring or authorizing a

Federal utility to transmit electric power or to construct, operate, or maintain the transmission system of the Federal utility prohibits a transfer of control and use of the transmission system pursuant to, and subject to, the requirements of this section.

(2) OTHER OBLIGATIONS.—This subsection does not—

(A) suspend, or exempt any Federal utility from, any provision of Federal law in effect on the date of enactment of this Act, including any requirement or direction relating to the use of the transmission system of the Federal utility, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

(3) CONFORMING AMENDMENT.—Section 311 of the Energy and Water Development Appropriations Act, 2001 (16 U.S.C. 824n) is repealed.

SEC. 1233. NATIVE LOAD SERVICE OBLIGATION.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 217. NATIVE LOAD SERVICE OBLIGATION.

"(a) DEFINITIONS.—In this section:

"(1) The term 'distribution utility' means an electric utility that has a service obligation to end-users or to a State utility or electric cooperative that, directly or indirectly, through 1 or more additional State utilities or electric cooperatives, provides electric service to end-users.

"(2) The term 'load-serving entity' means a distribution utility or an electric utility that has a service obligation.

"(3) The term 'service obligation' means a requirement applicable to, or the exercise of authority granted to, an electric utility under Federal, State, or local law or under long-term contracts to provide electric service to end-users or to a distribution utility.

"(4) The term 'State utility' means a State or any political subdivision of a State, or any agency, authority, or instrumentality of any 1 or more of the foregoing, or a corporation that is wholly owned, directly or indirectly, by any 1 or more of the foregoing, competent to carry on the business of developing, transmitting, utilizing, or distributing power.

"(b) MEETING SERVICE OBLIGATIONS.—(1) Paragraph (2) applies to any load-serving entity that, as of the date of enactment of this section—

"(A) owns generation facilities, markets the output of Federal generation facilities, or holds rights under 1 or more wholesale contracts to purchase electric energy, for the purpose of meeting a service obligation; and

"(B) by reason of ownership of transmission facilities, or 1 or more contracts or service agreements for firm transmission service, holds firm transmission rights for delivery of the output of the generation facilities or the purchased energy to meet the service obligation.

"(2) Any load-serving entity described in paragraph (1) is entitled to use the firm transmission rights, or, equivalent tradable or financial transmission rights, in order to deliver the output or purchased energy, or the output of other generating facilities or purchased energy to the extent deliverable using the rights, to the extent required to meet the service obligation of the load-serving entity.

"(3)(A) To the extent that all or a portion of the service obligation covered by the firm transmission rights or equivalent tradable or financial transmission rights is transferred to another load-serving entity, the successor load-serving entity shall be entitled to use the firm transmission rights or equivalent tradable or financial transmission rights associated with the transferred service obligation.

"(B) Subsequent transfers to another load-serving entity, or back to the original load-serving entity, shall be entitled to the same rights.

"(4) The Commission shall exercise the authority of the Commission under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy the service obligations of the load-serving entities, and enables load-serving entities to secure firm transmission rights (or equivalent tradable or financial rights) on a long term basis for long term power supply arrangements made, or planned, to meet such needs.

"(c) ALLOCATION OF TRANSMISSION RIGHTS.—Nothing in subsections (b)(1), (b)(2) and (b)(3) of this section shall affect any existing or future methodology employed by a Transmission Organization for allocating or auctioning transmission rights if such Transmission Organization was authorized by the Commission to allocate or auction financial transmission rights on its system as of January 1, 2005, and the Commission determines that any future allocation or auction is just, reasonable and not unduly discriminatory or preferential, provided, however, that if such a Transmission Organization never allocated financial transmission rights on its system that pertained to a period before January 1, 2005, with respect to any application by such Transmission Organization that would change its methodology the Commission shall exercise its authority in a manner consistent with the Act and that takes into account the policies expressed in subsections (b)(1), (b)(2) and (b)(3) as applied to firm transmission rights held by a load-serving entity as of January 1, 2005, to the extent the associated generation ownership or power purchase arrangements remain in effect.

"(d) CERTAIN TRANSMISSION RIGHTS.—The Commission may exercise authority under this Act to make transmission rights not used to meet an obligation covered by subsection (b) available to other entities in a manner determined by the Commission to be just, reasonable, and not unduly discriminatory or preferential.

"(e) OBLIGATION TO BUILD.—Nothing in this Act relieves a load-serving entity from any obligation under State or local law to build transmission or distribution facilities adequate to meet the service obligations of the load-serving entity.

"(f) CONTRACTS.—Nothing in this section shall provide a basis for abrogating any contract or service agreement for firm transmission service or rights in effect as of the date of the enactment of this subsection. If an ISO in the Western Interconnection had allocated financial transmission rights prior to the date of enactment of this section but had not done so with respect to one or more load-serving entities' firm transmission rights held under contracts to which the preceding sentence applies (or held by reason of ownership or future ownership of transmission facilities), such load-serving entities may not be required, without their consent, to convert such firm transmission rights to tradable or financial rights, except where the load-serving entity has voluntarily joined the ISO as a participating transmission owner (or its successor) in accordance with the ISO tariff.

"(g) WATER PUMPING FACILITIES.—The Commission shall ensure that any entity described in section 201(f) that owns transmission facilities used predominately to support its own water pumping facilities shall have, with respect to the facilities, protections for transmission service comparable to those provided to load-serving entities pursuant to this section.

"(h) ERCOT.—This section shall not apply within the area referred to in section 212(k)(2)(A).

"(i) JURISDICTION.—This section does not authorize the Commission to take any action not otherwise within the jurisdiction of the Commission.

"(j) TVA AREA.—(1) Subject to paragraphs (2) and (3), for purposes of subsection (b)(1)(B), a load-serving entity that is located within the service area of the Tennessee Valley Authority and that has a firm wholesale power supply contract with the Tennessee Valley Authority shall be considered to hold firm transmission rights for the transmission of the power provided.

"(2) Nothing in this subsection affects the requirements of section 212(j).

"(3) The Commission shall not issue an order on the basis of this subsection that is contrary to the purposes of section 212(j).

"(k) EFFECT OF EXERCISING RIGHTS.—An entity that to the extent required to meet its service obligations exercises rights described in subsection (b) shall not be considered by such action as engaging in undue discrimination or preference under this Act".

(b) FERC RULEMAKING ON LONG-TERM TRANSMISSION RIGHTS IN ORGANIZED MARKETS.—Within one year after the date of enactment of this section and after notice and an opportunity for comment, the Commission shall by rule or order, implement section 217(b)(4) of the Federal Power Act in Transmission Organizations, as defined by that Act with organized electricity markets.

SEC. 1234. STUDY ON THE BENEFITS OF ECONOMIC DISPATCH.

(a) STUDY.—The Secretary, in coordination and consultation with the States, shall conduct a study on—

(1) the procedures currently used by electric utilities to perform economic dispatch;

(2) identifying possible revisions to those procedures to improve the ability of nonutility generation resources to offer their output for sale for the purpose of inclusion in economic dispatch; and

(3) the potential benefits to residential, commercial, and industrial electricity consumers nationally and in each state if economic dispatch procedures were revised to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch.

(b) DEFINITION.—The term "economic dispatch" when used in this section means the operation of generation facilities to produce energy at the lowest cost to reliably serve consumers, recognizing any operational limits of generation and transmission facilities.

(c) REPORT TO CONGRESS AND THE STATES.—Not later than 90 days after the date of enactment of this Act, and on a yearly basis following, the Secretary shall submit a report to Congress and the States on the results of the study conducted under subsection (a), including recommendations to Congress and the States for any suggested legislative or regulatory changes.

SEC. 1235. PROTECTION OF TRANSMISSION CONTRACTS IN THE PACIFIC NORTHWEST.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 218. PROTECTION OF TRANSMISSION CONTRACTS IN THE PACIFIC NORTHWEST.

"(a) DEFINITION OF ELECTRIC UTILITY OR PERSON.—In this section, the term 'electric utility or person' means an electric utility or person that—

"(1) as of the date of enactment of the Energy Policy Act of 2005 holds firm transmission rights pursuant to contract or by reason of ownership of transmission facilities; and

"(2) is located—

"(A) in the Pacific Northwest, as that region is defined in section 3 of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839a); or

"(B) in that portion of a State included in the geographic area proposed for a regional transmission organization in Commission Docket

Number RT01–35 on the date on which that docket was opened.

"(b) PROTECTION OF TRANSMISSION CONTRACTS.—Nothing in this Act confers on the Commission the authority to require an electric utility or person to convert to tradable or financial rights—

"(1) firm transmission rights described in subsection (a); or

"(2) firm transmission rights obtained by exercising contract or tariff rights associated with the firm transmission rights described in subsection (a).".

SEC. 1236. SENSE OF CONGRESS REGARDING LOCATIONAL INSTALLED CAPACITY MECHANISM.

(a) FINDINGS.—Congress finds that—

(1) in regard to a proposal to develop and implement a specific type of locational installed capacity mechanism in New England pending before the Federal Energy Regulatory Commission; and

(2) the Governors of the States have objected to the proposed mechanism, arguing that the mechanism—

(A) would not provide adequate assurance that necessary electric generation capacity or reliability will be provided; and

(B) would impose a high cost on consumers and have a significant negative economic impact.

(b) SENSE OF CONGRESS.—Congress—

(1) notes the concerns of the New England States to the proposed mechanism; and

(2) declares that it is the sense of Congress that the Federal Energy Regulatory Commission should carefully consider the States' objections.

Subtitle D—Transmission Rate Reform

SEC. 1241. TRANSMISSION INFRASTRUCTURE INVESTMENT.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 219. TRANSMISSION INFRASTRUCTURE INVESTMENT.

"(a) RULEMAKING REQUIREMENT.—Not later than 1 year after the date of enactment of this section, the Commission shall establish, by rule, incentive-based (including performance-based) rate treatments for the transmission of electric energy in interstate commerce by public utilities for the purpose of benefitting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion.

"(b) CONTENTS.—The rule shall—

"(1) promote reliable and economically efficient transmission and generation of electricity by promoting capital investment in the enlargement, improvement, maintenance, and operation of all facilities for the transmission of electric energy in interstate commerce, regardless of the ownership of the facilities;

"(2) provide a return on equity that attracts new investment in transmission facilities (including related transmission technologies);

"(3) encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of the facilities; and

"(4) allow recovery of—

"(A) all prudently incurred costs necessary to comply with mandatory reliability standards issued pursuant to section 215; and

"(B) all prudently incurred costs related to transmission infrastructure development pursuant to section 216.

"(c) INCENTIVES.—In the rule issued under this section, the Commission shall, to the extent within its jurisdiction, provide for incentives to each transmitting utility or electric utility that joins a Transmission Organization. The Commission shall ensure that any costs recoverable pursuant to this subsection may be recovered by such utility through the transmission rates charged by such utility or through the transmission rates charged by the Transmission Organization that provides transmission service to such utility.

"(d) JUST AND REASONABLE RATES.—All rates approved under the rules adopted pursuant to this section, including any revisions to the rules, are subject to the requirements of sections 205 and 206 that all rates, charges, terms, and conditions be just and reasonable and not unduly discriminatory or preferential.".

SEC. 1242. FUNDING NEW INTERCONNECTION AND TRANSMISSION UPGRADES.

The Commission may approve a participant funding plan that allocates costs related to transmission upgrades or new generator interconnection, without regard to whether an applicant is a member of a Commission-approved Transmission Organization, if the plan results in rates that—

(1) are just and reasonable;

(2) are not unduly discriminatory or preferential; and

(3) are otherwise consistent with sections 205 and 206 of the Federal Power Act (16 U.S.C. 824d, 824e).

Subtitle E—Amendments to PURPA

SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(11) NET METERING.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

"(12) FUEL SOURCES.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

"(13) FOSSIL FUEL GENERATION EFFICIENCY.—Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.".

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

"(3)(A) Not later than 2 years after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by paragraphs (11) through (13) of section 111(d).

"(B) Not later than 3 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (11) through (13) of section 111(d).".

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following: "In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).".

(3) PRIOR STATE ACTIONS.—

(A) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

"(d) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard);

"(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

"(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.".

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).".

SEC. 1252. SMART METERING.

(a) IN GENERAL.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(14) TIME-BASED METERING AND COMMUNICATIONS.—(A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

"(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

"(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

"(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption;

"(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly; and

"(iv) credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce a utility's planned capacity obligations.

"(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

"(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications device and service as a retail electric consumer of the electric utility.

"(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).".

(b) State Investigation of Demand Response and Time-Based Metering.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended as follows:

(1) By inserting in subsection (b) after the phrase "the standard for time-of-day rates established by section 111(d)(3)" the following: "and the standard for time-based metering and communications established by section 111(d)(14)".

(2) By inserting in subsection (b) after the phrase "are likely to exceed the metering" the following: "and communications".

(3) By adding the at the end the following:

"(i) Time-Based Metering and Communications.—In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.".

(c) Federal Assistance on Demand Response.—Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking "and" at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting "; and", and by adding the following at the end thereof:

"(5) technologies, techniques, and rate-making methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.".

(d) Federal Guidance.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642) is amended by adding the following at the end thereof:

"(d) Demand Response.—The Secretary shall be responsible for—

"(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

"(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

"(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2005, providing Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2007.".

(e) Demand Response and Regional Coordination.—

(1) In general.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

(2) Technical assistance.—The Secretary shall provide technical assistance to States and regional organizations formed by 2 or more States to assist them in—

(A) identifying the areas with the greatest demand response potential;

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

(C) developing plans and programs to use demand response to respond to peak demand or emergency needs; and

(D) identifying specific measures consumers can take to participate in these demand response programs.

(3) Report.—Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews—

(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

(B) existing demand response programs and time-based rate programs;

(C) the annual resource contribution of demand resources;

(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes;

(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party; and

(F) regulatory barriers to improved customer participation in demand response, peak reduction and critical period pricing programs.

(f) Federal Encouragement of Demand Response Devices.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated, and unnecessary barriers to demand response participation in energy, capacity and ancillary service markets shall be eliminated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

(g) Time Limitations.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

"(4)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d).

"(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d).".

(h) Failure to Comply.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

"In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).".

(i) Prior State Actions Regarding Smart Metering Standards.—

(1) In general.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

"(e) Prior State Actions.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard);

"(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years; or

"(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.".

(2) Cross reference.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).".

SEC. 1253. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.

(a) Termination of Mandatory Purchase and Sale Requirements.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

"(m) Termination of Mandatory Purchase and Sale Requirements.—

"(1) Obligation to purchase.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has nondiscriminatory access to—

"(A)(i) independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy; and (ii) wholesale markets for long-term sales of capacity and electric energy; or

"(B)(i) transmission and interconnection services that are provided by a Commission-approved regional transmission entity and administered pursuant to an open access transmission tariff that affords nondiscriminatory treatment to all customers; and (ii) competitive wholesale markets that provide a meaningful opportunity

to sell capacity, including long-term and short-term sales, and electric energy, including long-term, short-term and real-time sales, to buyers other than the utility to which the qualifying facility is interconnected. In determining whether a meaningful opportunity to sell exists, the Commission shall consider, among other factors, evidence of transactions within the relevant market; or

‘‘(C) wholesale markets for the sale of capacity and electric energy that are, at a minimum, of comparable competitive quality as markets described in subparagraphs (A) and (B).

‘‘(2) REVISED PURCHASE AND SALE OBLIGATION FOR NEW FACILITIES.—(A) After the date of enactment of this subsection, no electric utility shall be required pursuant to this section to enter into a new contract or obligation to purchase from or sell electric energy to a facility that is not an existing qualifying cogeneration facility unless the facility meets the criteria for qualifying cogeneration facilities established by the Commission pursuant to the rulemaking required by subsection (n).

‘‘(B) For the purposes of this paragraph, the term ‘existing qualifying cogeneration facility’ means a facility that—

‘‘(i) was a qualifying cogeneration facility on the date of enactment of subsection (m); or

‘‘(ii) had filed with the Commission a notice of self-certification, self recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by subsection (n).

‘‘(3) COMMISSION REVIEW.—Any electric utility may file an application with the Commission for relief from the mandatory purchase obligation pursuant to this subsection on a service territory-wide basis. Such application shall set forth the factual basis upon which relief is requested and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection have been met. After notice, including sufficient notice to potentially affected qualifying cogeneration facilities and qualifying small power production facilities, and an opportunity for comment, the Commission shall make a final determination within 90 days of such application regarding whether the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) have been met.

‘‘(4) REINSTATEMENT OF OBLIGATION TO PURCHASE.—At any time after the Commission makes a finding under paragraph (3) relieving an electric utility of its obligation to purchase electric energy, a qualifying cogeneration facility, a qualifying small power production facility, a State agency, or any other affected person may apply to the Commission for an order reinstating the electric utility's obligation to purchase electric energy under this section. Such application shall set forth the factual basis upon which the application is based and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection are no longer met. After notice, including sufficient notice to potentially affected utilities, and opportunity for comment, the Commission shall issue an order within 90 days of such application reinstating the electric utility's obligation to purchase electric energy under this section if the Commission finds that the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) which relieved the obligation to purchase, are no longer met.

‘‘(5) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that—

‘‘(A) competing retail electric suppliers are willing and able to sell and deliver electric energy to the qualifying cogeneration facility or qualifying small power production facility; and

‘‘(B) the electric utility is not required by State law to sell electric energy in its service territory.

‘‘(6) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect or pending approval before the appropriate State regulatory authority or non-regulated electric utility on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a qualifying cogeneration facility or qualifying small power production facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

‘‘(7) RECOVERY OF COSTS.—(A) The Commission shall issue and enforce such regulations as are necessary to ensure that an electric utility that purchases electric energy or capacity from a qualifying cogeneration facility or qualifying small power production facility in accordance with any legally enforceable obligation entered into or imposed under this section recovers all prudently incurred costs associated with the purchase.

‘‘(B) A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).

‘‘(n) RULEMAKING FOR NEW QUALIFYING FACILITIES.—(1)(A) Not later than 180 days after the date of enactment of this section, the Commission shall issue a rule revising the criteria in 18 C.F.R. 292.205 for new qualifying cogeneration facilities seeking to sell electric energy pursuant to section 210 of this Act to ensure—

‘‘(i) that the thermal energy output of a new qualifying cogeneration facility is used in a productive and beneficial manner;

‘‘(ii) the electrical, thermal, and chemical output of the cogeneration facility is used fundamentally for industrial, commercial, or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as State laws applicable to sales of electric energy from a qualifying facility to its host facility; and

‘‘(iii) continuing progress in the development of efficient electric energy generating technology.

‘‘(B) The rule issued pursuant to paragraph (1)(A) of this subsection shall be applicable only to facilities that seek to sell electric energy pursuant to section 210 of this Act. For all other purposes, except as specifically provided in subsection (m)(2)(A), qualifying facility status shall be determined in accordance with the rules and regulations of this Act.

‘‘(2) Notwithstanding rule revisions under paragraph (1), the Commission's criteria for qualifying cogeneration facilities in effect prior to the date on which the Commission issues the final rule required by paragraph (1) shall continue to apply to any cogeneration facility that—

‘‘(A) was a qualifying cogeneration facility on the date of enactment of subsection (m), or

‘‘(B) had filed with the Commission a notice of self-certification, self-recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by paragraph (1).’’.

(b) ELIMINATION OF OWNERSHIP LIMITATIONS.—

(1) QUALIFYING SMALL POWER PRODUCTION FACILITY.—Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is amended to read as follows:

‘‘(C) ‘qualifying small power production facility’ means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe;’’.

(2) QUALIFYING COGENERATION FACILITY.—Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is amended to read as follows:

‘‘(B) ‘qualifying cogeneration facility’ means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe;’’.

SEC. 1254. INTERCONNECTION.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621 (d)) is amended by adding at the end the following:

‘‘(15) INTERCONNECTION.—Each electric utility shall make available, upon request, interconnection service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term ‘interconnection service’ means service to an electric consumer under which an on-site generating facility on the consumer's premises shall be connected to the local distribution facilities. Interconnection services shall be offered based upon the standards developed by the Institute of Electrical and Electronics Engineers: IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, as they may be amended from time to time. In addition, agreements and procedures shall be established whereby the services are offered shall promote current best practices of interconnection for distributed generation, including but not limited to practices stipulated in model codes adopted by associations of state regulatory agencies. All such agreements and procedures shall be just and reasonable, and not unduly discriminatory or preferential.’’.

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

‘‘(5)(A) Not later than one year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall commence the consideration referred to in section 111, or set a hearing date for consideration, with respect to the standard established by paragraph (15) of section 111(d).

‘‘(B) Not later than two years after the date of the enactment of the this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraph (15) of section 111(d).’’.

(2) FAILURE TO COMPLY.—Section 112(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622 (c)) is amended by adding at the end the following: ‘‘In the case of the standard established by paragraph (15), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of paragraph (15).’’.

(3) PRIOR STATE ACTIONS.—

(A) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

‘‘(f) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (15) of section 111(d) in the case of any electric utility in

a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard);

"(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

"(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.".

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of each standard established by paragraph (15) of section 111(d), the reference contained in this subsection to the date of enactment of the Act shall be deemed to be a reference to the date of enactment of paragraph (15).".

Subtitle F—Repeal of PUHCA

SEC. 1261. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2005".

SEC. 1262. DEFINITIONS.

For purposes of this subtitle:

(1) AFFILIATE.—The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term "associate company" of a company means any company in the same holding company system with such company.

(3) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms "exempt wholesale generator" and "foreign utility company" have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5a, 79z-5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) HOLDING COMPANY.—

(A) IN GENERAL.—The term "holding company" means—

(i) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public-utility company or of a holding company of any public-utility company; and

(ii) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with 1 or more persons) such a controlling influence over the management or policies of any public-utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(B) EXCLUSIONS.—The term "holding company" shall not include—

(i) a bank, savings association, or trust company, or their operating subsidiaries that own, control, or hold, with the power to vote, public utility or public utility holding company securities so long as the securities are—

(I) held as collateral for a loan;

(II) held in the ordinary course of business as a fiduciary; or

(III) acquired solely for purposes of liquidation and in connection with a loan previously contracted for and owned beneficially for a period of not more than two years; or

(ii) a broker or dealer that owns, controls, or holds with the power to vote public utility or public utility holding company securities so long as the securities are—

(I) not beneficially owned by the broker or dealer and are subject to any voting instructions which may be given by customers or their assigns; or

(II) acquired within 12 months in the ordinary course of business as a broker, dealer, or underwriter with the bona fide intention of effecting distribution of the specific securities so acquired.

(9) HOLDING COMPANY SYSTEM.—The term "holding company system" means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term "jurisdictional rates" means rates accepted or established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term "person" means an individual or company.

(13) PUBLIC UTILITY.—The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) PUBLIC-UTILITY COMPANY.—The term "public-utility company" means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) SUBSIDIARY COMPANY.—The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with 1 or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 1263. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

SEC. 1264. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 1265. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public-utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public-utility company, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public-utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) LIMITATION.—Subsection (a) does not apply to any person that is a holding company solely by reason of ownership of 1 or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(c) CONFIDENTIALITY OF INFORMATION.—The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information.

(d) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, and other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, and other records under any other Federal law, contract, or otherwise.

(e) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 1266. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the effective date of this subtitle, the Commission shall issue a final rule to exempt from the requirements of section 1264 (relating to Federal access to books and records) any person that is a holding company, solely with respect to 1 or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—The Commission shall exempt a person or transaction from the requirements of section 1264 (relating to Federal access to books and records) if, upon application or upon the motion of the Commission—

(1) the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or

(2) the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company.

SEC. 1267. AFFILIATE TRANSACTIONS.

(a) COMMISSION AUTHORITY UNAFFECTED.—Nothing in this subtitle shall limit the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) to require that jurisdictional rates are just and reasonable, including the ability to deny or approve the pass through of costs, the prevention of cross-subsidization, and the issuance of such rules and regulations as are necessary or appropriate for the protection of utility consumers.

(b) RECOVERY OF COSTS.—Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public-utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public-utility company from an associate company.

SEC. 1268. APPLICABILITY.

Except as otherwise specifically provided in this subtitle, no provision of this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), (3), or (4) acting as such in the course of his or her official duty.

SEC. 1269. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 1270. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.

SEC. 1271. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this subtitle, or otherwise in the Public Utility Holding Company Act of 1935, or rules, regulations, or orders thereunder, prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the date of enactment of this Act, if that person continues to comply with the terms (other than an expiration date or termination date) of any such authorization, whether by rule or by order.

(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.).

(c) TAX TREATMENT.—Tax treatment under section 1081 of the Internal Revenue Code of 1986 as a result of transactions ordered in compliance with the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) shall not be affected in any manner due to the repeal of that Act and the enactment of the Public Utility Holding Company Act of 2005.

SEC. 1272. IMPLEMENTATION.

Not later than 4 months after the date of enactment of this subtitle, the Commission shall—

(1) issue such regulations as may be necessary or appropriate to implement this subtitle (other than section 1265, relating to State access to books and records); and

(2) submit to Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this subtitle and the amendments made by this subtitle.

SEC. 1273. TRANSFER OF RESOURCES.

All books and records that relate primarily to the functions transferred to the Commission under this subtitle shall be transferred from the Securities and Exchange Commission to the Commission.

SEC. 1274. EFFECTIVE DATE.

(a) IN GENERAL.—Except for section 1272 (relating to implementation), this subtitle shall take effect 6 months after the date of enactment of this subtitle.

(b) COMPLIANCE WITH CERTAIN RULES.—If the Commission approves and makes effective any final rulemaking modifying the standards of conduct governing entities that own, operate, or control facilities for transmission of electricity in interstate commerce or transportation of natural gas in interstate commerce prior to the effective date of this subtitle, any action taken by a public-utility company or utility holding company to comply with the requirements of such rulemaking shall not subject such public-utility company or utility holding company to any regulatory requirement applicable to a holding company under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.).

SEC. 1275. SERVICE ALLOCATION.

(a) DEFINITION OF PUBLIC UTILITY.—In this section, the term "public utility" has the meaning given the term in section 201(e) of the Federal Power Act (16 U.S.C. 824(e)).

(b) FERC REVIEW.—In the case of non-power goods or administrative or management services provided by an associate company organized specifically for the purpose of providing such goods or services to any public utility in the same holding company system, at the election of the system or a State commission having jurisdiction over the public utility, the Commission, after the effective date of this subtitle, shall review and authorize the allocation of the costs for such goods or services to the extent relevant to that associate company.

(c) EFFECT ON FEDERAL AND STATE LAW.—Nothing in this section shall affect the authority of the Commission or a State commission under other applicable law.

(d) RULES.—Not later than 4 months after the date of enactment of this Act, the Commission shall issue rules (which rules shall be effective no earlier than the effective date of this subtitle) to exempt from the requirements of this section any company in a holding company system whose public utility operations are confined substantially to a single State and any other class of transactions that the Commission finds is not relevant to the jurisdictional rates of a public utility.

SEC. 1276. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this subtitle.

SEC. 1277. CONFORMING AMENDMENTS TO THE FEDERAL POWER ACT.

(a) CONFLICT OF JURISDICTION.—Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

(b) DEFINITIONS.—(1) Section 201(g)(5) of the Federal Power Act (16 U.S.C. 824(g)(5)) is amended by striking "1935" and inserting "2005".

(2) Section 214 of the Federal Power Act (16 U.S.C. 824m) is amended by striking "1935" and inserting "2005".

Subtitle G—Market Transparency, Enforcement, and Consumer Protection

SEC. 1281. ELECTRICITY MARKET TRANSPARENCY.

Part II of the Federal Power Act is amended by adding at the end the following:

"SEC. 220. ELECTRICITY MARKET TRANSPARENCY RULES.

"(a)(1) The Commission is directed to facilitate price transparency in markets for the sale and transmission of electric energy in interstate commerce, having due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

"(2) The Commission may prescribe such rules as the Commission determines necessary and appropriate to carry out the purposes of this section. The rules shall provide for the dissemination, on a timely basis, of information about the availability and prices of wholesale electric energy and transmission service to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public.

"(3) The Commission may—

"(A) obtain the information described in paragraph (2) from any market participant; and

"(B) rely on entities other than the Commission to receive and make public the information, subject to the disclosure rules in subsection (b).

"(4) In carrying out this section, the Commission shall consider the degree of price transparency provided by existing price publishers and providers of trade processing services, and shall rely on such publishers and services to the maximum extent possible. The Commission may establish an electronic information system if it determines that existing price publications are not adequately providing price discovery or market transparency. Nothing in this section, however, shall affect any electronic information filing requirements in effect under this Act as of the date of enactment of this section.

"(b)(1) Rules described in subsection (a)(2), if adopted, shall exempt from disclosure information the Commission determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security.

"(2) In determining the information to be made available under this section and time to make the information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by

untimely public disclosure of transaction-specific information.

"(c)(1) Within 180 days of enactment of this section, the Commission shall conclude a memorandum of understanding with the Commodity Futures Trading Commission relating to information sharing, which shall include, among other things, provisions ensuring that information requests to markets within the respective jurisdiction of each agency are properly coordinated to minimize duplicative information requests, and provisions regarding the treatment of proprietary trading information.

"(2) Nothing in this section may be construed to limit or affect the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

"(d) The Commission shall not require entities who have a de minimis market presence to comply with the reporting requirements of this section.

"(e)(1) Except as provided in paragraph (2), no person shall be subject to any civil penalty under this section with respect to any violation occurring more than 3 years before the date on which the person is provided notice of the proposed penalty under section 316A.

"(2) Paragraph (1) shall not apply in any case in which the Commission finds that a seller that has entered into a contract for the sale of electric energy at wholesale or transmission service subject to the jurisdiction of the Commission has engaged in fraudulent market manipulation activities materially affecting the contract in violation of section 222.

"(f) This section shall not apply to a transaction for the purchase or sale of wholesale electric energy or transmission services within the area described in section 212(k)(2)(A).".

SEC. 1282. FALSE STATEMENTS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 221. PROHIBITION ON FILING FALSE INFORMATION.

"No entity (including an entity described in section 201(f)) shall willfully and knowingly report any information relating to the price of electricity sold at wholesale or the availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by the Federal agency.".

SEC. 1283. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 222. PROHIBITION OF ENERGY MARKET MANIPULATION.

"(a) IN GENERAL.—It shall be unlawful for any entity (including an entity described in section 201(f)), directly or indirectly, to use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance (as those terms are used in section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78j(b))), in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of electric ratepayers.

"(b) NO PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to create a private right of action.".

SEC. 1284. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended—

(1) by inserting "electric utility," after "Any person,"; and

(2) by inserting ", transmitting utility," after "licensee" each place it appears.

(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended—

(1) by inserting ", electric utility, transmitting utility, or other entity" after "person" each place it appears; and

(2) in the first sentence, by inserting before the period at the end the following: ", or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce".

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 825l) is amended by inserting "electric utility," after "person," in the first 2 places it appears and by striking "any person unless such person" and inserting "any entity unless such entity".

(d) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o) is amended—

(1) in subsection (a)—

(A) by striking "$5,000" and inserting "$1,000,000"; and

(B) by striking "two years" and inserting "5 years";

(2) in subsection (b), by striking "$500" and inserting "$25,000"; and

(3) by striking subsection (c).

(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended—

(1) by striking "section 211, 212, 213, or 214" each place it appears and inserting "part II"; and

(2) in subsection (b), by striking "$10,000" and inserting "$1,000,000".

SEC. 1285. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended as follows:

(1) By striking "the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period" in the second sentence and inserting "the date of the filing of such complaint nor later than 5 months after the filing of such complaint".

(2) By striking "60 days after" in the third sentence and inserting "of".

(3) By striking "expiration of such 60-day period" in the third sentence and inserting "publication date".

(4) By striking the fifth sentence and inserting the following: "If no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision.".

SEC. 1286. REFUND AUTHORITY.

Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

"(e)(1) In this subsection:

"(A) The term 'short-term sale' means an agreement for the sale of electric energy at wholesale in interstate commerce that is for a period of 31 days or less (excluding monthly contracts subject to automatic renewal).

"(B) The term 'applicable Commission rule' means a Commission rule applicable to sales at wholesale by public utilities that the Commission determines after notice and comment should also be applicable to entities subject to this subsection.

"(2) If an entity described in section 201(f) voluntarily makes a short-term sale of electric energy through an organized market in which the rates for the sale are established by Commission-approved tariff (rather than by contract) and the sale violates the terms of the tariff or applicable Commission rules in effect at the time of the sale, the entity shall be subject to the refund authority of the Commission under this section with respect to the violation.

"(3) This section shall not apply to—

"(A) any entity that sells in total (including affiliates of the entity) less than 8,000,000 megawatt hours of electricity per year; or

"(B) an electric cooperative.

"(4)(A) The Commission shall have refund authority under paragraph (2) with respect to a voluntary short term sale of electric energy by the Bonneville Power Administration only if the sale is at an unjust and unreasonable rate.

"(B) The Commission may order a refund under subparagraph (A) only for short-term sales made by the Bonneville Power Administration at rates that are higher than the highest just and reasonable rate charged by any other entity for a short-term sale of electric energy in the same geographic market for the same, or most nearly comparable, period as the sale by the Bonneville Power Administration.

"(C) In the case of any Federal power marketing agency or the Tennessee Valley Authority, the Commission shall not assert or exercise any regulatory authority or power under paragraph (2) other than the ordering of refunds to achieve a just and reasonable rate.".

SEC. 1287. CONSUMER PRIVACY AND UNFAIR TRADE PRACTICES.

(a) PRIVACY.—The Federal Trade Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

(b) SLAMMING.—The Federal Trade Commission may issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

(c) CRAMMING.—The Federal Trade Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(d) RULEMAKING.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(e) STATE AUTHORITY.—If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

(f) DEFINITIONS.—For purposes of this section:

(1) STATE REGULATORY AUTHORITY.—The term "State regulatory authority" has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) ELECTRIC CONSUMER AND ELECTRIC UTILITY.—The terms "electric consumer" and "electric utility" have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

SEC. 1288. AUTHORITY OF COURT TO PROHIBIT INDIVIDUALS FROM SERVING AS OFFICERS, DIRECTORS, AND ENERGY TRADERS.

Section 314 of the Federal Power Act (16 U.S.C. 825m) is amended by adding at the end the following:

"(d) In any proceedings under subsection (a), the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as the court determines, any individual who is engaged or has engaged in practices constituting a violation of section 221 (and related rules and regulations) from—

"(1) acting as an officer or director of an electric utility; or

"(2) engaging in the business of purchasing or selling—

"(A) electric energy; or

"(B) transmission services subject to the jurisdiction of the Commission.".

SEC. 1289. MERGER REVIEW REFORM.

(a) IN GENERAL.—Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) is amended to read as follows:

"(a)(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

"(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000;

"(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with those of any other person, by any means whatsoever;

"(C) purchase, acquire, or take any security with a value in excess of $10,000,000 of any other public utility; or

"(D) purchase, lease, or otherwise acquire an existing generation facility—

"(i) that has a value in excess of $10,000,000; and

"(ii) that is used for interstate wholesale sales and over which the Commission has jurisdiction for ratemaking purposes.

"(2) No holding company in a holding company system that includes a transmitting utility or an electric utility shall purchase, acquire, or take any security with a value in excess of $10,000,000 of, or, by any means whatsoever, directly or indirectly, merge or consolidate with, a transmitting utility, an electric utility company, or a holding company in a holding company system that includes a transmitting utility, or an electric utility company, with a value in excess of $10,000,000 without first having secured an order of the Commission authorizing it to do so.

"(3) Upon receipt of an application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

"(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or change in control, if it finds that the proposed transaction will be consistent with the public interest, and will not result in cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company, unless the Commission determines that the cross-subsidization, pledge, or encumbrance will be consistent with the public interest.

"(5) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions, under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4). The Commission shall provide expedited review for such transactions. The Commission shall grant or deny any other application for approval of a transaction not later than 180 days after the application is filed. If the Commission does not act within 180 days, such application shall be deemed granted unless the Commission finds, based on good cause, that further consideration is required to determine whether the proposed transaction meets the standards of paragraph (4) and issues an order tolling the time for acting on the application for not more than 180 days, at the end of which additional period the Commission shall grant or deny the application.

"(6) For purposes of this subsection, the terms 'associate company', 'holding company', and 'holding company system' have the meaning given those terms in the Public Utility Holding Company Act of 2005.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 6 months after the date of enactment of this Act.

(c) TRANSITION PROVISION.—The amendments made by subsection (a) shall not apply to any application under section 203 of the Federal Power Act (16 U.S.C. 824b) that was filed on or before the date of enactment of this Act.

SEC. 1290. RELIEF FOR EXTRAORDINARY VIOLATIONS.

(a) APPLICATION.—This section applies to any contract entered into the Western Interconnection prior to June 20, 2001, with a seller of wholesale electricity that the Commission has—

(1) found to have manipulated the electricity market resulting in unjust and unreasonable rates; and

(2) revoked the seller's authority to sell any electricity at market-based rates.

(b) RELIEF.—Notwithstanding section 222 of the Federal Power Act (as added by section 1262), any provision of title 11, United States Code, or any other provision of law, in the case of a contract described in subsection (a), the Commission shall have exclusive jurisdiction under the Federal Power Act (16 U.S.C. 791a et seq.) to determine whether a requirement to make termination payments for power not delivered by the seller, or any successor in interest of the seller, is not permitted under a rate schedule (or contract under such a schedule) or is otherwise unlawful on the grounds that the contract is unjust and unreasonable or contrary to the public interest.

(c) APPLICABILITY.—This section applies to any proceeding pending on the date of enactment of this section involving a seller described in subsection (a) in which there is not a final, nonappealable order by the Commission or any other jurisdiction determining the respective rights of the seller.

Subtitle H—Definitions

SEC. 1291. DEFINITIONS.

(a) COMMISSION.—In this title, the term "Commission" means the Federal Energy Regulatory Commission.

(b) AMENDMENT.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended—

(1) by striking paragraphs (22) and (23) and inserting the following:

"(22) ELECTRIC UTILITY.—(A) The term 'electric utility' means a person or Federal or State agency (including an entity described in section 201(f)) that sells electric energy.

"(B) The term 'electric utility' includes the Tennessee Valley Authority and each Federal power marketing administration.

"(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means an entity (including an entity described in section 201(f)) that owns, operates, or controls facilities used for the transmission of electric energy—

"(A) in interstate commerce;

"(B) for the sale of electric energy at wholesale."; and

(2) by adding at the end the following:

"(26) ELECTRIC COOPERATIVE.—The term 'electric cooperative' means a cooperatively owned electric utility.

"(27) RTO.—The term 'Regional Transmission Organization' or 'RTO' means an entity of sufficient regional scope approved by the Commission—

"(A) to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce; and

"(B) to ensure nondiscriminatory access to the facilities.

"(28) ISO.—The term 'Independent System Operator' or 'ISO' means an entity approved by the Commission—

"(A) to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce; and

"(B) to ensure nondiscriminatory access to the facilities.

"(29) TRANSMISSION ORGANIZATION.—The term 'Transmission Organization' means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.".

(c) APPLICABILITY.—Section 201(f) of the Federal Power Act (16 U.S.C. 824(f)) is amended by striking "political subdivision of a state," and inserting "political subdivision of a State, an electric cooperative that receives financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or that sells less than 4,000,000 megawatt hours of electricity per year,".

Subtitle I—Technical and Conforming Amendments

SEC. 1295. CONFORMING AMENDMENTS.

(a) Section 201 of the Federal Power Act (16 U.S.C. 824) is amended—

(1) in subsection (b)(2)—

(A) in the first sentence—

(i) by striking "The" and inserting "Notwithstanding section 201(f), the"; and

(ii) by striking "210, 211, and 212" and inserting "203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, and 222"; and

(B) in the second sentence—

(i) by inserting "or rule" after "any order"; and

(ii) by striking "210 or 211" and inserting "203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, or 222"; and

(2) in subsection (e), by striking "210, 211, or 212" and inserting "206(e), 206(f), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, or 222".

(b) Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended—

(1) in the first sentence of subsection (a), by striking "hearing had" and inserting "hearing held"; and

(2) in the seventh sentence of subsection (b), by striking "the public utility to make".

(c) Section 211 of the Federal Power Act (16 U.S.C. 824j) is amended—

(1) in subsection (c)—

(A) by striking "(2)";

(B) by striking "(A)" and inserting "(1)"

(C) by striking "(B)" and inserting "(2)"; and

(D) by striking "termination of modification" and inserting "termination or modification"; and

(2) in the second sentence of subsection (d)(1), by striking "electric utility" the second place it appears and inserting "transmitting utility".

(d) Section 315(c) of the Federal Power Act (16 U.S.C. 825n(c)) is amended by striking "subsection" and inserting "section".

Subtitle J—Economic Dispatch

SEC. 1298. ECONOMIC DISPATCH.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 223. JOINT BOARDS ON ECONOMIC DISPATCH.

"(a) IN GENERAL.—The Commission shall convene joint boards on a regional basis pursuant to section 209 of this Act to study the issue of security constrained economic dispatch for the various market regions. The Commission shall designate the appropriate regions to be covered by each such joint board for purposes of this section.

"(b) MEMBERSHIP.—The Commission shall request each State to nominate a representative for the appropriate regional joint board, and shall designate a member of the Commission to *chair and participate as a member of each such board.*

"(c) Powers.—The sole authority of each joint board convened under this section shall be to consider issues relevant to what constitutes 'security constrained economic dispatch' and how such a mode of operating an electric energy system affects or enhances the reliability and affordability of service to customers in the region concerned and to make recommendations to the Commission regarding such issues.

"(d) Report to the Congress.—Within one year after enactment of this section, the Commission shall issue a report and submit such report to the Congress regarding the recommendations of the joint boards under this section and the Commission may consolidate the recommendations of more than one such regional joint board, including any consensus recommendations for statutory or regulatory reform.".

TITLE XIII—ENERGY POLICY TAX INCENTIVES

SEC. 1300. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) Short Title.—This title may be cited as the "Energy Tax Incentives Act of 2005".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Electricity Infrastructure

SEC. 1301. EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION CREDIT.

(a) 2-Year Extension for Certain Facilities.—Section 45(d) (relating to qualified facilities) is amended—

(1) by striking "January 1, 2006" each place it appears in paragraphs (1), (2), (3), (5), (6), and (7) and inserting "January 1, 2008", and

(2) by striking "January 1, 2006" in paragraph (4) and inserting "January 1, 2008 (January 1, 2006, in the case of a facility using solar energy)".

(b) Increase in Credit Period.—Section 45(b)(4)(B) (relating to credit period) is amended—

(1) by inserting "or clause (iii)" after "clause (ii)" in clause (i), and

(2) by adding at the end the following:

"(iii) Termination.—Clause (i) shall not apply to any facility placed in service after the date of the enactment of this clause.".

(c) Expansion of Qualified Resources to Certain Hydropower.—

(1) In General.—Section 45(c)(1) (defining qualified energy resources) is amended by striking "and" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ", and", and by adding at the end the following new subparagraph:

"(H) qualified hydropower production.".

(2) Credit Rate.—Section 45(b)(4)(A) (relating to credit rate) is amended by striking "or (7)" and inserting "(7), or (9)".

(3) Definition of Resources.—Section 45(c) (relating to qualified energy resources and refined coal) is amended by adding at the end the following new paragraph:

"(8) Qualified Hydropower Production.—

"(A) In General.—The term 'qualified hydropower production' means—

"(i) in the case of any hydroelectric dam which was placed in service on or before the date of the enactment of this paragraph, the incremental hydropower production for the taxable year, and

"(ii) in the case of any nonhydroelectric dam described in subparagraph (C), the hydropower production from the facility for the taxable year.

"(B) Determination of Incremental Hydropower Production.—

"(i) In General.—For purposes of subparagraph (A), incremental hydropower production for any taxable year shall be equal to the percentage of average annual hydropower production at the facility attributable to the efficiency improvements or additions of capacity placed in service after the date of the enactment of this paragraph, determined by using the same water flow information used to determine an historic average annual hydropower production baseline for such facility. Such percentage and baseline shall be certified by the Federal Energy Regulatory Commission.

"(ii) Operational Changes Disregarded.—For purposes of clause (i), the determination of incremental hydropower production shall not be based on any operational changes at such facility not directly associated with the efficiency improvements or additions of capacity.

"(C) Nonhydroelectric Dam.—For purposes of subparagraph (A), a facility is described in this subparagraph if—

"(i) the facility is licensed by the Federal Energy Regulatory Commission and meets all other applicable environmental, licensing, and regulatory requirements,

"(ii) the facility was placed in service before the date of the enactment of this paragraph and did not produce hydroelectric power on the date of the enactment of this paragraph, and

"(iii) turbines or other generating devices are to be added to the facility after such date to produce hydroelectric power, but only if there is not any enlargement of the diversion structure, or construction or enlargement of a bypass channel, or the impoundment or any withholding of any additional water from the natural stream channel.".

(4) Facilities.—Section 45(d) (relating to qualified facilities) is amended by adding at the end the following new paragraph:

"(9) Qualified Hydropower Facility.—In the case of a facility producing qualified hydroelectric production described in subsection (c)(8), the term 'qualified facility' means—

"(A) in the case of any facility producing incremental hydropower production, such facility but only to the extent of its incremental hydropower production attributable to efficiency improvements or additions to capacity described in subsection (c)(8)(B) placed in service after the date of the enactment of this paragraph and before January 1, 2008, and

"(B) any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

"(C) Credit Period.—In the case of a qualified facility described in subparagraph (A), the 10-year period referred to in subsection (a) shall be treated as beginning on the date the efficiency improvements or additions to capacity are placed in service.".

(d) Indian Coal.—

(1) Production Facilities.—Subsection (e) of section 45 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(10) Indian Coal Production Facilities.—

"(A) Determination of Credit Amount.—In the case of a producer of Indian coal, the credit determined under this section (without regard to this paragraph) for any taxable year shall be increased by an amount equal to the applicable dollar amount per ton of Indian coal—

"(i) produced by the taxpayer at an Indian coal production facility during the 7-year period beginning on January 1, 2006, and

"(ii) sold by the taxpayer—

"(I) to an unrelated person, and

"(II) during such 7-year period and such taxable year.

"(B) Applicable Dollar Amount.—

"(i) In General.—The term 'applicable dollar amount' for any taxable year beginning in a calendar year means—

"(I) $1.50 in the case of calendar years 2006 through 2009, and

"(II) $2.00 in the case of calendar years beginning after 2009.

"(ii) Inflation Adjustment.—In the case of any calendar year after 2006, each of the dollar amounts under clause (i) shall be equal to the product of such dollar amount and the inflation adjustment factor determined under paragraph (2)(B) for the calendar year, except that such paragraph shall be applied by substituting '2005' for '1992'.

"(C) Application of Rules.—Rules similar to the rules of the subsection (b)(3) and paragraphs (1), (3), (4), and (5) of this subsection shall apply for purposes of determining the amount of any increase under this paragraph.

"(D) Treatment as Specified Credit.—The increase in the credit determined under subsection (a) by reason of this paragraph with respect to any facility shall be treated as a specified credit for purposes of section 38(c)(4)(A) during the 4-year period beginning on the later of January 1, 2006, or the date on which such facility is placed in service by the taxpayer.".

(2) Resource.—Subsection (c) of section 45 (relating to qualified energy resources and refined coal), as amended by this Act, is amended by adding at the end the following new paragraph:

"(9) Indian Coal.—

"(A) In General.—The term 'Indian coal' means coal which is produced from coal reserves which, on June 14, 2005—

"(i) were owned by an Indian tribe, or

"(ii) were held in trust by the United States for the benefit of an Indian tribe or its members.

"(B) Indian Tribe.—For purposes of this paragraph, the term 'Indian tribe' has the meaning given such term by section 7871(c)(3)(E)(ii).".

(3) Indian Coal Production Facility.—Subsection (d) of section 45, as amended by this Act, is amended by adding at the end the following new paragraph:

"(10) Indian Coal Production Facility.—The term 'Indian coal production facility' means a facility which is placed in service before January 1, 2009.".

(4) Conforming Amendment.—The heading for section 45(c) is amended by striking "Qualified Energy Resources and Refined Coal" and inserting "Resources".

(e) Technical Amendment Related to Trash Combustion Facilities.—Section 45(d)(7) (relating to trash combustion facilities) is amended by adding at the end the following: "Such term shall include a new unit placed in service in connection with a facility placed in service on or before the date of the enactment of this paragraph, but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.".

(f) Additional Technical Amendments Related to Section 710 of the American Jobs Creation Act of 2004.—

(1) Clause (ii) of section 45(b)(4)(B) is amended by striking "the date of the enactment of this Act" and inserting "January 1, 2005,".

(2) Clause (ii) of section 45(c)(3)(A) is amended by inserting "or any nonhazardous lignin waste material" after "cellulosic waste material".

(3) Subsection (e) of section 45 is amended by striking paragraph (6).

(4)(A) Paragraph (9) of section 45(e) is amended to read as follows:

"(9) Coordination With Credit for Producing Fuel From a Nonconventional Source.—

"(A) In General.—The term 'qualified facility' shall not include any facility which produces electricity from gas derived from the biodegradation of municipal solid waste if such

biodegradation occurred in a facility (within the meaning of section 29) the production from which is allowed as a credit under section 29 for the taxable year or any prior taxable year.

“(B) REFINED COAL FACILITIES.—The term ‘refined coal production facility’ shall not include any facility the production from which is allowed as a credit under section 29 for the taxable year or any prior taxable year.”.

(B) Subparagraph (C) of section 45(e)(8) is amended by striking “and (9)”.

(5) Subclause (I) of section 168(e)(3)(B)(vi) is amended to read as follows:

“(I) is described in subparagraph (A) of section 48(a)(3) (or would be so described if ‘solar and wind’ were substituted for ‘solar’ in clause (i) thereof and the last sentence of such section did not apply to such subparagraph),”.

(6) Paragraph (4) of section 710(g) of the American Jobs Creation Act of 2004 is amended by striking “January 1, 2004” and inserting “January 1, 2005”.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect of the date of the enactment of this Act.

(2) TECHNICAL AMENDMENTS.—The amendments made by subsections (e) and (f) shall take effect as if included in the amendments made by section 710 of the American Jobs Creation Act of 2004.

SEC. 1302. APPLICATION OF SECTION 45 CREDIT TO AGRICULTURAL COOPERATIVES.

(a) IN GENERAL.—Section 45(e) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following:

“(11) ALLOCATION OF CREDIT TO PATRONS OF AGRICULTURAL COOPERATIVE.—

“(A) ELECTION TO ALLOCATE.—

“(i) IN GENERAL.—In the case of an eligible cooperative organization, any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons of the organization on the basis of the amount of business done by the patrons during the taxable year.

“(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for anu taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year. Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).

“(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to any patrons under subparagraph (A)—

“(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

“(ii) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

“(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

“(i) such reduction, over

“(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter.

“(D) ELIGIBLE COOPERATIVE DEFINED.—For purposes of this section the term ‘eligible cooperative’ means a cooperative organization described in section 1381(a) which is owned more than 50 percent by agricultural producers or by entities owned by agricultural producers. For this purpose an entity owned by an agricultural producer is one that is more than 50 percent owned by agricultural producers.”.

(b) CONFORMING AMENDMENT.—The last sentence of section 55(c)(1) is amended by inserting “45(e)(11)(C),” after “section”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of cooperative organizations ending after the date of the enactment of this Act.

SEC. 1303. CLEAN RENEWABLE ENERGY BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

“Subpart H—Nonrefundable Credit to Holders of Certain Bonds

“Sec. 54. Credit to holders of clean renewable energy bonds.

“SEC. 54. CREDIT TO HOLDERS OF CLEAN RENEWABLE ENERGY BONDS.

“(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a clean renewable energy bond on 1 or more credit allowance dates of the bond occurring during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

“(b) AMOUNT OF CREDIT.—

“(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a clean renewable energy bond is 25 percent of the annual credit determined with respect to such bond.

“(2) ANNUAL CREDIT.—The annual credit determined with respect to any clean renewable energy bond is the product of—

“(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

“(B) the outstanding face amount of the bond.

“(3) DETERMINATION.—For purposes of paragraph (2), with respect to any clean renewable energy bond, the Secretary shall determine daily or cause to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of clean renewable energy bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

“(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term ‘credit allowance date’ means—

“(A) March 15,

“(B) June 15,

“(C) September 15, and

“(D) December 15.

Such term also includes the last day on which the bond is outstanding.

“(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

“(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

“(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(2) the sum of the credits allowable under this part (other than subpart C and this section).

“(d) CLEAN RENEWABLE ENERGY BOND.—For purposes of this section—

“(1) IN GENERAL.—The term ‘clean renewable energy bond’ means any bond issued as part of an issue if—

“(A) the bond is issued by a qualified issuer pursuant to an allocation by the Secretary to such issuer of a portion of the national clean renewable energy bond limitation under subsection (f)(2),

“(B) 95 percent or more of the proceeds of such issue are to be used for capital expenditures incurred by qualified borrowers for 1 or more qualified projects,

“(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

“(D) the issue meets the requirements of subsection (h).

“(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

“(A) IN GENERAL.—The term ‘qualified project’ means any qualified facility (as determined under section 45(d) without regard to paragraph (10) and to any placed in service date) owned by a qualified borrower.

“(B) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a clean renewable energy bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by a qualified borrower after the date of the enactment of this section.

“(C) REIMBURSEMENT.—For purposes of paragraph (1)(B), a clean renewable energy bond may be issued to reimburse a qualified borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

“(i) prior to the payment of the original expenditure, the qualified borrower declared its intent to reimburse such expenditure with the proceeds of a clean renewable energy bond,

“(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

“(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

“(D) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a qualified borrower or qualified issuer takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a clean renewable energy bond.

“(e) MATURITY LIMITATIONS.—

“(1) DURATION OF TERM.—A bond shall not be treated as a clean renewable energy bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

“(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term *which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of subsection (l)(6) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.*

"(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

"(1) NATIONAL LIMITATION.—There is a national clean renewable energy bond limitation of $800,000,000.

"(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate, except that the Secretary may not allocate more than $500,000,000 of the national clean renewable energy bond limitation to finance qualified projects of qualified borrowers which are governmental bodies.

"(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(h) SPECIAL RULES RELATING TO EXPENDITURES.—

"(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

"(A) at least 95 percent of the proceeds of such issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the clean energy bond,

"(B) a binding commitment with a third party to spend at least 10 percent of the proceeds of such issue will be incurred within the 6-month period beginning on the date of issuance of the clean energy bond or, in the case of a clean energy bond the proceeds of which are to be loaned to 2 or more qualified borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a qualified borrower, and

"(C) such projects will be completed with due diligence and the proceeds of such issue will be spent with due diligence.

"(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

"(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

"(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a clean renewable energy bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

"(j) COOPERATIVE ELECTRIC COMPANY; QUALIFIED ENERGY TAX CREDIT BOND LENDER; GOVERNMENTAL BODY; QUALIFIED BORROWER.—For purposes of this section—

"(1) COOPERATIVE ELECTRIC COMPANY.—The term 'cooperative electric company' means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C), or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.

"(2) CLEAN RENEWABLE ENERGY BOND LENDER.—The term 'clean renewable energy bond lender' means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.

"(3) GOVERNMENTAL BODY.—The term 'governmental body' means any State, territory, possession of the United States, the District of Columbia, Indian tribal government, and any political subdivision thereof.

"(4) QUALIFIED ISSUER.—The term 'qualified issuer' means—

"(A) a clean renewable energy bond lender,

"(B) a cooperative electric company, or

"(C) a governmental body.

"(5) QUALIFIED BORROWER.—The term 'qualified borrower' means—

"(A) a mutual or cooperative electric company described in section 501(c)(12) or 1381(a)(2)(C), or

"(B) a governmental body.

"(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to any loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

"(l) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOND.—The term 'bond' includes any obligation.

"(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

"(3) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

"(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(i) shall apply.

"(4) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any clean renewable energy bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(5) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section (determined without regard to subsection (c)) to a taxpayer by reason of holding a clean renewable energy bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

"(6) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a clean renewable energy bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

"(7) REPORTING.—Issuers of clean renewable energy bonds shall submit reports similar to the reports required under section 149(e).

"(m) TERMINATION.—This section shall not apply with respect to any bond issued after December 31, 2007.".

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(8) REPORTING OF CREDIT ON CLEAN RENEWABLE ENERGY BONDS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(g) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

"(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(c) CONFORMING AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CERTAIN BONDS.".

(2) Section 1397E(c)(2) is amended by inserting ", and subpart H thereof" after "refundable credits".

(3) Subsection (h) of section 1397E is amended to read as follows:

"(h) CREDIT TREATED AS NONREFUNDABLE BONDHOLDER CREDIT.—For purposes of this title, the credit allowed by this section shall be treated as a credit allowable under subpart H of part IV of subchapter A of this chapter.".

(4) Section 6401(b)(1) is amended by striking "and G" and inserting "G, and H".

(d) ISSUANCE OF REGULATIONS.—The Secretary of Treasury shall issue regulations required under section 54 of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2005.

SEC. 1304. TREATMENT OF INCOME OF CERTAIN ELECTRIC COOPERATIVES.

(a) ELIMINATION OF SUNSET ON TREATMENT OF INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—Section 501(c)(12)(C) is amended by striking the last sentence.

(b) ELIMINATION OF SUNSET ON TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS.—Section 501(c)(12)(H) is amended by striking clause (x).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1305. DISPOSITIONS OF TRANSMISSION PROPERTY TO IMPLEMENT FERC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451(i)(3) (defining qualifying electric transmission transaction) is amended by striking "2007" and inserting "2008".

(b) TECHNICAL AMENDMENT RELATED TO SECTION 909 OF THE AMERICAN JOBS CREATION ACT OF 2004.—Clause (ii) of section 451(i)(4)(B) is amended by striking "the close of the period applicable under subsection (a)(2)(B) as extended under paragraph (2)" and inserting "December 31, 2007".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

(2) TECHNICAL AMENDMENT.—The amendment made by subsection (b) shall take effect as if included in the amendments made by section 909 of the American Jobs Creation Act of 2004.

SEC. 1306. CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding after section 45I the following new section:

"SEC. 45J. CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.

"(a) GENERAL RULE.—For purposes of section 38, the advanced nuclear power facility production credit of any taxpayer for any taxable year is equal to the product of—

"(1) 1.8 cents, multiplied by

"(2) the kilowatt hours of electricity—

"(A) produced by the taxpayer at an advanced nuclear power facility during the 8-year period beginning on the date the facility was originally placed in service, and

"(B) sold by the taxpayer to an unrelated person during the taxable year.

"(b) NATIONAL LIMITATION.—

"(1) IN GENERAL.—The amount of credit which would (but for this subsection and subsection (c)) be allowed with respect to any facility for any taxable year shall not exceed the amount which bears the same ratio to such amount of credit as—

"(A) the national megawatt capacity limitation allocated to the facility, bears to

"(B) the total megawatt nameplate capacity of such facility.

"(2) AMOUNT OF NATIONAL LIMITATION.—The national megawatt capacity limitation shall be 6,000 megawatts.

"(3) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation in such manner as the Secretary may prescribe.

"(4) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations shall provide a certification process under which the Secretary, after consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation.

"(c) OTHER LIMITATIONS.—

"(1) ANNUAL LIMITATION.—The amount of the credit allowable under subsection (a) (after the application of subsection (b)) for any taxable year with respect to any facility shall not exceed an amount which bears the same ratio to $125,000,000 as—

"(A) the national megawatt capacity limitation allocated under subsection (b) to the facility, bears to

"(B) 1,000.

"(2) OTHER LIMITATIONS.—Rules similar to the rules of section 45(b)(1) shall apply for purposes of this section.

"(d) ADVANCED NUCLEAR POWER FACILITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'advanced nuclear power facility' means any advanced nuclear facility—

"(A) which is owned by the taxpayer and which uses nuclear energy to produce electricity, and

"(B) which is placed in service after the date of the enactment of this paragraph and before January 1, 2021.

"(2) ADVANCED NUCLEAR FACILITY.—For purposes of paragraph (1), the term 'advanced nuclear facility' means any nuclear facility the reactor design for which is approved after December 31, 1993, by the Nuclear Regulatory Commission (and such design or a substantially similar design of comparable capacity was not approved on or before such date).

"(e) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (1), (2), (3), (4), and (5) of section 45(e) shall apply for purposes of this section.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by the Transportation Equity Act: A Legacy for Users, is amended by striking "plus" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ", plus", and by adding at the end the following:

"(21) the advanced nuclear power facility production credit determined under section 45J(a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

"Sec. 45J. Credit for production from advanced nuclear power facilities.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after the date of the enactment of this Act.

SEC. 1307. CREDIT FOR INVESTMENT IN CLEAN COAL FACILITIES.

(a) IN GENERAL.—Section 46 (relating to amount of credit) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2), and by adding at the end the following new paragraphs:

"(3) the qualifying advanced coal project credit, and

"(4) the qualifying gasification project credit.".

(b) AMOUNT OF CREDITS.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new sections:

"SEC. 48A. QUALIFYING ADVANCED COAL PROJECT CREDIT.

"(a) IN GENERAL.—For purposes of section 46, the qualifying advanced coal project credit for any taxable year is an amount equal to—

"(1) 20 percent of the qualified investment for such taxable year in the case of projects described in subsection (d)(3)(B)(i), and

"(2) 15 percent of the qualified investment for such taxable year in the case of projects described in subsection (d)(3)(B)(ii).

"(b) QUALIFIED INVESTMENT.—

"(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying advanced coal project—

"(A)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

"(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

"(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

"(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFYING ADVANCED COAL PROJECT.—The term 'qualifying advanced coal project' means a project which meets the requirements of subsection (e).

"(2) ADVANCED COAL-BASED GENERATION TECHNOLOGY.—The term 'advanced coal-based generation technology' means a technology which meets the requirements of subsection (f).

"(3) ELIGIBLE PROPERTY.—The term 'eligible property' means—

"(A) in the case of any qualifying advanced coal project using an integrated gasification combined cycle, any property which is a part of such project and is necessary for the gasification of coal, including any coal handling and gas separation equipment, and

"(B) in the case of any other qualifying advanced coal project, any property which is a part of such project.

"(4) COAL.—The term 'coal' means anthracite, bituminous coal, subbituminous coal, lignite, and peat.

"(5) GREENHOUSE GAS CAPTURE CAPABILITY.—The term 'greenhouse gas capture capability' means an integrated gasification combined cycle technology facility capable of adding components which can capture, separate on a long-term basis, isolate, remove, and sequester greenhouse gases which result from the generation of electricity.

"(6) ELECTRIC GENERATION UNIT.—The term 'electric generation unit' means any facility at least 50 percent of the total annual net output of which is electrical power, including an otherwise eligible facility which is used in an industrial application.

"(7) INTEGRATED GASIFICATION COMBINED CYCLE.—The term 'integrated gasification combined cycle' means an electric generation unit which produces electricity by converting coal to synthesis gas which is used to fuel a combined-cycle plant which produces electricity from both a combustion turbine (including a combustion turbine/fuel cell hybrid) and a steam turbine.

"(d) QUALIFYING ADVANCED COAL PROJECT PROGRAM.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying advanced coal project program for the deployment of advanced coal-based generation technologies.

"(2) CERTIFICATION.—

"(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1).

"(B) REQUIREMENTS FOR APPLICATIONS FOR CERTIFICATION.—An application under subparagraph (A) shall contain such information as the Secretary may require in order to make a determination to accept or reject an application for certification as meeting the requirements under subsection (e)(1). Any information contained in the application shall be protected as provided in section 552(b)(4) of title 5, United States Code.

"(C) TIME TO ACT UPON APPLICATIONS FOR CERTIFICATION.—The Secretary shall issue a determination as to whether an applicant has met the requirements under subsection (e)(1) within 60 days following the date of submittal of the application for certification.

"(D) TIME TO MEET CRITERIA FOR CERTIFICATION.—Each applicant for certification shall have 2 years from the date of acceptance by the Secretary of the application during which to provide to the Secretary evidence that the criteria set forth in subsection (e)(2) have been met.

"(E) PERIOD OF ISSUANCE.—An applicant which receives a certification shall have 5 years from the date of issuance of the certification in order to place the project in service and if such project is not placed in service by that time period then the certification shall no longer be valid.

"(3) AGGREGATE CREDITS.—

"(A) IN GENERAL.—The aggregate credits allowed under subsection (a) for projects certified by the Secretary under paragraph (2) may not exceed $1,300,000,000.

"(B) PARTICULAR PROJECTS.—Of the dollar amount in subparagraph (A), the Secretary is authorized to certify—

"(i) $800,000,000 for integrated gasification combined cycle projects, and

"(ii) $500,000,000 for projects which use other advanced coal-based generation technologies.

"(4) REVIEW AND REDISTRIBUTION.—

"(A) REVIEW.—Not later than 6 years after the date of enactment of this section, the Secretary shall review the credits allocated under this section as of the date which is 6 years after the date of enactment of this section.

"(B) REDISTRIBUTION.—The Secretary may reallocate credits available under clauses (i) and (ii) of paragraph (3)(B) if the Secretary determines that—

"(i) there is an insufficient quantity of qualifying applications for certification pending at the time of the review, or

"(ii) any certification made pursuant to subsection paragraph (2) has been revoked pursuant to subsection paragraph (2)(D) because the project subject to the certification has been delayed as a result of third party opposition or litigation to the proposed project.

"(C) REALLOCATION.—If the Secretary determines that credits under clause (i) or (ii) of paragraph (3)(B) are available for reallocation pursuant to the requirements set forth in paragraph (2), the Secretary is authorized to conduct an additional program for applications for certification.

"(e) QUALIFYING ADVANCED COAL PROJECTS.—

"(1) REQUIREMENTS.—For purposes of subsection (c)(1), a project shall be considered a qualifying advanced coal project that the Secretary may certify under subsection (d)(2) if the Secretary determines that, at a minimum—

"(A) the project uses an advanced coal-based generation technology—

"(i) to power a new electric generation unit, or

"(ii) to retrofit or repower an existing electric generation unit (including an existing natural gas-fired combined cycle unit),

"(B) the fuel input for the project, when completed, is at least 75 percent coal,

"(C) the project, consisting of one or more electric generation units at one site, will have a total nameplate generating capacity of at least 400 megawatts;

"(D) the applicant provides evidence that a majority of the output of the project is reasonably expected to be acquired or utilized;

"(E) the applicant provides evidence of ownership or control of a site of sufficient size to allow the proposed project to be constructed and to operate on a long-term basis; and

"(F) the project will be located in the United States.

"(2) REQUIREMENTS FOR CERTIFICATION.—For the purpose of subsection (d)(2)(D), a project shall be eligible for certification only if the Secretary determines that—

"(A) the applicant for certification has received all Federal and State environmental authorizations or reviews necessary to commence construction of the project; and

"(B) the applicant for certification, except in the case of a retrofit or repower of an existing electric generation unit, has purchased or entered into a binding contract for the purchase of the main steam turbine or turbines for the project, except that such contract may be contingent upon receipt of a certification under subsection (d)(2).

"(3) PRIORITY FOR INTEGRATED GASIFICATION COMBINED CYCLE PROJECTS.—In determining which qualifying advanced coal projects to certify under subsection (d)(2), the Secretary shall—

"(A) certify capacity, in accordance with the procedures set forth in subsection (d), in relatively equal amounts to—

"(i) projects using bituminous coal as a primary feedstock,

"(ii) projects using subbituminous coal as a primary feedstock, and

"(iii) projects using lignite as a primary feedstock, and

"(B) give high priority to projects which include, as determined by the Secretary—

"(i) greenhouse gas capture capability,

"(ii) increased by-product utilization, and

"(iii) other benefits.

"(f) ADVANCED COAL-BASED GENERATION TECHNOLOGY.—

"(1) IN GENERAL.—For the purpose of this section, an electric generation unit uses advanced coal-based generation technology if—

"(A) the unit—

"(i) uses integrated gasification combined cycle technology, or

"(ii) except as provided in paragraph (3), has a design net heat rate of 8530 Btu/kWh (40 percent efficiency), and

"(B) the unit is designed to meet the performance requirements in the following table:

Performance characteristic:	**Design level for project:**
SO$_2$ (percent removal)	99 percent
NO$_x$ (emissions)	0.07 lbs/MMBTU
PM* (emissions)	0.015 lbs/MMBTU
Hg (percent removal)	90 percent

"(2) DESIGN NET HEAT RATE.—For purposes of this subsection, design net heat rate with respect to an electric generation unit shall—

"(A) be measured in Btu per kilowatt hour (higher heating value),

"(B) be based on the design annual heat input to the unit and the rated net electrical power, fuels, and chemicals output of the unit (determined without regard to the cogeneration of steam by the unit),

"(C) be adjusted for the heat content of the design coal to be used by the unit—

"(i) if the heat content is less than 13,500 Btu per pound, but greater than 7,000 Btu per pound, according to the following formula: design net heat rate = unit net heat rate x [1-[((13,500-design coal heat content, Btu per pound)/1,000)* 0.013]], and

"(ii) if the heat content is less than or equal to 7,000 Btu per pound, according to the following formula: design net heat rate = unit net heat rate x [1-[((13,500-design coal heat content, Btu per pound)/1,000)* 0.018]], and

"(D) be corrected for the site reference conditions of—

"(i) elevation above sea level of 500 feet,

"(ii) air pressure of 14.4 pounds per square inch absolute,

"(iii) temperature, dry bulb of 63/o/F,

"(iv) temperature, wet bulb of 54/o/F, and

"(v) relative humidity of 55 percent.

"(3) EXISTING UNITS.—In the case of any electric generation unit in existence on the date of the enactment of this section, such unit uses advanced coal-based generation technology if, in lieu of the requirements under paragraph (1)(A)(ii), such unit achieves a minimum efficiency of 35 percent and an overall thermal design efficiency improvement, compared to the efficiency of the unit as operated, of not less than—

"(A) 7 percentage points for coal of more than 9,000 Btu,

"(B) 6 percentage points for coal of 7,000 to 9,000 Btu, or

"(C) 4 percentage points for coal of less than 7,000 Btu.

"(g) APPLICABILITY.—No use of technology (or level of emission reduction solely by reason of the use of the technology), and no achievement of any emission reduction by the demonstration of any technology or performance level, by or at one or more facilities with respect to which a credit is allowed under this section, shall be considered to indicate that the technology or performance level is—

"(1) adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S. C. 7411);

"(2) achievable for purposes of section 169 of that Act (42 U.S. C. 7479); or

"(3) achievable in practice for purposes of section 171 of such Act (42 U.S.C. 7501).

"SEC. 48B. QUALIFYING GASIFICATION PROJECT CREDIT.

"(a) IN GENERAL.—For purposes of section 46, the qualifying gasification project credit for any taxable year is an amount equal to 20 percent of the qualified investment for such taxable year.

"(b) QUALIFIED INVESTMENT.—

"(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying gasification project—

"(A)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

"(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

"(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

"(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFYING GASIFICATION PROJECT.—The term 'qualifying gasification project' means any project which—

"(A) employs gasification technology,

"(B) will be carried out by an eligible entity, and

"(C) any portion of the qualified investment of which is certified under the qualifying gasification program as eligible for credit under this section in an amount (not to exceed $650,000,000) determined by the Secretary.

"(2) GASIFICATION TECHNOLOGY.—The term 'gasification technology' means any process which converts a solid or liquid product from coal, petroleum residue, biomass, or other materials which are recovered for their energy or feedstock value into a synthesis gas composed primarily of carbon monoxide and hydrogen for direct use or subsequent chemical or physical conversion.

"(3) ELIGIBLE PROPERTY.—The term 'eligible property' means any property which is a part of a qualifying gasification project and is necessary for the gasification technology of such project.

"(4) BIOMASS.—

"(A) IN GENERAL.—The term 'biomass' means any—

"(i) agricultural or plant waste,

"(ii) byproduct of wood or paper mill operations, including lignin in spent pulping liquors, and

"(iii) other products of forestry maintenance.

"(B) EXCLUSION.—The term 'biomass' does not include paper which is commonly recycled.

''(5) CARBON CAPTURE CAPABILITY.—The term 'carbon capture capability' means a gasification plant design which is determined by the Secretary to reflect reasonable consideration for, and be capable of, accommodating the equipment likely to be necessary to capture carbon dioxide from the gaseous stream, for later use or sequestration, which would otherwise be emitted in the flue gas from a project which uses a nonrenewable fuel.

''(6) COAL.—The term 'coal' means anthracite, bituminous coal, subbituminous coal, lignite, and peat.

''(7) ELIGIBLE ENTITY.—The term 'eligible entity' means any person whose application for certification is principally intended for use in a domestic project which employs domestic gasification applications related to—

''(A) chemicals,

''(B) fertilizers,

''(C) glass,

''(D) steel,

''(E) petroleum residues,

''(F) forest products, and

''(G) agriculture, including feedlots and dairy operations.

''(8) PETROLEUM RESIDUE.—The term 'petroleum residue' means the carbonized product of high-boiling hydrocarbon fractions obtained in petroleum processing.

''(d) QUALIFYING GASIFICATION PROJECT PROGRAM.—

''(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying gasification project program to consider and award certifications for qualified investment eligible for credits under this section to qualifying gasification project sponsors under this section. The total amounts of credit that may be allocated under the program shall not exceed $350,000,000 under rules similar to the rules of section 48A(d)(4).

''(2) PERIOD OF ISSUANCE.—A certificate of eligibility under paragraph (1) may be issued only during the 10-fiscal year period beginning on October 1, 2005.

''(3) SELECTION CRITERIA.—The Secretary shall not make a competitive certification award for qualified investment for credit eligibility under this section unless the recipient has documented to the satisfaction of the Secretary that—

''(A) the award recipient is financially viable without the receipt of additional Federal funding associated with the proposed project,

''(B) the recipient will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is spent efficiently and effectively,

''(C) a market exists for the products of the proposed project as evidenced by contracts or written statements of intent from potential customers,

''(D) the fuels identified with respect to the gasification technology for such project will comprise at least 90 percent of the fuels required by the project for the production of chemical feedstocks, liquid transportation fuels, or coproduction of electricity,

''(E) the award recipient's project team is competent in the construction and operation of the gasification technology proposed, with preference given to those recipients with experience which demonstrates successful and reliable operations of the technology on domestic fuels so identified, and

''(F) the award recipient has met other criteria established and published by the Secretary.

''(e) DENIAL OF DOUBLE BENEFIT.—A credit shall not be allowed under this section for any qualified investment for which a credit is allowed under section 48A.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (ii), by striking clause (iii), and by adding after clause (ii) the following new clauses:

''(iii) the basis of any property which is part of a qualifying advanced coal project under section 48A, and

''(iv) the basis of any property which is part of a qualifying gasification project under section 48B.''.

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new items:

''Sec. 48A. Qualifying advanced coal project credit.

''Sec. 48B. Qualifying gasification project credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1308. ELECTRIC TRANSMISSION PROPERTY TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property) is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi) and inserting '', and'', and by adding at the end the following new clause:

''(vii) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale and the original use of which commences with the taxpayer after April 11, 2005.''.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes) is amended by inserting after the item relating to subparagraph (E)(vi) the following new item:

''(E)(vii) .... 30''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after April 11, 2005.

(2) EXCEPTION.—The amendments made by this section shall not apply to any property with respect to which the taxpayer or a related party has entered into a binding contract for the construction thereof on or before April 11, 2005, or, in the case of self-constructed property, has started construction on or before such date.

SEC. 1309. EXPANSION OF AMORTIZATION FOR CERTAIN ATMOSPHERIC POLLUTION CONTROL FACILITIES IN CONNECTION WITH PLANTS FIRST PLACED IN SERVICE AFTER 1975.

(a) ELIGIBILITY OF POST-1975 POLLUTION CONTROL FACILITIES.—Subsection (d) of section 169 (relating to definitions) is amended by adding at the end the following:

''(5) SPECIAL RULE RELATING TO CERTAIN ATMOSPHERIC POLLUTION CONTROL FACILITIES.—In the case of any atmospheric pollution control facility which is placed in service after April 11, 2005, and used in connection with an electric generation plant or other property which is primarily coal fired—

''(A) paragraph (1) shall be applied without regard to the phrase 'in operation before January 1, 1976', and

''(B) this section shall be applied by substituting '84' for '60' each place it appears in subsections (a) and (b).''.

(b) TREATMENT AS NEW IDENTIFIABLE TREATMENT FACILITY.—Subparagraph (B) of section 169(d)(4) is amended to read as follows:

''(B) CERTAIN FACILITIES PLACED IN OPERATION AFTER APRIL 11, 2005.—In the case of any facility described in paragraph (1) solely by reason of paragraph (5), subparagraph (A) shall be applied by substituting 'April 11, 2005' for 'December 31, 1968' each place it appears therein.''.

(c) CONFORMING AMENDMENT.—The heading for section 169(d) is amended by inserting ''AND SPECIAL RULES'' after ''DEFINITIONS''.

(d) TECHNICAL AMENDMENT.—Section 169(d)(3) is amended by striking ''Health, Education, and Welfare'' and inserting ''Health and Human Services''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after April 11, 2005.

SEC. 1310. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) REPEAL OF LIMITATION ON DEPOSITS INTO FUND BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER FUNDING PERIOD.—Subsection (b) of section 468A (relating to special rules for nuclear decommissioning costs) is amended to read as follows:

''(b) LIMITATION ON AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.''.

(b) TREATMENT OF CERTAIN DECOMMISSIONING COSTS.—

(1) IN GENERAL.—Section 468A is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

''(f) TRANSFERS INTO QUALIFIED FUNDS.—

''(1) IN GENERAL.—Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this section applies with respect to a nuclear power plant may transfer into such Fund not more than an amount equal to the present value of the portion of the total nuclear decommissioning costs with respect to such nuclear power plant previously excluded for such nuclear power plant under subsection (d)(2)(A) as in effect immediately before the date of the enactment of this subsection.

''(2) DEDUCTION FOR AMOUNTS TRANSFERRED.—

''(A) IN GENERAL.—Except as provided in subparagraph (C), the deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear power plant beginning with the taxable year during which the transfer is made.

''(B) DENIAL OF DEDUCTION FOR PREVIOUSLY DEDUCTED AMOUNTS.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed to the taxpayer (or a predecessor) or a corresponding amount was not included in gross income of the taxpayer (or a predecessor). For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from previously deducted or excluded amounts to the extent thereof.

''(C) TRANSFERS OF QUALIFIED FUNDS.—If—

''(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

''(ii) such Fund is transferred thereafter,

any deduction under this subsection for taxable years ending after the date that such Fund is transferred shall be allowed to the transferor for the taxable year which includes such date.

''(D) SPECIAL RULES.—

''(i) GAIN OR LOSS NOT RECOGNIZED ON TRANSFERS TO FUND.—No gain or loss shall be recognized on any transfer described in paragraph (1).

''(ii) TRANSFERS OF APPRECIATED PROPERTY TO FUND.—If appreciated property is transferred in a transfer described in paragraph (1), the *amount of the deduction shall not exceed the adjusted basis of such property.*

"(3) NEW RULING AMOUNT REQUIRED.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

"(4) NO BASIS IN QUALIFIED FUNDS.—Notwithstanding any other provision of law, the taxpayer's basis in any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.".

(2) NEW RULING AMOUNT TO TAKE INTO ACCOUNT TOTAL COSTS.—Subparagraph (A) of section 468A(d)(2) (defining ruling amount) is amended to read as follows:

"(A) fund the total nuclear decommissioning costs with respect to such power plant over the estimated useful life of such power plant, and".

(c) NEW RULING AMOUNT REQUIRED UPON LICENSE RENEWAL.—Paragraph (1) of section 468A(d) (relating to request required) is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, the taxpayer shall request a schedule of ruling amounts upon each renewal of the operating license of the nuclear powerplant.".

(d) CONFORMING AMENDMENT.—Section 468A(e)(3) (relating to review of amount) is amended by striking "The Fund" and inserting "Except as provided in subsection (f), the Fund".

(e) TECHNICAL AMENDMENTS.—Section 468A(e)(2) (relating to taxation of Fund) is amended—

(1) by striking "rate set forth in subparagraph (B)" in subparagraph (A) and inserting "rate of 20 percent",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 1311. 5-YEAR NET OPERATING LOSS CARRYOVER FOR CERTAIN LOSSES.

Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryovers) is amended by adding at the end the following new subparagraph:

"(I) TRANSMISSION PROPERTY AND POLLUTION CONTROL INVESTMENT.—

"(i) IN GENERAL.—At the election of the taxpayer in any taxable year ending after December 31, 2005, and before January 1, 2009, in the case of a net operating loss in a taxable year ending after December 31, 2002, and before January 1, 2006, there shall be a net operating loss carryback to each of the 5 years preceding the taxable year of such loss to the extent that such loss does not exceed 20 percent of the sum of electric transmission property capital expenditures and pollution control facility capital expenditures of the taxpayer for the taxable year preceding the taxable year in which such election is made.

"(ii) LIMITATIONS.—For purposes of this subsection—

"(I) not more than one election may be made under clause (i) with respect to any net operating loss in a taxable year, and

"(II) an election may not be made under clause (i) for more than 1 taxable year beginning in any calendar year.

"(iii) COORDINATION WITH ORDERING RULE.—For purposes of applying subsection (b)(2), the portion of any loss which is carried back 5 years by reason of clause (i) shall be treated in a manner similar to the manner in which a specified liability loss is treated.

"(iv) APPLICATION FOR ADJUSTMENT.—In the case of any portion of a net operating loss to which an election under clause (i) applies, an application under section 6411(a) with respect to such loss shall not fail to be treated as timely filed if filed within 24 months after the due date specified under such section.

"(v) SPECIAL RULES RELATING TO REFUND.—For purposes of a net operating loss to which an election under clause (i) applies, references in sections 6501(h), 6511(d)(2)(A), and 6611(f)(1) to the taxable year in which such net operating loss arises or result in a net loss carryback shall be treated as references to the taxable year in which such election occurs.

"(vi) DEFINITIONS.—For purposes of this subparagraph—

"(I) ELECTRIC TRANSMISSION PROPERTY CAPITAL EXPENDITURES.—The term 'electric transmission property capital expenditures' means any expenditure, chargeable to capital account, made by the taxpayer which is attributable to electric transmission property used by the taxpayer in the transmission at 69 or more kilovolts of electricity for sale. Such term shall not include any expenditure which may be refunded or the purpose of which may be modified at the option of the taxpayer so as to cease to be treated as an expenditure within the meaning of such term.

"(II) POLLUTION CONTROL FACILITY CAPITAL EXPENDITURES.—The term 'pollution control facility capital expenditures' means any expenditure, chargeable to capital account, made by an electric utility company (as defined in section 2(3) of the Public Utility Holding Company Act (15 U.S.C. 79b(3)), as in effect on the day before the date of the enactment of the Energy Tax Incentives Act of 2005) which is attributable to a facility which will qualify as a certified pollution control facility as determined under section 169(d)(1) by striking 'before January 1, 1976,' and by substituting 'an identifiable' for 'a new identifiable'. Such term shall not include any expenditure which may be refunded or the purpose of which may be modified at the option of the taxpayer so as to cease to be treated as an expenditure within the meaning of such term.'

Subtitle B—Domestic Fossil Fuel Security

SEC. 1321. EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE FOR FACILITIES PRODUCING COKE OR COKE GAS.

(a) IN GENERAL.—Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

"(h) EXTENSION FOR FACILITIES PRODUCING COKE OR COKE GAS.—Notwithstanding subsection (f)—

"(1) IN GENERAL.—In the case of a facility for producing coke or coke gas which was placed in service before January 1, 1993, or after June 30, 1998, and before January 1, 2010, this section shall apply with respect to coke and coke gas produced in such facility and sold during the period—

"(A) beginning on the later of January 1, 2006, or the date that such facility is placed in service, and

"(B) ending on the date which is 4 years after the date such period began.

"(2) SPECIAL RULES.—In determining the amount of credit allowable under this section solely by reason of this subsection—

"(A) DAILY LIMIT.—The amount of qualified fuels sold during any taxable year which may be taken into account by reason of this subsection with respect to any facility shall not exceed an average barrel-of-oil equivalent of 4,000 barrels per day. Days before the date the facility is placed in service shall not be taken into account in determining such average.

"(B) EXTENSION PERIOD TO COMMENCE WITH UNADJUSTED CREDIT AMOUNT.—For purposes of applying subsection (b)(2) to the $3 amount in subsection (a), in the case of fuels sold after 2005, subsection (d)(2)(B) shall be applied by substituting '2004' for '1979'.

"(C) DENIAL OF DOUBLE BENEFIT.—This subsection shall not apply to any facility producing qualified fuels for which a credit was allowed under this section for the taxable year or any preceding taxable year by reason of subsection (g).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel produced and sold after December 31, 2005, in taxable years ending after such date.

SEC. 1322. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) TREATMENT AS BUSINESS CREDIT.—

(1) CREDIT MOVED TO SUBPART RELATING TO BUSINESS RELATED CREDITS.—The Internal Revenue Code of 1986 is amended by redesignating section 29 as section 45K and by moving section 45K (as so redesignated) from subpart B of part IV of subchapter A of chapter 1 to the end of subpart D of part IV of subchapter A of chapter 1.

(2) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", plus", and by adding at the end the following:

"(22) the nonconventional source production credit determined under section 45K(a).".

(3) CONFORMING AMENDMENTS.—

(A) Section 30(b)(3)(A) is amended by striking "sections 27 and 29" and inserting "section 27".

(B) Sections 43(b)(2), 45I(b)(2)(C)(i), and 613A(c)(6)(C) are each amended by striking "section 29(d)(2)(C)" and inserting "section 45K(d)(2)(C)".

(C) Section 45(e)(9), as added by this Act, is amended—

(i) by striking "section 29" each place it appears and inserting "section 45K", and

(ii) by inserting "(or under section 29, as in effect on the day before the date of enactment of the Energy Tax Incentives Act of 2005, for any prior taxable year)" before the period at the end thereof.

(D) Section 45I is amended—

(i) in subsection (c)(2)(A) by striking "section 29(d)(5))" and inserting "section 45K(d)(5))", and

(ii) in subsection (d)(3) by striking "section 29" both places it appears and inserting "section 45K".

(E) Section 45K(a), as redesignated by paragraph (1), is amended by striking "There shall be allowed as a credit against the tax imposed by this chapter for the taxable year" and inserting "For purposes of section 38, if the taxpayer elects to have this section apply, the nonconventional source production credit determined under this section for the taxable year is".

(F) Section 45K(b), as so redesignated, is amended by striking paragraph (6).

(G) Section 53(d)(1)(B)(iii) is amended by striking "under section 29" and all that follows through "or not allowed".

(H) Section 55(c)(3) is amended by striking "29(b)(6),".

(I) Subsection (a) of section 772 is amended by inserting "and" at the end of paragraph (9), by striking paragraph (10), and by redesignating paragraph (11) as paragraph (10).

(J) Paragraph (5) of section 772(d) is amended by striking "the foreign tax credit, and the credit allowable under section 29" and inserting "and the foreign tax credit".

(K) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 29.

(L) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45I the following new item:

"Sec. 45K. Credit for producing fuel from a nonconventional source.".

(b) AMENDMENTS CONFORMING TO THE REPEAL OF THE NATURAL GAS POLICY ACT OF 1978.—

(1) IN GENERAL.—Section 29(c)(2)(A) (before redesignation under subsection (a) and as amended by section 1321) is amended—

(A) by inserting "(as in effect before the repeal of such section)" after "1978", and

(B) by striking subsection (e) and redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively.

(2) CONFORMING AMENDMENTS.—Section 29(g)(1)(before redesignation under subsection (a) and paragraph (1) of this subsection) is amended—

(A) in subparagraph (A) by striking "subsection (f)(1)(B)" and inserting "subsection (e)(1)(B)", and

(B) in subparagraph (B) by striking "subsection (f)" and inserting "subsection (e)".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to credits determined under the Internal Revenue Code of 1986 for taxable years ending after December 31, 2005.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 1323. TEMPORARY EXPENSING FOR EQUIPMENT USED IN REFINING OF LIQUID FUELS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179B the following new section:

"SEC. 179C. ELECTION TO EXPENSE CERTAIN REFINERIES.

"(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat 50 percent of the cost of any qualified refinery property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified refinery property is placed in service.

"(b) ELECTION.—

"(1) IN GENERAL.—An election under this section for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall be made in such manner as the Secretary may by regulations prescribe.

"(2) ELECTION IRREVOCABLE.—Any election made under this section may not be revoked except with the consent of the Secretary.

"(c) QUALIFIED REFINERY PROPERTY.—

"(1) IN GENERAL.—The term 'qualified refinery property' means any portion of a qualified refinery—

"(A) the original use of which commences with the taxpayer,

"(B) which is placed in service by the taxpayer after the date of the enactment of this section and before January 1, 2012,

"(C) in the case any portion of a qualified refinery (other than a qualified refinery which is separate from any existing refinery), which meets the requirements of subsection (e),

"(D) which meets all applicable environmental laws in effect on the date such portion was placed in service,

"(E) no written binding contract for the construction of which was in effect on or before June 14, 2005, and

"(F)(i) the construction of which is subject to a written binding construction contract entered into before January 1, 2008,

"(ii) which is placed in service before January 1, 2008, or

"(iii) in the case of self-constructed property, the construction of which began after June 14, 2005, and before January 1, 2008.

"(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of paragraph (1)(A), if property is—

"(A) originally placed in service after the date of the enactment of this section by a person, and

"(B) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subparagraph (B).

"(3) EFFECT OF WAIVER UNDER CLEAN AIR ACT.—A waiver under the Clean Air Act shall not be taken into account in determining whether the requirements of paragraph (1)(D) are met.

"(d) QUALIFIED REFINERY.—For purposes of this section, the term 'qualified refinery' means any refinery located in the United States which is designed to serve the primary purpose of processing liquid fuel from crude oil or qualified fuels (as defined in section 45K(c)).

"(e) PRODUCTION CAPACITY.—The requirements of this subsection are met if the portion of the qualified refinery—

"(1) enables the existing qualified refinery to increase total volume output (determined without regard to asphalt or lube oil) by 5 percent or more on an average daily basis, or

"(2) enables the existing qualified refinery to process qualified fuels (as defined in section 45K(c)) at a rate which is equal to or greater than 25 percent of the total throughput of such qualified refinery on an average daily basis.

"(f) INELIGIBLE REFINERY PROPERTY.—No deduction shall be allowed under subsection (a) for any qualified refinery property—

"(1) the primary purpose of which is for use as a topping plant, asphalt plant, lube oil facility, crude or product terminal, or blending facility, or

"(2) which is built solely to comply with consent decrees or projects mandated by Federal, State, or local governments.

"(g) ELECTION TO ALLOCATE DEDUCTION TO COOPERATIVE OWNER.—

"(1) IN GENERAL.—If—

"(A) a taxpayer to which subsection (a) applies is an organization to which part I of subchapter T applies, and

"(B) one or more persons directly holding an ownership interest in the taxpayer are organizations to which part I of subchapter T apply,

the taxpayer may elect to allocate all or a portion of the deduction allowable under subsection (a) to such persons. Such allocation shall be equal to the person's ratable share of the total amount allocated, determined on the basis of the person's ownership interest in the taxpayer. The taxable income of the taxpayer shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.

"(2) FORM AND EFFECT OF ELECTION.—An election under paragraph (1) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(3) WRITTEN NOTICE TO OWNERS.—If any portion of the deduction available under subsection (a) is allocated to owners under paragraph (1), the cooperative shall provide any owner receiving an allocation written notice of the amount of the allocation. Such notice shall be provided before the date on which the return described in paragraph (2) is due.

"(h) REPORTING.—No deduction shall be allowed under subsection (a) to any taxpayer for any taxable year unless such taxpayer files with the Secretary a report containing such information with respect to the operation of the refineries of the taxpayer as the Secretary shall require.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1245(a) is amended by inserting "179C," after "179B," both places it appears in paragraphs (2)(C) and (3)(C).

(2) Section 263(a)(1) is amended by striking "or" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting ", or", and by inserting after subparagraph (I) the following new subparagraph:

"(J) expenditures for which a deduction is allowed under section 179C.".

(3) Section 312(k)(3)(B) is amended by striking "179 179A, or 179B" each place it appears in the heading and text and inserting "179, 179A, 179B, or 179C".

(4) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179B the following new item:

"Sec. 179C. Election to expense certain refineries.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to properties placed in service after the date of the enactment of this Act.

SEC. 1324. PASS THROUGH TO OWNERS OF DEDUCTION FOR CAPITAL COSTS INCURRED BY SMALL REFINER COOPERATIVES IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) IN GENERAL.—Section 179B (relating to deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations) is amended by adding at the end the following new subsection:

"(e) ELECTION TO ALLOCATE DEDUCTION TO COOPERATIVE OWNER.—

"(1) IN GENERAL.—If—

"(A) a small business refiner to which subsection (a) applies is an organization to which part I of subchapter T applies, and

"(B) one or more persons directly holding an ownership interest in the refiner are organizations to which part I of subchapter T apply,

the refiner may elect to allocate all or a portion of the deduction allowable under subsection (a) to such persons. Such allocation shall be equal to the person's ratable share of the total amount allocated, determined on the basis of the person's ownership interest in the taxpayer. The taxable income of the refiner shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.

"(2) FORM AND EFFECT OF ELECTION.—An election under paragraph (1) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(3) WRITTEN NOTICE TO OWNERS.—If any portion of the deduction available under subsection (a) is allocated to owners under paragraph (1), the cooperative shall provide any owner receiving an allocation written notice of the amount of the allocation. Such notice shall be provided before the date on which the return described in paragraph (2) is due.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 338(a) of the American Jobs Creation Act of 2004.

SEC. 1325. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(E) (defining 15-year property), as amended by this Act, is amended by striking "and" at the end of clause (vi), by striking the period at the end of clause (vii) and by inserting ", and", and by adding at the end the following new clause:

"(viii) any natural gas distribution line the original use of which commences with the taxpayer after April 11, 2005, and which is placed in service before January 1, 2011.".

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by inserting after the item relating to subparagraph (E)(vii) the following new item:

"(E)(viii) .... 35".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after April 11, 2005.

(2) EXCEPTION.—The amendments made by this section shall not apply to any property with respect to which the taxpayer or a related party has entered into a binding contract for the construction thereof on or before April 11, 2005, or, in the case of self-constructed property, has started construction on or before such date.

SEC. 1326. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by striking ''and'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) any natural gas gathering line the original use of which commences with the taxpayer after April 11, 2005, and''.

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168 is amended by inserting after paragraph (16) the following new paragraph:

''(17) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

''(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, and

''(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

''(i) a gas processing plant,

''(ii) an interconnection with a transmission pipeline for which a certificate as an interstate transmission pipeline has been issued by the Federal Energy Regulatory Commission,

''(iii) an interconnection with an intrastate transmission pipeline, or

''(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.''.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by inserting after the item relating to subparagraph (C)(iii) the following new item:

''(C)(iv) .... 14''.

(d) ALTERNATIVE MINIMUM TAX EXCEPTION.—Subparagraph (B) of section 56(a)(1) is amended by inserting before the period the following: '', or in section 168(e)(3)(C)(iv)''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after April 11, 2005.

(2) EXCEPTION.—The amendments made by this section shall not apply to any property with respect to which the taxpayer or a related party has entered into a binding contract for the construction thereof on or before April 11, 2005, or, in the case of self-constructed property, has started construction on or before such date.

SEC. 1327. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) IN GENERAL.—Subsection (b) of section 148 (relating to higher yielding investments) is amended by adding at the end the following new paragraph:

''(4) SAFE HARBOR FOR PREPAID NATURAL GAS.—

''(A) IN GENERAL.—The term 'investment-type property' does not include a prepayment under a qualified natural gas supply contract.

''(B) QUALIFIED NATURAL GAS SUPPLY CONTRACT.—For purposes of this paragraph, the term 'qualified natural gas supply contract' means any contract to acquire natural gas for resale by a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract by the utility during any year does not exceed the sum of—

''(i) the annual average amount during the testing period of natural gas purchased (other than for resale) by customers of such utility who are located within the service area of such utility, and

''(ii) the amount of natural gas to be used to transport the prepaid natural gas to the utility during such year.

''(C) NATURAL GAS USED TO GENERATE ELECTRICITY.—Natural gas used to generate electricity shall be taken into account in determining the average under subparagraph (B)(i)—

''(i) only if the electricity is generated by a utility owned by a governmental unit, and

''(ii) only to the extent that the electricity is sold (other than for resale) to customers of such utility who are located within the service area of such utility.

''(D) ADJUSTMENTS FOR CHANGES IN CUSTOMER BASE.—

''(i) NEW BUSINESS CUSTOMERS.—If—

''(I) after the close of the testing period and before the date of issuance of the issue, the utility owned by a governmental unit enters into a contract to supply natural gas (other than for resale) for a business use at a property within the service area of such utility, and

''(II) the utility did not supply natural gas to such property during the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period,

then a contract shall not fail to be treated as a qualified natural gas supply contract by reason of supplying the additional natural gas under the contract referred to in subclause (I).

''(ii) LOST CUSTOMERS.—The average under subparagraph (B)(i) shall not exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

''(E) RULING REQUESTS.—The Secretary may increase the average under subparagraph (B)(i) for any period if the utility owned by the governmental unit establishes to the satisfaction of the Secretary that, based on objective evidence of growth in natural gas consumption or population, such average would otherwise be insufficient for such period.

''(F) ADJUSTMENT FOR NATURAL GAS OTHERWISE ON HAND.—

''(i) IN GENERAL.—The amount otherwise permitted to be acquired under the contract for any period shall be reduced by—

''(I) the applicable share of natural gas held by the utility on the date of issuance of the issue, and

''(II) the natural gas (not taken into account under subclause (I)) which the utility has a right to acquire during such period (determined as of the date of issuance of the issue).

''(ii) APPLICABLE SHARE.—For purposes of the clause (i), the term 'applicable share' means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

''(G) INTENTIONAL ACTS.—Subparagraph (A) shall cease to apply to any issue if the utility owned by the governmental unit engages in any intentional act to render the volume of natural gas acquired by such prepayment to be in excess of the sum of—

''(i) the amount of natural gas needed (other than for resale) by customers of such utility who are located within the service area of such utility, and

''(ii) the amount of natural gas used to transport such natural gas to the utility.

''(H) TESTING PERIOD.—For purposes of this paragraph, the term 'testing period' means, with respect to an issue, the most recent 5 calendar years ending before the date of issuance of the issue.

''(I) SERVICE AREA.—For purposes of this paragraph, the service area of a utility owned by a governmental unit shall be comprised of—

''(i) any area throughout which such utility provided at all times during the testing period—

''(I) in the case of a natural gas utility, natural gas transmission or distribution services, and

''(II) in the case of an electric utility, electricity distribution services,

''(ii) any area within a county contiguous to the area described in clause (i) in which retail customers of such utility are located if such area is not also served by another utility providing natural gas or electricity services, as the case may be, and

''(iii) any area recognized as the service area of such utility under State or Federal law.''.

(b) PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.—Paragraph (2) of section 141(c) (providing exceptions to the private loan financing test) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by adding at the end the following new subparagraph:

''(C) is a qualified natural gas supply contract (as defined in section 148(b)(4)).''.

(c) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—Section 141(d) is amended by adding at the end the following new paragraph:

''(7) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—The term 'nongovernmental output property' shall not include any contract for the prepayment of electricity or natural gas which is not investment property under section 148(b)(2).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 1328. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) IN GENERAL.—Paragraph (4) of section 613A(d) (relating to limitations on application of subsection (c)) is amended to read as follows:

''(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 75,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 1329. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Section 167 (relating to depreciation) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.—

''(1) IN GENERAL.—Any geological and geophysical expenses paid or incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

''(2) HALF-YEAR CONVENTION.—For purposes of paragraph (1), any payment paid or incurred

during the taxable year shall be treated as paid or incurred on the mid-point of such taxable year.

"(3) EXCLUSIVE METHOD.—Except as provided in this subsection, no depreciation or amortization deduction shall be allowed with respect to such payments.

"(4) TREATMENT UPON ABANDONMENT.—If any property with respect to which geological and geophysical expenses are paid or incurred is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.".

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) is amended by inserting "167(h)," after "under section".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

Subtitle C—Conservation and Energy Efficiency Provisions

SEC. 1331. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179C the following new section:

"SEC. 179D. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

"(a) IN GENERAL.—There shall be allowed as a deduction an amount equal to the cost of energy efficient commercial building property placed in service during the taxable year.

"(b) MAXIMUM AMOUNT OF DEDUCTION.—The deduction under subsection (a) with respect to any building for any taxable year shall not exceed the excess (if any) of—

"(1) the product of—

"(A) $1.80, and

"(B) the square footage of the building, over

"(2) the aggregate amount of the deductions under subsection (a) with respect to the building for all prior taxable years.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—The term 'energy efficient commercial building property' means property—

"(A) with respect to which depreciation (or amortization in lieu of depreciation) is allowable,

"(B) which is installed on or in any building which is—

"(i) located in the United States, and

"(ii) within the scope of Standard 90.1–2001,

"(C) which is installed as part of—

"(i) the interior lighting systems,

"(ii) the heating, cooling, ventilation, and hot water systems, or

"(iii) the building envelope, and

"(D) which is certified in accordance with subsection (d)(6) as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems of the building by 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1–2001 using methods of calculation under subsection (d)(2).

"(2) STANDARD 90.1–2001.—The term 'Standard 90.1–2001' means Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (as in effect on April 2, 2003).

"(d) SPECIAL RULES.—

"(1) PARTIAL ALLOWANCE.—

"(A) IN GENERAL.—Except as provided in subsection (f), if—

"(i) the requirement of subsection (c)(1)(D) is not met, but

"(ii) there is a certification in accordance with paragraph (6) that any system referred to in subsection (c)(1)(C) satisfies the energy-savings targets established by the Secretary under subparagraph (B) with respect to such system,

then the requirement of subsection (c)(1)(D) shall be treated as met with respect to such system, and the deduction under subsection (a) shall be allowed with respect to energy efficient commercial building property installed as part of such system and as part of a plan to meet such targets, except that subsection (b) shall be applied to such property by substituting '$.60' for '$1.80'.

"(B) REGULATIONS.—The Secretary, after consultation with the Secretary of Energy, shall establish a target for each system described in subsection (c)(1)(C) which, if such targets were met for all such systems, the building would meet the requirements of subsection (c)(1)(D).

"(2) METHODS OF CALCULATION.—The Secretary, after consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, based on the provisions of the 2005 California Nonresidential Alternative Calculation Method Approval Manual.

"(3) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—Any calculation under paragraph (2) shall be prepared by qualified computer software.

"(B) QUALIFIED COMPUTER SOFTWARE.—For purposes of this paragraph, the term 'qualified computer software' means software—

"(i) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

"(ii) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

"(iii) which provides a notice form which documents the energy efficiency features of the building and its projected annual energy costs.

"(4) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or in property owned by a Federal, State, or local government or a political subdivision thereof, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

"(5) NOTICE TO OWNER.—Each certification required under this section shall include an explanation to the building owner regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (3)(B)(iii).

"(6) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall prescribe the manner and method for the making of certifications under this section.

"(B) PROCEDURES.—The Secretary shall include as part of the certification process procedures for inspection and testing by qualified individuals described in subparagraph (C) to ensure compliance of buildings with energy-savings plans and targets. Such procedures shall be comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

"(C) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

"(e) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

"(f) INTERIM RULES FOR LIGHTING SYSTEMS.—Until such time as the Secretary issues final regulations under subsection (d)(1)(B) with respect to property which is part of a lighting system—

"(1) IN GENERAL.—The lighting system target under subsection (d)(1)(A)(ii) shall be a reduction in lighting power density of 25 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting power allowances) of Standard 90.1–2001.

"(2) REDUCTION IN DEDUCTION IF REDUCTION LESS THAN 40 PERCENT.—

"(A) IN GENERAL.—If, with respect to the lighting system of any building other than a warehouse, the reduction in lighting power density of the lighting system is not at least 40 percent, only the applicable percentage of the amount of deduction otherwise allowable under this section with respect to such property shall be allowed.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is the number of percentage points (not greater than 100) equal to the sum of—

"(i) 50, and

"(ii) the amount which bears the same ratio to 50 as the excess of the reduction of lighting power density of the lighting system over 25 percentage points bears to 15.

"(C) EXCEPTIONS.—This subsection shall not apply to any system—

"(i) the controls and circuiting of which do not comply fully with the mandatory and prescriptive requirements of Standard 90.1–2001 and which do not include provision for bilevel switching in all occupancies except hotel and motel guest rooms, store rooms, restrooms, and public lobbies, or

"(ii) which does not meet the minimum requirements for calculated lighting levels as set forth in the Illuminating Engineering Society of North America Lighting Handbook, Performance and Application, Ninth Edition, 2000.

"(g) REGULATIONS.—The Secretary shall promulgate such regulations as necessary—

"(1) to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section, and

"(2) to provide for a recapture of the deduction allowed under this section if the plan described in subsection (c)(1)(D) or (d)(1)(A) is not fully implemented.

"(h) TERMINATION.—This section shall not apply with respect to property placed in service after December 31, 2007.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 179D(e).".

(2) Section 1245(a), as amended by this Act, is amended by inserting "179D," after "179C," both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence "or by section 179D".

(4) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and

by inserting after subparagraph (J) the following new subparagraph:

"(K) expenditures for which a deduction is allowed under section 179D.".

(5) Section 312(k)(3)(B), as amended by this Act, is amended by striking "179, 179A, 179B, or 179C" each place it appears in the heading and text and inserting "179, 179A, 179B, 179C, or 179D".

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after section 179C the following new item:

"Sec. 179D. Energy efficient commercial buildings deduction.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005.

SEC. 1332. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOMES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45L. NEW ENERGY EFFICIENT HOME CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the new energy efficient home credit for the taxable year is the applicable amount for each qualified new energy efficient home which is—

"(A) constructed by the eligible contractor, and

"(B) acquired by a person from such eligible contractor for use as a residence during the taxable year.

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is an amount equal to—

"(A) in the case of a dwelling unit described in paragraph (1) or (2) of subsection (c), $2,000, and

"(B) in the case of a dwelling unit described in paragraph (3) of subsection (c), $1,000.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means—

"(A) the person who constructed the qualified new energy efficient home, or

"(B) in the case of a qualified new energy efficient home which is a manufactured home, the manufactured home producer of such home.

"(2) QUALIFIED NEW ENERGY EFFICIENT HOME.—The term 'qualified new energy efficient home' means a dwelling unit—

"(A) located in the United States,

"(B) the construction of which is substantially completed after the date of the enactment of this section, and

"(C) which meets the energy saving requirements of subsection (c).

"(3) CONSTRUCTION.—The term 'construction' includes substantial reconstruction and rehabilitation.

"(4) ACQUIRE.—The term 'acquire' includes purchase.

"(c) ENERGY SAVING REQUIREMENTS.—A dwelling unit meets the energy saving requirements of this subsection if such unit is—

"(1) certified—

"(A) to have a level of annual heating and cooling energy consumption which is at least 50 percent below the annual level of heating and cooling energy consumption of a comparable dwelling unit—

"(i) which is constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and

"(ii) for which the heating and cooling equipment efficiencies correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of completion of construction, and

"(B) to have building envelope component improvements account for at least ⅕ of such 50 percent.

"(2) a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations) and which meets the requirements of paragraph (1), or

"(3) a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations) and which—

"(A) meets the requirements of paragraph (1) applied by substituting '30 percent' for '50 percent' both places it appears therein and by substituting '⅓' for '⅕' in subparagraph (B) thereof, or

"(B) meets the requirements established by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

"(d) CERTIFICATION.—

"(1) METHOD OF CERTIFICATION.—A certification described in subsection (c) shall be made in accordance with guidance prescribed by the Secretary, after consultation with the Secretary of Energy. Such guidance shall specify procedures and methods for calculating energy and cost savings.

"(2) FORM.—Any certification described in subsection (c) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance.

"(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section in connection with any expenditure for any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

"(f) COORDINATION WITH INVESTMENT CREDIT.—For purposes of this section, expenditures taken into account under section 47 or 48(a) shall not be taken into account under this section.

"(g) TERMINATION.—This section shall not apply to any qualified new energy efficient home acquired after December 31, 2007.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting ", plus", and by adding at the end the following new paragraph:

"(23) the new energy efficient home credit determined under section 45L(a).".

(c) BASIS ADJUSTMENT.—Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting ", and", and by adding at the end the following new paragraph:

"(33) to the extent provided in section 45L(e), in the case of amounts with respect to which a credit has been allowed under section 45L.".

(d) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Section 196(c) (defining qualified business credits) is amended by striking "and" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", and", and by adding after paragraph (12) the following new paragraph:

"(13) the new energy efficient home credit determined under section 45L(a).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45L. New energy efficient home credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified new energy efficient homes acquired after December 31, 2005, in taxable years ending after such date.

SEC. 1333. CREDIT FOR CERTAIN NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

"SEC. 25C. NONBUSINESS ENERGY PROPERTY.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year, and

"(2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) LIFETIME LIMITATION.—The credit allowed under this section with respect to any taxpayer for any taxable year shall not exceed the excess (if any) of $500 over the aggregate credits allowed under this section with respect to such taxpayer for all prior taxable years.

"(2) WINDOWS.—In the case of amounts paid or incurred for components described in subsection (c)(3)(B) by any taxpayer for any taxable year, the credit allowed under this section with respect to such amounts for such year shall not exceed the excess (if any) of $200 over the aggregate credits allowed under this section with respect to such amounts for all prior taxable years.

"(3) LIMITATION ON RESIDENTIAL ENERGY PROPERTY EXPENDITURES.—The amount of the credit allowed under this section by reason of subsection (a)(2) shall not exceed—

"(A) $50 for any advanced main air circulating fan,

"(B) $150 for any qualified natural gas, propane, or oil furnace or hot water boiler, and

"(C) $300 for any item of energy-efficient building property.

"(c) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified energy efficiency improvements' means any energy efficient building envelope component which meets the prescriptive criteria for such component established by the 2000 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section (or, in the case of a metal roof with appropriate pigmented coatings which meet the Energy Star program requirements), if—

"(A) such component is installed in or on a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

"(B) the original use of such component commences with the taxpayer, and

"(C) such component reasonably can be expected to remain in use for at least 5 years.

"(2) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

"(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling unit when installed in or on such dwelling unit,

"(B) exterior windows (including skylights),

"(C) exterior doors, and

"(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of such dwelling unit.

"(3) MANUFACTURED HOMES INCLUDED.—The term 'dwelling unit' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations).

"(d) RESIDENTIAL ENERGY PROPERTY EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'residential energy property expenditures' means expenditures made by the taxpayer for qualified energy property which is—

"(A) installed on or in connection with a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121), and

"(B) originally placed in service by the taxpayer.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

"(2) QUALIFIED ENERGY PROPERTY.—

"(A) IN GENERAL.—The term 'qualified energy property' means—

"(i) energy-efficient building property,

"(ii) a qualified natural gas, propane, or oil furnace or hot water boiler, or

"(iii) an advanced main air circulating fan.

"(B) PERFORMANCE AND QUALITY STANDARDS.—Property described under subparagraph (A) shall meet the performance and quality standards, and the certification requirements (if any), which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate), and

"(ii) are in effect at the time of the acquisition of the property, or at the time of the completion of the construction, reconstruction, or erection of the property, as the case may be.

"(C) REQUIREMENTS FOR STANDARDS.—The standards and requirements prescribed by the Secretary under subparagraph (B)—

"(i) in the case of the energy efficiency ratio (EER) for central air conditioners and electric heat pumps—

"(I) shall require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

"(II) may be based on the certified data of the Air Conditioning and Refrigeration Institute that are prepared in partnership with the Consortium for Energy Efficiency, and

"(ii) in the case of geothermal heat pumps—

"(I) shall be based on testing under the conditions of ARI/ISO Standard 13256–1 for Water Source Heat Pumps or ARI 870 for Direct Expansion GeoExchange Heat Pumps (DX), as appropriate, and

"(II) shall include evidence that water heating services have been provided through a desuperheater or integrated water heating system connected to the storage water heater tank.

"(3) ENERGY-EFFICIENT BUILDING PROPERTY.—The term 'energy-efficient building property' means—

"(A) an electric heat pump water heater which yields an energy factor of at least 2.0 in the standard Department of Energy test procedure,

"(B) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 13,

"(C) a geothermal heat pump which—

"(i) in the case of a closed loop product, has an energy efficiency ratio (EER) of at least 14.1 and a heating coefficient of performance (COP) of at least 3.3,

"(ii) in the case of an open loop product, has an energy efficiency ratio (EER) of at least 16.2 and a heating coefficient of performance (COP) of at least 3.6, and

"(iii) in the case of a direct expansion (DX) product, has an energy efficiency ratio (EER) of at least 15 and a heating coefficient of performance (COP) of at least 3.5,

"(D) a central air conditioner which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2006, and

"(E) a natural gas, propane, or oil water heater which has an energy factor of at least 0.80.

"(4) QUALIFIED NATURAL GAS, PROPANE, OR OIL FURNACE OR HOT WATER BOILER.—The term 'qualified natural gas, propane, or oil furnace or hot water boiler' means a natural gas, propane, or oil furnace or hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 95.

"(5) ADVANCED MAIN AIR CIRCULATING FAN.—The term 'advanced main air circulating fan' means a fan used in a natural gas, propane, or oil furnace and which has an annual electricity use of no more than 2 percent of the total annual energy use of the furnace (as determined in the standard Department of Energy test procedures).

"(e) SPECIAL RULES.—For purposes of this section—

"(1) APPLICATION OF RULES.—Rules similar to the rules under paragraphs (4), (5), (6), (7), (8), and (9) of section 25D(e) shall apply.

"(2) JOINT OWNERSHIP OF ENERGY ITEMS.—

"(A) IN GENERAL.—Any expenditure otherwise qualifying as an expenditure under this section shall not be treated as failing to so qualify merely because such expenditure was made with respect to 2 or more dwelling units.

"(B) LIMITS APPLIED SEPARATELY.—In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made for each dwelling unit.

"(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(g) TERMINATION.—This section shall not apply with respect to any property placed in service after December 31, 2007.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ", and", and by adding at the end the following new paragraph:

"(34) to the extent provided in section 25C(e), in the case of amounts with respect to which a credit has been allowed under section 25C.".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Nonbusiness energy property.".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to property placed in service after December 31, 2005.

SEC. 1334. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45M. ENERGY EFFICIENT APPLIANCE CREDIT.

"(a) GENERAL RULE.—

"(1) IN GENERAL.—For purposes of section 38, the energy efficient appliance credit determined under this section for any taxable year is an amount equal to the sum of the credit amounts determined under paragraph (2) for each type of qualified energy efficient appliance produced by the taxpayer during the calendar year ending with or within the taxable year.

"(2) CREDIT AMOUNTS.—The credit amount determined for any type of qualified energy efficient appliance is—

"(A) the applicable amount determined under subsection (b) with respect to such type, multiplied by

"(B) the eligible production for such type.

"(b) APPLICABLE AMOUNT.—

"(1) IN GENERAL.—For purposes of subsection (a)—

"(A) DISHWASHERS.—The applicable amount is the energy savings amount in the case of a dishwasher which—

"(i) is manufactured in calendar year 2006 or 2007, and

"(ii) meets the requirements of the Energy Star program which are in effect for dishwashers in 2007.

"(B) CLOTHES WASHERS.—The applicable amount is $100 in the case of a clothes washer which—

"(i) is manufactured in calendar year 2006 or 2007, and

"(ii) meets the requirements of the Energy Star program which are in effect for clothes washers in 2007.

"(C) REFRIGERATORS.—

"(i) 15 PERCENT SAVINGS.—The applicable amount is $75 in the case of a refrigerator which—

"(I) is manufactured in calendar year 2006, and

"(II) consumes at least 15 percent but not more than 20 percent less kilowatt hours per year than the 2001 energy conservation standards.

"(ii) 20 PERCENT SAVINGS.—The applicable amount is $125 in the case of a refrigerator which—

"(I) is manufactured in calendar year 2006 or 2007, and

"(II) consumes at least 20 percent but not more than 25 percent less kilowatt hours per year than the 2001 energy conservation standards.

"(iii) 25 PERCENT SAVINGS.—The applicable amount is $175 in the case of a refrigerator which—

"(I) is manufactured in calendar year 2006 or 2007, and

"(II) consumes at least 25 percent less kilowatt hours per year than the 2001 energy conservation standards.

"(2) ENERGY SAVINGS AMOUNT.—For purposes of paragraph (1)(A)—

"(A) IN GENERAL.—The energy savings amount is the lesser of—

"(i) the product of—

"(I) $3, and

"(II) 100 multiplied by the energy savings percentage, or

"(ii) $100.

"(B) ENERGY SAVINGS PERCENTAGE.—For purposes of subparagraph (A), the energy savings percentage is the ratio of—

"(i) the EF required by the Energy Star program for dishwashers in 2007 minus the EF required by the Energy Star program for dishwashers in 2005, to

"(ii) the EF required by the Energy Star program for dishwashers in 2007.

"(c) ELIGIBLE PRODUCTION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2), the eligible production in a calendar year with respect to each type of energy efficient appliance is the excess of—

"(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

"(B) the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

"(2) SPECIAL RULE FOR REFRIGERATORS.—The eligible production in a calendar year with respect to each type of refrigerator described in subsection (b)(1)(C) is the excess of—

"(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

"(B) 110 percent of the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

"(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

"(1) dishwashers described in subsection (b)(1)(A),

"(2) clothes washers described in subsection (b)(1)(B),

"(3) refrigerators described in subsection (b)(1)(C)(i),

"(4) refrigerators described in subsection (b)(1)(C)(ii), and

"(5) refrigerators described in subsection (b)(1)(C)(iii).

"(e) LIMITATIONS.—

"(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years.

"(2) AMOUNT ALLOWED FOR 15 PERCENT SAVINGS REFRIGERATORS.—In the case of refrigerators described in subsection (b)(1)(C)(i), the aggregate amount of the credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $20,000,000.

"(3) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

"(4) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(f) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

"(A) any dishwasher described in subsection (b)(1)(A),

"(B) any clothes washer described in subsection (b)(1)(B), and

"(C) any refrigerator described in subsection (b)(1)(C).

"(2) DISHWASHER.—The term 'dishwasher' means a residential dishwasher subject to the energy conservation standards established by the Department of Energy.

"(3) CLOTHES WASHER.—The term 'clothes washer' means a residential model clothes washer, including a residential style coin operated washer.

"(4) REFRIGERATOR.—The term 'refrigerator' means a residential model automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

"(5) EF.—The term 'EF' means the energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

"(6) PRODUCED.—The term 'produced' includes manufactured.

"(7) 2001 ENERGY CONSERVATION STANDARD.—The term '2001 energy conservation standard' means the energy conservation standards promulgated by the Department of Energy and effective July 1, 2001.

"(g) SPECIAL RULES.—For purposes of this section—

"(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

"(2) CONTROLLED GROUP.—

"(A) IN GENERAL.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single producer.

"(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

"(3) VERIFICATION.—No amount shall be allowed as a credit under subsection (a) with respect to which the taxpayer has not submitted such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary.".

(b) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ", plus", and by adding at the end the following new paragraph:

"(24) the energy efficient appliance credit determined under section 45M(a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45M. Energy efficient appliance credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2005.

SEC. 1335. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

"SEC. 25D. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 30 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

"(2) 30 percent of the qualified solar water heating property expenditures made by the taxpayer during such year, and

"(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) for any taxable year shall not exceed—

"(A) $2,000 with respect to any qualified photovoltaic property expenditures,

"(B) $2,000 with respect to any qualified solar water heating property expenditures, and

"(C) $500 with respect to each half kilowatt of capacity of qualified fuel cell property (as defined in section 48(c)(1)) for which qualified fuel cell property expenditures are made.

"(2) CERTIFICATION OF SOLAR WATER HEATING PROPERTY.—No credit shall be allowed under this section for an item of property described in subsection (d)(1) unless such property is certified for performance by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed.

"(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

"(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

"(3) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(c)(1)) installed on or in connection with a dwelling unit located in the United States and used as a principal residence (within the meaning of section 121) by the taxpayer.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in subsection (d) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

"(2) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) of subsection (d) solely because it constitutes a structural component of the structure on which it is installed.

"(3) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

"(4) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

"(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(C) Subparagraphs (A) and (B) shall be applied separately with respect to expenditures described in paragraphs (1), (2), and (3) of subsection (d).

"(5) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(6) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(7) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

"(8) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

"(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

"(9) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(4)(C)).

"(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(g) TERMINATION.—The credit allowed under this section shall not apply to property placed in service after December 31, 2007.".

(b) CONFORMING AMENDMENTS.—

(1) Section 23(c) is amended by striking "this section and section 1400C" and inserting "this section, section 25D, and section 1400C".

(2) Section 25(e)(1)(C) is amended by striking "this section and sections 23 and 1400C" and inserting "other than this section, section 23, section 25D, and section 1400C".

(3) Section 1400C(d) is amended by striking "this section" and inserting "this section and section 25D".

(4) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ", and", and by adding at the end the following new paragraph:

"(35) to the extent provided in section 25D(f), in the case of amounts with respect to which a credit has been allowed under section 25D.".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

"Sec. 25D. Residential energy efficient property.".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to property placed in service after December 31, 2005, in taxable years ending after such date.

SEC. 1336. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) qualified fuel cell property or qualified microturbine property.".

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Section 48 (relating to energy credit) is amended by adding at the end the following new subsection:

"(c) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

"(1) QUALIFIED FUEL CELL PROPERTY.—

"(A) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant which—

"(i) has a nameplate capacity of at least 0.5 kilowatt of electricity using an electrochemical process, and

"(ii) has an electricity-only generation efficiency greater than 30 percent.

"(B) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to $500 for each 0.5 kilowatt of capacity of such property.

"(C) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components which converts a fuel into electricity using electrochemical means.

"(D) SPECIAL RULE.—The first sentence of the matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to qualified fuel cell property which is used predominantly in the trade or business of the furnishing or sale of telephone service, telegraph service by means of domestic telegraph operations, or other telegraph services (other than international telegraph services).

"(E) TERMINATION.—The term 'qualified fuel cell property' shall not include any property for any period after December 31, 2007.

"(2) QUALIFIED MICROTURBINE PROPERTY.—

"(A) IN GENERAL.—The term 'qualified microturbine property' means a stationary microturbine power plant which—

"(i) has a nameplate capacity of less than 2,000 kilowatts, and

"(ii) has an electricity-only generation efficiency of not less than 26 percent at International Standard Organization conditions.

"(B) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal $200 for each kilowatt of capacity of such property.

"(C) STATIONARY MICROTURBINE POWER PLANT.—The term 'stationary microturbine power plant' means an integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components which converts a fuel into electricity and thermal energy. Such term also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

"(D) SPECIAL RULE.—The first sentence of the matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to qualified microturbine property which is used predominantly in the trade or business of the furnishing or sale of telephone service, telegraph service by means of domestic telegraph operations, or other telegraph services (other than international telegraph services).

"(E) TERMINATION.—The term 'qualified microturbine property' shall not include any property for any period after December 31, 2007.".

(c) ENERGY PERCENTAGE.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

"(A) IN GENERAL.—The energy percentage is—

"(i) in the case of qualified fuel cell property, 30 percent, and

"(ii) in the case of any other energy property, 10 percent.".

(d) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by inserting "except as provided in paragraph (1)(B) or (2)(B) of subsection (d)," before "the energy".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2005, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1337. BUSINESS SOLAR INVESTMENT TAX CREDIT.

(a) INCREASE IN ENERGY PERCENTAGE.—Section 48(a)(2)(A) (relating to energy percentage), as amended by this Act, is amended to read as follows:

"(A) IN GENERAL.—The energy percentage is—

"(i) 30 percent in the case of—

"(I) qualified fuel cell property,

"(II) energy property described in paragraph (3)(A)(i) but only with respect to periods ending before January 1, 2008, and

"(III) energy property described in paragraph (3)(A)(ii), and

"(ii) in the case of any energy property to which clause (i) does not apply, 10 percent.".

(b) HYBRID SOLAR LIGHTING SYSTEMS.—Subparagraph (A) of section 48(a)(3) is amended by striking "or" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) equipment which uses solar energy to illuminate the inside of a structure using fiberoptic distributed sunlight but only with respect to periods ending before January 1, 2008, or".

(c) LIMITATION ON USE OF SOLAR ENERGY TO HEAT SWIMMING POOLS.—Clause (i) of section 48(a)(3)(A) is amended by inserting "excepting property used to generate energy for the purposes of heating a swimming pool," after "solar process heat,".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2005, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

Subtitle D—Alternative Motor Vehicles and Fuels Incentives

SEC. 1341. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

“SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

“(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

“(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

“(2) the new advanced lean burn technology motor vehicle credit determined under subsection (c),

“(3) the new qualified hybrid motor vehicle credit determined under subsection (d), and

“(4) the new qualified alternative fuel motor vehicle credit determined under subsection (e).

“(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

“(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

“(A) $8,000 ($4,000 in the case of a vehicle placed in service after December 31, 2009), if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

“(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

“(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

“(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

“(2) INCREASE FOR FUEL EFFICIENCY.—

“(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

“(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

“(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

“(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

“(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

“(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

“(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

“(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

“(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

“(i) In the case of a passenger automobile:

If vehicle inertia weight class is:	***The 2002 model year city fuel economy is:***
1,500 or 1,750 lbs	*45.2 mpg*
2,000 lbs	*39.6 mpg*
2,250 lbs	*35.2 mpg*
2,500 lbs	*31.7 mpg*
2,750 lbs	*28.8 mpg*
3,000 lbs	*26.4 mpg*
3,500 lbs	*22.6 mpg*
4,000 lbs	*19.8 mpg*
4,500 lbs	*17.6 mpg*
5,000 lbs	*15.9 mpg*
5,500 lbs	*14.4 mpg*
6,000 lbs	*13.2 mpg*
6,500 lbs	*12.2 mpg*
7,000 to 8,500 lbs	*11.3 mpg.*

“(ii) In the case of a light truck:

If vehicle inertia weight class is:	***The 2002 model year city fuel economy is:***
1,500 or 1,750 lbs	*39.4 mpg*
2,000 lbs	*35.2 mpg*
2,250 lbs	*31.8 mpg*
2,500 lbs	*29.0 mpg*
2,750 lbs	*26.8 mpg*
3,000 lbs	*24.9 mpg*
3,500 lbs	*21.8 mpg*
4,000 lbs	*19.4 mpg*
4,500 lbs	*17.6 mpg*
5,000 lbs	*16.1 mpg*
5,500 lbs	*14.8 mpg*
6,000 lbs	*13.7 mpg*
6,500 lbs	*12.8 mpg*
7,000 to 8,500 lbs	*12.1 mpg.*

“(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term ‘vehicle inertia weight class’ has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

“(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term ‘new qualified fuel cell motor vehicle’ means a motor vehicle—

“(A) which is propelled by power derived from 1 or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

“(B) which, in the case of a passenger automobile or light truck, has received on or after the date of the enactment of this section a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

“(C) the original use of which commences with the taxpayer,

“(D) which is acquired for use or lease by the taxpayer and not for resale, and

“(E) which is made by a manufacturer.

“(c) NEW ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.—

“(1) IN GENERAL.—For purposes of subsection (a), the new advanced lean burn technology motor vehicle credit determined under this subsection for the taxable year is the credit amount determined under paragraph (2) with respect to a new advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year.

“(2) CREDIT AMOUNT.—

“(A) FUEL ECONOMY.—

“(i) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following table:

In the case of a vehicle which achieves a fuel economy (expressed as a percentage of the 2002 model year city fuel economy) of—	***The credit amount is—***
At least 125 percent but less than 150 percent	*$400*
At least 150 percent but less than 175 percent	*$800*
At least 175 percent but less than 200 percent	*$1,200*
At least 200 percent but less than 225 percent	*$1,600*
At least 225 percent but less than 250 percent	*$2,000*
At least 250 percent	*$2,400.*

“(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined on a gasoline gallon equivalent basis as determined by the Administrator of the Environmental Protection Agency using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

“(B) CONSERVATION CREDIT.—The amount determined under subparagraph (A) with respect to a new advanced lean burn technology motor vehicle shall be increased by the conservation credit amount determined in accordance with the following table:

In the case of a vehicle which achieves a lifetime fuel savings (expressed in gallons of gasoline) of—	***The conservation credit amount is—***
At least 1,200 but less than 1,800	*$250*
At least 1,800 but less than 2,400	*$500*
At least 2,400 but less than 3,000	*$750*
At least 3,000	*$1,000.*

“(3) NEW ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE.—For purposes of this subsection, the term ‘new advanced lean burn technology motor vehicle’ means a passenger automobile or a light truck—

“(A) with an internal combustion engine which—

“(i) is designed to operate primarily using more air than is necessary for complete combustion of the fuel,

“(ii) incorporates direct injection,

“(iii) achieves at least 125 percent of the 2002 model year city fuel economy,

“(iv) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds—

“(I) in the case of a vehicle having a gross vehicle weight rating of 6,000 pounds or less, the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

“(II) in the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established.

“(B) the original use of which commences with the taxpayer,

“(C) which is acquired for use or lease by the taxpayer and not for resale, and

“(D) which is made by a manufacturer.

“(4) LIFETIME FUEL SAVINGS.—For purposes of this subsection, the term ‘lifetime fuel savings’ means, in the case of any new advanced lean burn technology motor vehicle, an amount equal to the excess (if any) of—

“(A) 120,000 divided by the 2002 model year city fuel economy for the vehicle inertia weight class, over

“(B) 120,000 divided by the city fuel economy for such vehicle.

“(d) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

“(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection for the taxable year is the credit amount determined under paragraph (2) with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year.

“(2) CREDIT AMOUNT.—

“(A) CREDIT AMOUNT FOR PASSENGER AUTOMOBILES AND LIGHT TRUCKS.—In the case of a new qualified hybrid motor vehicle which is a passenger automobile or light truck and which has a gross vehicle weight rating of not more than 8,500 pounds, the amount determined under this paragraph is the sum of the amounts determined under clauses (i) and (ii).

“(i) FUEL ECONOMY.—The amount determined under this clause is the amount which would be

determined under subsection (c)(2)(A) if such vehicle were a vehicle referred to in such subsection.

"(ii) CONSERVATION CREDIT.—The amount determined under this clause is the amount which would be determined under subsection (c)(2)(B) if such vehicle were a vehicle referred to in such subsection.

"(B) CREDIT AMOUNT FOR OTHER MOTOR VEHICLES.—

"(i) IN GENERAL.—In the case of any new qualified hybrid motor vehicle to which subparagraph (A) does not apply, the amount determined under this paragraph is the amount equal to the applicable percentage of the qualified incremental hybrid cost of the vehicle as certified under clause (v).

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is—

"(I) 20 percent if the vehicle achieves an increase in city fuel economy relative to a comparable vehicle of at least 30 percent but less than 40 percent,

"(II) 30 percent if the vehicle achieves such an increase of at least 40 percent but less than 50 percent, and

"(III) 40 percent if the vehicle achieves such an increase of at least 50 percent.

"(iii) QUALIFIED INCREMENTAL HYBRID COST.—For purposes of this subparagraph, the qualified incremental hybrid cost of any vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a comparable vehicle, to the extent such amount does not exceed—

"(I) $7,500, if such vehicle has a gross vehicle weight rating of not more than 14,000 pounds,

"(II) $15,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(III) $30,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(iv) COMPARABLE VEHICLE.—For purposes of this subparagraph, the term 'comparable vehicle' means, with respect to any new qualified hybrid motor vehicle, any vehicle which is powered solely by a gasoline or diesel internal combustion engine and which is comparable in weight, size, and use to such vehicle.

"(v) CERTIFICATION.—A certification described in clause (i) shall be made by the manufacturer and shall be determined in accordance with guidance prescribed by the Secretary. Such guidance shall specify procedures and methods for calculating fuel economy savings and incremental hybrid costs.

"(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'new qualified hybrid motor vehicle' means a motor vehicle—

"(i) which draws propulsion energy from onboard sources of stored energy which are both—

"(I) an internal combustion or heat engine using consumable fuel, and

"(II) a rechargeable energy storage system,

"(ii) which, in the case of a vehicle to which paragraph (2)(A) applies, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

"(I) in the case of a vehicle having a gross vehicle weight rating of 6,000 pounds or less, the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

"(II) in the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established,

"(iii) which has a maximum available power of at least—

"(I) 4 percent in the case of a vehicle to which paragraph (2)(A) applies,

"(II) 10 percent in the case of a vehicle which has a gross vehicle weight rating or more than 8,500 pounds and not than 14,000 pounds, and

"(III) 15 percent in the case of a vehicle in excess of 14,000 pounds,

"(iv) which, in the case of a vehicle to which paragraph (2)(B) applies, has an internal combustion or heat engine which has received a certificate of conformity under the Clean Air Act as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2004 through 2007 model year diesel heavy duty engines or ottocycle heavy duty engines, as applicable,

"(v) the original use of which commences with the taxpayer,

"(vi) which is acquired for use or lease by the taxpayer and not for resale, and

"(vii) which is made by a manufacturer.

Such term shall not include any vehicle which is not a passenger automobile or light truck if such vehicle has a gross vehicle weight rating of less than 8,500 pounds.

"(B) CONSUMABLE FUEL.—For purposes of subparagraph (A)(i)(I), the term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

"(C) MAXIMUM AVAILABLE POWER.—

"(i) CERTAIN PASSENGER AUTOMOBILES AND LIGHT TRUCKS.—In the case of a vehicle to which paragraph (2)(A) applies, the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

"(ii) OTHER MOTOR VEHICLES.—In the case of a vehicle to which paragraph (2)(B) applies, the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. For purposes of the preceding sentence, the term 'total traction power' means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

"(e) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

"(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the new qualified alternative fuel motor vehicle credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

"(A) 50 percent, plus

"(B) 30 percent, if such vehicle—

"(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

"(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

For purposes of the preceding sentence, in the case of any new qualified alternative fuel motor vehicle which weighs more than 14,000 pounds gross vehicle weight rating, the most stringent standard available shall be such standard available for certification on the date of the enactment of the Energy Tax Incentives Act of 2005.

"(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

"(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(4) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'new qualified alternative fuel motor vehicle' means any motor vehicle—

"(i) which is only capable of operating on an alternative fuel,

"(ii) the original use of which commences with the taxpayer,

"(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

"(iv) which is made by a manufacturer.

"(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

"(5) CREDIT FOR MIXED-FUEL VEHICLES.—

"(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

"(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

"(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

"(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle' means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

"(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

"(ii) either—

"(I) has received a certificate of conformity under the Clean Air Act, or

"(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105–94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

"(iii) the original use of which commences with the taxpayer,

"(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

"(v) which is made by a manufacturer.

"(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '75/25 mixed-

fuel vehicle' means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

"(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '90/10 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

"(f) LIMITATION ON NUMBER OF NEW QUALIFIED HYBRID AND ADVANCED LEAN-BURN TECHNOLOGY VEHICLES ELIGIBLE FOR CREDIT.—

"(1) IN GENERAL.—In the case of a qualified vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (c) or (d) shall be allowed.

"(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of qualified vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after December 31, 2005, is at least 60,000.

"(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

"(A) 50 percent for the first 2 calendar quarters of the phaseout period,

"(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

"(C) 0 percent for each calendar quarter thereafter.

"(4) CONTROLLED GROUPS.—

"(A) IN GENERAL.—For purposes of this subsection, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single manufacturer.

"(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

"(5) QUALIFIED VEHICLE.—For purposes of this subsection, the term 'qualified vehicle' means any new qualified hybrid motor vehicle (described in subsection (d)(2)(A)) and any new advanced lean burn technology motor vehicle.

"(g) APPLICATION WITH OTHER CREDITS.—

"(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

"(2) PERSONAL CREDIT.—The credit allowed under subsection (a) (after the application of paragraph (1)) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax reduced by the sum of the credits allowable under subpart A and sections 27 and 30, over

"(B) the tentative minimum tax for the taxable year.

"(h) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

"(2) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

"(3) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'medium duty passenger vehicle', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(4) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (g)).

"(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

"(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (e) shall be reduced by the amount of such credit attributable to such cost, and

"(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

"(6) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle whose use is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (g)).

"(7) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

"(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

"(9) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(10) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(i) REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

"(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

"(j) TERMINATION.—This section shall not apply to any property purchased after—

"(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2014,

"(2) in the case of a new advanced lean burn technology motor vehicle (as described in subsection (c)) or a new qualified hybrid motor vehicle (as described in subsection (d)(2)(A)), December 31, 2010,

"(3) in the case of a new qualified hybrid motor vehicle (as described in subsection (d)(2)(B)), December 31, 2009, and

"(4) in the case of a new qualified alternative fuel vehicle (as described in subsection (e)), December 31, 2010.".

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end the following new paragraph:

"(25) the portion of the alternative motor vehicle credit to which section 30B(g)(1) applies.".

(2) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting ", and", and by adding at the end the following new paragraph:

"(36) to the extent provided in section 30B(h)(4).".

(3) Section 55(c)(2), as amended by this Act, is amended by inserting "30B(g)(2)," after "30(b)(2),".

(4) Section 6501(m) is amended by inserting "30B(h)(9)," after "30(d)(4),".

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Alternative motor vehicle credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005, in taxable years ending after such date.

SEC. 1342. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30C. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

"(b) LIMITATION.—The credit allowed under subsection (a) with respect to any alternative fuel vehicle refueling property shall not exceed—

"(1) $30,000 in the case of a property of a character subject to an allowance for depreciation, and

"(2) $1,000 in any other case.

"(c) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'qualified alternative fuel vehicle refueling property' has the meaning given to such term by section 179A(d), but only with respect to any fuel—

"(A) at least 85 percent of the volume of which consists of 1 or more of the following: ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, or hydrogen, or

"(B) any mixture of biodiesel (as defined in section 40A(d)(1)) and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene and containing at least 20 percent biodiesel.

"(2) RESIDENTIAL PROPERTY.—In the case of any property installed on property which is

used as the principal residence (within the meaning of section 121) of the taxpayer, paragraph (1) of section 179A(d) shall not apply.

“(d) APPLICATION WITH OTHER CREDITS.—

“(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

“(2) PERSONAL CREDIT.—The credit allowed under subsection (a) (after the application of paragraph (1)) for any taxable year shall not exceed the excess (if any) of—

“(A) the regular tax reduced by the sum of the credits allowable under subpart A and sections 27, 30, and 30B, over

“(B) the tentative minimum tax for the taxable year.

“(e) SPECIAL RULES.—For purposes of this section—

“(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

“(2) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

“(3) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

“(4) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

“(5) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

“(f) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

“(g) TERMINATION.—This section shall not apply to any property placed in service—

“(1) in the case of property relating to hydrogen, after December 31, 2014, and

“(2) in the case of any other property, after December 31, 2009.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting “, and”, and by adding at the end the following new paragraph:

“(26) the portion of the alternative fuel vehicle refueling property credit to which section 30C(d)(1) applies.”.

(2) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting “, and”, and by adding at the end the following new paragraph:

“(37) to the extent provided in section 30C(f).”.

(3) Section 55(c)(2), as amended by this Act, is amended by inserting “30C(d)(2),” after “30B(g)(2),”.

(4) Section 6501(m) is amended by inserting “30C(e)(5),” after “30B(h)(9),”.

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

“Sec. 30C. Clean-fuel vehicle refueling property credit.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005, in taxable years ending after such date.

SEC. 1343. REDUCED MOTOR FUEL EXCISE TAX ON CERTAIN MIXTURES OF DIESEL FUEL.

(a) IN GENERAL.—Paragraph (2) of section 4081(a) is amended by adding at the end the following:

“(D) DIESEL-WATER FUEL EMULSION.—In the case of diesel-water fuel emulsion at least 14 percent of which is water and with respect to which the emulsion additive is registered by a United States manufacturer with the Environmental Protection Agency pursuant to section 211 of the Clean Air Act (as in effect on March 31, 2003), subparagraph (A)(iii) shall be applied by substituting ‘19.7 cents’ for ‘24.3 cents’. The preceding sentence shall not apply to the removal, sale, or use of diesel-water fuel emulsion unless the person so removing, selling, or using such fuel is registered under section 4101.”.

(b) SPECIAL RULES FOR DIESEL-WATER FUEL EMULSIONS.—

(1) REFUNDS FOR TAX-PAID PURCHASES.—Section 6427 is amended by redesignating subsections (m) through (p) as subsections (n) through (q), respectively, and by inserting after subsection (l) the following new subsection:

“(m) DIESEL FUEL USED TO PRODUCE EMULSION.—

“(1) IN GENERAL.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at the regular tax rate is used by any person in producing an emulsion described in section 4081(a)(2)(D) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

“(2) DEFINITIONS.—For purposes of paragraph (1)—

“(A) REGULAR TAX RATE.—The term ‘regular tax rate’ means the aggregate rate of tax imposed by section 4081 determined without regard to section 4081(a)(2)(D).

“(B) INCENTIVE TAX RATE.—The term ‘incentive tax rate’ means the aggregate rate of tax imposed by section 4081 determined with regard to section 4081(a)(2)(D).”.

(2) LATER SEPARATION OF FUEL.—Section 4081 (relating to imposition of tax) is amended by inserting after subsection (b) the following new subsection:

“(c) LATER SEPARATION OF FUEL FROM DIESEL-WATER FUEL EMULSION.—If any person separates the taxable fuel from a diesel-water fuel emulsion on which tax was imposed under subsection (a) at a rate determined under subsection (a)(2)(D) (or with respect to which a credit or payment was allowed or made by reason of section 6427), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.”.

(3) CREDIT CLAIMS.—Paragraphs (1) and (2) of section 6427(i) are both amended by inserting “(m),” after “(l),”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2006.

SEC. 1344. EXTENSION OF EXCISE TAX PROVISIONS AND INCOME TAX CREDIT FOR BIODIESEL.

(a) IN GENERAL.—Sections 40A(e), 6426(c)(6), and 6427(e)(4)(B) are each amended by striking “2006” and inserting “2008”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1345. SMALL AGRI-BIODIESEL PRODUCER CREDIT.

(a) IN GENERAL.—Subsection (a) of section 40A (relating to biodiesel used as a fuel) is amended to read as follows:

“(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

“(1) the biodiesel mixture credit, plus

“(2) the biodiesel credit, plus

“(3) in the case of an eligible small agri-biodiesel producer, the small agri-biodiesel producer credit.”.

(b) SMALL AGRI-BIODIESEL PRODUCER CREDIT DEFINED.—Section 40A(b) (relating to definition of biodiesel mixture credit and biodiesel credit) is amended by adding at the end the following new paragraph:

“(5) SMALL AGRI-BIODIESEL PRODUCER CREDIT.—

“(A) IN GENERAL.—The small agri-biodiesel producer credit of any eligible small agri-biodiesel producer for any taxable year is 10 cents for each gallon of qualified agri-biodiesel production of such producer.

“(B) QUALIFIED AGRI-BIODIESEL PRODUCTION.—For purposes of this paragraph, the term ‘qualified agri-biodiesel production’ means any agri-biodiesel (determined without regard to the last sentence of subsection (d)(2)) which is produced by an eligible small agri-biodiesel producer, and which during the taxable year—

“(i) is sold by such producer to another person—

“(I) for use by such other person in the production of a qualified biodiesel mixture in such other person's trade or business (other than casual off-farm production),

“(II) for use by such other person as a fuel in a trade or business, or

“(III) who sells such agri-biodiesel at retail to another person and places such agri-biodiesel in the fuel tank of such other person, or

“(ii) is used or sold by such producer for any purpose described in clause (i).

“(C) LIMITATION.—The qualified agri-biodiesel production of any producer for any taxable year shall not exceed 15,000,000 gallons.”.

(c) DEFINITIONS AND SPECIAL RULES.—Section 40A is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) DEFINITIONS AND SPECIAL RULES FOR SMALL AGRI-BIODIESEL PRODUCER CREDIT.—For purposes of this section—

“(1) ELIGIBLE SMALL AGRI-BIODIESEL PRODUCER.—The term ‘eligible small agri-biodiesel producer’ means a person who, at all times during the taxable year, has a productive capacity for agri-biodiesel not in excess of 60,000,000 gallons.

“(2) AGGREGATION RULE.—For purposes of the 15,000,000 gallon limitation under subsection (b)(5)(C) and the 60,000,000 gallon limitation under paragraph (1), all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

“(3) PARTNERSHIP, S CORPORATION, AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, the limitations contained in subsection (b)(5)(C) and paragraph (1) shall be applied at the entity level and at the partner or similar level.

“(4) ALLOCATION.—For purposes of this subsection, in the case of a facility in which more than 1 person has an interest, productive capacity shall be allocated among such persons in such manner as the Secretary may prescribe.

"(5) Regulations.—The Secretary may prescribe such regulations as may be necessary—

"(A) to prevent the credit provided for in subsection (a)(3) from directly or indirectly benefiting any person with a direct or indirect productive capacity of more than 60,000,000 gallons of agri-biodiesel during the taxable year, or

"(B) to prevent any person from directly or indirectly benefiting with respect to more than 15,000,000 gallons during the taxable year.

"(6) Allocation of small agri-biodiesel credit to patrons of cooperative.—

"(A) Election to allocate.—

"(i) In general.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

"(ii) Form and effect of election.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year. Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).

"(B) Treatment of organizations and patrons.—

"(i) Organizations.—The amount of the credit not apportioned to patrons pursuant to subparagraph (A) shall be included in the amount determined under subsection (a)(3) for the taxable year of the organization.

"(ii) Patrons.—The amount of the credit apportioned to patrons pursuant to subparagraph (A) shall be included in the amount determined under such subsection for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

"(iii) Special rules for decrease in credits for taxable year.—If the amount of the credit of the organization determined under such subsection for a taxable year is less than the amount of such credit shown on the return of the organization for such year, an amount equal to the excess of—

"(I) such reduction, over

"(II) the amount not apportioned to such patrons under subparagraph (A) for the taxable year, shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.".

(d) Conforming Amendments.—

(1) Paragraph (4) of section 40A(b) is amended by striking "this section" and inserting "paragraph (1) or (2) of subsection (a)".

(2) The heading of subsection (b) of section 40A is amended by striking "and Biodiesel Credit" and inserting ", Biodiesel Credit, and Small Agri-biodiesel Producer Credit".

(3) Paragraph (3) of section 40A(d) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) Producer credit.—If—

"(i) any credit was determined under subsection (a)(3), and

"(ii) any person does not use such fuel for a purpose described in subsection (b)(5)(B), then there is hereby imposed on such person a tax equal to 10 cents a gallon for each gallon of such agri-biodiesel.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 1346. RENEWABLE DIESEL.

(a) In General.—Section 40A (relating to biodiesel used as fuel), as amended by this Act, is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Renewable Diesel.—For purposes of this title—

"(1) Treatment in the same manner as biodiesel.—Except as provided in paragraph (2), renewable diesel shall be treated in the same manner as biodiesel.

"(2) Exceptions.—

"(A) Rate of credit.—Subsections (b)(1)(A) and (b)(2)(A) shall be applied with respect to renewable diesel by substituting '$1.00' for '50 cents'.

"(B) Nonapplication of certain credits.—Subsections (b)(3) and (b)(5) shall not apply with respect to renewable diesel.

"(3) Renewable diesel defined.—The term 'renewable diesel' means diesel fuel derived from biomass (as defined in section 45K(c)(3)) using a thermal depolymerization process which meets—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D975 or D396.".

(b) Clerical Amendments.—

(1) The heading for section 40A is amended by inserting "**and RENEWABLE diesel**" after "**BIODIESEL**".

(2) The item in the table of contents for subpart D of part IV of subchapter A of chapter 1 relating to section 40A is amended to read as follows:

"Sec. 40A. Biodiesel and renewable diesel used as fuel.".

(c) Effective Date.—The amendment made by subsection (a) shall apply with respect to fuel sold or used after December 31, 2005.

SEC. 1347. MODIFICATION OF SMALL ETHANOL PRODUCER CREDIT.

(a) Definition of Small Ethanol Producer.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking "30,000,000" each place it appears and inserting "60,000,000".

(b) Written Notice of Election to Allocate Credit to Patrons.—Section 40(g)(6)(A)(ii) (relating to form and effect of election) is amended by adding at the end the following new sentence: "Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).".

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 1348. SUNSET OF DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

Subsection (f) of section 179A (relating to termination) is amended by striking "December 31, 2006" and inserting "December 31, 2005".

Subtitle E—Additional Energy Tax Incentives

SEC. 1351. EXPANSION OF RESEARCH CREDIT.

(a) Credit for Expenses Attributable to Certain Collaborative Energy Research Consortia.—

(1) In general.—Section 41(a) (relating to credit for increasing research activities) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to an energy research consortium.".

(2) Energy research consortium defined.—Section 41(f) (relating to special rules) is amended by adding at the end the following new paragraph:

"(6) Energy research consortium.—

"(A) In general.—The term 'energy research consortium' means any organization—

"(i) which is—

"(I) described in section 501(c)(3) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct energy research, or

"(II) organized and operated primarily to conduct energy research in the public interest (within the meaning of section 501(c)(3)),

"(ii) which is not a private foundation,

"(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for energy research, and

"(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for energy research.

"(B) Treatment of persons.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (A)(iii) and as a single person for purposes of subparagraph (A)(iv).".

(3) Conforming amendment.—Section 41(b)(3)(C) is amended by inserting "(other than an energy research consortium)" after "organization".

(b) Repeal of Limitation on Contract Research Expenses Paid to Small Businesses, Universities, and Federal Laboratories.—Section 41(b)(3) (relating to contract research expenses) is amended by adding at the end the following new subparagraph:

"(D) Amounts paid to eligible small businesses, universities, and federal laboratories.—

"(i) In general.—In the case of amounts paid by the taxpayer to—

"(I) an eligible small business,

"(II) an institution of higher education (as defined in section 3304(f)), or

"(III) an organization which is a Federal laboratory,

for qualified research which is energy research, subparagraph (A) shall be applied by substituting '100 percent' for '65 percent'.

"(ii) Eligible small business.—For purposes of this subparagraph, the term 'eligible small business' means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

"(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

"(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

"(iii) Small business.—For purposes of this subparagraph—

"(I) In general.—The term 'small business' means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

''(II) STARTUPS, CONTROLLED GROUPS, AND PREDECESSORS.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.

''(iv) FEDERAL LABORATORY.—For purposes of this subparagraph, the term 'Federal laboratory' has the meaning given such term by section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2005.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1352. NATIONAL ACADEMY OF SCIENCES STUDY AND REPORT.

(a) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall enter into an agreement with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study to define and evaluate the health, environmental, security, and infrastructure external costs and benefits associated with the production and consumption of energy that are not or may not be fully incorporated into the market price of such energy, or into the Federal tax or fee or other applicable revenue measure related to such production or consumption.

(b) REPORT.—Not later than 2 years after the date on which the agreement under subsection (a) is entered into, the National Academy of Sciences shall submit to Congress a report on the study conducted under subsection (a).

SEC. 1353. RECYCLING STUDY.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Energy, shall conduct a study—

(1) to determine and quantify the energy savings achieved through the recycling of glass, paper, plastic, steel, aluminum, and electronic devices, and

(2) to identify tax incentives which would encourage recycling of such material.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on the study conducted under subsection (a).

Subtitle F—Revenue Raising Provisions

SEC. 1361. OIL SPILL LIABILITY TRUST FUND FINANCING RATE.

Section 4611(f) (relating to application of oil spill liability trust fund financing rate) is amended to read as follows:

''(f) APPLICATION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply on and after April 1, 2006, or if later, the date which is 30 days after the last day of any calendar quarter for which the Secretary estimates that, as of the close of that quarter, the unobligated balance in the Oil Spill Liability Trust Fund is less than $2,000,000,000.

''(2) FUND BALANCE.—The Oil Spill Liability Trust Fund financing rate shall not apply during a calendar quarter if the Secretary estimates that, as of the close of the preceding calendar quarter, the unobligated balance in the Oil Spill Liability Trust Fund exceeds $2,700,000,000.

''(3) TERMINATION.—The Oil Spill Liability Trust Fund financing rate shall not apply after December 31, 2014.''.

SEC. 1362. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.

(a) IN GENERAL.—Paragraph (3) of section 4081(d) (relating to Leaking Underground Storage Tank Trust Fund financing rate) is amended by striking ''2005'' and inserting ''2011''.

(b) NO EXEMPTIONS FROM TAX EXCEPT FOR EXPORTS.—

(1) IN GENERAL.—Section 4082(a) (relating to exemptions for diesel fuel and kerosene) is amended by inserting ''(other than such tax at the Leaking Underground Storage Tank Trust Fund financing rate imposed in all cases other than for export)'' after ''section 4081''.

(2) AMENDMENTS RELATING TO SECTION 4041.—

(A) Subsections (a)(1)(B), (a)(2)(A), and (c)(2) of section 4041 are each amended by inserting ''(other than such tax at the Leaking Underground Storage Tank Trust Fund financing rate)'' after ''section 4081''.

(B) Section 4041(b)(1)(A) is amended by striking ''or (d)(1))''.

(C) Section 4041(d) is amended by adding at the end the following new paragraph:

''(5) NONAPPLICATION OF EXEMPTIONS OTHER THAN FOR EXPORTS.—For purposes of this section, the tax imposed under this subsection shall be determined without regard to subsections (f), (g) (other than with respect to any sale for export under paragraph (3) thereof), (h), and (l).''.

(3) NO REFUND.—

(A) IN GENERAL.—Subchapter B of chapter 65 is amended by adding at the end the following new section:

"SEC. 6430. TREATMENT OF TAX IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.

''No refunds, credits, or payments shall be made under this subchapter for any tax imposed at the Leaking Underground Storage Tank Trust Fund financing rate, except in the case of fuels destined for export.''.

(B) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end the following new item:

''Sec. 6430. Treatment of tax imposed at Leaking Underground Storage Tank Trust Fund financing rate.''.

(c) CERTAIN REFUNDS AND CREDITS NOT CHARGED TO LUST TRUST FUND.—Subsection (c) of section 9508 (relating to Leaking Underground Storage Tank Trust Fund) is amended to read as follows:

''(c) EXPENDITURES.—Amounts in the Leaking Underground Storage Tank Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out section 9003(h) of the Solid Waste Disposal Act as in effect on the date of the enactment of the Superfund Amendments and Reauthorization Act of 1986.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on October 1, 2005.

(2) NO EXEMPTION.—The amendments made by subsection (b) shall apply to fuel entered, removed, or sold after September 30, 2005.

SEC. 1363. MODIFICATION OF RECAPTURE RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES.

(a) IN GENERAL.—Subsection (b) of section 1245 (relating to gain from dispositions of certain depreciable property) is amended by adding at the end the following new paragraph:

''(9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.—

''(A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable 197 intangibles shall be treated as 1 section 1245 property for purposes of this section.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any amortizable section 197 intangible (as so defined) with respect to which the adjusted basis exceeds the fair market value.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions of property after the date of the enactment of this Act.

SEC. 1364. CLARIFICATION OF TIRE EXCISE TAX.

(a) IN GENERAL.—Section 4072(e) (defining super single tire) is amended by adding at the end the following: ''Such term shall not include any tire designed for steering.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 869 of the American Jobs Creation Act of 2004.

(c) STUDY.—

(1) IN GENERAL.—With respect to the 1-year period beginning on January 1, 2006, the Secretary of the Treasury shall conduct a study to determine—

(A) the amount of tax collected during such period under section 4071 of the Internal Revenue Code of 1986 with respect to each class of tire, and

(B) the number of tires in each such class on which tax is imposed under such section during such period.

(2) REPORT.—Not later than July 1, 2007, the Secretary of the Treasury shall submit to Congress a report on the study conducted under paragraph (1).

TITLE XIV—MISCELLANEOUS

Subtitle A—In General

SEC. 1401. SENSE OF CONGRESS ON RISK ASSESSMENTS.

Subtitle B of title XXX of the Energy Policy Act of 1992 is amended by adding at the end the following new section:

"SEC. 3022. SENSE OF CONGRESS ON RISK ASSESSMENTS.

''It is the sense of Congress that Federal agencies conducting assessments of risks to human health and the environment from energy technology, production, transport, transmission, distribution, storage, use, or conservation activities shall use sound and objective scientific practices in assessing such risks, shall consider the best available science (including peer reviewed studies), and shall include a description of the weight of the scientific evidence concerning such risks.''.

SEC. 1402. ENERGY PRODUCTION INCENTIVES.

(a) IN GENERAL.—A State may provide to any entity—

(1) a credit against any tax or fee owed to the State under a State law, or

(2) any other tax incentive,

determined by the State to be appropriate, in the amount calculated under and in accordance with a formula determined by the State, for production described in subsection (b) in the State by the entity that receives such credit or such incentive.

(b) ELIGIBLE ENTITIES.—Subsection (a) shall apply with respect to the production in the State of electricity from coal mined in the State and used in a facility, if such production meets all applicable Federal and State laws and if such facility uses scrubbers or other forms of clean coal technology.

(c) EFFECT ON INTERSTATE COMMERCE.—Any action taken by a State in accordance with this section with respect to a tax or fee payable, or incentive applicable, for any period beginning after the date of the enactment of this Act shall—

(1) be considered to be a reasonable regulation of commerce; and

(2) not be considered to impose an undue burden on interstate commerce or to otherwise impair, restrain, or discriminate, against interstate commerce.

SEC. 1403. REGULATION OF CERTAIN OIL USED IN TRANSFORMERS.

Notwithstanding any other provision of law, or rule promulgated by the Environmental Protection Agency, vegetable oil made from soybeans and used in electric transformers as thermal insulation shall not be regulated as an oil identified under section 2(a)(1)(B) of the Edible Oil Regulatory Reform Act (33 U.S.C. 2720(a)(1)(B)).

SEC. 1404. PETROCHEMICAL AND OIL REFINERY FACILITY HEALTH ASSESSMENT.

(a) ESTABLISHMENT.—The Secretary shall conduct a study of direct and significant health impacts to persons resulting from living in proximity to petrochemical and oil refinery facilities. The Secretary shall consult with the Director of the National Cancer Institute and other Federal Government bodies with expertise in the field it deems appropriate in the design of such study. The study shall be conducted according to sound and objective scientific practices and present the weight of the scientific evidence. The Secretary shall obtain scientific peer review of the draft study.

(b) REPORT TO CONGRESS.—The Secretary shall transmit the results of the study to Congress within 6 months of the enactment of this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for activities under this section such sums as are necessary for the completion of the study.

SEC. 1405. NATIONAL PRIORITY PROJECT DESIGNATION.

(a) DESIGNATION OF NATIONAL PRIORITY PROJECTS.—

(1) IN GENERAL.—There is established the National Priority Project Designation (referred to in this section as the "Designation"), which shall be evidenced by a medal bearing the inscription "National Priority Project".

(2) DESIGN AND MATERIALS.—The medal shall be of such design and materials and bear such additional inscriptions as the President may prescribe.

(b) MAKING AND PRESENTATION OF DESIGNATION.—

(1) IN GENERAL.—The President, on the basis of recommendations made by the Secretary, shall annually designate organizations that have—

(A) advanced the field of renewable energy technology and contributed to North American energy independence; and

(B) been certified by the Secretary under subsection (e).

(2) PRESENTATION.—The President shall designate projects with such ceremonies as the President may prescribe.

(3) USE OF DESIGNATION.—An organization that receives a Designation under this section may publicize the Designation of the organization as a National Priority Project in advertising.

(4) CATEGORIES IN WHICH THE DESIGNATION MAY BE GIVEN.—Separate Designations shall be made to qualifying projects in each of the following categories:

(A) Wind and biomass energy generation projects.

(B) Photovoltaic and fuel cell energy generation projects.

(C) Energy efficient building and renewable energy projects.

(D) First-in-Class projects.

(c) SELECTION CRITERIA.—

(1) IN GENERAL.—Certification and selection of the projects to receive the Designation shall be based on criteria established under this subsection.

(2) WIND, BIOMASS, AND BUILDING PROJECTS.—In the case of a wind, biomass, or building project, the project shall demonstrate that the project will install not less than 30 megawatts of renewable energy generation capacity.

(3) SOLAR PHOTOVOLTAIC AND FUEL CELL PROJECTS.—In the case of a solar photovoltaic or fuel cell project, the project shall demonstrate that the project will install not less than 3 megawatts of renewable energy generation capacity.

(4) ENERGY EFFICIENT BUILDING AND RENEWABLE ENERGY PROJECTS.—In the case of an energy efficient building or renewable energy project, in addition to meeting the criteria established under paragraph (2), each building project shall demonstrate that the project will—

(A) comply with third-party certification standards for high-performance, sustainable buildings;

(B) use whole-building integration of energy efficiency and environmental performance design and technology, including advanced building controls;

(C) use renewable energy for at least 50 percent of the energy consumption of the project;

(D) comply with applicable Energy Star standards; and

(E) include at least 5,000,000 square feet of enclosed space.

(5) FIRST-IN-CLASS USE.—Notwithstanding paragraphs (2) through (4), a new building project may qualify under this section if the Secretary determines that the project—

(A) represents a First-In-Class use of renewable energy; or

(B) otherwise establishes a new paradigm of building integrated renewable energy use or energy efficiency.

(d) APPLICATION.—

(1) INITIAL APPLICATIONS.—No later than 120 days after the date of enactment of this Act, and annually thereafter, the Secretary shall publish in the Federal Register an invitation and guidelines for submitting applications, consistent with this section.

(2) CONTENTS.—The application shall describe the project, or planned project, and the plans to meet the criteria established under subsection (c).

(e) CERTIFICATION.—

(1) IN GENERAL.—Not later than 60 days after the application period described in subsection (d), and annually thereafter, the Secretary shall certify projects that are reasonably expected to meet the criteria established under subsection (c).

(2) CERTIFIED PROJECTS.—The Secretary shall designate personnel of the Department to work with persons carrying out each certified project and ensure that the personnel—

(A) provide each certified project with guidance in meeting the criteria established under subsection (c);

(B) identify programs of the Department, including National Laboratories and Technology Centers, that will assist each project in meeting the criteria established under subsection (c); and

(C) ensure that knowledge and transfer of the most current technology between the applicable resources of the Federal Government (including the National Laboratories and Technology Centers, the Department, and the Environmental Protection Agency) and the certified projects is being facilitated to accelerate commercialization of work developed through those resources.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2006 through 2010.

SEC. 1406. COLD CRACKING.

(a) STUDY.—The Secretary shall conduct a study of the application of radiation to petroleum at standard temperature and pressure to refine petroleum products, whose objective shall be to increase the economic yield from each barrel of oil.

(b) GOALS.—The goals of the study shall include—

(1) increasing the value of our current oil supply;

(2) reducing the capital investment cost for cracking oil;

(3) reducing the operating energy cost for cracking oil; and

(4) reducing sulfur content using an environmentally responsible method.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $250,000 for fiscal year 2006.

SEC. 1407. OXYGEN-FUEL.

(a) PROGRAM.—The Secretary shall establish a program on oxygen-fuel systems. If feasible, the program shall include renovation of at least one existing large unit and one existing small unit, and construction of one new large unit and one new small unit.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section—

(1) $100,000,000 for fiscal year 2006;

(2) $100,000,000 for fiscal year 2007; and

(3) $100,000,000 for fiscal year 2008.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "large unit" means a unit with a generating capacity of 100 megawatts or more;

(2) the term "oxygen-fuel systems" means systems that utilize fuel efficiency benefits of oil, gas, coal, and biomass combustion using substantially pure oxygen, with high flame temperatures and the exclusion of air from the boiler, in industrial or electric utility steam generating units; and

(3) the term "small unit" means a unit with a generating capacity in the 10-50 megawatt range.

Subtitle B—Set America Free

SEC. 1421. SHORT TITLE.

This subtitle may be cited as the "Set America Free Act of 2005" or the "SAFE Act".

SEC. 1422. PURPOSE.

The purpose of this subtitle is to establish a United States commission to make recommendations for a coordinated and comprehensive North American energy policy that will achieve energy self-sufficiency by 2025 within the three contiguous North American nation area of Canada, Mexico, and the United States.

SEC. 1423. UNITED STATES COMMISSION ON NORTH AMERICAN ENERGY FREEDOM.

(a) ESTABLISHMENT.—There is hereby established the United States Commission on North American Energy Freedom (in this subtitle referred to as the "Commission"). The Federal Advisory Committee Act (5 U.S.C. App.), except sections 3, 7, and 12, does not apply to the Commission.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 16 members appointed by the President from among individuals described in paragraph (2) who are knowledgeable on energy issues, including oil and gas exploration and production, crude oil refining, oil and gas pipelines, electricity production and transmission, coal, unconventional hydrocarbon resources, fuel cells, motor vehicle power systems, nuclear energy, renewable energy, biofuels, energy efficiency, and energy conservation. The membership of the Commission shall be balanced by area of expertise to the extent consistent with maintaining the highest level of expertise on the Commission. Members of the Commission may be citizens of Canada, Mexico, or the United States, and the President shall ensure that citizens of all three nations are appointed to the Commission.

(2) NOMINATIONS.—The President shall appoint the members of the Commission within 60 days after the effective date of this Act, including individuals nominated as follows:

(A) Four members shall be appointed from amongst individuals independently determined by the President to be qualified for appointment.

(B) Four members shall be appointed from a list of eight individuals who shall be nominated by the majority leader of the Senate in consultation with the chairman of the Committee on Energy and Natural Resources of the Senate.

(C) Four members shall be appointed from a list of eight individuals who shall be nominated by the Speaker of the House of Representatives in consultation with the chairmen of the Committees on Energy and Commerce and Resources of the House of Representatives.

(D) Two members shall be appointed from a list of four individuals who shall be nominated by the minority leader of the Senate in consultation with the ranking Member of the Committee on Energy and Natural Resources of the Senate.

(E) Two members shall be appointed from a list of four individuals who shall be nominated by the minority leader of the House in consultation with the ranking Members of the Committees on Energy and Commerce and Resources of the House of Representatives.

(3) Chairman.—The chairman of the Commission shall be selected by the President. The chairman of the Commission shall be responsible for—

(A) the assignment of duties and responsibilities among staff personnel and their continuing supervision; and

(B) the use and expenditure of funds available to the Commission.

(4) Vacancies.—Any vacancy on the Commission shall be filled in the same manner as the original incumbent was appointed.

(c) Resources.—In carrying out its functions under this section, the Commission—

(1) is authorized to secure directly from any Federal agency or department any information it deems necessary to carry out its functions under this Act, and each such agency or department is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information (other than information described in section 552(b)(1)(A) of title 5, United States Code) to the Commission, upon the request of the Commission;

(2) may enter into contracts, subject to the availability of appropriations for contracting, and employ such staff experts and consultants as may be necessary to carry out the duties of the Commission, as provided by section 3109 of title 5, United States Code; and

(3) shall establish a multidisciplinary science and technical advisory panel of experts in the field of energy to assist the Commission in preparing its report, including ensuring that the scientific and technical information considered by the Commission is based on the best scientific and technical information available.

(d) Staffing.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary for the Commission to perform its duties. The executive director shall be compensated at a rate not to exceed the rate payable for Level IV of the Executive Schedule under chapter 5136 of title 5, United States Code. The chairman shall select staff from among qualified citizens of Canada, Mexico, and the United States of America.

(e) Meetings.—

(1) Administration.—All meetings of the Commission shall be open to the public, except that a meeting or any portion of it may be closed to the public if it concerns matters or information described in section 552b(c) of title 5, United States Code. Interested persons shall be permitted to appear at open meetings and present oral or written statements on the subject matter of the meeting. The Commission may administer oaths or affirmations to any person appearing before it.

(2) Notice; minutes; public availability of documents.—

(A) Notice.—All open meetings of the Commission shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(B) Minutes.—Minutes of each meeting shall be kept and shall contain a record of the people present, a description of the discussion that occurred, and copies of all statements filed. Subject to section 552 of title 5, United States Code, the minutes and records of all meetings and other documents that were made available to or prepared for the Commission shall be available for public inspection and copying at a single location in the offices of the Commission.

(3) Initial meeting.—The Commission shall hold its first meeting within 30 days after all 16 members have been appointed.

(f) Report.—Within 12 months after the effective date of this Act, the Commission shall submit to Congress and the President a final report of its findings and recommendations regarding North American energy freedom.

(g) Administrative Procedure for Report and Review.—Chapter 5 and chapter 7 of title 5, United States Code, do not apply to the preparation, review, or submission of the report required by subsection (f).

(h) Termination.—The Commission shall cease to exist 90 days after the date on which it submits its final report.

(i) Authorization of Appropriations.—There is authorized to be appropriated to carry out this chapter a total of $10,000,000 for the 2 fiscal-year period beginning with fiscal year 2005, such sums to remain available until expended.

SEC. 1424. NORTH AMERICAN ENERGY FREEDOM POLICY.

Within 90 days after receiving and considering the report and recommendations of the Commission under section 1423, the President shall submit to Congress a statement of proposals to implement or respond to the Commission's recommendations for a coordinated, comprehensive, and long-range national policy to achieve North American energy freedom by 2025.

TITLE XV—ETHANOL AND MOTOR FUELS

Subtitle A—General Provisions

SEC. 1501. RENEWABLE CONTENT OF GASOLINE.

(a) In General.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (r); and

(2) by inserting after subsection (n) the following:

"(o) Renewable Fuel Program.—

"(1) Definitions.—In this section:

"(A) Cellulosic biomass ethanol.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

"(i) dedicated energy crops and trees;

"(ii) wood and wood residues;

"(iii) plants;

"(iv) grasses;

"(v) agricultural residues;

"(vi) fibers;

"(vii) animal wastes and other waste materials; and

"(viii) municipal solid waste.

The term also includes any ethanol produced in facilities where animal wastes or other waste materials are digested or otherwise used to displace 90 percent or more of the fossil fuel normally used in the production of ethanol.

"(B) Waste derived ethanol.—The term 'waste derived ethanol' means ethanol derived from—

"(i) animal wastes, including poultry fats and poultry wastes, and other waste materials; or

"(ii) municipal solid waste.

"(C) Renewable fuel.—

"(i) In general.—The term 'renewable fuel' means motor vehicle fuel that—

"(I)(aa) is produced from grain, starch, oilseeds, vegetable, animal, or fish materials including fats, greases, and oils, sugarcane, sugar beets, sugar components, tobacco, potatoes, or other biomass; or

"(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

"(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

"(ii) Inclusion.—The term 'renewable fuel' includes—

"(I) cellulosic biomass ethanol and 'waste derived ethanol'; and

"(II) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f))) and any blending components derived from renewable fuel (provided that only the renewable fuel portion of any such blending component shall be considered part of the applicable volume under the renewable fuel program established by this subsection).

"(D) Small refinery.—The term 'small refinery' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

"(2) Renewable fuel program.—

"(A) Regulations.—

"(i) In general.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (B).

"(ii) Noncontiguous state opt-in.—

"(I) In general.—On the petition of a noncontiguous State or territory, the Administrator may allow the renewable fuel program established under this subsection to apply in the noncontiguous State or territory at the same time or any time after the Administrator promulgates regulations under this subparagraph.

"(II) Other actions.—In carrying out this clause, the Administrator may—

"(aa) issue or revise regulations under this paragraph;

"(bb) establish applicable percentages under paragraph (3);

"(cc) provide for the generation of credits under paragraph (5); and

"(dd) take such other actions as are necessary to allow for the application of the renewable fuels program in a noncontiguous State or territory.

"(iii) Provisions of regulations.—Regardless of the date of promulgation, the regulations promulgated under clause (i)—

"(I) shall contain compliance provisions applicable to refineries, blenders, distributors, and importers, as appropriate, to ensure that the requirements of this paragraph are met; but

"(II) shall not—

"(aa) restrict geographic areas in which renewable fuel may be used; or

"(bb) impose any per-gallon obligation for the use of renewable fuel.

"(iv) Requirement in case of failure to promulgate regulations.—If the Administrator does not promulgate regulations under clause (i), the percentage of renewable fuel in gasoline sold or dispensed to consumers in the United States, on a volume basis, shall be 2.78 percent for calendar year 2006.

"(B) Applicable volume.—

"(i) CALENDAR YEARS 2006 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2006 through 2012 shall be determined in accordance with the following table:

"Calendar year:	***Applicable volume of renewable fuel (in billions of gallons):***
2006	*4.0*
2007	*4.7*
2008	*5.4*
2009	*6.1*
2010	*6.8*
2011	*7.4*
2012	*7.5.*

"(ii) CALENDAR YEAR 2013 AND THEREAFTER.—Subject to clauses (iii) and (iv), for the purposes of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be determined by the Administrator, in coordination with the Secretary of Agriculture and the Secretary of Energy, based on a review of the implementation of the program during calendar years 2006 through 2012, including a review of—

"(I) the impact of the use of renewable fuels on the environment, air quality, energy security, job creation, and rural economic development; and

"(II) the expected annual rate of future production of renewable fuels, including cellulosic ethanol.

"(iii) MINIMUM QUANTITY DERIVED FROM CELLULOSIC BIOMASS.—For calendar year 2013 and each calendar year thereafter—

"(I) the applicable volume referred to in clause (ii) shall contain a minimum of 250,000,000 gallons that are derived from cellulosic biomass; and

"(II) the 2.5-to-1 ratio referred to in paragraph (4) shall not apply.

"(iv) MINIMUM APPLICABLE VOLUME.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

"(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

"(II) the ratio that—

"(aa) 7,500,000,000 gallons of renewable fuel; bears to

"(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

"(3) APPLICABLE PERCENTAGES.—

"(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2005 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate, with respect to the following calendar year, of the volumes of gasoline projected to be sold or introduced into commerce in the United States.

"(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

"(i) IN GENERAL.—Not later than November 30 of each of calendar years 2005 through 2012, based on the estimate provided under subparagraph (A), the Administrator of the Environmental Protection Agency shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements of paragraph (2) are met.

"(ii) REQUIRED ELEMENTS.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

"(I) be applicable to refineries, blenders, and importers, as appropriate;

"(II) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce in the United States; and

"(III) subject to subparagraph (C)(i), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

"(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments—

"(i) to prevent the imposition of redundant obligations on any person specified in subparagraph (B)(ii)(I); and

"(ii) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (9).

"(4) CELLULOSIC BIOMASS ETHANOL OR WASTE DERIVED ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol or waste derived ethanol shall be considered to be the equivalent of 2.5 gallons of renewable fuel.

"(5) CREDIT PROGRAM.—

"(A) IN GENERAL.—The regulations promulgated under paragraph (2)(A) shall provide—

"(i) for the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2);

"(ii) for the generation of an appropriate amount of credits for biodiesel; and

"(iii) for the generation of credits by small refineries in accordance with paragraph (9)(C).

"(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

"(C) DURATION OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance for the 12 months as of the date of generation.

"(D) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—The regulations promulgated under paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements of paragraph (2) to carry forward a renewable fuel deficit on condition that the person, in the calendar year following the year in which the renewable fuel deficit is created—

"(i) achieves compliance with the renewable fuel requirement under paragraph (2); and

"(ii) generates or purchases additional renewable fuel credits to offset the renewable fuel deficit of the previous year.

"(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

"(A) STUDY.—For each of calendar years 2006 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuel blending to determine whether there are excessive seasonal variations in the use of renewable fuel.

"(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator of the Environmental Protection Agency shall promulgate regulations to ensure that 25 percent or more of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) is used during each of the 2 periods specified in subparagraph (D) of each subsequent calendar year.

"(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

"(i) less than 25 percent of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) has been used during 1 of the 2 periods specified in subparagraph (D) of the calendar year;

"(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years; and

"(iii) promulgating regulations or other requirements to impose a 25 percent or more seasonal use of renewable fuels will not prevent or interfere with the attainment of national ambient air quality standards or significantly increase the price of motor fuels to the consumer.

"(D) PERIODS.—The 2 periods referred to in this paragraph are—

"(i) April through September; and

"(ii) January through March and October through December.

"(E) EXCLUSION.—Renewable fuel blended or consumed in calendar year 2006 in a State that has received a waiver under section 209(b) shall not be included in the study under subparagraph (A).

"(F) STATE EXEMPTION FROM SEASONALITY REQUIREMENTS.—Notwithstanding any other provision of law, the seasonality requirement relating to renewable fuel use established by this paragraph shall not apply to any State that has received a waiver under section 209(b) or any State dependent on refineries in such State for gasoline supplies.

"(7) WAIVERS.—

"(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under paragraph (2)—

"(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

"(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply.

"(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirements of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

"(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

"(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary of Energy shall conduct for the Administrator a study assessing whether the renewable fuel requirement under paragraph (2) will likely result in significant adverse impacts on consumers in 2006, on a national, regional, or State basis.

"(B) REQUIRED EVALUATIONS.—The study shall evaluate renewable fuel—

"(i) supplies and prices;

"(ii) blendstock supplies; and

"(iii) supply and distribution system capabilities.

"(C) RECOMMENDATIONS BY THE SECRETARY.—Based on the results of the study, the Secretary of Energy shall make specific recommendations to the Administrator concerning waiver of the requirements of paragraph (2), in whole or in part, to prevent any adverse impacts described in subparagraph (A).

"(D) WAIVER.—

"(i) IN GENERAL.—Not later than 270 days after the date of enactment of this paragraph, the Administrator shall, if and to the extent recommended by the Secretary of Energy under subparagraph (C), waive, in whole or in part, the renewable fuel requirement under paragraph (2) by reducing the national quantity of

renewable fuel required under paragraph (2) in calendar year 2006.

"(ii) NO EFFECT ON WAIVER AUTHORITY.—Clause (i) does not limit the authority of the Administrator to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7).

"(9) SMALL REFINERIES.—

"(A) TEMPORARY EXEMPTION.—

"(i) IN GENERAL.—The requirements of paragraph (2) shall not apply to small refineries until calendar year 2011.

"(ii) EXTENSION OF EXEMPTION.—

"(I) STUDY BY SECRETARY OF ENERGY.—Not later than December 31, 2008, the Secretary of Energy shall conduct for the Administrator a study to determine whether compliance with the requirements of paragraph (2) would impose a disproportionate economic hardship on small refineries.

"(II) EXTENSION OF EXEMPTION.—In the case of a small refinery that the Secretary of Energy determines under subclause (I) would be subject to a disproportionate economic hardship if required to comply with paragraph (2), the Administrator shall extend the exemption under clause (i) for the small refinery for a period of not less than 2 additional years.

"(B) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

"(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption under subparagraph (A) for the reason of disproportionate economic hardship.

"(ii) EVALUATION OF PETITIONS.—In evaluating a petition under clause (i), the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study under subparagraph (A)(ii) and other economic factors.

"(iii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

"(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A), the regulations promulgated under paragraph (2)(A) shall provide for the generation of credits by the small refinery under paragraph (5) beginning in the calendar year following the date of notification.

"(D) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of paragraph (2) if the small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A).

"(10) ETHANOL MARKET CONCENTRATION ANALYSIS.—

"(A) ANALYSIS.—

"(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, and annually thereafter, the Federal Trade Commission shall perform a market concentration analysis of the ethanol production industry using the Herfindahl-Hirschman Index to determine whether there is sufficient competition among industry participants to avoid price-setting and other anticompetitive behavior.

"(ii) SCORING.—For the purpose of scoring under clause (i) using the Herfindahl-Hirschman Index, all marketing arrangements among industry participants shall be considered.

"(B) REPORT.—Not later than December 1, 2005, and annually thereafter, the Federal Trade Commission shall submit to Congress and the Administrator a report on the results of the market concentration analysis performed under subparagraph (A)(i).".

(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking "or (n)" each place it appears and inserting "(n), or (o)"; and

(B) in the second sentence, by striking "or (m)" and inserting "(m), or (o)"; and

(2) in the first sentence of paragraph (2), by striking "and (n)" each place it appears and inserting "(n), and (o)".

(c) EXCLUSION FROM ETHANOL WAIVER.—Section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

"(5) EXCLUSION FROM ETHANOL WAIVER.—

"(A) PROMULGATION OF REGULATIONS.—Upon notification, accompanied by supporting documentation, from the Governor of a State that the Reid vapor pressure limitation established by paragraph (4) will increase emissions that contribute to air pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of the Reid vapor pressure limitation established by paragraph (4), the Reid vapor pressure limitation established by paragraph (1) to all fuel blends containing gasoline and 10 percent denatured anhydrous ethanol that are sold, offered for sale, dispensed, supplied, offered for supply, transported, or introduced into commerce in the area during the high ozone season.

"(B) DEADLINE FOR PROMULGATION.—The Administrator shall promulgate regulations under subparagraph (A) not later than 90 days after the date of receipt of a notification from a Governor under that subparagraph.

"(C) EFFECTIVE DATE.—

"(i) IN GENERAL.—With respect to an area in a State for which the Governor submits a notification under subparagraph (A), the regulations under that subparagraph shall take effect on the later of—

"(I) the first day of the first high ozone season for the area that begins after the date of receipt of the notification; or

"(II) 1 year after the date of receipt of the notification.

"(ii) EXTENSION OF EFFECTIVE DATE BASED ON DETERMINATION OF INSUFFICIENT SUPPLY.—

"(I) IN GENERAL.—If, after receipt of a notification with respect to an area from a Governor of a State under subparagraph (A), the Administrator determines, on the Administrator's own motion or on petition of any person and after consultation with the Secretary of Energy, that the promulgation of regulations described in subparagraph (A) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation—

"(aa) shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and

"(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

"(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.".

(d) SURVEY OF RENEWABLE FUEL MARKET.—

(1) SURVEY AND REPORT.—Not later than December 1, 2006, and annually thereafter, the Administrator of the Environmental Protection Agency (in consultation with the Secretary acting through the Administrator of the Energy Information Administration) shall—

(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

(i) conventional gasoline containing ethanol;

(ii) reformulated gasoline containing ethanol;

(iii) conventional gasoline containing renewable fuel; and

(iv) reformulated gasoline containing renewable fuel; and

(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—The Administrator of the Environmental Protection Agency (hereinafter in this subsection referred to as the "Administrator") may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate. The Administrator, to avoid duplicative requirements, shall rely, to the extent practicable, on existing reporting and recordkeeping requirements and other information available to the Administrator including gasoline distribution patterns that include multistate use areas.

(3) APPLICABLE LAW.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

SEC. 1502. FINDINGS.

Congress finds that—

(1) since 1979, methyl tertiary butyl ether (hereinafter in this section referred to as "MTBE") has been used nationwide at low levels in gasoline to replace lead as an octane booster or anti-knocking agent;

(2) Public Law 101-549 (commonly known as the "Clean Air Act Amendments of 1990") (42 U.S.C. 7401 et seq.) established a fuel oxygenate standard under which reformulated gasoline must contain at least 2 percent oxygen by weight; and

(3) the fuel industry responded to the fuel oxygenate standard established by Public Law 101-549 by making substantial investments in—

(A) MTBE production capacity; and

(B) systems to deliver MTBE-containing gasoline to the marketplace.

SEC. 1503. CLAIMS FILED AFTER ENACTMENT.

Claims and legal actions filed after the date of enactment of this Act related to allegations involving actual or threatened contamination of methyl tertiary butyl ether (MTBE) may be removed to the appropriate United States district court.

SEC. 1504. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) ELIMINATION.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking "(including the oxygen content requirement contained in subparagraph (B))";

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(B) in paragraph (3)(A), by striking clause (v); and

(C) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) by redesignating clause (iii) as clause (ii).

(2) APPLICABILITY.—The amendments made by paragraph (1) apply—

(A) in the case of a State that has received a waiver under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)), beginning on the date of enactment of this Act; and

(B) in the case of any other State, beginning 270 days after the date of enactment of this Act.

(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking "Within 1 year after the enactment of the Clean Air Act Amendments of 1990," and inserting the following:

"(A) IN GENERAL.—Not later than November 15, 1991,"; and

(2) by adding at the end the following:

"(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM REFORMULATED GASOLINE.—

"(i) DEFINITION OF PADD.—In this subparagraph the term 'PADD' means a Petroleum Administration for Defense District.

"(ii) REGULATIONS CONCERNING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall establish by regulation, for each refinery or importer (other than a refiner or importer in a State that has received a waiver under section 209(b) with respect to gasoline produced for use in that State), standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refiner or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refiner or importer during calendar years 2001 and 2002 (as determined on the basis of data collected by the Administrator with respect to the refiner or importer).

"(iii) STANDARDS APPLICABLE TO SPECIFIC REFINERIES OR IMPORTERS.—

"(I) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refiner or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refiner or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refiner or importer during calendar years 2001 and 2002.

"(II) APPLICABILITY OF OTHER STANDARDS.—For any calendar year, the quantity of gasoline produced or distributed by a refiner or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for emissions of toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

"(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

"(v) REGIONAL PROTECTION OF TOXICS REDUCTION BASELINES.—

"(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

"(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 2001 and 2002; and

"(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

"(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 2001 and 2002, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

"(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

"(bb) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refiner or importer shall meet the standards applicable under clause (iii)(I) beginning not later than April 1 of the calendar year following publication of the report under subclause (I) and in each calendar year thereafter.

"(vi) Not later than July 1, 2007, the Administrator shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph), and as authorized under section 202(l) of the Clean Air Act. If the Administrator promulgates by such date, final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels that achieve and maintain greater overall reductions in emissions of air toxics from reformulated gasoline than the reductions that would be achieved under section 211(k)(1)(B) of the Clean Air Act as amended by this clause, then sections 211(k)(1)(B)(i) through 211(k)(1)(B)(v) shall be null and void and regulations promulgated thereunder shall be rescinded and have no further effect.".

(c) CONSOLIDATION IN REFORMULATED GASOLINE REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(d) SAVINGS CLAUSE.—

(1) IN GENERAL.—Nothing in this section or any amendment made by this section affects or prejudices any legal claim or action with respect to regulations promulgated by the Administrator before the date of enactment of this Act regarding—

(A) emissions of toxic air pollutants from motor vehicles; or

(B) the adjustment of standards applicable to a specific refinery or importer made under those regulations.

(2) ADJUSTMENT OF STANDARDS.—

(A) APPLICABILITY.—The Administrator may apply any adjustments to the standards applicable to a refinery or importer under subparagraph (B)(iii)(I) of section 211(k)(1) of the Clean Air Act (as added by subsection (b)(2)), except that—

(i) the Administrator shall revise the adjustments to be based only on calendar years 1999 and 2000;

(ii) any such adjustment shall not be made at a level below the average percentage of reductions of emissions of toxic air pollutants for reformulated gasoline supplied to PADD I during calendar years 1999 and 2000; and

(iii) in the case of an adjustment based on toxic air pollutant emissions from reformulated gasoline significantly below the national annual average emissions of toxic air pollutants from all reformulated gasoline—

(I) the Administrator may revise the adjustment to take account of the scope of the prohibition on methyl tertiary butyl ether imposed by a State; and

(II) any such adjustment shall require the refiner or importer, to the maximum extent practicable, to maintain the reduction achieved during calendar years 1999 and 2000 in the average annual aggregate emissions of toxic air pollutants from reformulated gasoline produced or distributed by the refiner or importer.

SEC. 1505. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) in paragraph (2)—

(A) by striking "may also" and inserting "shall, on a regular basis,"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and"; and

(2) by adding at the end the following:

"(4) STUDY ON CERTAIN FUEL ADDITIVES AND BLENDSTOCKS.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—

"(i) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of increased use of, and the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—

"(I) ethyl tertiary butyl ether;

"(II) tertiary amyl methyl ether;

"(III) di-isopropyl ether;

"(IV) tertiary butyl alcohol;

"(V) other ethers and heavy alcohols, as determined by then Administrator;

"(VI) ethanol;

"(VII) iso-octane; and

"(VIII) alkylates; and

"(ii) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of the adjustment for ethanol-blended reformulated gasoline to the volatile organic compounds performance requirements that are applicable under paragraphs (1) and (3) of section 211(k); and

"(iii) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the studies under clauses (i) and (ii).

"(B) CONTRACTS FOR STUDY.—In carrying out this paragraph, the Administrator may enter into 1 or more contracts with nongovernmental entities such as—

"(i) the national energy laboratories; and

"(ii) institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).".

SEC. 1506. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by inserting after subsection (p) the following:

"(q) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

"(1) ANTI-BACKSLIDING ANALYSIS.—

"(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this paragraph, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by the Energy Policy Act of 2005.

"(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

"(2) EMISSIONS MODEL.—For the purposes of this section, not later than 4 years after the date of enactment of this paragraph, the Administrator shall develop and finalize an emissions model that reflects, to the maximum extent practicable, the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2007.

"(3) PERMEATION EFFECTS STUDY.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall conduct a study, and report to Congress the results of the study, on the effects of ethanol content in gasoline on permeation, the process by which fuel molecules migrate through the elastomeric materials (rubber and plastic parts) that make up the fuel and fuel vapor systems of a motor vehicle.

"(B) EVAPORATIVE EMISSIONS.—The study shall include estimates of the increase in total evaporative emissions likely to result from the use of gasoline with ethanol content in a motor vehicle, and the fleet of motor vehicles, due to permeation.".

SEC. 1507. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—

(1) by striking "(6) OPT-IN AREAS.—(A) Upon" and inserting the following:

"(6) OPT-IN AREAS.—

"(A) CLASSIFIED AREAS.—

"(i) IN GENERAL.—Upon";

(2) in subparagraph (B), by striking "(B) If" and inserting the following:

"(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.—If";

(3) in subparagraph (A)(ii) (as redesignated by paragraph (2))—

(A) in the first sentence, by striking "subparagraph (A)" and inserting "clause (i)"; and

(B) in the second sentence, by striking "this paragraph" and inserting "this subparagraph"; and

(4) by adding at the end the following:

"(B) OZONE TRANSPORT REGION.—

"(i) APPLICATION OF PROHIBITION.—

"(I) IN GENERAL.—On application of the Governor of a State in the ozone transport region established by section 184(a), the Administrator, not later than 180 days after the date of receipt of the application, shall apply the prohibition specified in paragraph (5) to any area in the State (other than an area classified as a marginal, moderate, serious, or severe ozone nonattainment area under subpart 2 of part D of title I) unless the Administrator determines under clause (iii) that there is insufficient capacity to supply reformulated gasoline.

"(II) PUBLICATION OF APPLICATION.—As soon as practicable after the date of receipt of an application under subclause (I), the Administrator shall publish the application in the Federal Register.

"(ii) PERIOD OF APPLICABILITY.—Under clause (i), the prohibition specified in paragraph (5) shall apply in a State—

"(I) commencing as soon as practicable but not later than 2 years after the date of approval by the Administrator of the application of the Governor of the State; and

"(II) ending not earlier than 4 years after the commencement date determined under subclause (I).

"(iii) EXTENSION OF COMMENCEMENT DATE BASED ON INSUFFICIENT CAPACITY.—

"(I) IN GENERAL.—If, after receipt of an application from a Governor of a State under clause (i), the Administrator determines, on the Administrator's own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient capacity to supply reformulated gasoline, the Administrator, by regulation—

"(aa) shall extend the commencement date with respect to the State under clause (ii)(I) for not more than 1 year; and

"(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

"(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.".

SEC. 1508. DATA COLLECTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

"(m) RENEWABLE FUELS SURVEY.—(1) In order to improve the ability to evaluate the effectiveness of the Nation's renewable fuels mandate, the Administrator shall conduct and publish the results of a survey of renewable fuels demand in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses. In conducting the survey, the Administrator shall collect information both on a national and regional basis, including each of the following:

"(A) The quantity of renewable fuels produced.

"(B) The quantity of renewable fuels blended.

"(C) The quantity of renewable fuels imported.

"(D) The quantity of renewable fuels demanded.

"(E) Market price data.

"(F) Such other analyses or evaluations as the Administrator finds are necessary to achieve the purposes of this section.

"(2) The Administrator shall also collect or estimate information both on a national and regional basis, pursuant to subparagraphs (A) through (F) of paragraph (1), for the 5 years prior to implementation of this subsection.

"(3) This subsection does not affect the authority of the Administrator to collect data under section 52 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790a).".

SEC. 1509. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency and the Secretary shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) REQUIRED ELEMENTS.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to the consumer;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals (including the protection of children, pregnant women, minority or low-income communities, and other sensitive populations);

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refiners;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refiners, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while protecting and improving air quality at the national, regional, and local levels, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply;

(F) the feasibility of providing incentives, and the need for the development of national standards necessary, to promote cleaner burning motor vehicle fuel; and

(G) the extent to which improvements in air quality and any increases or decreases in the price of motor fuel can be projected to result from the Environmental Protection Agency's Tier II requirements for conventional gasoline and vehicle emission systems, on-road and off-road diesel rules, the reformulated gasoline program, the renewable content requirements established by this subtitle, State programs regarding gasoline volatility, and any other requirements imposed by the Federal Government, States or localities affecting the composition of motor fuel.

(b) REPORT.—

(1) IN GENERAL.—Not later than June 1, 2008, the Administrator of the Environmental Protection Agency and the Secretary shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The report shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) CONSULTATION.—In developing the report, the Administrator of the Environmental Protection Agency and the Secretary shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) State and local air pollution control regulators;

(D) public health experts;

(E) motor vehicle fuel producers and distributors; and

(F) the public.

SEC. 1510. COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE AND CELLULOSIC BIOMASS LOAN GUARANTEE PROGRAM.

(a) DEFINITION OF MUNICIPAL SOLID WASTE.—In this section, the term "municipal solid waste" has the meaning given the term "solid waste" in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste and cellulosic biomass into fuel ethanol and other commercial byproducts.

(c) REQUIREMENTS.—The Secretary may provide a loan guarantee under subsection (b) to an applicant if—

(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (b);

(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(d) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility because of—

(A) the limited availability of land for waste disposal;

(B) the availability of sufficient quantities of cellulosic biomass; or

(C) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

(e) MATURITY.—A loan guaranteed under subsection (b) shall have a maturity of not more than 20 years.

(f) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under subsection (b) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(g) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under subsection (b) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(h) GUARANTEE FEE.—The recipient of a loan guarantee under subsection (b) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(i) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(j) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(l) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a loan guarantee under subsection (b) terminates on the date that is 10 years after the date of enactment of this Act.

SEC. 1511. RENEWABLE FUEL.

The Clean Air Act is amended by inserting after section 211 (42 U.S.C. 7411) the following:

"SEC. 212. RENEWABLE FUEL.

"(a) DEFINITIONS.—In this section:

"(1) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the meaning given the term 'solid waste' in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

"(2) RFG STATE.—The term 'RFG State' means a State in which is located 1 or more covered areas (as defined in section 211(k)(10)(D)).

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

"(b) CELLULOSIC BIOMASS ETHANOL AND MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.—

"(1) IN GENERAL.—Funds may be provided for the cost (as defined in the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.)) of loan guarantees issued under title XIV of the Energy Policy Act to carry out commercial demonstration projects for celluosic biomass and sucrose-derived ethanol.

"(2) DEMONSTRATION PROJECTS.—

"(A) IN GENERAL.—The Secretary shall issue loan guarantees under this section to carry out not more than 4 projects to commercially demonstrate the feasibility and viability of producing cellulosic biomass ethanol or sucrose-derived ethanol, including at least 1 project that uses cereal straw as a feedstock and 1 project that uses municipal solid waste as a feedstock.

"(B) DESIGN CAPACITY.—Each project shall have a design capacity to produce at least 30,000,000 gallons of cellulosic biomass ethanol each year.

"(3) APPLICANT ASSURANCES.—An applicant for a loan guarantee under this section shall provide assurances, satisfactory to the Secretary, that—

"(A) the project design has been validated through the operation of a continuous process facility with a cumulative output of at least 50,000 gallons of ethanol;

"(B) the project has been subject to a full technical review;

"(C) the project is covered by adequate project performance guarantees;

"(D) the project, with the loan guarantee, is economically viable; and

"(E) there is a reasonable assurance of repayment of the guaranteed loan.

"(4) LIMITATIONS.—

"(A) MAXIMUM GUARANTEE.—Except as provided in subparagraph (B), a loan guarantee under this section may be issued for up to 80 percent of the estimated cost of a project, but may not exceed $250,000,000 for a project.

"(B) ADDITIONAL GUARANTEES.—

"(i) IN GENERAL.—The Secretary may issue additional loan guarantees for a project to cover up to 80 percent of the excess of actual project cost over estimated project cost but not to exceed 15 percent of the amount of the original guarantee.

"(ii) PRINCIPAL AND INTEREST.—Subject to subparagraph (A), the Secretary shall guarantee 100 percent of the principal and interest of a loan made under subparagraph (A).

"(5) EQUITY CONTRIBUTIONS.—To be eligible for a loan guarantee under this section, an applicant for the loan guarantee shall have binding commitments from equity investors to provide an initial equity contribution of at least 20 percent of the total project cost.

"(6) INSUFFICIENT AMOUNTS.—If the amount made available to carry out this section is insufficient to allow the Secretary to make loan guarantees for 3 projects described in subsection (b), the Secretary shall issue loan guarantees for 1 or more qualifying projects under this section in the order in which the applications for the projects are received by the Secretary.

"(7) APPROVAL.—An application for a loan guarantee under this section shall be approved or disapproved by the Secretary not later than 90 days after the application is received by the Secretary.

"(c) AUTHORIZATION OF APPROPRIATIONS FOR RESOURCE CENTER.—There is authorized to be appropriated, for a resource center to further develop bioconversion technology using low-cost biomass for the production of ethanol at the Center for Biomass-Based Energy at the Mississippi State University and the Oklahoma State University, $4,000,000 for each of fiscal years 2005 through 2007.

"(d) RENEWABLE FUEL PRODUCTION RESEARCH AND DEVELOPMENT GRANTS.—

"(1) IN GENERAL.—The Administrator shall provide grants for the research into, and development and implementation of, renewable fuel production technologies in RFG States with low rates of ethanol production, including low rates of production of cellulosic biomass ethanol.

"(2) ELIGIBILITY.—

"(A) IN GENERAL.—The entities eligible to receive a grant under this subsection are academic institutions in RFG States, and consortia made up of combinations of academic institutions, industry, State government agencies, or local government agencies in RFG States, that have proven experience and capabilities with relevant technologies.

"(B) APPLICATION.—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Administrator an application in such manner and form, and accompanied by such information, as the Administrator may specify.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2006 through 2010.

"(e) CELLULOSIC BIOMASS ETHANOL CONVERSION ASSISTANCE.—

"(1) IN GENERAL.—The Secretary may provide grants to merchant producers of cellulosic biomass ethanol in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of cellulosic biomass ethanol.

"(2) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility—

"(A) is located in the United States; and

"(B) uses cellulosic biomass feedstocks derived from agricultural residues or municipal solid waste.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection—

"(A) $250,000,000 for fiscal year 2006; and

"(B) $400,000,000 for fiscal year 2007.".

SEC. 1512. CONVERSION ASSISTANCE FOR CELLULOSIC BIOMASS, WASTE-DERIVED ETHANOL, APPROVED RENEWABLE FUELS.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding at the end the following:

"(r) CONVERSION ASSISTANCE FOR CELLULOSIC BIOMASS, WASTE-DERIVED ETHANOL, APPROVED RENEWABLE FUELS.—

"(1) IN GENERAL.—The Secretary of Energy may provide grants to merchant producers of cellulosic biomass ethanol, waste-derived ethanol, and approved renewable fuels in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of ethanol or approved renewable fuels.

"(2) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility—

"(A) is located in the United States; and

"(B) uses cellulosic or renewable biomass or waste-derived feedstocks derived from agricultural residues, wood residues, municipal solid waste, or agricultural byproducts.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated the following amounts to carry out this subsection:

"(A) $100,000,000 for fiscal year 2006.

"(B) $250,000,000 for fiscal year 2007.

"(C) $400,000,000 for fiscal year 2008.

"(4) DEFINITIONS.—For the purposes of this subsection:

"(A) The term 'approved renewable fuels' are fuels and components of fuels that have been approved by the Department of Energy, as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211), which have been made from renewable biomass.

"(B) The term 'renewable biomass' is, as defined in Presidential Executive Order 13134, published in the Federal Register on August 16, 1999, any organic matter that is available on a renewable or recurring basis (excluding old-growth timber), including dedicated energy crops and trees, agricultural food and feed crop residues, aquatic plants, animal wastes, wood and wood residues, paper and paper residues, and other vegetative waste materials. Old-growth timber means timber of a forest from the late successional stage of forest development.".

SEC. 1513. BLENDING OF COMPLIANT REFORMULATED GASOLINES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding at the end the following:

"(s) BLENDING OF COMPLIANT REFORMULATED GASOLINES.—

"(1) IN GENERAL.—Notwithstanding subsections (h) and (k) and subject to the limitations in paragraph (2) of this subsection, it shall not be a violation of this subtitle for a gasoline retailer, during any month of the year, to blend at a retail location batches of ethanol-blended and non-ethanol-blended reformulated gasoline, provided that—

"(A) each batch of gasoline to be blended has been individually certified as in compliance with subsections (h) and (k) prior to being blended;

"(B) the retailer notifies the Administrator prior to such blending, and identifies the exact location of the retail station and the specific tank in which such blending will take place;

"(C) the retailer retains and, as requested by the Administrator or the Administrator's designee, makes available for inspection such certifications accounting for all gasoline at the retail outlet; and

"(D) the retailer does not, between June 1 and September 15 of each year, blend a batch of VOC-controlled, or 'summer', gasoline with a batch of non-VOC-controlled, or 'winter', gasoline (as these terms are defined under subsections (h) and (k)).

"(2) LIMITATIONS.—

"(A) FREQUENCY LIMITATION.—A retailer shall only be permitted to blend batches of compliant reformulated gasoline under this subsection a maximum of two blending periods between May 1 and September 15 of each calendar year.

"(B) DURATION OF BLENDING PERIOD.—Each blending period authorized under subparagraph (A) shall extend for a period of no more than 10 consecutive calendar days.

"(3) SURVEYS.—A sample of gasoline taken from a retail location that has blended gasoline within the past 30 days and is in compliance with subparagraphs (A), (B), (C), and (D) of paragraph (1) shall not be used in a VOC survey mandated by 40 C.F.R. Part 80.

"(4) STATE IMPLEMENTATION PLANS.—A State shall be held harmless and shall not be required to revise its State implementation plan under section 110 to account for the emissions from blended gasoline authorized under paragraph (1).

"(5) PRESERVATION OF STATE LAW.—Nothing in this subsection shall—

"(A) preempt existing State laws or regulations regulating the blending of compliant gasolines; or

"(B) prohibit a State from adopting such restrictions in the future.

"(6) REGULATIONS.—The Administrator shall promulgate, after notice and comment, regulations implementing this subsection within one year after the date of enactment of this subsection.

"(7) EFFECTIVE DATE.—This subsection shall become effective 15 months after the date of its enactment and shall apply to blended batches of reformulated gasoline on or after that date, regardless of whether the implementing regulations required by paragraph (6) have been promulgated by the Administrator by that date.

"(8) LIABILITY.—No person other than the person responsible for blending under this subsection shall be subject to an enforcement action or penalties under subsection (d) solely arising from the blending of compliant reformulated gasolines by the retailers.

"(9) FORMULATION OF GASOLINE.—This subsection does not grant authority to the Administrator or any State (or any subdivision thereof) to require reformulation of gasoline at the refinery to adjust for potential or actual emissions increases due to the blending authorized by this subsection.".

SEC. 1514. ADVANCED BIOFUEL TECHNOLOGIES PROGRAM.

(a) IN GENERAL.—Subject to the availability of appropriations under subsection (d), the Administrator of the Environmental Protection Agency shall, in consultation with the Secretary of Agriculture and the Biomass Research and Development Technical Advisory Committee established under section 306 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note), establish a program, to be known as the "Advanced Biofuel Technologies Program", to demonstrate advanced technologies for the production of alternative transportation fuels.

(b) PRIORITY.—In carrying out the program under subsection (a), the Administrator shall give priority to projects that enhance the geographical diversity of alternative fuels production and utilize feedstocks that represent 10 percent or less of ethanol or biodiesel fuel production in the United States during the previous fiscal year.

(c) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—As part of the program under subsection (a), the Administrator shall fund demonstration projects—

(A) to develop not less than 4 different conversion technologies for producing cellulosic biomass ethanol; and

(B) to develop not less than 5 technologies for coproducing value-added bioproducts (such as fertilizers, herbicides, and pesticides) resulting from the production of biodiesel fuel.

(2) ADMINISTRATION.—Demonstration projects under this subsection shall be—

(A) conducted based on a merit-reviewed, competitive process; and

(B) subject to the cost-sharing requirements of section 988.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $110,000,000 for each of fiscal years 2005 through 2009.

SEC. 1515. WASTE-DERIVED ETHANOL AND BIODIESEL.

Section 312(f)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)(1)) is amended—

(1) by striking "'biodiesel' means" and inserting the following: "'biodiesel'—

"(A) means"; and

(2) in subparagraph (A) (as designated by paragraph (1)) by striking "and" at the end and inserting the following:

"(B) includes biodiesel derived from—

"(i) animal wastes, including poultry fats and poultry wastes, and other waste materials; or

"(ii) municipal solid waste and sludges and oils derived from wastewater and the treatment of wastewater; and"."

SEC. 1516. SUGAR ETHANOL LOAN GUARANTEE PROGRAM.

(a) IN GENERAL.—Funds may be provided for the cost (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of loan guarantees issued under title XIV to carry out commercial demonstration projects for ethanol derived from sugarcane, bagasse, and other sugarcane byproducts.

(b) DEMONSTRATION PROJECTS.—The Secretary may issue loan guarantees under this section to projects to demonstrate commercially the feasibility and viability of producing ethanol using sugarcane, sugarcane bagasse, and other sugarcane byproducts as a feedstock.

(c) REQUIREMENTS.—An applicant for a loan guarantee under this section may provide assurances, satisfactory to the Secretary, that—

(1) the project design has been validated through the operation of a continuous process facility;

(2) the project has been subject to a full technical review;

(3) the project, with the loan guarantee, is economically viable; and

(4) there is a reasonable assurance of repayment of the guaranteed loan.

(d) LIMITATIONS.—

(1) MAXIMUM GUARANTEE.—Except as provided in paragraph (2), a loan guarantee under this section—

(A) may be issued for up to 80 percent of the estimated cost of a project; but

(B) shall not exceed $50,000,000 for any 1 project.

(2) ADDITIONAL GUARANTEES.—

(A) IN GENERAL.—The Secretary may issue additional loan guarantees for a project to cover—

(i) up to 80 percent of the excess of actual project costs; but

(ii) not to exceed 15 percent of the amount of the original loan guarantee.

(B) PRINCIPAL AND INTEREST.—Subject to subparagraph (A), the Secretary shall guarantee 100 percent of the principal and interest of a loan guarantee made under subparagraph (A).

Subtitle B—Underground Storage Tank Compliance

SEC. 1521. SHORT TITLE.

This subtitle may be cited as the "Underground Storage Tank Compliance Act ".

SEC. 1522. LEAKING UNDERGROUND STORAGE TANKS.

(a) IN GENERAL.—Section 9004 of the Solid Waste Disposal Act (42 U.S.C. 6991c) is amended by adding at the end the following:

"(f) TRUST FUND DISTRIBUTION.—

"(1) IN GENERAL.—

"(A) AMOUNT AND PERMITTED USES OF DISTRIBUTION.—The Administrator shall distribute to States not less than 80 percent of the funds from the Trust Fund that are made available to the Administrator under section 9014(2)(A) for each fiscal year for use in paying the reasonable costs, incurred under a cooperative agreement with any State for—

"(i) corrective actions taken by the State under section 9003(h)(7)(A);

"(ii) necessary administrative expenses, as determined by the Administrator, that are directly related to State fund or State assurance programs under subsection (c)(1); or

"(iii) enforcement, by a State or a local government, of State or local regulations pertaining to underground storage tanks regulated under this subtitle.

"(B) USE OF FUNDS FOR ENFORCEMENT.—In addition to the uses of funds authorized under subparagraph (A), the Administrator may use funds from the Trust Fund that are not distributed to States under subparagraph (A) for enforcement of any regulation promulgated by the Administrator under this subtitle.

"(C) PROHIBITED USES.—Funds provided to a State by the Administrator under subparagraph (A) shall not be used by the State to provide financial assistance to an owner or operator to meet any requirement relating to underground storage tanks under subparts B, C, D, H, and G of part 280 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

"(2) Allocation.—

"(A) Process.—Subject to subparagraphs (B) and (C), in the case of a State with which the Administrator has entered into a cooperative agreement under section 9003(h)(7)(A), the Administrator shall distribute funds from the Trust Fund to the State using an allocation process developed by the Administrator.

"(B) Diversion of State funds.—The Administrator shall not distribute funds under subparagraph (A)(iii) of subsection (f)(1) to any State that has diverted funds from a State fund or State assurance program for purposes other than those related to the regulation of underground storage tanks covered by this subtitle, with the exception of those transfers that had been completed earlier than the date of enactment of this subsection.

"(C) Revisions to process.—The Administrator may revise the allocation process referred to in subparagraph (A) after—

"(i) consulting with State agencies responsible for overseeing corrective action for releases from underground storage tanks; and

"(ii) taking into consideration, at a minimum, each of the following:

"(I) The number of confirmed releases from federally regulated leaking underground storage tanks in the States.

"(II) The number of federally regulated underground storage tanks in the States.

"(III) The performance of the States in implementing and enforcing the program.

"(IV) The financial needs of the States.

"(V) The ability of the States to use the funds referred to in subparagraph (A) in any year.

"(3) Distributions to State agencies.—Distributions from the Trust Fund under this subsection shall be made directly to a State agency that—

"(A) enters into a cooperative agreement referred to in paragraph (2)(A); or

"(B) is enforcing a State program approved under this section.".

(b) Withdrawal of Approval of State Funds.—Section 9004(c) of the Solid Waste Disposal Act (42 U.S.C. 6991c(c)) is amended by inserting the following new paragraph at the end thereof:

"(6) Withdrawal of approval.—After an opportunity for good faith, collaborative efforts to correct financial deficiencies with a State fund, the Administrator may withdraw approval of any State fund or State assurance program to be used as a financial responsibility mechanism without withdrawing approval of a State underground storage tank program under section 9004(a).".

(c) Ability to Pay.—Section 9003(h)(6) of the Solid Waste Disposal Act (42 U.S.C. 6591a(h)(6)) is amended by adding the following new subparagraph at the end thereof:

"(E) Inability or limited ability to pay.—

"(i) In general.—In determining the level of recovery effort, or amount that should be recovered, the Administrator (or the State pursuant to paragraph (7)) shall consider the owner or operator's ability to pay. An inability or limited ability to pay corrective action costs must be demonstrated to the Administrator (or the State pursuant to paragraph (7)) by the owner or operator.

"(ii) Considerations.—In determining whether or not a demonstration is made under clause (i), the Administrator (or the State pursuant to paragraph (7)) shall take into consideration the ability of the owner or operator to pay corrective action costs and still maintain its basic business operations, including consideration of the overall financial condition of the owner or operator and demonstrable constraints on the ability of the owner or operator to raise revenues.

"(iii) Information.—An owner or operator requesting consideration under this subparagraph shall promptly provide the Administrator (or the State pursuant to paragraph (7)) with all relevant information needed to determine the ability of the owner or operator to pay corrective action costs.

"(iv) Alternative payment methods.—The Administrator (or the State pursuant to paragraph (7)) shall consider alternative payment methods as may be necessary or appropriate if the Administrator (or the State pursuant to paragraph (7)) determines that an owner or operator cannot pay all or a portion of the costs in a lump sum payment.

"(v) Misrepresentation.—If an owner or operator provides false information or otherwise misrepresents their financial situation under clause (ii), the Administrator (or the State pursuant to paragraph (7)) shall seek full recovery of the costs of all such actions pursuant to the provisions of subparagraph (A) without consideration of the factors in subparagraph (B).".

SEC. 1523. INSPECTION OF UNDERGROUND STORAGE TANKS.

(a) Inspection Requirements.—Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended by inserting the following new subsection at the end thereof:

"(c) Inspection Requirements.—

"(1) Uninspected tanks.—In the case of underground storage tanks regulated under this subtitle that have not undergone an inspection since December 22, 1998, not later than 2 years after the date of enactment of this subsection, the Administrator or a State that receives funding under this subtitle, as appropriate, shall conduct on-site inspections of all such tanks to determine compliance with this subtitle and the regulations under this subtitle (40 C.F.R. 280) or a requirement or standard of a State program developed under section 9004.

"(2) Periodic inspections.—After completion of all inspections required under paragraph (1), the Administrator or a State that receives funding under this subtitle, as appropriate, shall conduct on-site inspections of each underground storage tank regulated under this subtitle at least once every 3 years to determine compliance with this subtitle and the regulations under this subtitle (40 C.F.R. 280) or a requirement or standard of a State program developed under section 9004. The Administrator may extend for up to one additional year the first 3-year inspection interval under this paragraph if the State demonstrates that it has insufficient resources to complete all such inspections within the first 3-year period.

"(3) Inspection authority.—Nothing in this section shall be construed to diminish the Administrator's or a State's authorities under section 9005(a).".

(b) Study of Alternative Inspection Programs.—The Administrator of the Environmental Protection Agency, in coordination with a State, shall gather information on compliance assurance programs that could serve as an alternative to the inspection programs under section 9005(c) of the Solid Waste Disposal Act (42 U.S.C. 6991d(c)) and shall, within 4 years after the date of enactment of this Act, submit a report to the Congress containing the results of such study.

SEC. 1524. OPERATOR TRAINING.

(a) In General.—Section 9010 of the Solid Waste Disposal Act (42 U.S.C. 6991i) is amended to read as follows:

"SEC. 9010. OPERATOR TRAINING.

"(a) Guidelines.—

"(1) In general.—Not later than 2 years after the date of enactment of the Underground Storage Tank Compliance Act , in consultation and cooperation with States and after public notice and opportunity for comment, the Administrator shall publish guidelines that specify training requirements for—

"(A) persons having primary responsibility for on-site operation and maintenance of underground storage tank systems;

"(B) persons having daily on-site responsibility for the operation and maintenance of underground storage tanks systems; and

"(C) daily, on-site employees having primary responsibility for addressing emergencies presented by a spill or release from an underground storage tank system.

"(2) Considerations.—The guidelines described in paragraph (1) shall take into account—

"(A) State training programs in existence as of the date of publication of the guidelines;

"(B) training programs that are being employed by tank owners and tank operators as of the date of enactment of the Underground Storage Tank Compliance Act ;

"(C) the high turnover rate of tank operators and other personnel;

"(D) the frequency of improvement in underground storage tank equipment technology;

"(E) the nature of the businesses in which the tank operators are engaged;

"(F) the substantial differences in the scope and length of training needed for the different classes of persons described in subparagraphs (A), (B), and (C) of paragraph (1); and

"(G) such other factors as the Administrator determines to be necessary to carry out this section.

"(b) State Programs.—

"(1) In general.—Not later than 2 years after the date on which the Administrator publishes the guidelines under subsection (a)(1), each State that receives funding under this subtitle shall develop State-specific training requirements that are consistent with the guidelines developed under subsection (a)(1).

"(2) Requirements.—State requirements described in paragraph (1) shall—

"(A) be consistent with subsection (a);

"(B) be developed in cooperation with tank owners and tank operators;

"(C) take into consideration training programs implemented by tank owners and tank operators as of the date of enactment of this section; and

"(D) be appropriately communicated to tank owners and operators.

"(3) Financial incentive.—The Administrator may award to a State that develops and implements requirements described in paragraph (1), in addition to any funds that the State is entitled to receive under this subtitle, not more than $200,000, to be used to carry out the requirements.

"(c) Training.—All persons that are subject to the operator training requirements of subsection (a) shall—

"(1) meet the training requirements developed under subsection (b); and

"(2) repeat the applicable requirements developed under subsection (b), if the tank for which they have primary daily on-site management responsibilities is determined to be out of compliance with—

"(A) a requirement or standard promulgated by the Administrator under section 9003; or

"(B) a requirement or standard of a State program approved under section 9004.".

(b) State Program Requirement.—Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended by striking "and" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting "; and", and by adding the following new paragraph at the end thereof:

"(9) State-specific training requirements as required by section 9010.".

(c) Enforcement.—Section 9006(d)(2) of such Act (42 U.S.C. 6991e) is amended as follows:

(1) By striking "or" at the end of subparagraph (B).

(2) By adding the following new subparagraph after subparagraph (C):

"(D) the training requirements established by States pursuant to section 9010 (relating to operator training); or".

(d) TABLE OF CONTENTS.—The item relating to section 9010 in table of contents for the Solid Waste Disposal Act is amended to read as follows:

"Sec. 9010. Operator training".

SEC. 1525. REMEDIATION FROM OXYGENATED FUEL ADDITIVES.

Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended as follows:

(1) In paragraph (7)(A)—

(A) by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraphs (1), (2), and (12)"; and

(B) by striking "and including the authorities of paragraphs (4), (6), and (8) of this subsection" and inserting "and the authority under sections 9011 and 9012 and paragraphs (4), (6), and (8),".

(2) By adding at the end the following:

"(12) REMEDIATION OF OXYGENATED FUEL CONTAMINATION.—

"(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9014(2)(B) to carry out corrective actions with respect to a release of a fuel containing an oxygenated fuel additive that presents a threat to human health or welfare or the environment.

"(B) APPLICABLE AUTHORITY.—The Administrator or a State shall carry out subparagraph (A) in accordance with paragraph (2), and in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).".

SEC. 1526. RELEASE PREVENTION, COMPLIANCE, AND ENFORCEMENT.

(a) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

"SEC. 9011. USE OF FUNDS FOR RELEASE PREVENTION AND COMPLIANCE.

"Funds made available under section 9014(2)(D) from the Trust Fund may be used to conduct inspections, issue orders, or bring actions under this subtitle—

"(1) by a State, in accordance with a grant or cooperative agreement with the Administrator, of State regulations pertaining to underground storage tanks regulated under this subtitle; and

"(2) by the Administrator, for tanks regulated under this subtitle (including under a State program approved under section 9004).".

(b) GOVERNMENT-OWNED TANKS.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b) is amended by adding at the end the following:

"(i) GOVERNMENT-OWNED TANKS.—

"(1) STATE COMPLIANCE REPORT.—(A) Not later than 2 years after the date of enactment of this subsection, each State that receives funding under this subtitle shall submit to the Administrator a State compliance report that—

"(i) lists the location and owner of each underground storage tank described in subparagraph (B) in the State that, as of the date of submission of the report, is not in compliance with section 9003; and

"(ii) specifies the date of the last inspection and describes the actions that have been and will be taken to ensure compliance of the underground storage tank listed under clause (i) with this subtitle.

"(B) An underground storage tank described in this subparagraph is an underground storage tank that is—

"(i) regulated under this subtitle; and

"(ii) owned or operated by the Federal, State, or local government.

"(C) The Administrator shall make each report, received under subparagraph (A), available to the public through an appropriate media.

"(2) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops a report described in paragraph (1), in addition to any other funds that the State is entitled to receive under this subtitle, not more than $50,000, to be used to carry out the report.

"(3) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.".

(c) PUBLIC RECORD.—Section 9002 of the Solid Waste Disposal Act (42 U.S.C. 6991a) is amended by adding at the end the following:

"(d) PUBLIC RECORD.—

"(1) IN GENERAL.—The Administrator shall require each State that receives Federal funds to carry out this subtitle to maintain, update at least annually, and make available to the public, in such manner and form as the Administrator shall prescribe (after consultation with States), a record of underground storage tanks regulated under this subtitle.

"(2) CONSIDERATIONS.—To the maximum extent practicable, the public record of a State, respectively, shall include, for each year—

"(A) the number, sources, and causes of underground storage tank releases in the State;

"(B) the record of compliance by underground storage tanks in the State with—

"(i) this subtitle; or

"(ii) an applicable State program approved under section 9004; and

"(C) data on the number of underground storage tank equipment failures in the State.".

(d) INCENTIVE FOR PERFORMANCE.—Section 9006 of the Solid Waste Disposal Act (42 U.S.C. 6991e) is amended by adding at the end the following:

"(e) INCENTIVE FOR PERFORMANCE.—Both of the following may be taken into account in determining the terms of a civil penalty under subsection (d):

"(1) The compliance history of an owner or operator in accordance with this subtitle or a program approved under section 9004.

"(2) Any other factor the Administrator considers appropriate.".

(e) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

"Sec. 9011. Use of funds for release prevention and compliance".

SEC. 1527. DELIVERY PROHIBITION.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

"SEC. 9012. DELIVERY PROHIBITION.

"(a) REQUIREMENTS.—

"(1) PROHIBITION OF DELIVERY OR DEPOSIT.—Beginning 2 years after the date of enactment of this section, it shall be unlawful to deliver to, deposit into, or accept a regulated substance into an underground storage tank at a facility which has been identified by the Administrator or a State implementing agency to be ineligible for such delivery, deposit, or acceptance.

"(2) GUIDANCE.—Within 1 year after the date of enactment of this section, the Administrator shall, in consultation with the States, underground storage tank owners, and product delivery industries, publish guidelines detailing the specific processes and procedures they will use to implement the provisions of this section. The processes and procedures include, at a minimum—

"(A) the criteria for determining which underground storage tank facilities are ineligible for delivery, deposit, or acceptance of a regulated substance;

"(B) the mechanisms for identifying which facilities are ineligible for delivery, deposit, or acceptance of a regulated substance to the underground storage tank owning and fuel delivery industries;

"(C) the process for reclassifying ineligible facilities as eligible for delivery, deposit, or acceptance of a regulated substance;

"(D) one or more processes for providing adequate notice to underground storage tank owners and operators and supplier industries that an underground storage tank has been determined to be ineligible for delivery, deposit, or acceptance or a regulated substance; and

"(E) a delineation of, or a process for determining, the specified geographic areas subject to paragraph (4).

"(3) COMPLIANCE.—States that receive funding under this subtitle shall, at a minimum, comply with the processes and procedures published under paragraph (2).

"(4) CONSIDERATION.—

"(A) RURAL AND REMOTE AREAS.—Subject to subparagraph (B), the Administrator or a State may consider not treating an underground storage tank as ineligible for delivery, deposit or acceptance of a regulated substance if such treatment would jeopardize the availability of, or access to, fuel in any rural and remote areas unless an urgent threat to public health, as determined by the Administrator, exists.

"(B) APPLICABILITY.—Subparagraph (A) shall apply only during the 180-day period following the date of a determination by the Administrator or the appropriate State under subparagraph (A).

"(b) EFFECT ON STATE AUTHORITY.—Nothing in this section shall affect or preempt the authority of a State to prohibit the delivery, deposit, or acceptance of a regulated substance to an underground storage tank.

"(c) DEFENSE TO VIOLATION.—A person shall not be in violation of subsection (a)(1) if the person has not been provided with notice pursuant to subsection (a)(2)(D) of the ineligibility of a facility for delivery, deposit, or acceptance of a regulated substance as determined by the Administrator or a State, as appropriate, under this section.".

(b) ENFORCEMENT.—Section 9006(d)(2) of such Act (42 U.S.C. 6991e(d)(2)) is amended as follows:

(1) By adding the following new subparagraph after subparagraph (D):

"(E) the delivery prohibition requirement established by section 9012,".

(2) By adding the following new sentence at the end thereof: "Any person making or accepting a delivery or deposit of a regulated substance to an underground storage tank at an ineligible facility in violation of section 9012 shall also be subject to the same civil penalty for each day of such violation.".

(c) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

"Sec. 9012. Delivery prohibition".

SEC. 1528. FEDERAL FACILITIES.

Section 9007 of the Solid Waste Disposal Act (42 U.S.C. 6991f) is amended to read as follows:

"SEC. 9007. FEDERAL FACILITIES.

"(a) IN GENERAL.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any underground storage tank or underground storage tank system, or (2) engaged in any activity resulting, or which may result, in the installation, operation, management, or closure of any underground storage tank, release response activities related thereto, or in the delivery, acceptance, or deposit of any regulated substance to an underground storage tank or underground storage tank system shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or

reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting underground storage tanks in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local underground storage tank regulatory program. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court with respect to the enforcement of any such injunctive relief. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law concerning underground storage tanks with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State law concerning underground storage tanks, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction. The President may exempt any underground storage tank of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

"(b) REVIEW OF AND REPORT ON FEDERAL UNDERGROUND STORAGE TANKS.—

"(1) REVIEW.—Not later than 12 months after the date of enactment of the Underground Storage Tank Compliance Act , each Federal agency that owns or operates 1 or more underground storage tanks, or that manages land on which 1 or more underground storage tanks are located, shall submit to the Administrator, the Committee on Energy and Commerce of the United States House of Representatives, and the Committee on the Environment and Public Works of the United States Senate a compliance strategy report that—

"(A) lists the location and owner of each underground storage tank described in this paragraph;

"(B) lists all tanks that are not in compliance with this subtitle that are owned or operated by the Federal agency;

"(C) specifies the date of the last inspection by a State or Federal inspector of each underground storage tank owned or operated by the agency;

"(D) lists each violation of this subtitle respecting any underground storage tank owned or operated by the agency;

"(E) describes the operator training that has been provided to the operator and other persons having primary daily on-site management responsibility for the operation and maintenance of underground storage tanks owned or operated by the agency; and

"(F) describes the actions that have been and will be taken to ensure compliance for each underground storage tank identified under subparagraph (B).

"(2) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.".

SEC. 1529. TANKS ON TRIBAL LANDS.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following at the end thereof:

"SEC. 9013. TANKS ON TRIBAL LANDS.

"(a) STRATEGY.—The Administrator, in coordination with Indian tribes, shall, not later than 1 year after the date of enactment of this section, develop and implement a strategy—

"(1) giving priority to releases that present the greatest threat to human health or the environment, to take necessary corrective action in response to releases from leaking underground storage tanks located wholly within the boundaries of—

"(A) an Indian reservation; or

"(B) any other area under the jurisdiction of an Indian tribe; and

"(2) to implement and enforce requirements concerning underground storage tanks located wholly within the boundaries of—

"(A) an Indian reservation; or

"(B) any other area under the jurisdiction of an Indian tribe.

"(b) REPORT.—Not later than 2 years after the date of enactment of this section, the Administrator shall submit to Congress a report that summarizes the status of implementation and enforcement of this subtitle in areas located wholly within—

"(1) the boundaries of Indian reservations; and

"(2) any other areas under the jurisdiction of an Indian tribe.

The Administrator shall make the report under this subsection available to the public.

"(c) NOT A SAFE HARBOR.—This section does not relieve any person from any obligation or requirement under this subtitle.

"(d) STATE AUTHORITY.—Nothing in this section applies to any underground storage tank that is located in an area under the jurisdiction of a State, or that is subject to regulation by a State, as of the date of enactment of this section.".

(b) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

"Sec. 9013. Tanks on Tribal lands".

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b) is amended by adding the following new subsection at the end:

"(i) ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.—The Administrator shall require each State that receives funding under this subtitle to require one of the following:

"(1) TANK AND PIPING SECONDARY CONTAINMENT.—(A) Each new underground storage tank, or piping connected to any such new tank, installed after the effective date of this subsection, or any existing underground storage tank, or existing piping connected to such existing tank, that is replaced after the effective date of this subsection, shall be secondarily contained and monitored for leaks if the new or replaced underground storage tank or piping is within 1,000 feet of any existing community water system or any existing potable drinking water well.

"(B) In the case of a new underground storage tank system consisting of one or more underground storage tanks and connected by piping, subparagraph (A) shall apply to all underground storage tanks and connected pipes comprising such system.

"(C) In the case of a replacement of an existing underground storage tank or existing piping connected to the underground storage tank, subparagraph (A) shall apply only to the specific underground storage tank or piping being replaced, not to other underground storage tanks and connected pipes comprising such system.

"(D) Each installation of a new motor fuel dispenser system, after the effective date of this subsection, shall include under-dispenser spill containment if the new dispenser is within 1,000 feet of any existing community water system or any existing potable drinking water well.

"(E) This paragraph shall not apply to repairs to an underground storage tank, piping, or dispenser that are meant to restore a tank, pipe, or dispenser to operating condition.

"(F) As used in this subsection:

"(i) The term 'secondarily contained' means a release detection and prevention system that meets the requirements of 40 CFR 280.43(g), but shall not include under-dispenser spill containment or control systems.

"(ii) The term 'underground storage tank' has the meaning given to it in section 9001, except that such term does not include tank combinations or more than a single underground pipe connected to a tank.

"(iii) The term 'installation of a new motor fuel dispenser system' means the installation of a new motor fuel dispenser and the equipment necessary to connect the dispenser to the underground storage tank system, but does not mean the installation of a motor fuel dispenser installed separately from the equipment need to connect the dispenser to the underground storage tank system.

"(2) EVIDENCE OF FINANCIAL RESPONSIBILITY AND CERTIFICATION.—

"(A) MANUFACTURER AND INSTALLER FINANCIAL RESPONSIBILITY.—A person that manufactures an underground storage tank or piping for an underground storage tank system or that installs an underground storage tank system is required to maintain evidence of financial responsibility under section 9003(d) in order to provide for the costs of corrective actions directly related to releases caused by improper manufacture or installation unless the person can demonstrate themselves to be already covered as an owner or operator of an underground storage tank under section 9003.

"(B) INSTALLER CERTIFICATION.—The Administrator and each State that receives funding under this subtitle, as appropriate, shall require that a person that installs an underground storage tank system is—

"(i) certified or licensed by the tank and piping manufacturer;

"(ii) certified or licensed by the Administrator or a State, as appropriate;

"(iii) has their underground storage tank system installation certified by a registered professional engineer with education and experience in underground storage tank system installation;

"(iv) has had their installation of the underground storage tank inspected and approved by the Administrator or the State, as appropriate;

"(v) compliant with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions; or

"(vi) compliant with another method that is determined by the Administrator or a State, as appropriate, to be no less protective of human health and the environment.

"(C) SAVINGS CLAUSE.—Nothing in subparagraph (A) alters or affects the liability of any owner or operator of an underground storage tank.".

(b) EFFECTIVE DATE.—This subsection shall take effect 18 months after the date of enactment of this subsection.

(c) PROMULGATION OF REGULATIONS OR GUIDELINES.—The Administrator shall issue regulations or guidelines implementing the requirements of this subsection, including guidance to differentiate between the terms "repair" and "replace" for the purposes of section 9003(i)(1) of the Solid Waste Disposal Act.

(d) PENALTIES.—Section 9006(d)(2) of such Act (42 U.S.C. 6991e(d)(2)) is amended as follows:

(1) By striking "or" at the end of subparagraph (B).

(2) By inserting "; or" at the end of subparagraph (C).

(3) By adding the following new subparagraph after subparagraph (C):

"(D) the requirements established in section 9003(i),".

SEC. 1531. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

"SEC. 9014. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Administrator the following amounts:

"(1) To carry out subtitle I (except sections 9003(h), 9005(c), 9011 and 9012) $50,000,000 for each of fiscal years 2005 through 2009.

"(2) From the Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986:

"(A) to carry out section 9003(h) (except section 9003(h)(12)) $200,000,000 for each of fiscal years 2005 through 2009;

"(B) to carry out section 9003(h)(12), $200,000,000 for each of fiscal years 2005 through 2009;

"(C) to carry out sections 9003(i), 9004(f), and 9005(c) $100,000,000 for each of fiscal years 2005 through 2009; and

"(D) to carry out sections 9010, 9011, 9012, and 9013 $55,000,000 for each of fiscal years 2005 through 2009.".

(b) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

"Sec. 9014. Authorization of appropriations".

SEC. 1532. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 9001 of the Solid Waste Disposal Act (42 U.S.C. 6991) is amended as follows:

(1) By striking "For the purposes of this subtitle—" and inserting "In this subtitle:".

(2) By redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (10), (7), (4), (3), (8), (5), (2), and (6), respectively.

(3) By inserting before paragraph (2) (as redesignated by paragraph (2) of this subsection) the following:

"(1) INDIAN TRIBE.—

"(A) IN GENERAL.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community that is recognized as being eligible for special programs and services provided by the United States to Indians because of their status as Indians.

"(B) INCLUSIONS.—The term 'Indian tribe' includes an Alaska Native village, as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and".

(4) By inserting after paragraph (8) (as redesignated by paragraph (2) of this subsection) the following:

"(9) TRUST FUND.—The term 'Trust Fund' means the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986.".

(b) CONFORMING AMENDMENTS.—The Solid Waste Disposal Act (42 U.S.C. 6901 and following) is amended as follows:

(1) Section 9003(f) (42 U.S.C. 6991b(f)) is amended—

(A) in paragraph (1), by striking "9001(2)(B)" and inserting "9001(7)(B)"; and

(B) in paragraphs (2) and (3), by striking "9001(2)(A)" each place it appears and inserting "9001(7)(A)".

(2) Section 9003(h) (42 U.S.C. 6991b(h)) is amended in paragraphs (1), (2)(C), (7)(A), and (11) by striking "Leaking Underground Storage Tank Trust Fund" each place it appears and inserting "Trust Fund".

(3) Section 9009 (42 U.S.C. 6991h) is amended—

(A) in subsection (a), by striking "9001(2)(B)" and inserting "9001(7)(B)"; and

(B) in subsection (d), by striking "section 9001(1) (A) and (B)" and inserting "subparagraphs (A) and (B) of section 9001(10)".

SEC. 1533. TECHNICAL AMENDMENTS.

The Solid Waste Disposal Act is amended as follows:

(1) Section 9001(4)(A) (42 U.S.C. 6991(4)(A)) is amended by striking "sustances" and inserting "substances".

(2) Section 9003(f)(1) (42 U.S.C. 6991b(f)(1)) is amended by striking "subsection (c) and (d) of this section" and inserting "subsections (c) and (d)".

(3) Section 9004(a) (42 U.S.C. 6991c(a)) is amended by striking "in 9001(2) (A) or (B) or both" and inserting "in subparagraph (A) or (B) of section 9001(7)".

(4) Section 9005 (42 U.S.C. 6991d) is amended—

(A) in subsection (a), by striking "study taking" and inserting "study, taking";

(B) in subsection (b)(1), by striking "relevent" and inserting "relevant"; and

(C) in subsection (b)(4), by striking "Evironmental" and inserting "Environmental".

Subtitle C—Boutique Fuels

SEC. 1541. REDUCING THE PROLIFERATION OF BOUTIQUE FUELS.

(a) TEMPORARY WAIVERS DURING SUPPLY EMERGENCIES.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by inserting "(i)" after "(C)" and by adding the following new clauses at the end thereof:

"(ii) The Administrator may temporarily waive a control or prohibition respecting the use of a fuel or fuel additive required or regulated by the Administrator pursuant to subsection (c), (h), (i), (k), or (m) of this section or prescribed in an applicable implementation plan under section 110 approved by the Administrator under clause (i) of this subparagraph if, after consultation with, and concurrence by, the Secretary of Energy, the Administrator determines that—

"(I) extreme and unusual fuel or fuel additive supply circumstances exist in a State or region of the Nation which prevent the distribution of an adequate supply of the fuel or fuel additive to consumers;

"(II) such extreme and unusual fuel and fuel additive supply circumstances are the result of a natural disaster, an Act of God, a pipeline or refinery equipment failure, or another event that could not reasonably have been foreseen or prevented and not the lack of prudent planning on the part of the suppliers of the fuel or fuel additive to such State or region; and

"(III) it is in the public interest to grant the waiver (for example, when a waiver is necessary to meet projected temporary shortfalls in the supply of the fuel or fuel additive in a State or region of the Nation which cannot otherwise be compensated for).

"(iii) If the Administrator makes the determinations required under clause (ii), such a temporary extreme and unusual fuel and fuel additive supply circumstances waiver shall be permitted only if—

"(I) the waiver applies to the smallest geographic area necessary to address the extreme and unusual fuel and fuel additive supply circumstances;

"(II) the waiver is effective for a period of 20 calendar days or, if the Administrator determines that a shorter waiver period is adequate, for the shortest practicable time period necessary to permit the correction of the extreme and unusual fuel and fuel additive supply circumstances and to mitigate impact on air quality;

"(III) the waiver permits a transitional period, the exact duration of which shall be determined by the Administrator (but which shall be for the shortest practicable period), after the termination of the temporary waiver to permit wholesalers and retailers to blend down their wholesale and retail inventory;

"(IV) the waiver applies to all persons in the motor fuel distribution system; and

"(V) the Administrator has given public notice to all parties in the motor fuel distribution system, and local and State regulators, in the State or region to be covered by the waiver.

The term 'motor fuel distribution system' as used in this clause shall be defined by the Administrator through rulemaking.

"(iv) Within 180 days of the date of enactment of this clause, the Administrator shall promulgate regulations to implement clauses (ii) and (iii).

"(v) Nothing in this subparagraph shall—

"(I) limit or otherwise affect the application of any other waiver authority of the Administrator pursuant to this section or pursuant to a regulation promulgated pursuant to this section; and

"(II) subject any State or person to an enforcement action, penalties, or liability solely arising from actions taken pursuant to the issuance of a waiver under this subparagraph.".

(b) LIMIT ON NUMBER OF BOUTIQUE FUELS.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)), as amended by subsection (a), is further amended by adding at the end the following:

"(v)(I) The Administrator shall have no authority, when considering a State implementation plan or a State implementation plan revision, to approve under this paragraph any fuel included in such plan or revision if the effect of such approval increases the total number of fuels approved under this paragraph as of September 1, 2004, in all State implementation plans.

"(II) The Administrator, in consultation with the Secretary of Energy, shall determine the total number of fuels approved under this paragraph as of September 1, 2004, in all State implementation plans and shall publish a list of such fuels, including the states and Petroleum Administration for Defense District in which they are used, in the Federal Register for public review and comment no later than 90 days after enactment.

"(III) The Administrator shall remove a fuel from the list published under subclause (II) if a fuel ceases to be included in a State implementation plan or if a fuel in a State implementation plan is identical to a Federal fuel formulation implemented by the Administrator, but the Administrator shall not reduce the total number of fuels authorized under the list published under subclause (II).

"(IV) Subclause (I) shall not limit the Administrator's authority to approve a control or prohibition respecting any new fuel under this paragraph in a State implementation plan or revision to a State implementation plan if such new fuel:

"(aa) completely replaces a fuel on the list published under subclause (II); or

"(bb) does not increase the total number of fuels on the list published under subclause (II) as of September 1, 2004.

In the event that the total number of fuels on the list published under subclause (II) at the time of the Administrator's consideration of a control or prohibition respecting a new fuel is lower than the total number of fuels on such list as of September 1, 2004, the Administrator may approve a control or prohibition respecting a new fuel under this subclause if the Administrator, after consultation with the Secretary of Energy, publishes in the Federal Register after notice and comment a finding that, in the Administrator's judgment, such control or prohibition respecting a new fuel will not cause fuel supply or distribution interruptions or have a significant adverse impact on fuel producibility in the affected area or contiguous areas.

"(V) The Administrator shall have no authority under this paragraph, when considering any particular State's implementation plan or a revision to that State's implementation plan, to approve any fuel unless that fuel was, as of the date of such consideration, approved in at least one State implementation plan in the applicable Petroleum Administration for Defense District. However, the Administrator may approve as part of a State implementation plan or State implementation plan revision a fuel with a summertime Reid Vapor Pressure of 7.0 psi. In no event shall such approval by the Administrator cause an increase in the total number of fuels on the list published under subclause (II).

"(VI) Nothing in this clause shall be construed to have any effect regarding any available authority of States to require the use of any fuel additive registered in accordance with subsection (b), including any fuel additive registered in accordance with subsection (b) after the enactment of this subclause.".

(c) STUDY AND REPORT TO CONGRESS ON BOUTIQUE FUELS.—

(1) JOINT STUDY.—The Administrator of the Environmental Protection Agency and the Secretary shall undertake a study of the effects on air quality, on the number of fuel blends, on fuel availability, on fuel fungibility, and on fuel costs of the State plan provisions adopted pursuant to section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)).

(2) FOCUS OF STUDY.—The primary focus of the study required under paragraph (1) shall be to determine how to develop a Federal fuels system that maximizes motor fuel fungibility and supply, addresses air quality requirements, and reduces motor fuel price volatility including that which has resulted from the proliferation of boutique fuels, and to recommend to Congress such legislative changes as are necessary to implement such a system. The study should include the impacts on overall energy supply, distribution, and use as a result of the legislative changes recommended.

(3) CONDUCT OF STUDY.—In carrying out their joint duties under this section, the Administrator and the Secretary shall use sound science and objective science practices, shall consider the best available science, shall use data collected by accepted means and shall consider and include a description of the weight of the scientific evidence. The Administrator and the Secretary shall coordinate the study required by this section with other studies required by the act.

(4) RESPONSIBILITY OF ADMINISTRATOR.—In carrying out the study required by this section, the Administrator shall coordinate obtaining comments from affected parties interested in the air quality impact assessment portion of the study.

(5) RESPONSIBILITY OF SECRETARY.—In carrying out the study required by this section, the Secretary shall coordinate obtaining comments from affected parties interested in the fuel availability, number of fuel blends, fuel fungibility and fuel costs portion of the study.

(6) REPORT TO CONGRESS.—The Administrator and the Secretary jointly shall submit the results of the study required by this section in a report to the Congress not later than 12 months after the date of the enactment of this Act, together with any recommended regulatory and legislative changes. Such report shall be submitted to the Committee on Energy and Commerce of the United States House of Representatives and the Committees on Energy and Natural Resources and on Environment and Public Works of the United States Senate.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated jointly to the Administrator and the Secretary $500,000 for the completion of the study required under this subsection.

(d) DEFINITIONS.—In this section:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "fuel" means gasoline, diesel fuel, and any other liquid petroleum product commercially known as gasoline and diesel fuel for use in highway and nonroad motor vehicles.

(3) The term "a control or prohibition respecting a new fuel" means a control or prohibition on the formulation, composition, or emissions characteristics of a fuel that would require the increase or decrease of a constituent in gasoline or diesel fuel.

TITLE XVI—CLIMATE CHANGE

Subtitle A—National Climate Change Technology Deployment

SEC. 1601. GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGY STRATEGIES.

Title XVI of the Energy Policy Act of 1992 (42 U.S.C. 13381 et seq.) is amended by adding at the end the following:

"SEC. 1610. GREENHOUSE GAS INTENSITY REDUCING STRATEGIES.

"(a) DEFINITIONS.—In this section:

"(1) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the Climate Change Technology Advisory Committee established under subsection (f)(1).

"(2) CARBON SEQUESTRATION.—The term 'carbon sequestration' means the capture of carbon dioxide through terrestrial, geological, biological, or other means, which prevents the release of carbon dioxide into the atmosphere.

"(3) COMMITTEE.—The term 'Committee' means the Committee on Climate Change Technology established under subsection (b)(1).

"(4) DEVELOPING COUNTRY.—The term 'developing country' has the meaning given the term in section 1608(m).

"(5) GREENHOUSE GAS.—The term 'greenhouse gas' means—

"(A) carbon dioxide;

"(B) methane;

"(C) nitrous oxide;

"(D) hydrofluorocarbons;

"(E) perfluorocarbons; and

"(F) sulfur hexafluoride.

"(6) GREENHOUSE GAS INTENSITY.—The term 'greenhouse gas intensity' means the ratio of greenhouse gas emissions to economic output.

"(7) NATIONAL LABORATORY.—The term 'National Laboratory' has the meaning given the term in section 3(3) of the Energy Policy Act of 2005.

"(b) COMMITTEE ON CLIMATE CHANGE TECHNOLOGY.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the President shall establish a Committee on Climate Change Technology to—

"(A) integrate current Federal climate reports; and

"(B) coordinate Federal climate change technology activities and programs carried out in furtherance of the strategy developed under subsection (c)(1).

"(2) MEMBERSHIP.—The Committee shall be composed of at least 7 members, including—

"(A) the Secretary, who shall chair the Committee;

"(B) the Secretary of Commerce;

"(C) the Chairman of the Council on Environmental Quality;

"(D) the Secretary of Agriculture;

"(E) the Administrator of the Environmental Protection Agency;

"(F) the Secretary of Transportation;

"(G) the Director of the Office of Science and Technology Policy; and

"(H) other representatives as may be determined by the President.

"(3) STAFF.—The members of the Committee shall provide such personnel as are necessary to enable the Committee to perform its duties.

"(c) NATIONAL CLIMATE CHANGE TECHNOLOGY POLICY.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Committee shall, based on applicable Federal climate reports, submit to the Secretary and the President a national strategy to promote the deployment and commercialization of greenhouse gas intensity reducing technologies and practices developed through research and development programs conducted by the National Laboratories, other Federal research facilities, institutions of higher education, and the private sector.

"(2) UPDATES.—The Committee shall—

"(A) at the time of submission of the strategy to the President under paragraph (1), also make the strategy available to the public; and

"(B) update the strategy every 5 years, or more frequently as the Committee determines to be necessary.

"(d) CLIMATE CHANGE TECHNOLOGY PROGRAM.—Not later than 180 days after the date on which the Committee is established under subsection (b)(1), the Secretary, in consultation with the Committee, shall establish within the Department of Energy the Climate Change Technology Program to—

"(1) assist the Committee in the interagency coordination of climate change technology research, development, demonstration, and deployment to reduce greenhouse gas intensity; and

"(2) carry out the programs authorized under this section.

"(e) TECHNOLOGY INVENTORY.—

"(1) IN GENERAL.—The Secretary shall conduct and make public an inventory and evaluation of greenhouse gas intensity reducing technologies that have been developed, or are under development, by the National Laboratories, other Federal research facilities, institutions of higher education, and the private sector to determine which technologies are suitable for commercialization and deployment.

"(2) REPORT.—Not later than 180 days after the completion of the inventory under paragraph (1), the Secretary shall submit to Congress

a report that includes the results of the completed inventory and any recommendations of the Secretary.

‘‘(3) USE.—The Secretary shall use the results of the inventory as guidance in the commercialization and deployment of greenhouse gas intensity reducing technologies.

‘‘(4) UPDATED INVENTORY.—The Secretary shall—

‘‘(A) periodically update the inventory under paragraph (1), including when determined necessary by the Committee; and

‘‘(B) make the updated inventory available to the public.

‘‘(f) CLIMATE CHANGE TECHNOLOGY ADVISORY COMMITTEE.—

‘‘(1) IN GENERAL.—The Secretary, in consultation with the Committee, may establish under section 624 of the Department of Energy Organization Act (42 U.S.C. 7234) a Climate Change Technology Advisory Committee to identify statutory, regulatory, economic, and other barriers to the commercialization and deployment of greenhouse gas intensity reducing technologies and practices in the United States.

‘‘(2) COMPOSITION.—The Advisory Committee shall be composed of the following members, to be appointed by the Secretary, in consultation with the Committee:

‘‘(A) 1 representative shall be appointed from each National Laboratory.

‘‘(B) 3 members shall be representatives of energy-producing trade organizations.

‘‘(C) 3 members shall represent energy-intensive trade organizations.

‘‘(D) 3 members shall represent groups that represent end-use energy and other consumers.

‘‘(E) 3 members shall be employees of the Federal Government who are experts in energy technology, intellectual property, and tax.

‘‘(F) 3 members shall be representatives of institutions of higher education with expertise in energy technology development that are recommended by the National Academy of Engineering.

‘‘(3) REPORT.—Not later than 1 year after the date of enactment of this section and annually thereafter, the Advisory Committee shall submit to the Committee a report that describes—

‘‘(A) the findings of the Advisory Committee; and

‘‘(B) any recommendations of the Advisory Committee for the removal or reduction of barriers to commercialization, deployment, and increasing the use of greenhouse gas intensity reducing technologies and practices.

‘‘(g) GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGY DEPLOYMENT.—

‘‘(1) IN GENERAL.—Based on the strategy developed under subsection (c)(1), the technology inventory conducted under subsection (e)(1), the greenhouse gas intensity reducing technology study report submitted under subsection (e)(2), and reports under subsection (f)(3), if any, the Committee shall develop recommendations that would provide for the removal of domestic barriers to the commercialization and deployment of greenhouse gas intensity reducing technologies and practices.

‘‘(2) REQUIREMENTS.—In developing the recommendations under paragraph (1), the Committee shall consider in the aggregate—

‘‘(A) the cost-effectiveness of the technology;

‘‘(B) fiscal and regulatory barriers;

‘‘(C) statutory and other barriers; and

‘‘(D) intellectual property issues.

‘‘(3) DEMONSTRATION PROJECTS.—In developing recommendations under paragraph (1), the Committee may identify the need for climate change technology demonstration projects.

‘‘(4) REPORT.—Not later than 18 months after the date of enactment of this section, the Committee shall submit to the President and Congress a report that—

‘‘(A) identifies, based on the report submitted under subsection (f)(3), any barriers to, and commercial risks associated with, the deployment of greenhouse gas intensity reducing technologies; and

‘‘(B) includes a plan for carrying out demonstration projects.

‘‘(5) UPDATES.—The Committee shall—

‘‘(A) at the time of submission of the report to Congress under paragraph (4), also make the report available to the public; and

‘‘(B) update the report every 5 years, or more frequently as the Committee determines to be necessary.

‘‘(h) PROCEDURES FOR CALCULATING, MONITORING, AND ANALYZING GREENHOUSE GAS INTENSITY.—The Secretary, in collaboration with the Committee and the National Institute of Standards and Technology, and after public notice and opportunity for comment, shall develop standards and best practices for calculating, monitoring, and analyzing greenhouse gas intensity.

‘‘(i) DEMONSTRATION PROJECTS.—

‘‘(1) IN GENERAL.—The Secretary shall, subject to the availability of appropriations, support demonstration projects that—

‘‘(A) increase the reduction of the greenhouse gas intensity to levels below that which would be achieved by technologies being used in the United States as of the date of enactment of this section;

‘‘(B) maximize the potential return on Federal investment;

‘‘(C) demonstrate distinct roles in public-private partnerships;

‘‘(D) produce a large-scale reduction of greenhouse gas intensity if commercialization occurred; and

‘‘(E) support a diversified portfolio to mitigate the uncertainty associated with a single technology.

‘‘(2) COST SHARING.—In supporting a demonstration project under this subsection, the Secretary shall require cost-sharing in accordance with section 988 of the Energy Policy Act of 2005.

‘‘(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

‘‘(j) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.—In carrying out greenhouse gas intensity reduction research and technology deployment activities under this subtitle, the Secretary may enter into cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).’’.

Subtitle B—Climate Change Technology Deployment in Developing Countries

SEC. 1611. CLIMATE CHANGE TECHNOLOGY DEPLOYMENT IN DEVELOPING COUNTRIES.

The Global Environmental Protection Assistance Act of 1989 (Public Law 101–240; 103 Stat. 2521) is amending by adding at the end the following:

‘‘PART C—TECHNOLOGY DEPLOYMENT IN DEVELOPING COUNTRIES

‘‘SEC. 731. DEFINITIONS.

‘‘In this part:

‘‘(1) CARBON SEQUESTRATION.—The term ‘carbon sequestration’ means the capture of carbon dioxide through terrestrial, geological, biological, or other means, which prevents the release of carbon dioxide into the atmosphere.

‘‘(2) GREENHOUSE GAS.—The term ‘greenhouse gas’ means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

‘‘(3) GREENHOUSE GAS INTENSITY.—The term ‘greenhouse gas intensity’ means the ratio of greenhouse gas emissions to economic output.

‘‘SEC. 732. REDUCTION OF GREENHOUSE GAS INTENSITY.

‘‘(a) LEAD AGENCY.—

‘‘(1) IN GENERAL.—The Department of State shall act as the lead agency for integrating into United States foreign policy the goal of reducing greenhouse gas intensity in developing countries.

‘‘(2) REPORTS.—

‘‘(A) INITIAL REPORT.—Not later than 180 days after the date of enactment of this part, the Secretary of State shall submit to the appropriate authorizing and appropriating committees of Congress an initial report, based on the most recent information available to the Secretary from reliable public sources, that identifies the 25 developing countries that are the largest greenhouse gas emitters, including for each country—

‘‘(i) an estimate of the quantity and types of energy used;

‘‘(ii) an estimate of the greenhouse gas intensity of the energy, manufacturing, agricultural, and transportation sectors;

‘‘(iii) a description the progress of any significant projects undertaken to reduce greenhouse gas intensity;

‘‘(iv) a description of the potential for undertaking projects to reduce greenhouse gas intensity;

‘‘(v) a description of any obstacles to the reduction of greenhouse gas intensity; and

‘‘(vi) a description of the best practices learned by the Agency for International Development from conducting previous pilot and demonstration projects to reduce greenhouse gas intensity.

‘‘(B) UPDATE.—Not later than 18 months after the date on which the initial report is submitted under subparagraph (A), the Secretary shall submit to the appropriate authorizing and appropriating committees of Congress, based on the best information available to the Secretary, an update of the information provided in the initial report.

‘‘(C) USE.—

‘‘(i) INITIAL REPORT.—The Secretary of State shall use the initial report submitted under subparagraph (A) to establish baselines for the developing countries identified in the report with respect to the information provided under clauses (i) and (ii) of that subparagraph.

‘‘(ii) ANNUAL REPORTS.—The Secretary of State shall use the annual reports prepared under subparagraph (B) and any other information available to the Secretary to track the progress of the developing countries with respect to reducing greenhouse gas intensity.

‘‘(b) PROJECTS.—The Secretary of State, in coordination with Administrator of the United States Agency for International Development, shall (directly or through agreements with the World Bank, the International Monetary Fund, the Overseas Private Investment Corporation, and other development institutions) provide assistance to developing countries specifically for projects to reduce greenhouse gas intensity, including projects to—

‘‘(1) leverage, through bilateral agreements, funds for reduction of greenhouse gas intensity;

‘‘(2) increase private investment in projects and activities to reduce greenhouse gas intensity; and

‘‘(3) expedite the deployment of technology to reduce greenhouse gas intensity.

‘‘(c) FOCUS.—In providing assistance under subsection (b), the Secretary of State shall focus on—

‘‘(1) promoting the rule of law, property rights, contract protection, and economic freedom; and

‘‘(2) increasing capacity, infrastructure, and training.

‘‘(d) PRIORITY.—In providing assistance under subsection (b), the Secretary of State shall give priority to projects in the 25 developing countries identified in the report submitted under subsection (a)(2)(A).

"SEC. 733. TECHNOLOGY INVENTORY FOR DEVELOPING COUNTRIES.

"(a) In General.—The Secretary of Energy, in coordination with the Secretary of State and the Secretary of Commerce, shall conduct an inventory of greenhouse gas intensity reducing technologies that are developed, or under development in the United States, to identify technologies that are suitable for transfer to, deployment in, and commercialization in the developing countries identified in the report submitted under section 732(a)(2)(A).

"(b) Report.—Not later than 180 days after the completion of the inventory under subsection (a), the Secretary of State and the Secretary of Energy shall jointly submit to Congress a report that—

"(1) includes the results of the completed inventory;

"(2) identifies obstacles to the transfer, deployment, and commercialization of the inventoried technologies;

"(3) includes results from previous Federal reports related to the inventoried technologies; and

"(4) includes an analysis of market forces related to the inventoried technologies.

"SEC. 734. TRADE-RELATED BARRIERS TO EXPORT OF GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGIES.

"(a) In General.—Not later than 1 year after the date of enactment of this part, the United States Trade Representative shall (as appropriate and consistent with applicable bilateral, regional, and mutual trade agreements)—

"(1) identify trade-relations barriers maintained by foreign countries to the export of greenhouse gas intensity reducing technologies and practices from the United States to the developing countries identified in the report submitted under section 732(a)(2)(A); and

"(2) negotiate with foreign countries for the removal of those barriers.

"(b) Annual Report.—Not later than 1 year after the date on which a report is submitted under subsection (a)(1) and annually thereafter, the United States Trade Representative shall submit to Congress a report that describes any progress made with respect to removing the barriers identified by the United States Trade Representative under subsection (a)(1).

"SEC. 735. GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGY EXPORT INITIATIVE.

"(a) In General.—There is established an interagency working group to carry out a Greenhouse Gas Intensity Reducing Technology Export Initiative to—

"(1) promote the export of greenhouse gas intensity reducing technologies and practices from the United States;

"(2) identify developing countries that should be designated as priority countries for the purpose of exporting greenhouse gas intensity reducing technologies and practices, based on the report submitted under section 732(a)(2)(A);

"(3) identify potential barriers to adoption of exported greenhouse gas intensity reducing technologies and practices based on the reports submitted under section 734; and

"(4) identify previous efforts to export energy technologies to learn best practices.

"(b) Composition.—The working group shall be composed of—

"(1) the Secretary of State, who shall act as the head of the working group;

"(2) the Administrator of the United States Agency for International Development;

"(3) the United States Trade Representative;

"(4) a designee of the Secretary of Energy;

"(5) a designee of the Secretary of Commerce; and

"(6) a designee of the Administrator of the Environmental Protection Agency.

"(c) Performance Reviews and Reports.—Not later than 180 days after the date of enactment of this part and each year thereafter, the interagency working group shall—

"(1) conduct a performance review of actions taken and results achieved by the Federal Government (including each of the agencies represented on the interagency working group) to promote the export of greenhouse gas intensity reducing technologies and practices from the United States; and

"(2) submit to the appropriate authorizing and appropriating committees of Congress a report that describes the results of the performance reviews and evaluates progress in promoting the export of greenhouse gas intensity reducing technologies and practices from the United States, including any recommendations for increasing the export of the technologies and practices.

"SEC. 736. TECHNOLOGY DEMONSTRATION PROJECTS.

"(a) In General.—The Secretary of State, in coordination with the Secretary of Energy and the Administrator of the United States Agency for International Development, shall promote the adoption of technologies and practices that reduce greenhouse gas intensity in developing countries in accordance with this section.

"(b) Demonstration Projects.—

"(1) In general.—The Secretaries and the Administrator shall plan, coordinate, and carry out, or provide assistance for the planning, coordination, or carrying out of, demonstration projects under this section in at least 10 eligible countries, as determined by the Secretaries and the Administrator.

"(2) Eligibility.—A country shall be eligible for assistance under this subsection if the Secretaries and the Administrator determine that the country has demonstrated a commitment to—

"(A) just governance, including—

"(i) promoting the rule of law;

"(ii) respecting human and civil rights;

"(iii) protecting private property rights; and

"(iv) combating corruption; and

"(B) economic freedom, including economic policies that—

"(i) encourage citizens and firms to participate in global trade and international capital markets;

"(ii) promote private sector growth and the sustainable management of natural resources; and

"(iii) strengthen market forces in the economy.

"(3) Selection.—In determining which eligible countries to provide assistance to under paragraph (1), the Secretaries and the Administrator shall consider—

"(A) the opportunity to reduce greenhouse gas intensity in the eligible country; and

"(B) the opportunity to generate economic growth in the eligible country.

"(4) Types of projects.—Demonstration projects under this section may include—

"(A) coal gasification, coal liquefaction, and clean coal projects;

"(B) carbon sequestration projects;

"(C) cogeneration technology initiatives;

"(D) renewable projects; and

"(E) lower emission transportation.

"SEC. 737. FELLOWSHIP AND EXCHANGE PROGRAMS.

"The Secretary of State, in coordination with the Secretary of Energy, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall carry out fellowship and exchange programs under which officials from developing countries visit the United States to acquire expertise and knowledge of best practices to reduce greenhouse gas intensity in their countries.

"SEC. 738. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as are necessary to carry out this part.

"SEC. 739. EFFECTIVE DATE.

"Except as otherwise provided in this part, this part takes effect on October 1, 2005.".

TITLE XVII—INCENTIVES FOR INNOVATIVE TECHNOLOGIES

SEC. 1701. DEFINITIONS.

In this title:

(1) Commercial technology.—

(A) In general.—The term "commercial technology" means a technology in general use in the commercial marketplace.

(B) Inclusions.—The term "commercial technology" does not include a technology solely by use of the technology in a demonstration project funded by the Department.

(2) Cost.—The term "cost" has the meaning given the term "cost of a loan guarantee" within the meaning of section 502(5)(C) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(C)).

(3) Eligible project.—The term "eligible project" means a project described in section 1703.

(4) Guarantee.—

(A) In general.—The term "guarantee" has the meaning given the term "loan guarantee" in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(B) Inclusion.—The term "guarantee" includes a loan guarantee commitment (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)).

(5) Obligation.—The term "obligation" means the loan or other debt obligation that is guaranteed under this section.

SEC. 1702. TERMS AND CONDITIONS.

(a) In General.—Except for division C of Public Law 108–324, the Secretary shall make guarantees under this or any other Act for projects on such terms and conditions as the Secretary determines, after consultation with the Secretary of the Treasury, only in accordance with this section.

(b) Specific Appropriation or Contribution.—No guarantee shall be made unless—

(1) an appropriation for the cost has been made; or

(2) the Secretary has received from the borrower a payment in full for the cost of the obligation and deposited the payment into the Treasury.

(c) Amount.—Unless otherwise provided by law, a guarantee by the Secretary shall not exceed an amount equal to 80 percent of the project cost of the facility that is the subject of the guarantee, as estimated at the time at which the guarantee is issued.

(d) Repayment.—

(1) In general.—No guarantee shall be made unless the Secretary determines that there is reasonable prospect of repayment of the principal and interest on the obligation by the borrower.

(2) Amount.—No guarantee shall be made unless the Secretary determines that the amount of the obligation (when combined with amounts available to the borrower from other sources) will be sufficient to carry out the project.

(3) Subordination.—The obligation shall be subject to the condition that the obligation is not subordinate to other financing.

(e) Interest Rate.—An obligation shall bear interest at a rate that does not exceed a level that the Secretary determines appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks.

(f) Term.—The term of an obligation shall require full repayment over a period not to exceed the lesser of—

(1) 30 years; or

(2) 90 percent of the projected useful life of the physical asset to be financed by the obligation (as determined by the Secretary).

(g) Defaults.—

(1) PAYMENT BY SECRETARY.—

(A) IN GENERAL.—If a borrower defaults on the obligation (as defined in regulations promulgated by the Secretary and specified in the guarantee contract), the holder of the guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

(B) PAYMENT REQUIRED.—Within such period as may be specified in the guarantee or related agreements, the Secretary shall pay to the holder of the guarantee the unpaid interest on, and unpaid principal of the obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that the default has been remedied.

(C) FORBEARANCE.—Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the obligation and approved by the Secretary.

(2) SUBROGATION.—

(A) IN GENERAL.—If the Secretary makes a payment under paragraph (1), the Secretary shall be subrogated to the rights of the recipient of the payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to—

(i) complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements; or

(ii) permit the borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines this to be in the public interest.

(B) SUPERIORITY OF RIGHTS.—The rights of the Secretary, with respect to any property acquired pursuant to a guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.

(C) TERMS AND CONDITIONS.—A guarantee agreement shall include such detailed terms and conditions as the Secretary determines appropriate to—

(i) protect the interests of the United States in the case of default; and

(ii) have available all the patents and technology necessary for any person selected, including the Secretary, to complete and operate the project.

(3) PAYMENT OF PRINCIPAL AND INTEREST BY SECRETARY.—With respect to any obligation guaranteed under this section, the Secretary may enter into a contract to pay, and pay, holders of the obligation, for and on behalf of the borrower, from funds appropriated for that purpose, the principal and interest payments which become due and payable on the unpaid balance of the obligation if the Secretary finds that—

(A)(i) the borrower is unable to meet the payments and is not in default;

(ii) it is in the public interest to permit the borrower to continue to pursue the purposes of the project; and

(iii) the probable net benefit to the Federal Government in paying the principal and interest will be greater than that which would result in the event of a default;

(B) the amount of the payment that the Secretary is authorized to pay shall be no greater than the amount of principal and interest that the borrower is obligated to pay under the agreement being guaranteed; and

(C) the borrower agrees to reimburse the Secretary for the payment (including interest) on terms and conditions that are satisfactory to the Secretary.

(4) ACTION BY ATTORNEY GENERAL.—

(A) NOTIFICATION.—If the borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

(B) RECOVERY.—On notification, the Attorney General shall take such action as is appropriate to recover the unpaid principal and interest due from—

(i) such assets of the defaulting borrower as are associated with the obligation; or

(ii) any other security pledged to secure the obligation.

(h) FEES.—

(1) IN GENERAL.—The Secretary shall charge and collect fees for guarantees in amounts the Secretary determines are sufficient to cover applicable administrative expenses.

(2) AVAILABILITY.—Fees collected under this subsection shall—

(A) be deposited by the Secretary into the Treasury; and

(B) remain available until expended, subject to such other conditions as are contained in annual appropriations Acts.

(i) RECORDS; AUDITS.—

(1) IN GENERAL.—A recipient of a guarantee shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

(2) ACCESS.—The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access, for the purpose of audit, to the records and other pertinent documents.

(j) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

SEC. 1703. ELIGIBLE PROJECTS.

(a) IN GENERAL.—The Secretary may make guarantees under this section only for projects that—

(1) avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and

(2) employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued.

(b) CATEGORIES.—Projects from the following categories shall be eligible for a guarantee under this section:

(1) Renewable energy systems.

(2) Advanced fossil energy technology (including coal gasification meeting the criteria in subsection (d)).

(3) Hydrogen fuel cell technology for residential, industrial or –transportation applications.

(4) Advanced nuclear energy facilities.

(5) Carbon capture and sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon.

(6) Efficient electrical generation, transmission, and distribution technologies.

(7) Efficient end-use energy technologies.

(8) Production facilities for fuel efficient vehicles, including hybrid and advanced diesel vehicles.

(9) Pollution control equipment.

(10) Refineries, meaning facilities at which crude oil is refined into gasoline.

(c) GASIFICATION PROJECTS.—The Secretary may make guarantees for the following gasification projects:

(1) INTEGRATED GASIFICATION COMBINED CYCLE PROJECTS.—Integrated gasification combined cycle plants meeting the emission levels under subsection (d), including—

(A) projects for the generation of electricity—

(i) for which, during the term of the guarantee—

(I) coal, biomass, petroleum coke, or a combination of coal, biomass, and petroleum coke will account for at least 65 percent of annual heat input; and

(II) electricity will account for at least 65 percent of net useful annual energy output;

(ii) that have a design that is determined by the Secretary to be capable of accommodating the equipment likely to be necessary to capture the carbon dioxide that would otherwise be emitted in flue gas from the plant;

(iii) that have an assured revenue stream that covers project capital and operating costs (including servicing all debt obligations covered by the guarantee) that is approved by the Secretary and the relevant State public utility commission; and

(iv) on which construction commences not later than the date that is 3 years after the date of the issuance of the guarantee;

(B) a project to produce energy from coal (of not more than 13,000 Btu/lb and mined in the western United States) using appropriate advanced integrated gasification combined cycle technology that minimizes and offers the potential to sequester carbon dioxide emissions and that—

(i) may include repowering of existing facilities;

(ii) may be built in stages;

(iii) shall have a combined output of at least 100 megawatts;

(iv) shall be located in a western State at an altitude greater than 4,000 feet; and

(v) shall demonstrate the ability to use coal with an energy content of not more than 9,000 Btu/lb;

(C) a project located in a taconite-producing region of the United States that is entitled under the law of the State in which the plant is located to enter into a long-term contract approved by a State public utility commission to sell at least 450 megawatts of output to a utility;

(D) facilities that—

(i) generate 1 or more hydrogen-rich and carbon monoxide-rich product streams from the gasification of coal or coal waste; and

(ii) use those streams to facilitate the production of ultra clean premium fuels through the Fischer-Tropsch process; and

(E) a project to produce energy and clean fuels, using appropriate coal liquefaction technology, from Western bituminous or subbituminous coal, that—

(i) is owned by a State government; and

(ii) may include tribal and private coal resources.

(2) INDUSTRIAL GASIFICATION PROJECTS.—Facilities that gasify coal, biomass, or petroleum coke in any combination to produce synthesis gas for use as a fuel or feedstock and for which electricity accounts for less than 65 percent of the useful energy output of the facility.

(3) PETROLEUM COKE GASIFICATION PROJECTS.—The Secretary is encouraged to make loan guarantees under this title available for petroleum coke gasification projects.

(4) LIQUIFACTION PROJECT.—Notwithstanding any other provision of law, funds awarded under the clean coal power initiative under subtitle A of title IV for coal-to-oil liquefaction projects may be used to finance the cost of loan guarantees for projects awarded such funds.

(d) EMISSION LEVELS.—In addition to any other applicable Federal or State emission limitation requirements, a project shall attain at least—

(1) total sulfur dioxide emissions in flue gas from the project that do not exceed 0.05 lb/mmBTU;

(2) a 90-percent removal rate (including any fuel pretreatment) of mercury from the coal-derived gas, and any other fuel, combusted by the project;

(3) total nitrogen oxide emissions in the flue gas from the project that do not exceed 0.08 lb/mmBTU; and

(4) total particulate emissions in the flue gas from the project that do not exceed 0.01 lb/mmBTU.

(e) QUALIFICATION OF FACILITIES RECEIVING TAX CREDITS.—A project that receives tax credits for clean coal technology shall not be disqualified from receiving a guarantee under this title.

SEC. 1704. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to provide the cost of guarantees under this title.

(b) USE OF OTHER APPROPRIATED FUNDS.—The Department may use amounts awarded under the clean coal power initiative under subtitle A of title IV to carry out the project described in section 1703(c)(1)(C), on the request of the recipient of such award, for a loan guarantee, to the extent that the amounts have not yet been disbursed to, or have been repaid by, the recipient.

TITLE XVIII—STUDIES

SEC. 1801. STUDY ON INVENTORY OF PETROLEUM AND NATURAL GAS STORAGE.

(a) DEFINITION.—For purposes of this section "petroleum" means crude oil, motor gasoline, jet fuel, distillates, and propane.

(b) STUDY.—The Secretary shall conduct a study on petroleum and natural gas storage capacity and operational inventory levels, nationwide and by major geographical regions.

(c) CONTENTS.—The study shall address—

(1) historical normal ranges for petroleum and natural gas inventory levels;

(2) historical and projected storage capacity trends;

(3) estimated operation inventory levels below which outages, delivery slowdown, rationing, interruptions in service, or other indicators of shortage begin to appear;

(4) explanations for inventory levels dropping below normal ranges; and

(5) the ability of industry to meet United States demand for petroleum and natural gas without shortages or price spikes, when inventory levels are below normal ranges.

(d) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study, including findings and any recommendations for preventing future supply shortages.

SEC. 1802. STUDY OF ENERGY EFFICIENCY STANDARDS.

The Secretary shall contract with the National Academy of Sciences for a study, to be completed within 1 year after the date of enactment of this Act, to examine whether the goals of energy efficiency standards are best served by measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report to Congress.

SEC. 1803. TELECOMMUTING STUDY.

(a) STUDY REQUIRED.—The Secretary, in consultation with the Commission, the Director of the Office of Personnel Management, the Administrator of General Services, and the Administrator of NTIA, shall conduct a study of the energy conservation implications of the widespread adoption of telecommuting by Federal employees in the United States.

(b) REQUIRED SUBJECTS OF STUDY.—The study required by subsection (a) shall analyze the following subjects in relation to the energy saving potential of telecommuting by Federal employees:

(1) Reductions of energy use and energy costs in commuting and regular office heating, cooling, and other operations.

(2) Other energy reductions accomplished by telecommuting.

(3) Existing regulatory barriers that hamper telecommuting, including barriers to broadband telecommunications services deployment.

(4) Collateral benefits to the environment, family life, and other values.

(c) REPORT REQUIRED.—The Secretary shall submit to the President and Congress a report on the study required by this section not later than 6 months after the date of enactment of this Act. Such report shall include a description of the results of the analysis of each of the subject described in subsection (b).

(d) DEFINITIONS.—As used in this section:

(1) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(2) NTIA.—The term "NTIA" means the National Telecommunications and Information Administration of the Department of Commerce.

(3) TELECOMMUTING.—The term "telecommuting" means the performance of work functions using communications technologies, thereby eliminating or substantially reducing the need to commute to and from traditional worksites.

(4) FEDERAL EMPLOYEE.—The term "Federal employee" has the meaning provided the term "employee" by section 2105 of title 5, United States Code.

SEC. 1804. LIHEAP REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall transmit to Congress a report on how the Low-Income Home Energy Assistance Program could be used more effectively to prevent loss of life from extreme temperatures. In preparing such report, the Secretary shall consult with appropriate officials in all 50 States and the District of Columbia.

SEC. 1805. OIL BYPASS FILTRATION TECHNOLOGY.

The Secretary and the Administrator of the Environmental Protection Agency shall—

(1) conduct a joint study of the benefits of oil bypass filtration technology in reducing demand for oil and protecting the environment;

(2) examine the feasibility of using oil bypass filtration technology in Federal motor vehicle fleets; and

(3) include in such study, prior to any determination of the feasibility of using oil bypass filtration technology, the evaluation of products and various manufacturers.

SEC. 1806. TOTAL INTEGRATED THERMAL SYSTEMS.

The Secretary shall—

(1) conduct a study of the benefits of total integrated thermal systems in reducing demand for oil and protecting the environment; and

(2) examine the feasibility of using total integrated thermal systems in Department of Defense and other Federal motor vehicle fleets.

SEC. 1807. REPORT ON ENERGY INTEGRATION WITH LATIN AMERICA.

The Secretary shall submit an annual report to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate concerning the status of energy export development in Latin America and efforts by the Secretary and other departments and agencies of the United States to promote energy integration with Latin America. The report shall contain a detailed analysis of the status of energy export development in Mexico and a description of all significant efforts by the Secretary and other departments and agencies to promote a constructive relationship with Mexico regarding the development of that nation's energy capacity. In particular this report shall outline efforts the Secretary and other departments and agencies have made to ensure that regulatory approval and oversight of United States/Mexico border projects that result in the expansion of Mexican energy capacity are effectively coordinated across departments and with the Mexican government.

SEC. 1808. LOW-VOLUME GAS RESERVOIR STUDY.

(a) STUDY.—The Secretary shall make a grant to an organization of oil and gas producing States, specifically those containing significant numbers of marginal oil and natural gas wells, for conducting an annual study of low-volume natural gas reservoirs. Such organization shall work with the State geologist of each State being studied.

(b) CONTENTS.—The studies under this section shall—

(1) determine the status and location of marginal wells and gas reservoirs;

(2) gather the production information of these marginal wells and reservoirs;

(3) estimate the remaining producible reserves based on variable pipeline pressures;

(4) locate low-pressure gathering facilities and pipelines;

(5) recommend incentives which will enable the continued production of these resources;

(6) produce maps and literature to disseminate to States to promote conservation of natural gas reserves; and

(7) evaluate the amount of natural gas that is being wasted through the practice of venting or flaring of natural gas produced in association with crude oil well production.

(c) DATA ANALYSIS.—Data development and analysis under this section shall be performed by an institution of higher education with GIS capabilities. If the organization receiving the grant under subsection (a) does not have GIS capabilities, such organization shall contract with one or more entities with—

(1) technological capabilities and resources to perform advanced image processing, GIS programming, and data analysis; and

(2) the ability to—

(A) process remotely sensed imagery with high spatial resolution;

(B) deploy global positioning systems;

(C) process and synthesize existing, variable-format gas well, pipeline, gathering facility, and reservoir data;

(D) create and query GIS databases with infrastructure location and attribute information;

(E) write computer programs to customize relevant GIS software;

(F) generate maps, charts, and graphs which summarize findings from data research for presentation to different audiences; and

(G) deliver data in a variety of formats, including Internet Map Server for query and display, desktop computer display, and access through handheld personal digital assistants.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section—

(1) $1,500,000 for fiscal year 2006; and

(2) $450,000 for each of the fiscal years 2007 through 2010.

(e) DEFINITIONS.—For purposes of this section, the term "GIS" means geographic information systems technology that facilitates the organization and management of data with a geographic component.

SEC. 1809. INVESTIGATION OF GASOLINE PRICES.

(a) INVESTIGATION.—Not later than 90 days after the date of enactment of this Act, the Federal Trade Commission shall conduct an investigation to determine if the price of gasoline is being artificially manipulated by reducing refinery capacity or by any other form of market manipulation or price gouging practices.

(b) EVALUATION AND ANALYSIS.—The Secretary shall direct the National Petroleum Council to conduct an evaluation and analysis to determine whether, and to what extent, environmental and other regulations affect new domestic refinery construction and significant expansion of existing refinery capacity.

(c) REPORTS TO CONGRESS.—

(1) INVESTIGATION.—On completion of the investigation under subsection (a), the Federal Trade Commission shall submit to Congress a report that describes—

(A) the results of the investigation; and

(B) any recommendations of the Federal Trade Commission.

(2) Evaluation and analysis.—On completion of the evaluation and analysis under subsection (b), the Secretary shall submit to Congress a report that describes—

(A) the results of the evaluation and analysis; and

(B) any recommendations of the National Petroleum Council.

SEC. 1810. ALASKA NATURAL GAS PIPELINE.

Not later than 180 days after the date of enactment of this Act, and every 180 days thereafter until the Alaska natural gas pipeline commences operation, the Federal Energy Regulatory Commission shall submit to Congress a report describing—

(1) the progress made in licensing and constructing the pipeline; and

(2) any issue impeding that progress.

SEC. 1811. COAL BED METHANE STUDY.

(a) Study.—

(1) In general.—The Secretary of the Interior, in consultation with the Administrator of the Environmental Protection Agency, shall enter into an arrangement under which the National Academy of Sciences shall conduct a study on the effect of coalbed natural gas production on surface and ground water resources, including ground water aquifiers, in the States of Montana, Wyoming, Colorado, New Mexico, North Dakota, and Utah.

(2) Matters to be addressed.—The study shall address the effectiveness of—

(A) the management of coal bed methane produced water;

(B) the use of best management practices; and

(C) various production techniques for coal bed methane natural gas in minimizing impacts on water resources.

(b) Data Analysis.—The study shall analyze available hydrologic, geologic and water quality data, along with—

(1) production techniques, produced water management techniques, best management practices, and other factors that can mitigate effects of coal bed methane development;

(2) the costs associated with mitigation techniques;

(3) effects on surface or ground water resources, including drinking water, associated with surface or subsurface disposal of waters produced during extraction of coal bed methane; and

(4) any other significant effects on surface or ground water resources associated with production of coal-bed methane.

(c) Recommendations.—The study shall analyze the effectiveness of current mitigation practices of coal bed methane produced water handling in relation to existing Federal and State laws and regulations, and make recommendations as to changes, if any, to Federal law necessary to address adverse impacts to surface or ground water resources associated with coal bed methane development.

(d) Completion of Study.—The National Academy of Sciences shall submit the findings and recommendations of the study to the Secretary of the Interior and the Administrator of the Environmental Protection Agency within 12 months after the date of enactment of this Act, and shall upon completion make the results of the study available to the public.

(e) Report to Congress.—The Secretary of the Interior and the Administrator of the Environmental Protection Agency, after consulting with States, shall report to the Congress within 6 months after receiving the results of the study on—

(1) the findings and recommendations of the study;

(2) the agreement or disagreement of the Secretary of the Interior and the Administrator of the Environmental Protection Agency with each of its findings and recommendations; and

(3) any recommended changes in funding to address the effects of coal bed methane production on surface and ground water resources.

SEC. 1812. BACKUP FUEL CAPABILITY STUDY.

(a) Study.—

(1) In general.—The Secretary shall conduct a study of the effect of obtaining and maintaining liquid and other fuel backup capability at—

(A) gas-fired power generation facilities; and

(B) other gas-fired industrial facilities.

(2) Contents.—The study under paragraph (1) shall address—

(A) the costs and benefits of adding a different fuel capability to a power gas-fired power generating or industrial facility, taking into consideration regional differences;

(B) methods of the Federal Government and State governments to encourage gas-fired power generators and industries to develop the capability to power the facilities using a backup fuel;

(C) the effect on the supply and cost of natural gas of—

(i) a balanced portfolio of fuel choices in power generation and industrial applications; and

(ii) State regulations that permit agencies in the State to carry out policies that encourage the use of other backup fuels in gas-fired power generation; and

(D) changes required in the Clean Air Act (42 U.S.C. 7401 et seq.) to allow natural gas generators to add clean backup fuel capabilities.

(b) Report to Congress.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study under subsection (a), including recommendations regarding future activity of the Federal Government relating to backup fuel capability.

SEC. 1813. INDIAN LAND RIGHTS-OF-WAY.

(a) Study.—

(1) In general.—The Secretary and the Secretary of the Interior (referred to in this section as the "Secretaries") shall jointly conduct a study of issues regarding energy rights-of-way on tribal land (as defined in section 2601 of the Energy Policy Act of 1992 (as amended by section 503)) (referred to in this section as "tribal land").

(2) Consultation.—In conducting the study under paragraph (1), the Secretaries shall consult with Indian tribes, the energy industry, appropriate governmental entities, and affected businesses and consumers.

(b) Report.—Not later than 1 year after the date of enactment of this Act, the Secretaries shall submit to Congress a report on the findings of the study, including—

(1) an analysis of historic rates of compensation paid for energy rights-of-way on tribal land;

(2) recommendations for appropriate standards and procedures for determining fair and appropriate compensation to Indian tribes for grants, expansions, and renewals of energy rights-of-way on tribal land;

(3) an assessment of the tribal self-determination and sovereignty interests implicated by applications for the grant, expansion, or renewal of energy rights-of-way on tribal land; and

(4) an analysis of relevant national energy transportation policies relating to grants, expansions, and renewals of energy rights-of-way on tribal land.

SEC. 1814. MOBILITY OF SCIENTIFIC AND TECHNICAL PERSONNEL.

Not later than 2 years after the date of enactment of this section, the Secretary shall transmit to Congress a report that—

(1) identifies any policies or procedures of a contractor operating a National Laboratory or single-purpose research facility that create disincentives to the temporary or permanent transfer of scientific and technical personnel among the contractor-operated National Laboratories or contractor-operated single-purpose research facilities; and

(2) provides recommendations for improving interlaboratory exchange of scientific and technical personnel.

SEC. 1815. INTERAGENCY REVIEW OF COMPETITION IN THE WHOLESALE AND RETAIL MARKETS FOR ELECTRIC ENERGY.

(a) Task Force.—There is established an inter-agency task force, to be known as the "Electric Energy Market Competition Task Force" (referred to in this section as the "task force"), consisting of 5 members—

(1) 1 of whom shall be an employee of the Department of Justice, to be appointed by the Attorney General of the United States;

(2) 1 of whom shall be an employee of the Federal Energy Regulatory Commission, to be appointed by the Chairperson of that Commission;

(3) 1 of whom shall be an employee of the Federal Trade Commission, to be appointed by the Chairperson of that Commission;

(4) 1 of whom shall be an employee of the Department, to be appointed by the Secretary; and

(5) 1 of whom shall be an employee of the Rural Utilities Service, to be appointed by the Secretary of Agriculture.

(b) Study and Report.—

(1) Study.—The task force shall conduct a study and analysis of competition within the wholesale and retail market for electric energy in the United States.

(2) Report.—

(A) Final report.—Not later than 1 year after the date of enactment of this Act, the task force shall submit to Congress a final report on the findings of the task force under paragraph (1).

(B) Public comment.—Not later than the date that is 60 days before a final report is submitted to Congress under subparagraph (A), the task force shall—

(i) publish in the Federal Register a draft of the report; and

(ii) provide an opportunity for public comment on the report.

(c) Consultation.—In conducting the study under subsection (b), the task force shall consult with and solicit comments from any advisory entity of the task force, the States, representatives of the electric power industry, and the public.

SEC. 1816. STUDY OF RAPID ELECTRICAL GRID RESTORATION.

(a) Study.—

(1) In general.—The Secretary shall conduct a study of the benefits of using mobile transformers and mobile substations to rapidly restore electrical service to areas subjected to blackouts as a result of—

(A) equipment failure;

(B) natural disasters;

(C) acts of terrorism; or

(D) war.

(2) Contents.—The study under paragraph (1) shall contain an analysis of—

(A) the feasibility of using mobile transformers and mobile substations to reduce dependence on foreign entities for key elements of the electrical grid system of the United States;

(B) the feasibility of using mobile transformers and mobile substations to rapidly restore electrical power to—

(i) military bases;

(ii) the Federal Government;

(iii) communications industries;

(iv) first responders; and

(v) other critical infrastructures, as determined by the Secretary;

(C) the quantity of mobile transformers and mobile substations necessary—

(i) to eliminate dependence on foreign sources for key electrical grid components in the United States;

(ii) to rapidly deploy technology to fully restore full electrical service to prioritized Governmental functions; and

(iii) to identify manufacturing sources in existence on the date of enactment of this Act that have previously manufactured specialized mobile transformer or mobile substation products for Federal agencies.

(b) Report.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the President and Congress a report on the study under subsection (a).

(2) Inclusion.—The report shall include a description of the results of the analysis under subsection (a)(2).

SEC. 1817. STUDY OF DISTRIBUTED GENERATION.

(a) Study.—

(1) In general.—

(A) Potential benefits.—The Secretary, in consultation with the Federal Energy Regulatory Commission, shall conduct a study of the potential benefits of cogeneration and small power production.

(B) Recipients.—The benefits described in subparagraph (A) include benefits that are received directly or indirectly by—

(i) an electricity distribution or transmission service provider;

(ii) other customers served by an electricity distribution or transmission service provider; and

(iii) the general public in the area served by the public utility in which the cogenerator or small power producer is located.

(2) Inclusions.—The study shall include an analysis of—

(A) the potential benefits of—

(i) increased system reliability;

(ii) improved power quality;

(iii) the provision of ancillary services;

(iv) reduction of peak power requirements through onsite generation;

(v) the provision of reactive power or volt-ampere reactives;

(vi) an emergency supply of power;

(vii) offsets to investments in generation, transmission, or distribution facilities that would otherwise be recovered through rates;

(viii) diminished land use effects and right-of-way acquisition costs; and

(ix) reducing the vulnerability of a system to terrorism; and

(B) any rate-related issue that may impede or otherwise discourage the expansion of cogeneration and small power production facilities, including a review of whether rates, rules, or other requirements imposed on the facilities are comparable to rates imposed on customers of the same class that do not have cogeneration or small power production.

(3) Valuation of benefits.—In carrying out the study, the Secretary shall determine an appropriate method of valuing potential benefits under varying circumstances for individual cogeneration or small power production units.

(b) Report.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(1) complete the study;

(2) provide an opportunity for public comment on the results of the study; and

(3) submit to the President and Congress a report describing—

(A) the results of the study; and

(B) information relating to the public comments received under paragraph (2).

(c) Publication.—After submission of the report under subsection (b) to the President and Congress, the Secretary shall publish the report.

SEC. 1818. NATURAL GAS SUPPLY SHORTAGE REPORT.

(a) In General.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report on natural gas supplies and demand.

(b) Purpose.—The purpose of the report under subsection (a) is to develop recommendations for achieving a balance between natural gas supply and demand in order to—

(1) provide residential consumers with natural gas at reasonable and stable prices;

(2) accommodate long-term maintenance and growth of domestic natural gas-dependent industrial, manufacturing, and commercial enterprises;

(3) facilitate the attainment of national ambient air quality standards under the Clean Air Act (43 U.S.C. 7401 et seq.);

(4) achieve continued progress in reducing the emissions associated with electric power generation; and

(5) support the development of the preliminary phases of hydrogen-based energy technologies.

(c) Comprehensive Analysis.—The report shall include a comprehensive analysis of, for the period beginning on January 1, 2004, and ending on December 31, 2015, natural gas supply and demand in the United States, including—

(1) estimates of annual domestic demand for natural gas, taking into consideration the effect of Federal policies and actions that are likely to increase or decrease the demand for natural gas;

(2) projections of annual natural gas supplies, from domestic and foreign sources, under Federal policies in existence on the date of enactment of this Act;

(3) an identification of estimated natural gas supplies that are not available under those Federal policies;

(4) scenarios for decreasing natural gas demand and increasing natural gas supplies that compare the relative economic and environmental impacts of Federal policies that—

(A) encourage or require the use of natural gas to meet air quality, carbon dioxide emission reduction, or energy security goals;

(B) encourage or require the use of energy sources other than natural gas, including coal, nuclear, and renewable sources;

(C) support technologies to develop alternative sources of natural gas and synthetic gas, including coal gasification technologies;

(D) encourage or require the use of energy conservation and demand side management practices; and

(E) affect access to domestic natural gas supplies; and

(5) recommendations for Federal actions to achieve the purposes described in subsection (b), including recommendations that—

(A) encourage or require the use of energy sources other than natural gas, including coal, nuclear, and renewable sources;

(B) encourage or require the use of energy conservation or demand side management practices;

(C) support technologies for the development of alternative sources of natural gas and synthetic gas, including coal gasification technologies; and

(D) would improve access to domestic natural gas supplies.

(d) Consultation.—In preparing the report under subsection (a), the Secretary shall consult with—

(1) experts in natural gas supply and demand; and

(2) representatives of—

(A) State and local governments;

(B) tribal organizations; and

(C) consumer and other organizations.

(e) Hearings.—In preparing the report under subsection (a), the Secretary may hold public hearings and provide other opportunities for public comment, as the Secretary considers appropriate.

SEC. 1819. HYDROGEN PARTICIPATION STUDY.

Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report evaluating methodologies to ensure the widest participation practicable in setting goals and milestones under the hydrogen program of the Department, including international participants.

SEC. 1820. OVERALL EMPLOYMENT IN A HYDROGEN ECONOMY.

(a) Study.—

(1) In general.—The Secretary shall carry out a study of the likely effects of a transition to a hydrogen economy on overall employment in the United States.

(2) Contents.—In completing the study, the Secretary shall take into consideration—

(A) the replacement effects of new goods and services;

(B) international competition;

(C) workforce training requirements;

(D) multiple possible fuel cycles, including usage of raw materials;

(E) rates of market penetration of technologies; and

(F) regional variations based on geography.

(b) Report.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the findings, conclusions, and recommendations of the study under subsection (a).

SEC. 1821. STUDY OF BEST MANAGEMENT PRACTICES FOR ENERGY RESEARCH AND DEVELOPMENT PROGRAMS.

(a) In General.—The Secretary shall enter into an arrangement with the National Academy of Public Administration under which the Academy shall conduct a study to assess management practices for research, development, and demonstration programs at the Department.

(b) Scope of the Study.—The study shall consider—

(1) management practices that act as barriers between the Office of Science and offices conducting mission-oriented research;

(2) recommendations for management practices that would improve coordination and bridge the innovation gap between the Office of Science and offices conducting mission-oriented research;

(3) the applicability of the management practices used by the Department of Defense Advanced Research Projects Agency to research programs at the Department;

(4) the advisability of creating an agency within the Department modeled after the Department of Defense Advanced Research Projects Agency;

(5) recommendations for management practices that could best encourage innovative research and efficiency at the Department; and

(6) any other relevant considerations.

(c) Report.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under this section.

SEC. 1822. EFFECT OF ELECTRICAL CONTAMINANTS ON RELIABILITY OF ENERGY PRODUCTION SYSTEMS.

Not later than 180 days after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences under which the National Academy of Sciences shall determine the effect that electrical contaminants (such as tin whiskers) may have on the reliability of energy production systems, including nuclear energy.

SEC. 1823. ALTERNATIVE FUELS REPORTS.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress reports on the potential for each of biodiesel and hythane to become major, sustainable, alternative fuels.

(b) Biodiesel Report.—The report relating to biodiesel submitted under subsection (a) shall—

(1) provide a detailed assessment of—

(A) potential biodiesel markets and manufacturing capacity; and

(B) environmental and energy security benefits with respect to the use of biodiesel;

(2) identify any impediments, especially in infrastructure needed for production, distribution, and storage, to biodiesel becoming a substantial source of fuel for conventional diesel and heating oil applications;

(3) identify strategies to enhance the commercial deployment of biodiesel; and

(4) include an examination and recommendations, as appropriate, of the ways in which biodiesel may be modified to be a cleaner-burning fuel.

(c) Hythane Report.—The report relating to hythane submitted under subsection (a) shall—

(1) provide a detailed assessment of potential hythane markets and the research and development activities that are necessary to facilitate the commercialization of hythane as a competitive, environmentally friendly transportation fuel;

(2) address—

(A) the infrastructure necessary to produce, blend, distribute, and store hythane for widespread commercial purposes; and

(B) other potential market barriers to the commercialization of hythane;

(3) examine the viability of producing hydrogen using energy-efficient, environmentally friendly methods so that the hydrogen can be blended with natural gas to produce hythane; and

(4) include an assessment of the modifications that would be required to convert compressed natural gas vehicle engines to engines that use hythane as fuel.

(d) Grants for Report Completion.—The Secretary may use such sums as are available to the Secretary to provide, to 1 or more colleges or universities selected by the Secretary, grants for use in carrying out research to assist the Secretary in preparing the reports required to be submitted under subsection (a).

SEC. 1824. FINAL ACTION ON REFUNDS FOR EXCESSIVE CHARGES.

FERC shall—

(1) seek to conclude its investigation into the unjust or unreasonable charges incurred by California during the 2000–2001 electricity crisis as soon as possible;

(2) seek to ensure that refunds the Commission determines are owed to the State of California are paid to the State of California; and

(3) submit to Congress a report by December 31, 2005, describing the actions taken by the Commission to date under this section and timetables for further actions.

SEC. 1825. FUEL CELL AND HYDROGEN TECHNOLOGY STUDY.

(a) In General.—As soon as practicable after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences and the National Research Council to carry out a study of fuel cell technologies that provides a budget roadmap for the development of fuel cell technologies and the transition from petroleum to hydrogen in a significant percentage of the vehicles sold by 2020.

(b) Requirements.—In carrying out the study, the National Academy of Sciences and the National Research Council shall—

(1) establish as a goal the maximum percentage practicable of vehicles that the National Academy of Sciences and the National Research Council determines can be fueled by hydrogen by 2020;

(2) determine the amount of Federal and private funding required to meet the goal established under paragraph (1);

(3) determine what actions are required to meet the goal established under paragraph (1);

(4) examine the need for expanded and enhanced Federal research and development programs, changes in regulations, grant programs, partnerships between the Federal Government and industry, private sector investments, infrastructure investments by the Federal Government and industry, educational and public information initiatives, and Federal and State tax incentives to meet the goal established under paragraph (1);

(5) consider whether other technologies would be less expensive or could be more quickly implemented than fuel cell technologies to achieve significant reductions in carbon dioxide emissions;

(6) take into account any reports relating to fuel cell technologies and hydrogen-fueled vehicles, including—

(A) the report prepared by the National Academy of Engineering and the National Research Council in 2004 entitled "Hydrogen Economy: Opportunities, Costs, Barriers, and R&D Needs"; and

(B) the report prepared by the U.S. Fuel Cell Council in 2003 entitled "Fuel Cells and Hydrogen: The Path Forward";

(7) consider the challenges, difficulties, and potential barriers to meeting the goal established under paragraph (1); and

(8) with respect to the budget roadmap—

(A) specify the amount of funding required on an annual basis from the Federal Government and industry to carry out the budget roadmap; and

(B) specify the advantages and disadvantages to moving toward the transition to hydrogen in vehicles in accordance with the timeline established by the budget roadmap.

SEC. 1826. PASSIVE SOLAR TECHNOLOGIES.

(a) Definition of Passive Solar Technology.—In this section, the term "passive solar technology" means a passive solar technology, including daylighting, that—

(1) is used exclusively to avoid electricity use; and

(2) can be metered to determine energy savings.

(b) Study.—The Secretary shall conduct a study to determine—

(1) the range of levelized costs of avoided electricity for passive solar technologies;

(2) the quantity of electricity displaced using passive solar technologies in the United States as of the date of enactment of this Act; and

(3) the projected energy savings from passive solar technologies in 5, 10, 15, 20, and 25 years after the date of enactment of this Act if—

(A) incentives comparable to the incentives provided for electricity generation technologies were provided for passive solar technologies; and

(B) no new incentives for passive solar technologies were provided.

(c) Report.—Not later than 120 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study under subsection (b).

SEC. 1827. STUDY OF LINK BETWEEN ENERGY SECURITY AND INCREASES IN VEHICLE MILES TRAVELED.

(a) In General.—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy shall conduct a study to assess the implications on energy use and efficiency of land development patterns in the United States.

(b) Scope.—The study shall consider—

(1) the correlation, if any, between land development patterns and increases in vehicle miles traveled;

(2) whether petroleum use in the transportation sector can be reduced through changes in the design of development patterns;

(3) the potential benefits of—

(A) information and education programs for State and local officials (including planning officials) on the potential for energy savings through planning, design, development, and infrastructure decisions;

(B) incorporation of location efficiency models in transportation infrastructure planning and investments; and

(C) transportation policies and strategies to help transportation planners manage the demand for the number and length of vehicle trips, including trips that increase the viability of other means of travel; and

(4) such other considerations relating to the study topic as the National Academy of Sciences finds appropriate.

(c) Report.—Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall submit to the Secretary and Congress a report on the study conducted under this section.

SEC. 1828. SCIENCE STUDY ON CUMULATIVE IMPACTS OF MULTIPLE OFFSHORE LIQUEFIED NATURAL GAS FACILITIES.

(a) In General.—The Secretary (in consultation with the National Oceanic Atmospheric Administration, the Commandant of the Coast Guard, affected recreational and commercial fishing industries, and affected energy and transportation stakeholders) shall carry out a study and compile existing science (including studies and data) to determine the risks or benefits presented by cumulative impacts of multiple offshore liquefied natural gas facilities reasonably assumed to be constructed in an area of the Gulf of Mexico using the open-rack vaporization system.

(b) Accuracy.—In carrying out subsection (a), the Secretary shall verify the accuracy of available science and develop a science-based evaluation of significant short-term and long-term cumulative impacts, both adverse and beneficial, of multiple offshore liquefied natural gas facilities reasonably assumed to be constructed in an area of the Gulf of Mexico using or proposing the open-rack vaporization system on the fisheries and marine populations in the vicinity of the facility.

SEC. 1829. ENERGY AND WATER SAVING MEASURES IN CONGRESSIONAL BUILDINGS.

(a) In General.—The Architect of the Capitol, as part of the process of updating the Master Plan Study for the Capitol complex, shall—

(1) carry out a study to evaluate the energy infrastructure of the Capitol complex to determine how to augment the infrastructure to become more energy efficient—

(A) by using unconventional and renewable energy resources;

(B) by—

(i) incorporating new technologies to implement effective green building solutions;

(ii) adopting computer-based building management systems; and

(iii) recommending strategies based on end-user behavioral changes to implement low-cost environmental gains; and

(C) in a manner that would enable the Capitol complex to have reliable utility service in the event of power fluctuations, shortages, or outages;

(2) carry out a study to explore the feasibility of installing energy and water conservation measures on the rooftop of the Dirksen Senate Office Building, including the area directly above the food service facilities in the center of the building, including the installation of—

(A) a vegetative covering area, using native species to the maximum extent practicable, to—

(i) insulate and increase the energy efficiency of the building;

(ii) reduce precipitation runoff and conserve water for landscaping or other uses;

(iii) increase, and provide more efficient use of, available outdoor space through management of the rooftop of the center of the building

as a park or garden area for occupants of the building; and

(iv) improve the aesthetics of the building; and

(B) onsite renewable energy and other state-of-the-art technologies to—

(i) improve the energy efficiency and energy security of the building or the Capitol complex by providing additional or backup sources of power in the event of a power shortage or other emergency;

(ii) reduce the use of resources by the building; or

(iii) enhance worker productivity; and

(C) not later than 180 days after the date of enactment of this Act, submit to Congress a report describing the findings and recommendations of the study under subparagraph (B).

(b) Authorization of Appropriations.—There is authorized to be appropriated to the Architect of the Capitol to carry out this section $2,000,000 for each of fiscal years 2006 through 2010.

SEC. 1830. STUDY OF AVAILABILITY OF SKILLED WORKERS.

(a) In General.—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study of the short-term and long-term availability of skilled workers to meet the energy and mineral security requirements of the United States.

(b) Inclusions.—The study shall include an analysis of—

(1) the need for and availability of workers for the oil, gas, and mineral industries;

(2) the availability of skilled labor at both entry level and more senior levels; and

(3) recommendations for future actions needed to meet future labor requirements.

(c) Report.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study.

SEC. 1831. REVIEW OF ENERGY POLICY ACT OF 1992 PROGRAMS.

(a) In General.—Not later than 180 days after the date of enactment of this section, the Secretary shall complete a study to determine the effect that titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.) have had on—

(1) the development of alternative fueled vehicle technology;

(2) the availability of that technology in the market; and

(3) the cost of alternative fueled vehicles.

(b) Topics.—As part of the study under subsection (a), the Secretary shall specifically identify—

(1) the number of alternative fueled vehicles acquired by fleets or covered persons required to acquire alternative fueled vehicles;

(2) the quantity, by type, of alternative fuel actually used in alternative fueled vehicles acquired by fleets or covered persons;

(3) the quantity of petroleum displaced by the use of alternative fuels in alternative fueled vehicles acquired by fleets or covered persons;

(4) the direct and indirect costs of compliance with requirements under titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.), including—

(A) vehicle acquisition requirements imposed on fleets or covered persons;

(B) administrative and recordkeeping expenses;

(C) fuel and fuel infrastructure costs;

(D) associated training and employee expenses; and

(E) any other factors or expenses the Secretary determines to be necessary to compile reliable estimates of the overall costs and benefits of complying with programs under those titles for fleets, covered persons, and the national economy;

(5) the existence of obstacles preventing compliance with vehicle acquisition requirements and increased use of alternative fuel in alternative fueled vehicles acquired by fleets or covered persons; and

(6) the projected impact of amendments to the Energy Policy Act of 1992 made by this title.

(c) Report.—Upon completion of the study under this section, the Secretary shall submit to Congress a report that describes the results of the study and includes any recommendations of the Secretary for legislative or administrative changes concerning the alternative fueled vehicle requirements under titles III, IV and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.).

SEC. 1832. STUDY ON THE BENEFITS OF ECONOMIC DISPATCH.

(a) Study.—The Secretary, in coordination and consultation with the States, shall conduct a study on—

(1) the procedures currently used by electric utilities to perform economic dispatch;

(2) identifying possible revisions to those procedures to improve the ability of nonutility generation resources to offer their output for sale for the purpose of inclusion in economic dispatch; and

(3) the potential benefits to residential, commercial, and industrial electricity consumers nationally and in each state if economic dispatch procedures were revised to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch.

(b) Definition.—The term "economic dispatch" when used in this section means the operation of generation facilities to produce energy at the lowest cost to reliably serve consumers, recognizing any operational limits of generation and transmission facilities.

(c) Report to Congress and the States.—Not later than 90 days after the date of enactment of this Act, and on a yearly basis following, the Secretary shall submit a report to Congress and the States on the results of the study conducted under subsection (a), including recommendations to Congress and the States for any suggested legislative or regulatory changes.

SEC. 1833. RENEWABLE ENERGY ON FEDERAL LAND.

(a) National Academy of Sciences Study.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall enter into a contract with the National Academy of Sciences under which the National Academy of Sciences shall—

(1) study the potential of developing wind, solar, and ocean energy resources (including tidal, wave, and thermal energy) on Federal land available for those uses under current law and the outer Continental Shelf;

(2) assess any Federal law (including regulations) relating to the development of those resources that is in existence on the date of enactment of this Act; and

(3) recommend statutory and regulatory mechanisms for developing those resources.

(b) Submission to Congress.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress the results of the study under subsection (a).

SEC. 1834. INCREASED HYDROELECTRIC GENERATION AT EXISTING FEDERAL FACILITIES.

(a) In General.—The Secretary of the Interior, the Secretary, and the Secretary of the Army shall jointly conduct a study of the potential for increasing electric power production capability at federally owned or operated water regulation, storage, and conveyance facilities.

(b) Content.—The study under this section shall include identification and description in detail of each facility that is capable, with or without modification, of producing additional hydroelectric power, including estimation of the existing potential for the facility to generate hydroelectric power.

(c) Report.—The Secretaries shall submit to the Committees on Energy and Commerce, Resources, and Transportation and Infrastructure of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study under this section by not later than 18 months after the date of the enactment of this Act. The report shall include each of the following:

(1) The identifications, descriptions, and estimations referred to in subsection (b).

(2) A description of activities currently conducted or considered, or that could be considered, to produce additional hydroelectric power from each identified facility.

(3) A summary of prior actions taken by the Secretaries to produce additional hydroelectric power from each identified facility.

(4) The costs to install, upgrade, or modify equipment or take other actions to produce additional hydroelectric power from each identified facility and the level of Federal power customer involvement in the determination of such costs.

(5) The benefits that would be achieved by such installation, upgrade, modification, or other action, including quantified estimates of any additional energy or capacity from each facility identified under subsection (b).

(6) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners, by performing generator upgrades or rewinds, or construction of pumped storage facilities.

(7) The impact of increased hydroelectric power production on irrigation, water supply, fish, wildlife, Indian tribes, river health, water quality, navigation, recreation, fishing, and flood control.

(8) Any additional recommendations to increase hydroelectric power production from, and reduce costs and improve efficiency at, federally owned or operated water regulation, storage, and conveyance facilities.

SEC. 1835. SPLIT-ESTATE FEDERAL OIL AND GAS LEASING AND DEVELOPMENT PRACTICES.

(a) Review.—In consultation with affected private surface owners, oil and gas industry, and other interested parties, the Secretary of the Interior shall undertake a review of the current policies and practices with respect to management of Federal subsurface oil and gas development activities and their effects on the privately owned surface. This review shall include—

(1) a comparison of the rights and responsibilities under existing mineral and land law for the owner of a Federal mineral lease, the private surface owners and the Department;

(2) a comparison of the surface owner consent provisions in section 714 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1304) concerning surface mining of Federal coal deposits and the surface owner consent provisions for oil and gas development, including coalbed methane production; and

(3) recommendations for administrative or legislative action necessary to facilitate reasonable access for Federal oil and gas activities while addressing surface owner concerns and minimizing impacts to private surface.

(b) Report.—The Secretary of the Interior shall report the results of such review to Congress not later than 180 days after the date of enactment of this Act.

SEC. 1836. RESOLUTION OF FEDERAL RESOURCE DEVELOPMENT CONFLICTS IN THE POWDER RIVER BASIN.

(a) REVIEW.—The Secretary of the Interior shall review Federal and State laws in existence on the date of enactment of this Act in order to resolve any conflict relating to the Powder River Basin in Wyoming and Montana between—

(1) the development of Federal coal; and

(2) the development of Federal and non-Federal coalbed methane.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress a report that—

(1) describes methods of resolving a conflict described in subsection (a); and

(2) identifies a method preferred by the Secretary of the Interior, including proposed legislative language, if any, required to implement the method.

SEC. 1837. NATIONAL SECURITY REVIEW OF INTERNATIONAL ENERGY REQUIREMENTS.

(a) STUDY.—The Secretary, in consultation with the Secretary of Defense and Secretary of Homeland Security, shall conduct a study of the growing energy requirements of the People's Republic of China and the implications of such growth on the political, strategic, economic, or national security interests of the United States, including—

(1) an assessment of the type, nationality, and location of energy assets that have been sought for investment by entities located in the People's Republic of China;

(2) an assessment of the extent to which investment in energy assets by entities located in the People's Republic of China has been on market-based terms and free from subsidies from the People's Republic of China;

(3) an assessment of the effect of investment in energy assets by entities located in the People's Republic of China on the control by the United States of dual-use and export-controlled technologies, including the effect on current and future access to foreign and domestic sources of rare earth elements used to produce such technologies;

(4) an assessment of the relationship between the Government of the People's Republic of China and energy-related businesses located in the People's Republic of China;

(5) an assessment of the impact on the world energy market of the common practice of entities located in the People's Republic of China of removing the energy assets owned or controlled by such entities from the competitive market, with emphasis on the effect if such practice expands along with the growth in energy consumption of the People's Republic of China;

(6) an examination of the United States energy policy and foreign policy as it relates to ensuring a competitive global energy market;

(7) an examination of the relationship between the United States and the People's Republic of China as it relates to pursuing energy interests in a manner that avoids conflicts; and

(8) a comparison of the appropriate laws and regulations of other nations to determine whether a United States company would be permitted to purchase, acquire, merge, or otherwise establish a joint relationship with an entity whose primary place of business is in that other nation, including the laws and regulations of the People's Republic of China.

(b) REPORT AND RECOMMENDATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Defense, shall report to the President and the Congress on the findings of the study described in subsection (a) and any recommendations the Secretaries consider appropriate.

(c) REGULATORY EFFECT.—Notwithstanding any other provision of law, any instrumentality of the United States vested with authority to review a transaction that includes an investment in a United States domestic corporation may not conclude a national security review related to an investment in the energy assets of a United States domestic corporation by an entity owned or controlled by the government of the People's Republic of China for 21 days after the report to the President and the Congress, and until the President certifies that he has received the report described in subsection (b).

SEC. 1838. USED OIL RE-REFINING STUDY.

The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall undertake a study of the energy and environmental benefits of the re-refining of used lubricating oil and report to Congress within 90 days after enactment of this Act including recommendations of specific steps that can be taken to improve collections of used lubricating oil and increase re-refining and other beneficial re-use of such oil.

SEC. 1839. TRANSMISSION SYSTEM MONITORING.

Within 6 months after the date of enactment of this Act, the Secretary and the Federal Energy Regulatory Commission shall study and report to Congress on the steps which must be taken to establish a system to make available to all transmission system owners and Regional Transmission Organizations (as defined in the Federal Power Act) within the Eastern and Western Interconnections real-time information on the functional status of all transmission lines within such Interconnections. In such study, the Commission shall assess technical means for implementing such transmission information system and identify the steps the Commission or Congress must take to require the implementation of such system.

SEC. 1840. REPORT IDENTIFYING AND DESCRIBING THE STATUS OF POTENTIAL HYDROPOWER FACILITIES.

(a) REPORT REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, acting through the Bureau of Reclamation, shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report identifying and describing the status of potential hydropower facilities included in water surface storage studies undertaken by the Secretary for projects that have not been completed or authorized for construction.

(b) REPORT CONTENTS.—The report shall include the following:

(1) Identification of all surface storage studies authorized by Congress since the enactment of the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.).

(2) The purposes of each project included within each study identified under paragraph (1).

(3) The status of each study identified under paragraph (1), including for each study—

(A) whether the study is completed or, if not completed, still authorized;

(B) the level of analyses conducted at the feasibility and reconnaissance levels of review;

(C) identifiable environmental impacts of each project included in the study, including to fish and wildlife, water quality, and recreation;

(D) projected water yield from each such project;

(E) beneficiaries of each such project;

(F) the amount authorized and expended;

(G) projected funding needs and timelines for completing the study (if applicable);

(H) anticipated costs of each such project; and

(I) other factors that might interfere with construction of any such project.

(4) An identification of potential hydroelectric facilities that might be developed pursuant to each study identified under paragraph (1).

(5) Applicable costs and benefits associated with potential hydroelectric production pursuant to each study.

And the Senate agree to the same.

From the Committee on Energy and Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

Joe Barton,
Ralph M. Hall,
Mike Bilirakis,
Fred Upton,
Cliff Stearns,
Paul Gillmor,
John Shimkus,
John Shadegg,
Chip Pickering,
Roy Blunt,
Charles F. Bass,
John D. Dingell,
Rick Boucher,
Bart Stupak,
Albert R. Wynn,

From the Committee on Agriculture, for consideration of secs. 332, 344, 346, 1701, 1806, 2008, 2019, 2024, 2029, and 2030 of the House bill, and secs. 251–253, 264, 303, 319, 342, 343, 345, and 347 of the Senate amendment, and modifications committed to conference:

Bob Goodlatte,
Frank D. Lucas,
Collin C. Peterson,

From the Committee on Armed Services, for consideration of secs. 104, 231, 601–607, 609–612, and 661 of the House bill, and secs. 104, 281, 601–607, 609, 610, 625, 741–743, 1005, and 1006 of the Senate amendment, and modifications committed to conference:

Duncan Hunter,
Curt Weldon,
Ike Skelton,

From the Committee on Education and the Workforce, for consideration of secs. 121, 632, 640, 2206, and 2209 of the House bill, and secs. 625, 1103, 1104, and 1106 of the Senate amendment, and modifications committed to conference:

Charlie Norwood,
Sam Johnson,

From the Committee on Financial Services, for consideration of secs. 141–149 of the House bill, and secs. 161–164 and 505 of the Senate amendment, and modifications committed to conference:

Michael G. Oxley,
Bob Ney,

From the Committee on Government Reform, for consideration of secs. 102, 104, 105, 203, 205, 502, 624, 632, 701, 704, 1002, 1227, and 2304 of the House bill, and secs. 102, 104, 105, 108, 203, 502, 625, 701–703, 723–725, 741–743, 939, and 1011 of the Senate amendment, and modifications committed to conference:

Tom Davis,
Darrell Issa,
Diane E. Watson,

From the Committee on the Judiciary, for consideration of secs. 320, 377, 612, 625, 632, 663, 665, 1221, 1265, 1270, 1283, 1442, 1502, and 2208 of the House bill, and secs. 137, 211, 328, 384, 389, 625, 1221, 1264, 1269, 1270, 1275, 1280, and 1402 of the Senate amendment, and modifications committed to conference:

F. James Sensenbrenner, Jr.,
Steve Chabot,

From the Committee on Resources, for consideration of secs. 204, 231, 330, 344, 346, 355, 358, 377, 379, Title V, secs. 969–976, 1701, 1702, Title XVIII, secs. 1902, 2001–2019, 2022–2031, 2033, 2041, 2042, 2051–2055, Title XXI, Title XXII, and Title XXIV of the House bill, and secs. 241–245, 252, 253, 261–270, 281, 311–317, 319–323, 326, 327, 342–346, 348, 371, 387, 391, 411–414, 416, and 501–506 of the Senate amendment, and modifications committed to conference:

RICHARD POMBO,
BARBARA CUBIN,
NICK RAHALL,

From the Committee on Rules, for consideration of sec. 713 of the Senate amendment, and modifications committed to conference:

DAVID DREIER,
LINCOLN DIAZ-BALART,
LOUISE SLAUGHTER,

From the Committee on Science, for consideration of secs. 108, 126, 205, 209, 302, 401–404, 411, 416, 441, 601-607, 609-612, 631, 651, 652, 661, 711, 712, 721–724, 731, 741–744, 751, 754, 757, 759, 801-811, Title IX, secs. 1002, 1225-1227, 1451, 1452, 1701, 1820, and Title XXIV of the House bill, and secs. 125, 126, 142, 212, 230–232, 251–253, 302, 318, 327, 346, 401-407, 415, 503, 601-607, 609, 610, 624, 631–635, 706, 721, 722, 725, 731, 734, 751, 752, 757, 801, Title IX, Title X, secs. 1102, 1103, 1105, 1106, 1224, Title XIV, secs. 1601, 1602, and 1611 of the Senate amendment, and modifications committed to conference:

SHERWOOD BOEHLERT,
JUDY BIGGERT,
BART GORDON,

Provided that Mr. Costello is appointed in lieu of Mr. Gordon for consideration of secs. 401-404, 411, 416, and 441 of the House bill, and secs. 401–407 and 415 of the Senate amendment, and modifications committed to conference:

JERRY F. COSTELLO,

From the Committee on Transportation and Infrastructure, for consideration of secs. 101–103, 105, 108, 109, 137, 205, 208, 231, 241, 242, 320, 328–330, 377, 379, 721–724, 741–744, 751, 755, 756, 758, 811, 1211, 1221, 1231, 1234, 1236, 1241, 1281–1283, 1285, 1295, 1442, 1446, 2008, 2010, 2026, 2029, 2030, 2207, and 2210 of the House bill, and secs. 101-103, 105, 107, 108, 281, 325, 344, 345, 383, 731–733, 752, 1211, 1221, 1231, 1233, 1235, 1261, 1263, 1266, and 1291 of the Senate amendment, and modifications committed to conference:

DON YOUNG,
TOM PETRI,

From the Committee on Ways and Means, for consideration of Title XII of the House bill, and secs. 135, 405, Title XV, and sec. 1611 of the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,
DAVE CAMP,
Managers on the Part of the House.

PETE DOMENICI,
LARRY E. CRAIG,
CRAIG THOMAS,
LAMAR ALEXANDER,
LISA MURKOWSKI,
JEFF BINGAMAN,
DANIEL D. AKAKA,
BYRON L. DORGAN,
RICHARD M. BURR,
TIM JOHNSON,
CHUCK GRASSLEY,
ORRIN HATCH,
MAX BAUCUS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 6, to ensure jobs for our future with secure, affordable, and reliable energy, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the Managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck all of the House bill after the enacting clause, and inserted a substitute text.

The House recess from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment.

The mangers on the Part of the House and Senate met on July 14, July 19, July 21, July 24, and July 25, 2005.

From the Committee on Energy and Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

JOE BARTON,
RALPH M. HALL,
MIKE BILIRAKIS,
FRED UPTON,
CLIFF STEARNS,
PAUL GILLMAR,
JOHN SHIMKUS,
JOHN SHADEGG,
CHIP PICKERING,
ROY BLUNT,
CHARLES F. BASS,
JOHN D. DINGELL,
RICH BOUCHER,
BART STUPAK,
ALBERT R. WYNN,

From the Committee on Agriculture, for consideration of secs. 332, 344, 346, 1701, 1806, 2008, 2019, 2024, 2029, and 2030 of the House bill, and secs. 251-253, 264, 303, 319, 342, 343, 345, and 347 of the Senate amendment, and modifications committed to conference:

BOB GOODLATTE,
FRANK D. LUCAS,
COLLIN C. PETERSON,

From the Committee on Armed Services, for consideration of secs. 104, 231, 601-607, 609-612, and 661 of the House bill, and secs. 104, 281, 601-607, 609, 625, 741-743, 1005, and 1006 of the Senate amendment, and modifications committed to conference:

DUNCAN HUNTER,
CURT WELDON,
IKE SKELTON,

From the Committee on Education and the Workforce, for consideration of secs. 121, 632, 640, 2206, and 2209 of the House bill, and secs. 625, 1103, 1104, and 1106 of the Senate amendment, and modifications committed to conference:

CHARLIE NORWOOD,
SAM JOHNSON,

From the Committee on Financial Services, for consideration of secs. 141–149, of the House bill, and secs. 161-164, and 505 of the Senate amendment, and modifications committed to conference:

MICHAEL G. OXLEY,
BOB NEY,

From the Committee on Government Reform, for consideration of secs. 102, 104, 105, 203, 205, 502, 624, 632, 701, 704, 1002, 1227, and 2304 of the House bill, and secs. 102, 104, 105, 108, 203, 502, 625, 701-703, 723-725, 741-743, 939, and 1011 of the Senate amendment, and modifications committed to conference:

TOM DAVIS,
DARRELL ISSA,
DIANE E. WATSON,

From the Committee on Judiciary, for consideration of secs. 320, 377, 612, 625, 632, 663, 665, 1221, 1265, 1270, 1283, 1442, 1502, and 2208 of the House bill, and secs. 137, 211, 328, 384, 389, 625, 1221, 1264, 1269, 1270, 1275, 1280, and 1402 of the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER
Jr.,
STEVE CHABOT,

From the Committee on Resources, for consideration of secs. 204, 231, 330, 344, 346, 355, 358, 377, 379, Title V, secs. 969–976, 1701, 1702, Title XVII, secs. 1902, 2001-2019, 2022-2031, 2033, 2041, 2042, 2051-2055, Title XXI, Title XXII, and Title XXIV of the House bill, and secs. 241–245, 252, 253, 261–270, 281, 311–317, 319–323, 326, 327, 342–346, 348, 371, 387, 391, 411–414, 416, and 501–506 of the Senate amendment, and modifications committed to conference:

RICHARD POMBO,
BARBARA CUBIN,
NICK RAHALL,

From the Committee on Rules, for consideration of secs. 713 of the Senate amendment, and modifications committed to conference:

DAVID DREIER,
LINCOLN DIAZ-BALART,
LOUISE SLAUGTER,

From the Committee on Science, for consideration of secs. 108, 126, 205, 209, 302, 401–404, 411, 416, 441, 601-607, 609-612, 631, 651, 652, 661, 711, 712, 721–724, 731, 741–744, 751, 754, 757, 759, 801-811, Title IX, secs. 1002, 1225-1777, 1451, 1452, 1701, 1820, and Title XXIV of the House bill, and secs. 125, 126, 142, 212, 230–232, 251–253, 302, 318, 327, 346, 401-407, 415, 503, 601-607, 609, 610, 624, 631–635, 706, 721, 722, 725, 731, 734, 751, 752, 757, 801, Title IX, Title X, secs. 1102, 1103, 1105, 1106, 1224, Title XIV, secs. 1601, 1602, and 1611 of the Senate amendment, and modifications committed to conference:

SHERWOOD BOEHLERT,
JUDY BIGGERT,
BART GORDON,

Provided that Mr. Costello is appointed in lieu of Mr. Gordon for consideration of secs. 401-404, 411, 416, and 441 of the House bill, and secs. 401–407 and 415 of the Senate amendment, and modifications committed to conference:

JERRY F. COSTELLO,

From the Committee on Transportation and Infrastructure, for consideration of secs. 101–103, 105, 108, 109, 137, 205, 208, 231, 241, 242, 320, 328–330, 377, 379, 721–724, 741–744, 751, 755, 756, 758, 811, 1211, 1221, 1231, 1234, 1236, 1241, 1281–1283, 1285, 1295, 1442, 1446, 2008, 2010, 2026, 2029, 2030, 2207, and 2210 of the House bill, and secs. 101-103, 105, 107, 108, 281, 325, 344, 345, 383, 731–733, 752, 1211, 1221, 1231, 1233, 1235, 1261, 1263, 1266, and 1291 of the Senate amendment, and modifications committed to conference:

DON YOUNG,
TOM PETRI,

From the Committee on Ways and Means, for consideration of Title XIII of the House bill, and secs. 135, 405, Title XV, and sec. 1611 of the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,
DAVE CAMP,
Managers on the Part of the House.

PETE DOMENICI,
LARRY E. CRAIG,
CRAIG THOMAS,
LAMAR ALEXANDER,
LISA MURKOWSKI,
JEFF BINGAMAN,
DANIEL K. AKAKA,
BYRON L. DORGAN,
RICHARD M. BURR,
TIM JOHNSON,
CHUCK GRASSLEY,
ORRIN HATCH,
MAX BAUCUS,
Managers on the Part of the Senate.

CONDEMNING TERRORIST ATTACKS IN SHARM EL-SHEIKH, EGYPT, ON JULY 23, 2005

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 384) condemning in the strongest terms the terrorist attacks in Sharm el-Sheikh, Egypt, on July 23, 2005, and for other purposes.

The Clerk read as follows:

H. RES. 384

Whereas on July 23, 2005, a series of explosions at tourist facilities in Sharm el-Sheikh, Egypt, planned and carried out by terrorists, resulted in the death of scores of civilians and the injury of hundreds of others;

Whereas the people of Egypt have been subjected to several other terrorist deadly attacks over the past year;

Whereas Egypt's appointed ambassador to Iraq, Dr. Ihab al-Sherif, was kidnapped and executed by terrorists in Baghdad during July 2005; and

Whereas President George W. Bush expressed the solidarity of the people and Government of the United States with the people and Government of Egypt during his visit to the Embassy of Egypt: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns in the strongest terms the terrorist attacks on Sharm el-Sheikh, Egypt and other terrorist attacks directed against Egypt;

(2) expresses its condolences to the families and friends of those individuals who were killed in the attacks and expresses its sympathies to those individuals who have been injured;

(3) joins with President George W. Bush in expressing the solidarity of the people and Government of the United States with the people and Government of Egypt as they recover from these cowardly and inhuman attacks; and

(4) expresses its readiness to support the Egyptian authorities in their efforts to bring to justice those individuals responsible for the recent attacks in Egypt and to pursue, disrupt, undermine, and dismantle the networks which plan and carry out such attacks.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 384.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is highly regrettable that the House must once again be in the position of having to express its outrage at yet another terrorist incident. Again, that incident is linked to a terrible distortion or perversion of Islam, a perversion that resulted in the killing of scores of Egyptians and their foreign guests, including an American, at Sharm el-Sheikh last weekend.

Two weeks ago we were sharing in the loss of scores of British citizens after the treacherous attacks in London. Today through this resolution we share in the mourning of Egyptians. Our feeling of sympathy is common to both peoples who share with us, most of all, our humanity, and whom we mourn just as we mourn all others who are lost in terrorists attacks around the world.

Despite our differences with certain policies pursued by the Government of Egypt, the killing of innocents must be strongly condemned, and we stand ready to support Egyptian authorities in bringing to justice those responsible for the recent attacks. We must unite with the Government and the people of Egypt to help fight a common enemy.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution. The recent deadly terrorist attacks in Egypt culminating in last week's assault on Sharm el-Sheikh have proven once again that the extreme ideology of violent Islamic fundamentalism poses a danger not only to the Western world, but to peace-loving people everywhere. The terrorists do not distinguish between Christians, Jews or Muslims in their search to destroy the core values of civilized society.

Mr. Speaker, at this difficult time we extend our deepest sympathies to the people of Egypt and to the loved ones of those many nations who perished in the bombing. Egypt has suffered several recent losses at the hands of violent fanatics. Earlier this month, Egypt's ambassador-designate in Iraq, Ambassador Ihab al-Sharif, was kidnapped and murdered. This courageous diplomat was to have been the first Arab ambassador accredited to the newly liberated Iraq, and his murder is a tragedy for all decent people.

In that spirit, let me express my profound concern over reports just this morning from Iraq that two recently kidnapped Algerian diplomats also may have been assassinated. I sincerely hope that these reports may not be true.

Mr. Speaker, we want the Egyptian people to know that they have our full support as they seek to hunt down those who planned and implemented the heinous attack at Sharm el-Sheikh, and as they seek to eradicate the scourge of fundamentalist violent Islam that has afflicted Egypt in several spasms over recent years, the same horrendous scourge that took the life of the late President Anwar Sadat, one of the towering figures of the 20th century.

I believe, Mr. Speaker, that the ultimate answer to this problem lies in education, improved health, economic development, and political reform. But now is not the time to debate those issues. Now is the time to defeat and to destroy the terrorists and those who have created them.

Today, Mr. Speaker, we stand as one with the Egyptian people and the Egyptian Government in opposing and rejecting the violent ideology of extremist Islamic hate of which Egypt has been the latest victim. I support this resolution strongly. I urge all of my colleagues to do so.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. TOM DAVIS), the distinguished chairman of the House Committee on Government Reform.

Mr. TOM DAVIS of Virginia. Mr. Speaker, last Saturday July 23, 2005, was a dreadful day for the entire civilized world. The multiple bombings in the Egyptian city of Sharm el-Sheikh that killed dozens constituted the deadliest act of terrorism in Egypt's history.

I want to assure the victims of the attack, their families, and all Egyptian people that the House of Representatives and the American people stand with them during this time of loss.

As we know all too well, terrorists remain committed to senseless killing of innocent people. Their evil must be defeated. That a suicide attacker would ram a pick-up truck packed with 660 pounds of explosives into a hotel is just the most recent demonstration of the viciousness of these killers.

Last weekend's attack is not an isolated incident. A suicide bomber exploded a bomb in a Cairo market on April 7 this year, killing three, including one American. On April 30, two women fired several gunshots into a tour bus in Cairo wounding seven people. And on July 7, Egypt's Ambassador to Iraq, Dr. Ihab al-Sharif, was kidnapped and killed by a group associated with al Qaeda.

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The July 23 attack is a heartbreaking reminder of the human toll in the war on terror, but it will only serve to steel the resolve of America, Egypt, and our allies. The U.S. Government will continue its cooperation with Egyptian President Hosni Mubarak to track down the terrorists involved in these attacks. America and our allies do not distinguish between terrorist acts aimed at interrupting the Israeli-Palestinian appeals process, those attacking the operations of the new Iraqi government, or those that result in the murder of innocent sightseers in Sharm el-Sheikh.

Mr. Speaker, as this legislation resolves all to do, I am proud to join President Bush in expressing the solidarity of the American people with the Egyptian people in the aftermath of the July 23 attacks. I strongly support House Resolution 384.

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 3 minutes to the gentleman from Florida (Mr. WEXLER), a member of the Committee on International Relations.

Mr. WEXLER. Mr. Speaker, I want to thank the very eloquent ranking member of the Committee on International Relations, the gentleman from California (Mr. LANTOS), for yielding me this time; and I would first like to associate myself with both his remarks and the remarks of the gentlewoman from Florida (Ms. ROS-LEHTINEN) as they very aptly expressed the sentiments of the American people in regard to the most recent attacks in Egypt.

The attacks in Sharm el-Sheikh were unconscionable acts of tragedy and terror. At this difficult time, the American people stand shoulder to shoulder with the people of Egypt in condemning these reprehensible and senseless acts. As partners in the war against terror, the United States and Egypt are united in our struggle against al Qaeda and the desire for security and peace.

In the past decade, Sharm el-Sheikh has served as an embodiment of hope for the future of the Middle East. It has been a popular tourist destination for Israelis and Europeans and for people worldwide, and the site of high-level peace talks regarding the Arab-Israeli conflict and the future of Iraq. It is my hope that Sharm el-Sheikh will continue to serve as a haven for the hope of peace, irrespective of this tragic event. This is the only way to ensure that the victims of this atrocity will not have died in vain.

I join my colleagues in condemning these horrific acts, expressing condolences to the families of those lost, and reaffirming the long-standing partnership between the United States and Egypt. The gentleman from California (Mr. LANTOS) very eloquently and aptly said: "At such a time, it is not the time for debate regarding policy. It is a time for humanity to come together in the quest for the victory of freedom and democracy."

It would be naive, however, Mr. Speaker, not to acknowledge that these attacks come in a political context. And I would hope, as a result of these attacks, that Egypt continue its efforts, as it has done in the past year, in returning its ambassador to Israel and implementing the QIZ legislation requiring and promoting joint investment between business people in Egypt and Israel for the betterment of Egyptian workers, that Egypt progress on a path of both political and economic reform. That ultimately will provide the victory of freedom and democracy that both Americans and Egyptians justly deserve and the terrorists that committed these heinous acts most definitely oppose.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

In this global struggle between chaos and civilization, there is no doubt in my mind that civilization will prevail; yet every time we are confronted with a tragedy, whether it be London or Sharm el-Sheikh, in Jerusalem or elsewhere, we must express our solidarity with the victims, with the survivors, and with the governments that stand with us against global terrorism.

Our support for the Egyptian people and for the government of Egypt is offered without any reservation or qualification. This House is united in expressing our sympathy and our condolences.

Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no further requests for time; but before yielding back my time, I would like to express my personal best wishes to Danielle Simonetta, who is back here, and who will end her exceptional service with the House this week. With her warm good spirits and a depth of managerial skills, she has conducted the legislative agenda on this side of the aisle, frequently under tremendous pressure from many quarters, though not, of course, from Members.

I know I speak for Members on both sides of the aisle when I say, Thank you, Danielle. We are going to miss you, and we welcome you back to our congressional family at any time.

Mr. ISSA. Mr. Speaker, I rise today in support of H. Res. 384, "Condemning in the strongest terms the terrorist attacks in Sharm el-Sheikh, Egypt, on July 23, 2005."

I wish to express my condolences to the families of those killed in last week's terrorist attacks, and my sympathy to those injured in the bombings. I would also like to join with Presdient's George W. Bush in expressing the solidarity of the people and government of the United States with the people and government of Egypt. The United States stands ready to support the Egyptian authorities in their efforts to bring to justice those responsible for these cowardly attacks.

These attacks, again, make plain the fact that the Global War on Terrorism is not a way of the West against the Muslim world but a war being fought between those who value freedom and democracy and respect for human rights and those who kill innocent civilians.

Egypt is a friend and ally of the United States. The people of the United States stand by the people of Egypt at this time tragedy.

Mr. HOLT. Mr. Speaker, I rise today in support of H. Res. 384. This legislation condemns the vicious terrorist attacks in Sharm el-Sheikh, Egypt on July 23, 2005. Those tragic blasts left 88 innocent civilians dead and 119 other injured and were the result of a coordinated plan to build fear in the hearts of the Egyptian people and rob them of their liberty.

These acts and many others have been perpetrated by individuals who claim they are acting in the name of Islam. Nothing could be further from the truth. Islam is a religion of peace and tolerance. It is an insult to Muslim Americans and Muslims worldwide to suggest that their chosen religion has anything to do with these terrorist attacks. Let me be clear, those who kill innocents and even themselves in the name of Islam are perverting their religion.

When I talk to Muslim leaders in my district they tell me that the only good thing to come out of these attacks is the raised awareness of their religion and their resulting ability to educate many for the first time on the true tenants of their faith. I am proud of the many Muslims in New Jersey for the work they do everyday to promote peace and religious tolerance. I look forward to a day when all Americans will know the true values of Islam, and understand the hateful and perverted "faith" of those who would commit these deadly attacks.

Terrorism sadly has become a tragic trend in our day and age. The targeting of innocent civilians in brutal attacks throughout the world, in London, New York, Washington, Madrid, the Middle East, and the latest attacks in Sharm El-Sheikh, Egypt all make us a little less secure as human beings. These attacks cannot be allowed to continue. They rob us all of our life and liberty. We cannot let terrorism become a commonplace aspect of our lives. Consequently, I support this resolution to affirm the solidarity of all Americans with the Egyptian people, and condemn these terrorists attacks.

Mr. DINGELL. Mr. Speaker, I rise to express my condolences to the victims and their families after last Saturday's depraved and savage terrorist attacks in Sharm el-Sheikh; Egypt. I also rise to pledge my and the rest of the House of Representative's steadfast support of the people of Egypt as they stand resolute in the face of terror.

On July 23, 2005, a series of explosions throughout Sharm el-Sheikh; Egypt, resulted in the death of eighty four civilians and injured hundreds of others.

These murderers, whoever they are, have an absolute disregard for human life. They deliberately kill innocent people. These explosions were strategically placed in public areas, to kill the maximum number of people.

Sadly, we should not be surprised by the barbaric attacks in Sharm el-Sheikh. We have seen it before. We experienced our own tragedy from terrorism, losing 3,000 of our own citizens in one awful morning. Across the ocean that same fashion evil touched London, and fifty two people died with hundreds of others injured.

We are engaged in a global struggle against an apocalyptical radicalism that will take not only military power, but also the power of our ideology that values freedom and diversity. The latest attack in Egypt changes nothing. We still stand strong in the face of terror. We remain loyal to finding the terrorist wherever they may be, and capturing them from behind the rocks and shadows where they hide.

Egypt has been a strong and faithful ally throughout the war on terror. Her resolve is only strengthened by this latest attack. Our Egyptian friends will continue to fight terrorist with the same devotion they have already shown. Today we see the character Egyptians share. Many Egyptians returned to their public facilities the very next day, unafraid of the terrorists.

I have no doubt that our two nations will continue to face down terrorists and extremists. Our cause, which speaks to the noblest parts of the human soul, will win, just as it has throughout our shared times past.

May God bless America and Egypt.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 384.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. ROS-LEHTINEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on certain questions previously postponed. Votes will be taken in the following order:

ordering the previous question on House Resolution 387, by the yeas and nays;

adopting House Resolution 387, if ordered;

suspending the rules on S. 544, by the yeas and nays;

suspending the rules on S. 45, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF H.R. 3283, UNITED STATES TRADE RIGHTS ENFORCEMENT ACT

The SPEAKER pro tempore. The pending business is the vote on ordering the previous question on House Resolution 387 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The vote was taken by electronic device, and there were—yeas 226, nays 202, not voting 5, as follows:

[Roll No. 432]

YEAS—226

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—202

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—5

Brady (PA)
Issa
Johnson (IL)
Murphy
Platts

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1429

Mr. BONILLA changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Mr. JOHNSON of Illinois. Mr. Speaker, on rollcall No. 432 I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. ISSA. Mr. Speaker, on rollcall No. 432, I was chair of a subcommittee and had to complete the Record. Had I been present, I would have voted "yea."

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 228, noes 200, not voting 5, as follows:

[Roll No. 433]

AYES—228

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—200

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—5

Brady (PA)
Issa
Jefferson
McKinney
Murphy

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1438

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ISSA. Mr. Speaker, on rollcall No. 433, I was chair of a subcommittee and did not reach the vote in time. Had I been present, I would have voted "aye."

PATIENT SAFETY AND QUALITY IMPROVEMENT ACT OF 2005

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 544.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and pass the Senate bill, S. 544, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 428, nays 3, not voting 2, as follows:

[Roll No. 434]

YEAS—428

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey

Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—3

Flake
Foxx
Paul

NOT VOTING—2

Brady (PA)
Murphy

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1448

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DRUG ADDICTION TREATMENT EXPANSION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 45.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and pass the Senate bill, S. 45, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 429, nays 0, not voting 4, as follows:

[Roll No. 435]

YEAS—429

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—4

Blumenauer
Brady (PA)
Carter
Murphy

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1455

So (two thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2567

Mr. GEORGE MILLER of California. Madam Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2567.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from California?

There was no objection.

UNITED STATES TRADE RIGHTS ENFORCEMENT ACT

Mr. ENGLISH of Pennsylvania. Madam Speaker, pursuant to House Resolution 387, I call up the bill (H.R. 3283) to enhance resources to enforce United States trade rights, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 387, the bill is considered read.

The text of H.R. 3283 is as follows:

H.R. 3283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Trade Rights Enforcement Act".

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) United States producers that believe they are injured by subsidized imports from nonmarket economy countries have not been able to obtain relief through countervailing duty actions because the Department of Commerce has declined to make countervailing duty determinations for nonmarket economy countries in part because it lacks explicit legal authority to do so;

(2) explicitly making the countervailing duty law under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) applicable to actions by nonmarket economy countries would give United States producers access to import relief measures that directly target government subsidies;

(3) the Bureau of Customs and Border Protection of the Department of Homeland Security has encountered particular problems in collecting countervailing and antidumping duties from new shippers who default on their bonding obligations;

(4) this behavior may detract from the ability of United States companies to recover from competition found to be unfair under international trade laws;

(5) accordingly, it is appropriate, for a test period, to suspend the availability of bonds for new shippers and instead require cash deposits;

(6) more analysis and assessment is needed to determine the appropriate policy to respond to this and other problems experienced in the collection of duties and the impact that policy changes could have on legitimate United States trade and United States trade obligations;

(7) given the developments in the ongoing World Trade Organization (WTO) negotiations relating to trade remedies, Congress reiterates its resolve as expressed in House Concurrent Resolution 262 (107th Congress), which was overwhelmingly approved by the House of Representatives on November 7, 2001, by a vote of 410 to 4;

(8) the United States Trade Representative should monitor compliance by United States trading partners with their trade obligations and systematically identify areas of noncompliance;

(9) the United States Trade Representative should then aggressively resolve noncompliance through consultations with United States trading partners;

(10) however, should efforts to resolve disputes through consultation fail, the United States Trade Representative should vigorously pursue United States rights through dispute settlement in every available forum;

(11) given the huge growth in trade with the People's Republic of China, its impact on the United States economy, and the complaints voiced by many United States interests that China is not complying with its international trade obligations, the United States Trade Representative should place particular emphasis on identifying and resolving disputes with China that limit United States exports, particularly concerning compliance with obligations relating to intellectual property rights and enforcement, tariff and nontariff barriers, subsidies, technical barriers to trade, sanitary and phytosanitary issues, nonmarket-based industrial policies, distribution rights, and regulatory transparency;

(12) in addition, the United States Trade Representative should place particular emphasis on trade barriers imposed by Japan, specifically the Japanese trade ban on United States beef without scientific justification, the Japanese sanitary and phytosanitary restrictions on United States agricultural products, Japanese policies on pharmaceutical and medical device reference pricing, insurance cross-subsidization, and privatization in a variety of sectors that discriminate against United States companies;

(13) the fixed exchange rate that the People's Republic of China currently maintains is a substantial distortion to world markets, blocking the price mechanism and impeding adjustment of international imbalances, and it is also a source of large and increasing risk to the Chinese economy;

(14) the People's Republic of China has completed significant preparations over the last two years for adoption of a more flexible, market-oriented exchange rate;

(15) the People's Republic of China is now ready to move to a more flexible exchange rate and it should move to such an exchange rate as soon as possible;

(16) the Secretary of the Treasury, in the annual report reviewing developments in international economic policy, including exchange rate policy, under the Omnibus Trade and Competitiveness Act of 1988, appropriately concluded that "current Chinese policies are highly distortionary and pose a risk to China's economy, its trading partners, and global economic growth";

(17) moreover, the rapid growth of credit and very high rate of investment risk undermine the progress that the People's Republic of China has made in reforming its banking system by creating new flows of non-performing loans;

(18) such behavior effectively prevents market forces from operating efficiently in the People's Republic of China, which distorts world trade;

(19) furthermore, based on the fact that the Secretary of the Treasury has determined the currency policy of the People's Republic of China to be "distortionary", the United States Trade Representative and the Secretary of the Treasury should place particular emphasis on determining whether China is violating its international obligations and identify to Congress the actions it is taking to address distortions to world trade;

(20) in addition, Japan's policy of intervening to influence the value of its currency and its prolific barriers to trade create distortions that disadvantage United States exporters;

(21) this adverse impact is magnified by Japan's role in the global marketplace, combined with its chronic surplus, weak economy, deflationary economy, low growth rate, and lack of consumer spending; and

(22) accordingly, the United States Trade Representative should have additional resources in the Office of the General Counsel, the Office of Monitoring and Enforcement, the Office of China Affairs, and the Office of Japan, Korea, and APEC Affairs to address a variety of needs that will best enable United States companies, farmers, and workers to benefits from the trade agreements to which the United States has around the world.

SEC. 3. APPLICATION OF COUNTERVAILING DUTIES TO NONMARKET ECONOMY COUNTRIES.

(a) AMENDMENTS.—

(1) COUNTERVAILING DUTIES IMPOSED.—Section 701(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(a)(1)) is amended by inserting "(including a nonmarket economy country)" after "country" each place it appears.

(2) DEFINITION OF COUNTERVAILABLE SUBSIDY.—Section 771(5)(E) of such Act (19 U.S.C. 1677(5)(E)) is amended by adding at the end the following new sentences: "With respect to the People's Republic of China, if the administering authority encounters special difficulties in calculating the amount of a benefit under clause (i), (ii), (iii), or (iv) of this subparagraph, the administering authority may use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. When applying such methodologies, the administering authority should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.".

(b) PROHIBITION ON DOUBLE COUNTING.—In applying section 701(a)(1) of the Tariff Act of 1930, as amended by subsection (a), to a class or kind of merchandise of a nonmarket economy country, the administering authority shall ensure that—

(1) any countervailable subsidy is not double counted in an antidumping order under section 731 of such Act (19 U.S.C. 1673) on the same class or kind of merchandise of the country; and

(2) the application of section 701(a)(1) of such Act is consistent with the international obligations of the United States.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) apply to any petition filed under section 702 of the Tariff Act of 1930 (19 U.S.C. 1671a) on or after 30 days after the date of the enactment of this Act, and the provisions contained in subsection (b) apply to any subsequent determination made under section 733, 735, or 751 of such Act (19 U.S.C. 1673b, 1673d, or 1675).

SEC. 4. NEW SHIPPER REVIEW AMENDMENT.

(a) SUSPENSION OF THE AVAILABILITY OF BONDS TO NEW SHIPPERS.—Clause (iii) of section 751(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(2)(B)(iii)) shall not be effective during the 3-year period beginning on the date of the enactment of this Act.

(b) REPORT ON THE IMPACT OF THE SUSPENSION.—Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Commerce, the United States Trade Representative, and the Secretary of Homeland Security, shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing—

(1) recommendations on whether the suspension of the effectiveness of section 751(a)(2)(B)(iii) of the Tariff Act of 1930 should be extended beyond the date provided in subsection (a) of this section; and

(2) assessments of the effectiveness of any administrative measures that have been implemented to address the difficulties giving rise to the suspension under subsection (a) of this section, including—

(A) problems in assuring the collection of antidumping duties on imports from new shippers; and

(B) burdens imposed on legitimate trade and commerce by the suspension of availability of bonds to new shippers by reason of the suspension under subsection (a).

(c) REPORT ON COLLECTION PROBLEMS AND ANALYSIS OF PROPOSED SOLUTIONS.—

(1) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Commissioner of the Bureau of Customs and Border Protection and the Secretary of Commerce, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report describing the major problems experienced in the collection of duties, including fraudulent activities intended to avoid payment of duties, with an estimate of the total amount of uncollected duties for the previous fiscal year and a breakdown across product lines describing the reasons duties were uncollected.

(2) RECOMMENDATIONS.—The report shall make recommendations on additional actions to address remaining problems related to duty collections and, for each recommendation, provide an analysis of how the recommendation would address the specific problem or problems cited and the impact that implementing the recommendation would have on international trade and commerce (including any additional costs imposed on United States businesses and whether the implementation of the revision is likely to violate any international trade laws).

SEC. 5. COMPREHENSIVE MONITORING OF COMPLIANCE BY THE PEOPLE'S REPUBLIC OF CHINA WITH ITS INTERNATIONAL TRADE OBLIGATIONS.

(a) INTELLECTUAL PROPERTY RIGHTS COMPLIANCE.—

(1) IN GENERAL.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall undertake to ensure that the Government of the People's Republic China has taken the following steps:

(A) The Chinese Government has increased the number of civil and criminal prosecutions of intellectual property rights violators by the end of 2005 to a level that significantly decreases the current amount of infringing products for sale within China.

(B) China's Supreme People's Court, Supreme People's Procuratorate, and Ministry of Public Security have issued draft guidelines for public comment to ensure the timely referral of intellectual property rights violations from administrative bodies to criminal prosecution.

(C) The Chinese Ministry of Public Security and the General Administration of Customs have issued regulations to ensure the timely transfer of intellectual property rights cases for criminal investigation.

(D) The Chinese Ministry of Public Security has established a leading group responsible for overall research, planning, and coordination of all intellectual property rights criminal enforcement to ensure a focused and coordinated nationwide enforcement effort.

(E) The Chinese Government has established a bilateral intellectual property rights law enforcement working group in cooperation with the United States whose members will cooperate on enforcement activities to reduce cross-border infringing activities.

(F) The Chinese Government has aggressively countered movie piracy by dedicating enforcement teams to pursue enforcement actions against pirates and has regularly instructed enforcement authorities nationwide that copies of films and audio-visual products still in censorship or import review or otherwise not yet authorized for distribution are deemed pirated and subject to enhanced enforcement.

(G) By the end of 2005, the Chinese Government has completed its legalization program to ensure that all central, provincial, and local government offices are using only licensed software and by the end of 2006 has extended the program to enterprises (including state-owned enterprises).

(H) The Chinese Government, having declared that software end-user piracy is considered to constitute "harm to the public interest" and as such will be subject to administrative penalties nationwide, has initiated civil and criminal prosecutions of software end-user violators.

(I) The Chinese Government has appointed an Intellectual Property Rights Ombudsman at the Chinese Embassy in Washington, D.C., to serve as the point of contact for United States companies, particularly small- and medium-sized businesses, seeking to secure and enforce their intellectual property rights in China or experiencing intellectual property rights problems in China.

(J) The relevant Chinese agencies, including the Ministry of Commerce, the China Trademark Office, the State Intellectual Property Office, and the National Copyright Administration of China have significantly improved intellectual property rights enforcement at trade shows and issued new regulations to achieve this goal.

(K) Not later than June 30, 2006, the Chinese State Council has submitted to the National People's Congress the legislative package needed for China to accede to the World Intellectual Property Organization (WIPO) Internet treaties.

(L) The Chinese Government has taken steps to enforce intellectual property right laws against Internet piracy, including through enforcement at Internet cafes.

(M) The Chinese Government, having confirmed that the criminal penalty thresholds in the 2004 Judicial Interpretation are applicable to sound recordings, has instituted civil and criminal prosecutions against such violators.

(N) The Chinese Government has initiated civil and criminal prosecutions against exporters of infringing recordings.

(2) DISPUTE SETTLEMENT PROCEEDINGS IN WTO.—If the President determines that the People's Republic of China has not met each of the obligations described in subparagraphs (A) through (N) of paragraph (1) or taken steps that result in significant improvements in protection of intellectual property rights in accordance with its trade obligations, then the President shall assign such resources as are necessary to collect evidence of such trade agreement violations for use in dispute settlement proceedings against China in the World Trade Organization.

(b) ACCESS FOR EXPORTS OF UNITED STATES GOODS.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall undertake to ensure that the Government of the People's Republic of China has taken the following steps:

(1) China has taken steps to ensure that United States products can be freely distributed in China, including by approving a significant backlog of distribution license applications and by preparing a regulatory guide for businesses seeking to acquire distribution rights that expands on the guidelines announced in April 2005.

(2) Chinese officials have permitted all enterprises in China, including those located in bonded zones, to acquire licenses to distribute goods throughout China.

(3) The Chinese Government has submitted regulations on management of direct selling to the Chinese State Council for review and taken any additional steps necessary to provide a legal basis for United States direct sales firms to sell United States goods directly to households in China.

(4) The Chinese Government has issued final regulations on direct selling, including with respect to distribution of imported goods and fixed location requirements.

(c) ACCESS FOR EXPORTS OF UNITED STATES SERVICES.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall undertake to ensure that the Government of the People's Republic of China has taken the following steps:

(1) The Chinese Government has convened a meeting of the U.S.-China Insurance Dialogue before the end of 2005 to discuss regulatory concerns and barriers to further liberalization of the sector.

(2) The Chinese Government has made senior level officials available to meet under the JCCT Information Technology Working Group to discuss capitalization requirements, resale services, and other issues as agreed to by the two sides.

(d) ACCESS FOR UNITED STATES AGRICULTURE.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Agriculture shall undertake to ensure that the Government of the People's Republic of China has taken the following steps:

(1) China has completed the regulatory approval process for a United States-produced corn biotech variety.

(2) China's Administration of Quality Supervision, Inspection and Quarantine has implemented the 2005 Memorandum of Understanding between the United States and China designed to facilitate cooperation on animal and plant health safety issues and improve efforts to expand United States access to China's markets for agricultural commodities.

(e) ACCOUNTING OF CHINESE SUBSIDIES.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall undertake to ensure that the Government of the People's Republic of China has provided a detailed accounting of its subsidies to the World Trade Organization by the end of 2005.

(f) REPORTS.—

(1) BIANNUAL REPORT.—Not later than six months after the date of the enactment of this Act, and every six months thereafter, the President should transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains—

(A) a description of the specific steps taken by the Government of the People's Republic of China to meet its obligations described in subsections (a) through (e) of this section (other than obligations described in subsections (a)(1)(A) and (G), (b)(1), (c)(1), and (e));

(B) an analysis of the extent to which Chinese officials are attempting in good faith to meet such obligations; and

(C) a description of the actions, if any, the President will take to obtain compliance by China if the President determines that the Chinese Government is failing to meet such obligations, including pursuing United States rights under the dispute settlement provisions of the World Trade Organization, as appropriate.

(2) MONTHLY REPORT.—Not later than 30 days after the date of the enactment of this Act, and every 30 days thereafter, the President should transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains—

(A) a description of the specific steps taken by the Government of the People's Republic of China to meet its obligations described in subsections (a)(1)(A) and (G), (b)(1), (c)(1), and (e);

(B) an analysis of the extent to which Chinese officials are attempting in good faith to meet such obligations; and

(C) a description of the actions, if any, the President will take to obtain compliance by China if the President determines that the Chinese Government is failing to meet such obligations, including pursuing United States rights under the dispute settlement provisions of the World Trade Organization, as appropriate.

SEC. 6. REPORT ON CURRENCY MANIPULATION BY FOREIGN COUNTRIES.

Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that—

(1) defines currency manipulation;

(2) describes actions of foreign countries that will be considered to be currency manipulation; and

(3) describes how statutory provisions addressing currency manipulation by trading partners of the United States contained in, and relating to, section 40 of the Bretton Woods Agreements Act (22 U.S.C. 286y) and sections 3004 and 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5304 and 5305) can be better clarified administratively to provide for improved and more predictable evaluation.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Section 141(g)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) $44,779,000 for fiscal year 2006.

"(ii) $47,018,000 for fiscal year 2007.".

(2) RULE OF CONSTRUCTION.—The amendment made by paragraph (1) shall not be construed to affect the availability of funds appropriated pursuant to section 141(g)(1)(A) of the Trade Act of 1974 before the date of the enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF THE GENERAL COUNSEL AND CERTAIN OTHER OFFICES.—There are authorized to be appropriated to the Office of the United States Trade Representative for the appointment of additional staff in or enhanced activities by the Office of the General Counsel, the Office of Monitoring and Enforcement, the Office of China Affairs, and the Office of Japan, Korea, and APEC Affairs—

(1) $4,000,000 for fiscal year 2006; and

(2) $4,000,000 for fiscal year 2007.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES INTERNATIONAL TRADE COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) $62,752,000 for fiscal year 2006.

"(ii) $65,890,000 for fiscal year 2007.".

(b) RULE OF CONSTRUCTION.—The amendment made by subsection (a) shall not be construed to affect the availability of funds appropriated pursuant to section section 330(e)(2)(A) of the Tariff Act of 1930 before the date of the enactment of this Act.

(c) STUDY AND REPORT ON TRADE AND ECONOMIC RELATIONS WITH CHINA.—

(1) STUDY.—

(A) IN GENERAL.—The United States International Trade Commission shall carry out a comprehensive study on trade and economic relations between the United States and the People's Republic of China which focuses on China's macroeconomic policy, including its fixed exchange rate policy, the competitiveness of its industries, the composition and nature of its trade patterns, and the impact of these elements on the United States trade account, industry, competitiveness, and employment.

(B) REQUIREMENTS.—In carrying out the study under subparagraph (A), the United States International Trade Commission shall undertake the following:

(i) An analysis of the United States trade and investment relationship with China, with a focus on the United States-China trade balance and trends affecting particular industries, products, and sectors in agriculture, manufacturing, and services. The analysis shall provide context for understanding the U.S.-China trade and investment relationship, by including information regarding China's economic relationships with third countries and China's changing policy regime and business environment. The analysis shall include a focus on United States-China trade in goods and services, United States direct investment in China, China's foreign direct investment in the United States, and the relationship between trade and investment. The analysis shall make adjustments, where possible, for merchandise passed through Hong Kong.

(ii) An analysis of the competitive conditions in China affecting United States exports and United States direct investment. The analysis shall take into account, to the extent feasible, significant factors including tariffs and non-tariff measures, competition from Chinese domestic firms and foreign-based companies operating in China, the Chinese regulatory environment, including specific regulations and overall regulatory transparency, and other Chinese industrial and financial policies. In addition, the analysis shall examine the specific competitive conditions facing United States producers in key industries, products, and sectors, potentially including computer and telecommunications hardware, textiles, grains, cotton, and financial services.

(iii) An examination of the role and importance of intellectual property rights issues, such as patents, copyrights, and licensing, in specific industries in China, including the pharmaceutical industry, the software industry, and the entertainment industry.

(iv) An analysis of the effects on global commodity markets of China's growing demand for energy and raw materials.

(v) An examination of whether or not increased United States imports from China reflect displacement of United States imports from third countries or United States domestic production, and the role of intermediate and value-added goods processing in China's pattern of trade.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the United States International Trade Commission shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains the results of the study carried out under paragraph (1).

SEC. 9. SENSE OF CONGRESS REGARDING EXPANSION OF MEMBERSHIP IN THE AGREEMENT ON GOVERNMENT PROCUREMENT OF THE WTO.

(a) FINDINGS.—Congress finds the following:

(1) Nondiscriminatory, procompetitive, merit-based, and technology-neutral procurement of goods and services is essential so that governments can acquire the best goods to meet their needs for the best value.

(2) The Agreement on Government Procurement (GPA) of the World Trade Organization (WTO) provides a multilateral framework of rights and obligations founded on such principles.

(3) The United States is a member of the GPA, along with Canada, the European Union (including its 25 member States: Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom), Hong Kong, Iceland, Israel, Japan, Korea, Liechtenstein, the Netherlands with respect to Aruba, Norway, Singapore, and Switzerland.

(4) Albania, Bulgaria, Georgia, Jordan, the Kyrgyz Republic, Moldova, Oman, Panama, and Taiwan are currently negotiating to accede to the GPA.

(5) The People's Republic of China joined the WTO in December 2001, signaling to the international community its commitment to greater openness.

(6) When China joined the WTO, it committed, in its protocol of accession, to negotiate entry into the GPA "as soon as possible".

(7) More than 3 years after its entry into the WTO, China has not commenced negotiations to join the GPA.

(8) Recent legal developments in China illustrate the importance and urgency of expanding membership in the GPA.

(9) In 2002, China enacted a law on government procurement that incorporates preferences for domestic goods and services.

(10) The first sector for which the Chinese Government has sought to implement the new government procurement law is computer software.

(11) In March 2005 the Chinese Government released draft regulations governing the procurement of computer software.

(12) The draft regulations require that non-Chinese software companies meet conditions relating to outsourcing of software development work to China, technology transfer, and similar requirements, in order to be eligible to participate in the Chinese Government market.

(13) As a result of the proposed regulations, it appears likely that a very substantial amount of American software will be excluded from the government procurement process in China. The draft software regulations threatened to close off a market with a potential value of more than $8 billion to United States firms.

(14) United States software companies have made a substantial commitment to the Chinese market and have made a substantial contribution to the development of China's software industry.

(15) The outright exclusion of substantial amounts of software not of Chinese origin that is apparently contemplated in the regulations is out of step with domestic preferences that exist in the procurement laws and practices of other WTO member countries, including the United States.

(16) The draft regulations do not adhere to the principles of nondiscriminatory, procompetitive, merit-based, and technology-neutral procurement embodied in the GPA.

(17) The software piracy rate in China has never fallen below 90 percent over the past 10 years.

(18) Chinese Government entities represent a very significant portion of the software market in China that is not dominated by piracy.

(19) The combined effect of rampant software piracy and the proposed discriminatory government procurement regulations will be a nearly impenetrable barrier to market access for the United States software industry in China.

(20) The United States trade deficit with China in 2004 was $162,000,000,000, the highest with any economy in the world, and a 12.4 percent increase over 2003.

(21) China's Premier, Wen Jiabao, has committed to rectify this serious imbalance by increasing China's imports of goods and services from the United States.

(22) The proposed software procurement regulations that were described by the Chinese Government in November 2004 incorporate policies that are fully at odds with Premier Wen's commitment to increase China's imports from the United States, and will add significantly to the trade imbalance between the United States and China.

(23) Once it is fully implemented, the discriminatory aspects of China's government procurement law will apply to all goods and services that the government procures.

(24) Other developing countries may follow the lead of China.

(25) In July 2005, senior officials of the Chinese Government announced at the U.S.-China Joint Committee on Commerce and Trade that China would accelerate its efforts to join the GPA and toward this end will initiate technical consultations with other WTO member countries and accordingly delay issuing draft regulations on software procurement, as it further considers public comments and makes revisions in light of WTO rules.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of the United States should strive to expand membership in the Agreement on Government Procurement of the World Trade Organization (WTO);

(2) the Government of the United States should ensure that the Government of the People's Republic of China meets its WTO obligations as recently affirmed through its commitment in July 2005 through the U.S.-China Joint Committee on Commerce and Trade, to join the WTO Agreement on Government Procurement.

(3) the Government of the United States should seek a commitment from the Government of the People's Republic of China to maintain its suspension of the implementation of its law on government procurement, pending the conclusion of negotiations to accede to the Agreement on Government Procurement of the WTO;

(4) the Government of the United States should seek commitments from the Government of the People's Republic of China and other countries that are not yet members of the Agreement on Government Procurement of the WTO to implement the principles of openness, transparency, fair competition based on merit, nondiscrimination, and accountability in their government procurement as embodied in that agreement; and

(5) the President should direct all appropriate officials of the United States to raise these concerns with appropriate officials of the People's Republic of China and other trading partners.

The SPEAKER pro tempore. The amendment printed in House Report 109–187 is adopted.

The text of H.R. 3283, as amended pursuant to House Resolution 387, is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Trade Rights Enforcement Act".

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) United States producers that believe they are injured by subsidized imports from nonmarket economy countries have not been able to obtain relief through countervailing duty actions because the Department of Commerce has declined to make countervailing duty determinations for nonmarket economy countries in part because it lacks explicit legal authority to do so;

(2) explicitly making the countervailing duty law under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) applicable to actions by nonmarket economy countries would give United States producers access to import relief measures that directly target government subsidies;

(3) the Bureau of Customs and Border Protection of the Department of Homeland Security has encountered particular problems in collecting countervailing and antidumping duties from new shippers who default on their bonding obligations;

(4) this behavior may detract from the ability of United States companies to recover from competition found to be unfair under international trade laws;

(5) accordingly, it is appropriate, for a test period, to suspend the availability of bonds for new shippers and instead require cash deposits;

(6) more analysis and assessment is needed to determine the appropriate policy to respond to this and other problems experienced in the collection of duties and the impact that policy changes could have on legitimate United States trade and United States trade obligations;

(7) given the developments in the ongoing World Trade Organization (WTO) negotiations relating to trade remedies, Congress reiterates its resolve as expressed in House Concurrent Resolution 262 (107th Congress), which was overwhelmingly approved by the House of Representatives on November 7, 2001, by a vote of 410 to 4;

(8) the United States Trade Representative should monitor compliance by United States trading partners with their trade obligations and systematically identify areas of noncompliance;

(9) the United States Trade Representative should then aggressively resolve noncompliance through consultations with United States trading partners;

(10) however, should efforts to resolve disputes through consultation fail, the United States Trade Representative should vigorously pursue United States rights through dispute settlement in every available forum;

(11) given the huge growth in trade with the People's Republic of China, its impact on the United States economy, and the complaints voiced by many United States interests that China is not complying with its international trade obligations, the United States Trade Representative should place particular emphasis on identifying and resolving disputes with China that limit United States exports, particularly concerning compliance with obligations relating to intellectual property rights and enforcement, tariff and nontariff barriers, subsidies, technical barriers to trade, sanitary and phytosanitary issues, nonmarket-based industrial policies, distribution rights, and regulatory transparency;

(12) in addition, the United States Trade Representative should place particular emphasis on trade barriers imposed by Japan, specifically the Japanese trade ban on United States beef without scientific justification, the Japanese sanitary and phytosanitary restrictions on United States agricultural products, Japanese policies on pharmaceutical and medical device reference pricing, insurance cross-subsidization, and privatization in a variety of sectors that discriminate against United States companies;

(13) the fixed exchange rate that the People's Republic of China has maintained until recently has been a substantial distortion to world markets, blocking the price mechanism, impeding adjustment of international imbalances, and serving as a source of large and increasing risk to the Chinese economy;

(14) such behavior has effectively prevented market forces from operating efficiently in the People's Republic of China, distorting world trade;

(15) in a welcome move, the People's Republic of China has now begun to move to a more flexible exchange rate, and it should continue to so move to a market-based exchange rate as soon as possible;

(16) in light of this recent positive development, the Secretary of Treasury should provide to Congress a periodic assessment of the mechanism adopted by the Chinese Government to relate its currency to a basket of foreign currencies and the degree to which the application of this mechanism moves the currency closer to a market-based representation of its value;

(17) in addition, Japan's policy of intervening to influence the value of its currency and its prolific barriers to trade create distortions that disadvantage United States exporters;

(18) this adverse impact is magnified by Japan's role in the global marketplace, combined with its chronic surplus, weak economy, deflationary economy, low growth rate, and lack of consumer spending; and

(19) accordingly, the United States Trade Representative should have additional resources in the Office of the General Counsel, the Office of Monitoring and Enforcement, the Office of China Affairs, and the Office of Japan, Korea, and APEC Affairs to address a variety of needs that will best enable United States companies, farmers, and workers to benefits from the trade agreements to which the United States has around the world.

SEC. 3. APPLICATION OF COUNTERVAILING DUTIES TO NONMARKET ECONOMY COUNTRIES.

(a) AMENDMENTS.—

(1) COUNTERVAILING DUTIES IMPOSED.—Section 701(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(a)(1)) is amended by inserting "(including a nonmarket economy country)" after "country" each place it appears.

(2) DEFINITION OF COUNTERVAILABLE SUBSIDY.—Section 771(5)(E) of such Act (19 U.S.C. 1677(5)(E)) is amended by adding at the end the following new sentences: "With respect to the People's Republic of China, if the administering authority encounters special difficulties in calculating the amount of a benefit under clause (i), (ii), (iii), or (iv) of this subparagraph, the administering authority may use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. When applying such methodologies, where practicable, the administering authority should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.".

(b) PROHIBITION ON DOUBLE COUNTING.—In applying section 701(a)(1) of the Tariff Act of 1930, as amended by subsection (a), to a class or kind of merchandise of a nonmarket economy country, the administering authority shall ensure that—

(1) any countervailable subsidy is not double counted in an antidumping order under section 731 of such Act (19 U.S.C. 1673) on the same class or kind of merchandise of the country; and

(2) the application of section 701(a)(1) of such Act is consistent with the international obligations of the United States.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) apply to any petition filed under section 702 of the Tariff Act of 1930 (19 U.S.C. 1671a) on or after 30 days after the date of the enactment of this Act, and the provisions contained in subsection (b) apply to any subsequent determination made under section 733, 735, or 751 of such Act (19 U.S.C. 1673b, 1673d, or 1675).

SEC. 4. NEW SHIPPER REVIEW AMENDMENT.

(a) SUSPENSION OF THE AVAILABILITY OF BONDS TO NEW SHIPPERS.—Clause (iii) of section 751(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(2)(B)(iii)) shall not be effective during the 3-year period beginning on the date of the enactment of this Act.

(b) REPORT ON THE IMPACT OF THE SUSPENSION.—Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Commerce, the United States Trade Representative, and the Secretary of Homeland Security, shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing—

(1) recommendations on whether the suspension of the effectiveness of section 751(a)(2)(B)(iii) of the Tariff Act of 1930 should be extended beyond the date provided in subsection (a) of this section; and

(2) assessments of the effectiveness of any administrative measures that have been implemented to address the difficulties giving rise to the suspension under subsection (a) of this section, including—

(A) problems in assuring the collection of antidumping duties on imports from new shippers; and

(B) burdens imposed on legitimate trade and commerce by the suspension of availability of bonds to new shippers by reason of the suspension under subsection (a).

(c) REPORT ON COLLECTION PROBLEMS AND ANALYSIS OF PROPOSED SOLUTIONS.—

(1) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Commissioner of the Bureau of Customs and Border Protection and the Secretary of Commerce, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report describing the major problems experienced in the collection of duties, including fraudulent activities intended to avoid payment of duties, with an estimate of the total amount of uncollected duties for the previous fiscal year and a breakdown across product lines describing the reasons duties were uncollected.

(2) RECOMMENDATIONS.—The report shall make recommendations on additional actions to address remaining problems related to duty collections and, for each recommendation, provide an analysis of how the recommendation would address the specific problem or problems cited and the impact that implementing the recommendation would have on international trade and commerce (including any additional costs imposed on United States businesses and whether the implementation of the revision is likely to violate any international trade obligations).

SEC. 5. COMPREHENSIVE MONITORING OF COMPLIANCE BY THE PEOPLE'S REPUBLIC OF CHINA WITH ITS INTERNATIONAL TRADE OBLIGATIONS.

(a) INTELLECTUAL PROPERTY RIGHTS COMPLIANCE.—

(1) IN GENERAL.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall undertake to ensure that the Government of the People's Republic China has taken the following steps:

(A) The Chinese Government has increased the number of civil and criminal prosecutions of intellectual property rights violators by the end of 2005 to a level that significantly decreases the current amount of infringing products for sale within China.

(B) China's Supreme People's Court, Supreme People's Procuratorate, and Ministry of Public Security have issued draft guidelines for public comment to ensure the timely referral of intellectual property rights violations from administrative bodies to criminal prosecution.

(C) The Chinese Ministry of Public Security and the General Administration of Customs have issued regulations to ensure the timely transfer of intellectual property rights cases for criminal investigation.

(D) The Chinese Ministry of Public Security has established a leading group responsible for overall research, planning, and coordination of all intellectual property rights criminal enforcement to ensure a focused and coordinated nationwide enforcement effort.

(E) The Chinese Government has established a bilateral intellectual property rights law enforcement working group in cooperation with the United States whose members will cooperate on enforcement activities to reduce cross-border infringing activities.

(F) The Chinese Government has aggressively countered movie piracy by dedicating enforcement teams to pursue enforcement actions against pirates and has regularly instructed enforcement authorities nationwide that copies of films and audio-visual products still in censorship or import review or otherwise not yet authorized for distribution are deemed pirated and subject to enhanced enforcement.

(G) By the end of 2005, the Chinese Government has completed its legalization program to ensure that all central, provincial, and local government offices are using only licensed software and by the end of 2006 has extended the program to enterprises (including state-owned enterprises).

(H) The Chinese Government, having declared that software end-user piracy is considered to constitute "harm to the public interest" and as such will be subject to administrative penalties nationwide, has initiated civil and criminal prosecutions of software end-user violators.

(I) The Chinese Government has appointed an Intellectual Property Rights Ombudsman at the Chinese Embassy in Washington, D.C., to serve as the point of contact for United States companies, particularly small- and medium-sized businesses, seeking to secure and enforce their intellectual property rights in China or experiencing intellectual property rights problems in China.

(J) The relevant Chinese agencies, including the Ministry of Commerce, the China Trademark Office, the State Intellectual Property Office, and the National Copyright Administration of China have significantly improved intellectual property rights enforcement at trade shows and issued new regulations to achieve this goal.

(K) Not later than June 30, 2006, the Chinese State Council has submitted to the National People's Congress the legislative package needed for China to accede to the World Intellectual Property Organization (WIPO) Internet treaties.

(L) The Chinese Government has taken steps to enforce intellectual property right laws against Internet piracy, including through enforcement at Internet cafes.

(M) The Chinese Government, having confirmed that the criminal penalty thresholds in the 2004 Judicial Interpretation are applicable to sound recordings, has instituted civil and criminal prosecutions against such violators.

(N) The Chinese Government has initiated civil and criminal prosecutions against exporters of infringing recordings.

(2) Dispute Settlement Proceedings in WTO.—If the President determines that the People's Republic of China has not met each of the obligations described in subparagraphs (A) through (N) of paragraph (1) or taken steps that result in significant improvements in protection of intellectual property rights in accordance with its trade obligations, then the President shall assign such resources as are necessary to collect evidence of such trade agreement violations for use in dispute settlement proceedings against China in the World Trade Organization.

(b) Access for Exports of United States Goods.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall undertake to ensure that the Government of the People's Republic of China has taken the following steps:

(1) China has taken steps to ensure that United States products can be freely distributed in China, including by approving a significant backlog of distribution license applications and by preparing a regulatory guide for businesses seeking to acquire distribution rights that expands on the guidelines announced in April 2005.

(2) Chinese officials have permitted all enterprises in China, including those located in bonded zones, to acquire licenses to distribute goods throughout China.

(3) The Chinese Government has submitted regulations on management of direct selling to the Chinese State Council for review and taken any additional steps necessary to provide a legal basis for United States direct sales firms to sell United States goods directly to households in China.

(4) The Chinese Government has issued final regulations on direct selling, including with respect to distribution of imported goods and fixed location requirements.

(c) Access for Exports of United States Services.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall undertake to ensure that the Government of the People's Republic of China has taken the following steps:

(1) The Chinese Government has convened a meeting of the U.S.-China Insurance Dialogue before the end of 2005 to discuss regulatory concerns and barriers to further liberalization of the sector.

(2) The Chinese Government has made senior level officials available to meet under the JCCT Information Technology Working Group to discuss capitalization requirements, resale services, and other issues as agreed to by the two sides.

(d) Access for United States Agriculture.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Agriculture shall undertake to ensure that the Government of the People's Republic of China has taken the following steps:

(1) China has completed the regulatory approval process for a United States-produced corn biotech variety.

(2) China's Administration of Quality Supervision, Inspection and Quarantine has implemented the 2005 Memorandum of Understanding between the United States and China designed to facilitate cooperation on animal and plant health safety issues and improve efforts to expand United States access to China's markets for agricultural commodities.

(e) Accounting of Chinese Subsidies.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall undertake to ensure that the Government of the People's Republic of China has provided a detailed accounting of its subsidies to the World Trade Organization by the end of 2005.

(f) Reports.—

(1) Biannual report.—Not later than six months after the date of the enactment of this Act, and every six months thereafter, the President should transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains—

(A) a description of the specific steps taken by the Government of the People's Republic of China to meet its obligations described in subsections (a) through (e) of this section (other than obligations described in subsections (a)(1)(A) and (G), (b)(1), (c)(1), and (e));

(B) an analysis of the extent to which Chinese officials are attempting in good faith to meet such obligations; and

(C) a description of the actions, if any, the President will take to obtain compliance by China if the President determines that the Chinese Government is failing to meet such obligations, including pursuing United States rights under the dispute settlement provisions of the World Trade Organization, as appropriate.

(2) Monthly report.—Not later than 30 days after the date of the enactment of this Act, and every 30 days thereafter, the President should transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains—

(A) a description of the specific steps taken by the Government of the People's Republic of China to meet its obligations described in subsections (a)(1)(A) and (G), (b)(1), (c)(1), and (e);

(B) an analysis of the extent to which Chinese officials are attempting in good faith to meet such obligations; and

(C) a description of the actions, if any, the President will take to obtain compliance by China if the President determines that the Chinese Government is failing to meet such obligations, including pursuing United States rights under the dispute settlement provisions of the World Trade Organization, as appropriate.

SEC. 6. REPORTS ON CURRENCY MANIPULATION BY FOREIGN COUNTRIES.

(a) Report on Currency Manipulation.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the appropriate congressional committees a report that—

(1) defines currency manipulation;

(2) describes actions of foreign countries that will be considered to be currency manipulation; and

(3) describes how statutory provisions addressing currency manipulation by trading partners of the United States contained in, and relating to, section 40 of the Bretton Woods Agreements Act (22 U.S.C. 286y) and sections 3004 and 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5304 and 5305) can be better clarified administratively to provide for improved and more predictable evaluation.

(b) Report on Actions by China.—

(1) In general.—In light of the recent positive announcement by the Government of the People's Republic of China with respect to increased exchange rate flexibility, the Secretary of the Treasury shall submit to the appropriate congressional committees a report that examines the mechanism adopted by the Chinese Government to relate its currency to a basket of foreign currencies and the degree to which the application of this mechanism moves the currency closer to a market-based representation of its value.

(2) Deadline.— The initial report required by this subsection shall be submitted to the appropriate congressional committees not later than 180 days after the date of the enactment of this Act and subsequent reports shall be included in the report required under section 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5305).

(c) Definition.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Ways and Means and the Committee on Financial Services of the House of Representatives; and

(2) the Committee on Finance and the Committee on Banking, Housing, and Urban Affairs of the Senate

SEC. 7. AUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) Authorization of Appropriations.—

(1) In general.—Section 141(g)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) $44,779,000 for fiscal year 2006.

"(ii) $47,018,000 for fiscal year 2007.".

(2) Rule of construction.—The amendment made by paragraph (1) shall not be construed to affect the availability of funds appropriated pursuant to section 141(g)(1)(A) of the Trade Act of 1974 before the date of the enactment of this Act.

(b) Authorization of Appropriations for the Office of the General Counsel and Certain Other Offices.—There are authorized to be appropriated to the Office of the United States Trade Representative for the appointment of additional staff in or enhanced activities by the Office of the General Counsel, the Office of Monitoring and Enforcement, the Office of China Affairs, and the Office of Japan, Korea, and APEC Affairs—

(1) $4,000,000 for fiscal year 2006; and

(2) $4,000,000 for fiscal year 2007.

(c) Sense of Congress.—It is the sense of the Congress that the enforcement of United States rights and of obligations of United States trading partners under trade agreements has gained such significance that the United States Trade Representative should determine which of its current positions is most responsible for carrying out these important enforcement duties and should assign that position, in addition to any other title, the title of Chief Enforcement Officer.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES INTERNATIONAL TRADE COMMISSION.

(a) Authorization of Appropriations.—Section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) $62,752,000 for fiscal year 2006.

"(ii) $65,890,000 for fiscal year 2007.".

(b) Rule of Construction.—The amendment made by subsection (a) shall not be construed to affect the availability of funds appropriated pursuant to section section 330(e)(2)(A) of the Tariff Act of 1930 before the date of the enactment of this Act.

(c) Study and Report on Trade and Economic Relations With China.—

(1) Study.—

(A) In general.—The United States International Trade Commission shall carry out a comprehensive study on trade and economic relations between the United States and the People's Republic of China which addresses China's economic policies, including its exchange rate policy, the competitiveness of its industries, the composition and nature of its trade patterns, and other elements impacting the United States trade account, industry, competitiveness, and employment.

(B) Requirements.—In carrying out the study under subparagraph (A), the United States International Trade Commission shall undertake the following:

(i) An analysis of the United States trade and investment relationship with China, with a focus on the United States-China trade balance and trends affecting particular industries, products, and sectors in agriculture, manufacturing, and services. The analysis shall provide context for understanding the U.S.-China trade and investment relationship, by including information regarding China's economic relationships with third countries and China's changing policy regime and business environment. The analysis shall include a focus on United States-China trade in goods and services, United States direct investment in China, China's foreign direct investment in the United States, and the relationship between trade and investment. The analysis shall make adjustments, where possible, for merchandise passed through Hong Kong.

(ii) An analysis of the competitive conditions in China affecting United States exports and United States direct investment. The analysis shall take into account, to the extent feasible, significant factors including tariffs and non-tariff measures, competition from Chinese domestic firms and foreign-based companies operating in China, the Chinese regulatory environment, including specific regulations and overall regulatory transparency, and other Chinese industrial and financial policies. In addition, the analysis shall examine the specific competitive conditions facing United States producers in key industries, products, services, and sectors, potentially including computer and telecommunications hardware, textiles, grains, cotton, and financial services based on trade and investment flows.

(iii) An examination of the role and importance of intellectual property rights issues, such as patents, copyrights, and licensing, in specific industries in China, including the pharmaceutical industry, the software industry, and the entertainment industry.

(iv) An analysis of the effects on global commodity markets of China's growing demand for energy and raw materials.

(v) An examination of whether or not increased United States imports from China reflect displacement of United States imports from third countries or United States domestic production, and the role of intermediate and value-added goods processing in China's pattern of trade.

(2) Report.—Not later than one year after the date of the enactment of this Act, the United States International Trade Commission shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains the results of the study carried out under paragraph (1).

SEC. 9. SENSE OF CONGRESS REGARDING EXPANSION OF MEMBERSHIP IN THE AGREEMENT ON GOVERNMENT PROCUREMENT OF THE WTO.

(a) Findings.—Congress finds the following:

(1) Nondiscriminatory, procompetitive, merit-based, and technology-neutral procurement of goods and services is essential so that governments can acquire the best goods to meet their needs for the best value.

(2) The Agreement on Government Procurement (GPA) of the World Trade Organization (WTO) provides a multilateral framework of rights and obligations founded on such principles.

(3) The United States is a member of the GPA, along with Canada, the European Union (including its 25 member States: Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom), Hong Kong, Iceland, Israel, Japan, Korea, Liechtenstein, the Netherlands with respect to Aruba, Norway, Singapore, and Switzerland.

(4) Albania, Bulgaria, Georgia, Jordan, the Kyrgyz Republic, Moldova, Oman, Panama, and Taiwan are currently negotiating to accede to the GPA.

(5) The People's Republic of China joined the WTO in December 2001, signaling to the international community its commitment to greater openness.

(6) When China joined the WTO, it committed, in its protocol of accession, to negotiate entry into the GPA "as soon as possible".

(7) More than 3 years after its entry into the WTO, China has not commenced negotiations to join the GPA.

(8) Recent legal developments in China illustrate the importance and urgency of expanding membership in the GPA.

(9) In 2002, China enacted a law on government procurement that incorporates preferences for domestic goods and services.

(10) The first sector for which the Chinese Government has sought to implement the new government procurement law is computer software.

(11) In March 2005 the Chinese Government released draft regulations governing the procurement of computer software.

(12) The draft regulations require that non-Chinese software companies meet conditions relating to outsourcing of software development work to China, technology transfer, and similar requirements, in order to be eligible to participate in the Chinese Government market.

(13) As a result of the proposed regulations, it appears likely that a very substantial amount of American software will be excluded from the government procurement process in China. The draft software regulations threatened to close off a market with a potential value of more than $8 billion to United States firms.

(14) United States software companies have made a substantial commitment to the Chinese market and have made a substantial contribution to the development of China's software industry.

(15) The outright exclusion of substantial amounts of software not of Chinese origin that is apparently contemplated in the regulations is out of step with domestic preferences that exist in the procurement laws and practices of other WTO member countries, including the United States.

(16) The draft regulations do not adhere to the principles of nondiscriminatory, procompetitive, merit-based, and technology-neutral procurement embodied in the GPA.

(17) The software piracy rate in China has never fallen below 90 percent over the past 10 years.

(18) Chinese Government entities represent a very significant portion of the software market in China that is not dominated by piracy.

(19) The combined effect of rampant software piracy and the proposed discriminatory government procurement regulations will be a nearly impenetrable barrier to market access for the United States software industry in China.

(20) The United States trade deficit with China in 2004 was $162,000,000,000, the highest with any economy in the world, and a 12.4 percent increase over 2003.

(21) China's Premier, Wen Jiabao, has committed to rectify this serious imbalance by increasing China's imports of goods and services from the United States.

(22) The proposed software procurement regulations that were described by the Chinese Government in November 2004 incorporate policies that are fully at odds with Premier Wen's commitment to increase China's imports from the United States, and will add significantly to the trade imbalance between the United States and China.

(23) Once it is fully implemented, the discriminatory aspects of China's government procurement law will apply to all goods and services that the government procures.

(24) Other developing countries may follow the lead of China.

(25) In July 2005, senior officials of the Chinese Government announced at the U.S.-China Joint Committee on Commerce and Trade that China would accelerate its efforts to join the GPA and toward this end will initiate technical consultations with other WTO member countries and accordingly delay issuing draft regulations on software procurement, as it further considers public comments and makes revisions in light of WTO rules.

(b) Sense of Congress.—It is the sense of Congress that—

(1) the Government of the United States should strive to expand membership in the Agreement on Government Procurement of the World Trade Organization (WTO);

(2) the Government of the United States should ensure that the Government of the People's Republic of China meets its WTO obligations as recently affirmed through its commitment in July 2005 through the U.S.-

China Joint Committee on Commerce and Trade, to join the WTO Agreement on Government Procurement.

(3) the Government of the United States should seek a commitment from the Government of the People's Republic of China to maintain its suspension of the implementation of its law on government procurement, pending the conclusion of negotiations to accede to the Agreement on Government Procurement of the WTO;

(4) the Government of the United States should seek commitments from the Government of the People's Republic of China and other countries that are not yet members of the Agreement on Government Procurement of the WTO to implement the principles of openness, transparency, fair competition based on merit, nondiscrimination, and accountability in their government procurement as embodied in that agreement; and

(5) the President should direct all appropriate officials of the United States to raise these concerns with appropriate officials of the People's Republic of China and other trading partners.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. ENGLISH) and the gentleman from Maryland (Mr. CARDIN) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. ENGLISH).

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, today the House has yet another opportunity to vote on a very important bill, which, in my view, takes the largest step towards strengthening our trade remedy laws in over 15 years.

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Madam Speaker, this bill is a comprehensive approach toward eliminating many of the inequities that exist in our existing trade relationships, and particularly the U.S.-China bilateral trade relationship. This legislation would hold China accountable and create tough mechanisms to ensure compliance, providing tools for us to use to gain compliance, should China fail to do so, on its fundamental trade obligations.

Voting for this bill today, Madam Speaker, will send a strong signal to Beijing that Congress will not sit idly by while China's mercantilist trade policy injures U.S. employers and destroys jobs, particularly in our vital manufacturing sector. Voting for this bill today, Madam Speaker, will send a strong signal to China and to every country that this Congress will do what it takes to ensure that our trading partners fully abide by the rules and are not rewarded with unfettered access to our market when they are not prepared to make the tough choices that they are obligated to, to follow the rules.

Let me make it very clear, given the experience with this bill with the minority as this bill was brought up yesterday, it has to be clear, Madam Speaker, that voting against this bill will send a dangerous signal that this Congress is willing to turn a blind eye to Chinese complacency, and we continue with the status quo which, ultimately, puts many of our most important parts of the economy at risk.

I believe this bill is strong, responsible, and comprehensive. This legislation would, among other things, close an existing loophole which bars the use of the countervailing duty law against nonmarket economies such as China. Right now a major tool in our arsenal is unavailable when dealing with Communist countries. To my mind, it is absurd that when we are able to determine that products come in from France, Japan, Brazil, or Taiwan containing subsidies, we can use the countervailing duty law to strip the benefits of those subsidies, but, by contrast, we cannot do so if we discover that China or Vietnam have subsidized products that are entering our market.

This is an absurd situation. It is one that is the result of a court decision from the 1980s, the so-called Georgetown case, and for years I have advocated that we close this loophole. This is the core of this bill and the single most important reform that we have included.

Second of all, this bill would establish a strong and external system to audit China on its compliance with trade obligations on important issues like intellectual property rights, market access, and transparency. What is more, this legislation would place Congress strongly on record as opposing attempts to use the WTO to water down our domestic trade law protections.

This legislation would require the Treasury Department to define currency manipulation and clarify legal protections against China, an important initiative and language that we have refined in light of the developments of a week ago in Chinese currency policy.

This legislation would also authorize increased funding for the United States Trade Representative to create more trade cops to improve enforcement of existing trade laws.

This legislation would also replace the current bonds that are used by new shippers and antidumping cases with cash deposits, and, over the next 3 years, in a sunset situation, would effectively close a loophole that particularly the Chinese have been using to avoid antidumping penalties in certain cases.

Finally, this legislation would authorize funding for the International Trade Commission to provide help in expediting its dealings with all trade issues.

This is a responsible, WTO-consistent initiative that I realize has been described by the other side as a fig leaf, a smoke screen, or something else. I must say, this is very much a mainstream initiative that is designed to show the strongest possible support in this Chamber for challenging China on its mercantilist trade policies.

I regret the vote of yesterday in which I think, in a very shortsighted fashion, many in the minority chose to put up a vote to slow us down here and, in the process, reduce the opportunity, if not eliminate the opportunity, for quick Senate action on this bill. I believe we should have voted yesterday to pass this bill. But the other side has one more opportunity to set the record right and make very clear that they are prepared to work with us to deal with the problem of China trade.

I believe that passage of this legislation is essential for the economic future of the next generation, for the future of good-paying jobs in places like my native northwestern Pennsylvania, where we make things for a living, and we need to get this policy right. That is why I strongly urge my colleagues to support and swiftly pass this important measure.

Madam Speaker, I reserve the balance of my time.

Mr. CARDIN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I normally am in agreement with my friend, the gentleman from Pennsylvania, when it comes to antidumping and countervailing duty laws. We have worked together to try to improve those laws. But I disagree with him in regards to this legislation.

Madam Speaker, I disagree with the gentleman's assessment of this legislation. I think it is an inconsequential bill. I do not believe it will do very much one way or the other. It will certainly not hold China accountable. There is nothing in this bill that would hold China accountable for its violations of its international trade obligations.

So, Madam Speaker, let me try to get the Members to focus on what is in this bill and not what people who may be coming to this well say is in this bill. I would urge my colleagues to please read the legislation that is before us. It is not the original bill that was filed by the gentleman from Pennsylvania (Mr. ENGLISH), a bill that was supported by the industry, that would have extended countervailing duty laws to China and nonmarket economies. Instead, what this bill does in section 2 is a "sense of Congress." Now, a sense of Congress resolution is exactly that. It expresses our concerns, but takes no action.

The first section that takes any action at all in changing law is section 3, and section 3 does deal with the countervailing duty provisions. It extends countervailing duties to nonmarket economies. That is good. Countervailing duties are imposed when a country inappropriately subsidizes its products that go into international trade. And China and nonmarket economies should be held to our countervailing duty laws. Unfortunately, they are not today.

The problem is that the amended bill then puts 2 hurdles in being able to apply those countervailing duty provisions. It first does what is known as double-counting and prevents from using on the countervailing duties the import and export subsidies by the country involved. Now, that is a different standard than we have for market economies, where you only have to double-count export subsidies. The change here is dramatic, and that is why the industries that are affected by the countervailing duty statute that we would hope would help in regards to China oppose this provision.

Nu Car, which is one of the companies that asked us to apply the countervailing duty law to China, has written us in opposition to this section, because it will not help them remedy the situation of subsidized product coming from China into the United States. That is why the Committee to Support U.S. Trade Laws, the committee of business groups that have joined together in order to strengthen our antidumping and countervailing duty laws, oppose this section. It will not help companies that are hurt by subsidized, manufactured product coming into the United States. That is section 3. That is why I say, you try to help in one respect, but you take it away by putting obstacles in the way.

You also put a second test that is not currently required, a certification of compliance of international law. That is not required today for a market economy violation for us to file a countervailing duty claim. That is section 3.

Let us go to section 4. Section 4 deals with the new shipper review amendment. Well, here we have a problem with Chinese exporters who are not getting an adequate security when they come into our market. You provided a temporary fix for 3 years. We should do it permanently. It should be done permanently.

Going to section 5, section 5 talks about monitoring compliance with the People's Republic of China with international trade obligations. Read what is here. There is no action. There is review, but no action. We should not be doing this now, the review. The administration does this already. There is nothing new that is added to the requirements that we are going to be able to take action against China for violating intellectual property rights or access to market for services, or access to market for goods. We should be taking action under our safeguards in that regard. But no, there is no action at all taken in section 5. If I am wrong, please correct me on this point.

Then we move to section 6. Section 6 is probably the most egregious section in the bill: report on currency manipulation by foreign countries. Read it. It is only a couple lines. You are asking Treasury to define currency manipulation. We have already had Treasury report to us and fail to take action against China. China is manipulating its currency. We all know that. So why do we not take action against China? No. This bill does, again, nothing in regards to China currency.

Then, in section 7, you talk about providing more money for the USTR. You are not providing more money for the USTR. The amount that you have here in authorized levels has already been provided in the appropriations bill. There is no new money here.

Then, in section 8, you talk about more money for the U.S. International Trade Commission. Again, it is equal to the amount that we have already provided through the appropriation process. There is no new money here in either section 7 or section 8.

I want to give you credit in section 9, talking about sense of Congress regarding the expansion of membership in the agreement on government procurement of the WTO. I support that section. I think we should be asking for broader participation in government procurement under the WTO. No action here again, strictly a sense of Congress.

So, Madam Speaker, I take this time to go through section by section because I challenge Members who come and speak on this bill to please speak about the facts of what is in this bill. There are only two sections that actually provide any change in law or action. One deals with countervailing duty, and I have already pointed out how there is negative along with the positive, and the other deals with a temporary fix of the exporter license issue, which is certainly not the major problem that we are having with China today.

As I said earlier, this bill is a missed opportunity. It is a missed opportunity because the overwhelming majority of the Members of this body would like to vote on a bill that would provide real relief to the problems that we have in China living up to its international trade responsibilities. That legislation just happens to be H.R. 3306, which has been introduced by the gentleman from New York (Mr. RANGEL). I regret that we do not have an opportunity to debate that bill and do what is right for the people of this country in enforcing our trade rules against the People's Republic of China.

Madam Speaker, I reserve the balance of my time.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield myself 1½ minutes, first off, to invite my opponent, or my colleague, to actually read the bill.

I think this is sort of amusing. He criticizes us for dealing with the problem of double-counting, and yet the GAO conceded that this was a serious problem. Our bill has dealt with it directly, and this is an issue I have been involved in for years, and, honestly, our friends from the Committee on Ways and Means on the other side have not been.

Yes, our language encourages compliance with the WTO, but it is not self-executing, so I think that is actually a good thing.

He criticizes us for having a sunset on bonds. I thought the other side loved sunset provisions, particularly in the PATRIOT Act. We need to revisit this issue in a few years and see if it is having a negative impact.

We also, may I point out, do require the Treasury to revisit its current definition on currency manipulation, which, I would submit, is the principal problem with the application of the current law as it applies to currency manipulation.

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Finally, we authorize funds, which is within the jurisdiction of our committee. Their bill does not authorize funds. In my view it is appropriate for us to specify through the authorization process how USTR is going to apply this money to new trade cops.

And, finally, may I point out, the gentleman claims that people in affected industries are opposing this legislation. Actually, this has been endorsed by the National Association of Manufacturers, the American Forest and Paper Association, the Forging Industry Association, the North American Die Casting Association, the Industrial Fasteners Institute, and the Vanadium Producers and Reclaimers Association.

The final point I would make is that when it comes to government procurement, we lifted Mr. RANGEL's provisions. So I am not sure where their criticism is coming from.

Madam Speaker, I yield 2½ minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Madam Speaker, I come to the well again, and it seems like only yesterday we were here. In fact, it was yesterday, was it not? And, Madam Speaker, I think we have just seen why my colleague, the gentleman from Pennsylvania (Mr. ENGLISH), is one of the most able members of the Ways and Means Committee, because he put to rest many of the criticisms offered by my friend, the gentleman from Maryland (Mr. CARDIN).

It was interesting to pick up on one of the criticisms. Let us just deal with it, lamenting the fact that this bill conveys a sense of Congress to the People's Republic of China, that it carries little consequence.

Well, I would invite every Member of this House, including my colleague from Maryland, to think back just a couple of weeks ago when a bipartisan sense of the Congress was offered on this floor from Democrats and Republicans alike, dealing with a possible Chinese purchase of Unocal.

It so incensed the Chinese Government, they told us to butt out. Now, that is very interesting, because if it is only a sense of the Congress, if it is only a useless exercise, it certainly awakened those in the Chinese Polit Bureau in Beijing; and I stand in this well again supporting this legislation today because the facts have not changed from yesterday.

The fact is, this legislation puts the Communist Chinese on notice: if you want to get in the game, you better start playing by the rules. And, Madam Speaker, I say this in all candor. As one who opposed the most favored nation trade status for China, I believe this is important legislation. At the end of the day, this is the dilemma for my friends on the other side: Does the upcoming midterm election and political posturing win out to make the perfect the enemy of the good, or do they stand with us, as they did in this well 2 weeks ago, not only conveying the sense of Congress, but putting teeth behind our policy to tell the Chinese enough is enough?

Support this legislation. Do not deal with domestic political obstruction. Strike a blow for freedom and putting Communist China on notice.

Mr. CARDIN. Madam Speaker, I yield myself 30 seconds to respond to the gentleman from Pennsylvania (Mr. ENGLISH).

I think the gentleman pointed out that there are no sections other than the two I mentioned that are action sections in your bill. And I point out again that the double-counting provision will make the application of countervailing duties much more difficult, if not impossible, in a nonmarket economy; and that is not helpful to companies that have been hurt by subsidized products coming from China.

Madam Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Madam Speaker, the Republicans have another installment in their blame game before us today. The trade deficit is rising higher and faster than the Space Shuttle because of policies blasted through the Congress by the Republicans. But they want to blame someone else. They say it is the fault of the Chinese, failing to remember their massive cuts in education and job training programs. They fail to remember that our trade deficit occurred because foreigners are financing our budget deficit.

When the Republicans took control of the Congress over a decade ago, they came in as the party of free trade and free enterprise and balanced budgets. Well, now we have got companies and workers racing out of this country because of high energy and high health care costs. We have got employers leaving this country because they cannot find better skilled employees in this country than they can find elsewhere. And what do the Republicans do?

They blame the patients and the courts for higher health care costs. They blame environmentalists for the high price of crude oil, and they blame workers when their jobs are outsourced. They blame everyone but themselves for our problems and avoid doing anything that can improve the situation. And that is what this bill is today.

This bill does not really require the administration to do anything to level the playing field with China. Does this bill invest in the American workforce so they can better compete in the global economy? The answer is no.

Does this bill do something about the explosive energy prices that eat away at our competitiveness? No. Does this bill significantly invest in research and development so that the new services and products consumed around the world are created here at home by Americans? The answer is no.

And does this bill do anything to combat health care costs that are spiraling out of control and force companies to reconsider whether they want to incorporate here or in Canada? The answer is no. Does this bill do anything to improve the security of America's working people? The answer is no.

This is just a mechanism the Republicans would use to point their fingers elsewhere, to China. They will not even put this bill before the Ways and Means Committee for an honest discussion. That is because this bill is not about solving America's problems or supporting America's workers. It is to make the workers believe that they are supporting them.

This bill is about bashing the Chinese in order to divert attention from the fact that the next bill up is CAFTA. The Republicans have ignored making America competitive in the world economy. This is a sop. This bill is out here first for a sop, for those Members who are going to vote for CAFTA, but want something to balance it off when they go home.

I was strong against China, but I did shift some stuff down to Central America; but please do not hold that against me, because I was strong against China. This is a sop. There are no teeth in this. There are no teeth at all. This is simply China bashing. And that does not make us more competitive in the world, and it does not make us deal with our deficit.

We have to deal with the budget in this country if we are going to be serious about the Chinese investing in our bonds. They own big chunks of America, and they are going to continue it as long as the Republicans run the kind of deficits that they seem to think do not make any difference any more.

I remember guys out here talking about, oh, my goodness, we have to have a balanced budget amendment. This country is going to go to the dogs if we do not have a balanced budget amendment. Then they got in charge, and they started spending like there was no end to their credit card. Stop it. Do not bash the Chinese.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Madam Speaker, I thank the gentleman for yielding me this time.

Clearly, I am in support of the U.S. Trade Rights Enforcement Act; and as yesterday, I stood somewhat flummoxed at the lack of support on the other side of the aisle where they claim to care about workers in the United States, but will not support this legislation.

I stand here again to explain how this certainly is the best way available to us today to help workers in the United States. I visit many plants in the communities I represent in western Pennsylvania; and when people talk to me about their top issue, there are several, but one that always recurs, no matter the size of the manufacturer, are concerns about China.

Their concerns deal with market access, they deal with piracy of products, they deal with dumping of products in the American market, and they deal with Chinese currency manipulation. Our U.S. Government has put a significant amount of pressure on China, but not enough.

This bill gives our government the tools to put that real pressure on China and to actually deal with them. It gives them teeth. Currently, U.S. companies can only file antidumping trade cases against companies in market economies. We need to deal with nonmarket economies like China. This bill helps us to do that. The other issue of piracy is one that we have struggled with in the Judiciary Committee trying to find ways to protect the intellectual property that we create here in the United States to make sure that those creators get the benefit of their ideas.

We have now under this bill tools to fight piracy, to enforce our laws; dumping of products, a huge concern for manufacturers, especially of commodity products. This bill helps us deal with dumping. Finally, China made a step in the right direction on currency manipulation last week.

This bill helps us to monitor the results of what they have done and to push them to do even more to make sure that their currency floats. This legislation, the United States Trade Rights Enforcement Act, is a very broad and very helpful piece of legislation to our manufacturers, our farmers and our service providers in the United

States. It will help us get into that economy in China to sell our products there, to protect our products that are created here. It will monitor their system. It will enforce the laws that they have agreed to follow.

It gives our United States Trade Representative the opportunity to make sure that the atmosphere here in the United States only gets better and our access to Chinese markets improves significantly.

Mr. CARDIN. Madam Speaker, I yield myself 30 seconds just to respond to gentlewoman's comments.

Madam Speaker, there is nothing in this bill that deals with dumping and enforcement in China. There is nothing in this bill that takes action against China for currency manipulation. And there is nothing in this bill that takes action against China for intellectual property failures. On the countervailing duties, I have already commented on that.

Madam Speaker, I yield 4½ minutes to the gentleman from Michigan (Mr. LEVIN), the former ranking Democrat on trade, the senior member of the Ways and Means Committee.

Mr. LEVIN. Madam Speaker, the gentleman from Maryland (Mr. CARDIN) has done such a splendid job, I am not sure what more needs to be said.

Mr. CARDIN, you want me to say it again.

You and I have spoken on this earlier, and it is unbelievable the hyperbole that we hear. I mean, if people want to vote for hyperbole, I guess this is a good way to do it. If they want to vote for this as a balance to vote for CAFTA, my suggestion is no one is going to buy that. They are going to see right through it.

I mean, you already responded. It has been said that there are tools here. I mean, I have been looking in this bill. You have read it carefully. And you have not been able to find the tool.

And I looked at it, and I cannot find anything that resembles a tool to do anything. On piracy, I am not sure what we are talking about. It is an immense problem. This administration has had years to do something about it, years. When I was last in China, I walked out of the hotel for the first time and immediately someone said, I have got a DVD, it is brand new, for $1. And I said, I do not want it. And the gentleman was kind of insulted that I did not want to buy a DVD that was brand new for just a buck.

You come here with all of these problems and say this bill is going to do anything about that? Really? On currency, it is mind-boggling.

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You say you want reports. You want reports. Every 6 months the Treasury Department sends us a report. How thick is it? I forget. They are like this or like this. If we had brought these reports over from the last few years, I would guess they would be maybe a foot and a half high.

I say to the gentleman from Pennsylvania (Mr. ENGLISH), we do not need reports. We need some serious discussion and then action in this place. And I read the sense of the Congress provisions. The hyperbole we hear is that we are somehow going to impact somebody. I will use that word carefully.

I read, for example, subparagraph 12, regarding Japan. This is in section 2, sense of the Congress. It says: In addition the USTR should place particular emphasis on trade barriers imposed by Japan.

My word, we need more than words. We have been urging this administration to take action against nontariff barriers put up by Japan from the day they came into office, and nothing has happened. And you think some words here will impact?

I close with a comment about the bonds. Look, I remember sitting in the Committee on Ways and Means years ago talking about this problem, and it was only within the last 12 months that once again we asked the majority to take action against this evasion, and you refused to do it. So now you come here with something that is temporary. Why not make it permanent? We have been studying this darn problem for years. This is such a lame bill that it does not really get out of the starting gate.

So do not paint this as what it is not. Do not paint this as some turning point. What this is more than anything else is an effort to say to some people, we will give you this vote in return for your vote on CAFTA. Some people have been biting on that apple. Do not do it.

If you want to vote for a bill that is so short of what we have introduced, and by the way, I say to the gentleman from Florida (Mr. SHAW), it does not violate the WTO requirements in any respects, the bill of the gentleman from New York (Mr. RANGEL). If you want to vote for this thinking it does something, go ahead. Do not vote for it as an excuse to vote for something else.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield myself 45 seconds.

First of all, if I am guilty of hyperbole, that certainly was not my intent.

I would also like to point out there are some that share my view of the importance of this legislation. Endorsing this bill from the National Association of Manufacturers, John Engler, their president, wrote, This bill would give U.S. companies the ability to offset unfair subsidies that benefit many of their competitors in China and other nations. For the first time, it will give Americans the same trade rights guaranteed to others under the World Trade Organization rules.

For those who wonder why the other side voted en masse against this bill yesterday, in today's Hill, according to the spokesman for the Ways and Means Democrats, "The minority's near unified opposition to the bill stemmed as much from its role in the CAFTA battle as from the strength of its content."

Now that to me is cynicism, and I think puts it into context.

Madam Speaker, I yield 4 minutes to the gentleman from Florida (Mr. SHAW), the chairman of the Subcommittee on Trade of the Committee on Ways and Means.

Mr. SHAW. Madam Speaker, I thank the gentleman from Pennsylvania (Mr. ENGLISH) for yielding me this time, and I congratulate him on his leadership for bringing this bill to the floor.

My friend from Michigan who just left the well has been critical of this bill regarding to intellectual property rights. Well, sometimes we should go to the bill and read the bill. And I am going to read it. It says, "Dispute settlement proceedings in World Trade Organization. If the President determines that the People's Republic of China has not met each of the obligations described in A through N, paragraph one," and that is the provision in there that talks about the trade obligations. It then goes on to say, "or taken steps that result in significant improvements or protection of intellectual property rights in accordance with its trade obligations, then the President shall assign such resources as necessary to collect such evidence of trade agreement violations for use in dispute settlement agreements against China in the World Trade Organization."

In other words, it says the President will proceed in accordance with the law through the World Trade Organization to obtain sanctions. That is what the World Trade Organization is about. It is not about unilateral sanctions. It is simply about that.

This bill has got a lot of teeth in it, and for anyone to get to the well and say, hey, this does not have teeth in it really is misstating what this bill actually does. It takes us a long way down the road in solving some of the problems with China.

This is not the end of the legislative process as it relates to China. I think every Member of this Congress should know that. This does not cut off further debate on China. This does not cut off or set aside the possibility of new legislation dealing with the problems of China. We are all concerned about the tremendous increase in the deficit as it goes from China, but most of that deficit, if not all of it, is actually taking trade out of Japan and taking it out of Korea, South Korea.

When you look at the trade deficit as it is to that part of the world, it is pretty flat. But China's part is increasing, and the other countries' are decreasing. That is concern for alarm. And I am concerned about some of the trade practices of China which are very sloppy and, quite frankly, not dealing entirely honestly with the trading partners.

So I would ask that Members put aside the politics and all the rhetoric, read the bill. If you like what is in the bill, it moves us further down the road. If you do not think we have gone far enough, that does not mean that you vote no on this particular bill. If you are interested in going forward with legislation that will control the violation of law committed by China, vote yes.

Mr. CARDIN. Madam Speaker, I yield myself 2 minutes.

Madam Speaker, in response to my friend from Florida's (Mr. SHAW) comments on the intellectual property problems that we are having with China, and they are substantial, China is violating intellectual property rights every day not only with videos and tapes, but also with industrial products. Listen to what the gentleman from Florida (Mr. SHAW) said. Listen to the action required by the President if China violates intellectual property to gather information.

We already have that, Madam Speaker. Action is filing a claim under the WTO. That is following the requirements of the WTO dispute settlement resolution process. There is no action whatsoever in this bill. The gentleman from Michigan (Mr. LEVIN) got it right. This is a bill about saying things about China that people might feel good about. And if you are so inclined to feel good about it and want to vote for it, fine. But to say that this is taking action against China is just wrong. It does not take action against China.

The administration tomorrow could file a claim against China on intellectual property against China if it wanted to, and it should have. The administration yesterday should have filed claims against China for currency manipulation, and it has not, and then allow the WTO process to proceed. But for us to say that we are requiring the administration to make a finding and then collect information which they already have is being tough on China, come on now. Let us be straightforward on this bill.

It is a bill that says things about China that many Members might feel good about, but as far as taking action against China, this bill comes out short.

Madam Speaker, I reserve the balance of my time.

Mr. ENGLISH of Pennsylvania. Madam Speaker, how much time is remaining?

The SPEAKER pro tempore (Mrs. BIGGERT). The gentleman from Pennsylvania (Mr. ENGLISH) has 14 minutes remaining. The gentleman from Maryland (Mr. CARDIN) has 12 minutes remaining.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TURNER), a very distinguished Member of the House, who in a short period of time has become a real fighter for fair trade.

Mr. TURNER. Madam Speaker, I support H.R. 3283, the United States Trade Rights Enforcement Act, because it is necessary to send a strong message to foreign governments who are unfairly dumping product on our shores and manipulating their currency rates.

In June, I hosted my second Manufacturing and Jobs Forum in my district. I invited manufacturers from southwest Ohio to share their concerns about their businesses. The gentleman from Pennsylvania (Mr. ENGLISH) joined me for my first forum, and the gentleman from Illinois (Mr. MANZULLO) joined me in Dayton for the second forum. I would like to thank both gentlemen for their leadership on the issue of trade fairness.

Madam Speaker, the manufacturers I spoke with during both forums shared a common concern about the survival of their businesses, the American economy, and unfair trade practices of China, including the undervaluing of China's currency. Congress must continue to work to level the playing field for manufacturers.

Last Thursday the Chinese Government announced that they would no longer peg their currency to the American dollar. Chinese currency will be given room to float among a bundle of foreign currency rates. Mr. Speaker, this is an important first step; however, this adjustment will still result in an undervalued Chinese currency.

H.R. 3283 will take further steps to enforce our trade rights. H.R. 3283 will require the Secretary of the Treasury to submit a report to Congress defining currency manipulation and describing the actions of foreign countries who are manipulating their currency. This important provision, along with others included in the bill, will help Ohio manufacturers who are continually harmed by unfair trade practices. I urge my colleagues to vote for this bill.

Mr. CARDIN. Madam Speaker, I yield myself 2 minutes. In response on the currency issue, section 6 in this legislation deals with currency manipulation. It does not deal with China specifically. And it requires the Secretary of the Treasury to define currency manipulation and describe actions of foreign countries that will be considered to be currency manipulation.

The problem is Treasury has already done this and found that China was not manipulating its currency despite the fact that we know it undervalues its currency between 15 percent and 40 percent. So I appreciate the gentleman's concern about the competitive problems that we have with American manufacturers and producers trying to compete with an undervalued Chinese currency, but this bill comes up very short.

But I very much appreciate what the gentleman said because we will be come back in a little bit and offer him an opportunity to really do something about the manipulation of China's currency.

Madam Speaker, let me also point out while I am on the floor that legislation filed by the gentleman from New York (Mr. RANGEL), H.R. 3306, would take action in this area by requiring the administration to initiate a WTO action to address China's currency manipulation.

Now, that would bring action consistent with our obligations under the World Trade Organization because we would act under the World Trade Organization. That is what we should be doing.

Let me suggest that when you file an action under the WTO, it is not the end of issues, it is the beginning of a process. To ask the Secretary of the Treasury to do another study or come up with another definition, all we do is delay for another year any action against China. And to suggest that there are minor adjustments that they made is in any way dealing with the underlying problems of currency manipulation is just unreal. China announced today that they do not intend to do more. So we need to take action against China.

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American jobs are at stake. We can compete if it is on a fair, level playing field. It is not. This bill does not deal with the China currency issue.

Madam Speaker, I reserve the balance of my time.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield myself 1½ minutes to clarify a few points raised by the gentleman from Maryland (Mr. CARDIN) and the prior speaker.

First of all, this legislation does have a significant approach not only to dealing with some of the loopholes in the antidumping, as spoken for in the bond provision, but also dealing with the problem of subsidies, where we do not apply countervailing duties in cases where communist countries are found to be sending products into our market currently. I believe, as I will make clear in a colloquy in a few minutes, that this language does not create additional loopholes but, in fact, I think provides a real and substantial solution.

I would also point out that this legislation does do something meaningful on the currency issue by requiring the Treasury to revisit how they define currency. I will concede in the bill that was belatedly filed by the other side, when we had already announced our bill, there is a provision using a 301 to deal with currency. But I must tell you, Madam Speaker, that even that procedure has a potential loophole to allow an administration to wiggle out.

So substantively, it is not clear to me there is a major difference.

I believe with the limited move forward that China has already evidenced, the time has come to give them an opportunity to indicate to us by action whether they are sincere or not. I think the currency language in our bill is adequate to allow that to happen.

Madam Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY), who in two terms in the House has already made clear he is a leader on trade issues and on economic issues.

Mr. GINGREY. Madam Speaker, I thank the gentleman for yielding me this time, and I want to thank my colleague, the gentleman from Pennsylvania (Mr. ENGLISH), for introducing H.R. 3283, the United States Trade Enforcement Act. I believe this legislation is a positive step in addressing our trade discrepancies with the People's Republic of China; and, yes, it does serve as a great precursor for the debate on the Dominican Republic and Central American Free Trade Agreement.

The district I represent in western Georgia has a rich history of manufacturing textiles from the Swift Denim Company in Columbus, Georgia, to Mt. Vernon Mills in Trion, Georgia, which has been in business since the 1840s and currently employs 1,800 associates. The textile industry, Madam Speaker, continues to provide quality jobs for the citizens of Georgia's 11th Congressional District. I make this point because many of these employees have established a culture and a community around textile manufacturing.

Although the administration is working diligently to enforce our trade policies, I remain concerned that our country has not taken the most aggressive position needed to prevent the People's Republic of China or any other nation from ignoring their trade responsibilities and agreements. If we continue to allow abuses such as currency manipulation and violations of intellectual property rights, an entire way of life in these textile communities will be endangered. When ratifying trade agreements, it is important to encourage both free and fair trade. We cannot afford to lose any more textile jobs, especially those lost due to the unfair practices of the Communist Government on Mainland China.

Madam Speaker, I encourage the passage of H.R. 3283 mandating stronger enforcement of our trade policies.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield such time as he may consume to the gentleman from Utah (Mr. BISHOP) in order to engage in a colloquy on some of the issues raised by this debate.

Mr. BISHOP of Utah. Madam Speaker, I thank the gentleman from Pennsylvania for yielding me this time.

The legislation drafted by the gentleman specifies that the Commerce Department shall ensure that the application of countervailing duty law to nonmarket economies is consistent with international obligations to the United States. Some Members have expressed concern that this legislation would give the WTO special influence over U.S. law. Is that true?

Mr. ENGLISH of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. BISHOP of Utah. I yield to the gentleman from Pennsylvania.

Mr. ENGLISH of Pennsylvania. No, and I thank the gentleman for raising this issue, Madam Speaker, because it has been raised during this debate. It is well understood that World Trade Organization agreements and WTO dispute settlement decisions are not self-executing, that is, they are not binding on the United States in and of themselves. Congress must enact any changes to U.S. law resulting from WTO agreements or WTO decisions.

Mr. BISHOP of Utah. Reclaiming my time, Madam Speaker, and to further clarify, to implement any WTO agreement or a decision of a WTO panel or the appellate body, the United States must enact the agreement or the implementation changes through congressional action?

Mr. ENGLISH of Pennsylvania. If the gentleman will continue to yield, that is correct.

Mr. BISHOP of Utah. Is this provision in H.R. 3283, therefore, intended to change this fact in any way or to impose any new obligations on the Commerce Department or the United States beyond those already set forth in U.S. law?

Mr. ENGLISH of Pennsylvania. No, and I thank the gentleman. This provision does not force the Commerce Department to do anything inconsistent with U.S. law. Instead, it is designed to provide flexibility to Commerce in interpreting the law.

Mr. BISHOP of Utah. Therefore, where H.R. 3283 says that "the Commerce shall ensure that the application of CVD law is consistent with the international obligations of the United States," am I correct that Commerce, which administers both U.S. antidumping law and U.S. countervailing duty law, may reach this determination of consistency on its own?

Mr. ENGLISH of Pennsylvania. That is correct.

Mr. BISHOP of Utah. So, does H.R. 3283 require Commerce to take additional steps to ensure consistency?

Mr. ENGLISH of Pennsylvania. No. Agencies are presumed to act in good faith when implementing a statute in accordance with international obligations. There is no additional requirement.

Mr. BISHOP of Utah. Madam Speaker, I thank the gentleman from Pennsylvania for his kindness and his information.

Mr. CARDIN. Madam Speaker, I yield myself 1 minute to respond to the textile issue that was recently mentioned on the other side.

When we negotiated our WTO accession agreement with China, we provided certain safeguards against the flooding of a market on textiles, knowing that the textile quota would be expiring. The concern many of us have had with China is that our government has not exercised the safeguards that are currently available to us under the agreement negotiated with China. We would like to see the administration be more aggressive in making sure that we do not get a flooded market either here or with trading partners that would have an adverse impact on the textile industry.

That is a major concern in our relationship with the People's Republic of China. The concern is that this legislation does absolutely nothing about that. So I appreciate the comments of my colleague on the other side of the aisle that there is no provision in this bill that would require action against China consistent with the provisions of the WTO accession agreement.

Madam Speaker, I reserve the balance of my time.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I have no further requests for time, and I believe I have the right to close.

The SPEAKER pro tempore (Mrs. BIGGERT). That is correct.

Mr. CARDIN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I very much appreciate the discussion that we have had. One of the advantages of the consideration of this bill under a rule as restrictive and repressive as the rule was, is that we do have a chance to have a more open and full debate, and I appreciate that.

I appreciate also the fact that we have been able to go through many of the provisions, including the colloquy that was just recently put on the record. I found that colloquy helpful, because I must tell you I shared the same concerns as to whether we were turning over to dispute settlement panels a decision as to whether we would bring future cases using countervailing duties. And if I understand my friend, the gentleman from Pennsylvania (Mr. ENGLISH), that would be a determination made solely by our Commerce Department consistent with U.S. interests, and I certainly agree with that interpretation.

I regret that we have not had the chance to consider amendments or consider a substitute, because I do think that there is general sentiment among the overwhelming majority of the Members of this body to take action against China for its failure to comply with international trading rules. China has violated currency manipulation, which has worked to the disadvantage of American manufacturers, farmers, and producers. China has not enforced intellectual property issues, which has worked to the disadvantage of our entertainment industry, and to our engineering and manufacturing industries.

China has flooded the markets, contrary to its trade agreements on textiles, which has worked to the disadvantage of the U.S. markets. China over and over again has denied access on services and many other areas that require action. So it is appropriate that we should be considering legislation to address the shortcomings of China's compliance with international trade rules.

Now, I think we could have come up with a much stronger bill. The gentleman from New York (Mr. RANGEL), as I pointed out earlier, introduced H.R. 3306. And when you compare H.R. 3306 with the bill that is before us, you cannot help but feel that we should have done a much better job.

H.R. 3306 would have applied U.S. countervailing duty laws to China and other nonmarket economies without the additional burdens imposed by the underlying bill. The gentleman from Pennsylvania (Mr. ENGLISH) quoted from some sources that support that provision. Let me just tell you that Nucor, which is, as you know, a steel company that has to live with subsidized steel from China coming into the U.S. market, opposes the provision. Nucor believes that the extra burden of trying to establish the amount of subsidy when you have to factor additionally for nonmarket economies domestic subsidies, it is a burden that will make the new countervailing duty application meaningless as it relates to China. That is a specific company telling us, who supported the original English bill, they oppose this provision because of the problems.

I could cite other examples, Madam Speaker, but on one hand the bill gives some relief for countervailing duties to nonmarket economies; but on the other, the bill imposes new restrictions that really make it very difficult if it provides any help at all.

The Rangel bill would require the administration to initiate WTO action to address China's currency manipulation. Instead, the underlying bill provides for another study generally by Treasury which will delay action taken against China by another period of time. H.R. 3306, the Rangel bill, would strengthen special China safeguard laws. The underlying bill does nothing on that at all.

So, Madam Speaker, we have a bill that contains the sense of Congress and provisions that I think most of the Members of this body would agree with. It contains some other provisions that are well intended, and I think the majority of the Members of this body would agree with. But I want to make it clear that for those who are claiming this bill is tough on China or tough on enforcing our trade rules with China, it does not do that.

It does say certain things about China that most Members of this body would agree with. The main purpose of this bill was to deal with countervailing duties to nonmarket economies, and it does that in a way that probably will provide no relief. It provides authorizations for additional funds for two agencies that deal with trade, but we have already taken care of that in the appropriation bill.

So I come back to the point of the gentleman from Michigan (Mr. LEVIN). If you want to feel good and vote for this bill, go ahead and do it. But if you think you are taking action against China, if you believe that this bill will speak to the trade imbalance we currently have with China because of China's failure to adhere to their international responsibilities under the WTO or under the accession agreement with the United States, if you believe that, this bill does not do that. This bill is a missed opportunity because we were not able to have a free and open rule.

So I regret, Madam Speaker, that we are sort of in a dilemma with this bill as to what advice we should give Members. If you look at it as a resolution expressing the sense of Congress, there is nothing wrong with this bill. But if you look at it as a bill to provide action against China, there is really nothing in it to do that.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I yield myself the balance of my time.

First of all, I would like to thank the chairman of the Committee on Ways and Means, the gentleman from California (Mr. THOMAS), for giving us the opportunity to have a debate and have a vote on this bill at a time when I think it is particularly important that this Congress go on record deliberately challenging China in many of its mercantilist trade policies.

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As I sat down with the gentleman from California (Mr. THOMAS), I worked closely with him to come up with a bill that would not be a panacea, would be a compromise, and would be a compromise that we could pass in the House by a wide margin and also pass in the United States Senate.

We have heard some sentiment from the other side of the aisle, and I think it is sincere, that wishes we could have gone further in this bill. I must say part of me also wishes to have gone further in this bill, but I believe this is a practical bill, but also a substantial bill that we can pass and can make a tangible start in strengthening our trade policy. That, I believe, makes it a very important bill in itself.

I congratulate the gentleman from Maryland (Mr. CARDIN), whom I have worked with on so many trade issues, and I am sorry to be disagreeing with him on this bill. I believe on the face of it, this bill is substantial. It is strong, responsible, comprehensive, and it moves in the right direction. It closes a loophole dealing with countervailing duties, a loophole that has for years been out there, and Congress has lacked the will to take it on.

We would for the first time apply countervailing duties where we determine Communist countries like China are involved in subsidizing their products. This would add a major tool in our arsenal in dealing with these countries and making them play by the rules. To me it is absurd when we find a subsidized product coming in from France, Brazil, Japan or Taiwan, we can apply countervailing duties to strip them of the benefit of their subsidy, but we cannot do it with China or Vietnam.

This bill moves forward and with clear language, but without double counting, which was not our intent; deals with this issue in a direct and refined way.

This bill also would establish a strong auditing system to make sure that China is complying with the trade agreements for which we are already a party, and deal with their trade obligations on intellectual property rights, market access and transparency.

This legislation does include resolution language dealing with issues like the current rules negotiation on the WTO, but it also requires the Treasury Department to do more than a study. It requires the Treasury Department to revisit its current definition of currency manipulation so as to make the current laws already on the books against currency manipulation something other than a dead letter.

We do increase funding, but we do it in the form of an authorization, and that is so important because that spells out how the U.S. Trade Representative can use the money, and it specifies that we are going to use that additional money for trade cops that are going to improve the enforcement of existing trade laws and the tracking of existing treaties, and that is essential if we are going to have a more balanced approach to that important trade relationship we have with China as well as with other countries.

This legislation would also close the current loophole dealing with antidumping cases in which some use bonds and then skip out on them in order to avoid paying their obligations. This is something I know the other side of the aisle agrees with because they included it in their last-minute legislation as well.

I was disappointed to hear my colleague on the other side of the aisle suggest that this is all reports and not action items. As is clear from a plain reading of the provisions of this bill, these are all action items, and they are all substantial, and they all move our trade policy substantially forward, a trade policy that, after all, we depend on energy in the executive to enforce, but ultimately Congress needs to inform, and it is our constitutional obligation to take an active role in shaping our trade policy.

With record trade deficits that are now exceeding 6 percent of GDP every year, we cannot go forward with the status quo, and this legislation is a substantial, modest, but achievable piece of legislation that will allow us to begin to deal with these problems in a much more direct and aggressive way.

I would hope that having listened to the debate, everyone in this Chamber would think carefully before doing what some in the minority did yesterday, and that is registering a vote against this legislation. This legislation was designed to be a consensus bill. It should not be wrapped up in any other debate, but I do not control the timing of that.

I believe it is fairly clear that our friends in Beijing will look at this debate, will look at how we respond to this legislation, and if we do not overwhelmingly pass this bill, they will conclude that we are not committed to dealing with these problems.

Mr. Speaker, I encourage all of my colleagues to vote for this bill and to send a clear message to our trading partners that we are not prepared to see the status quo go forward.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDIN. Mr. Speaker, I yield to the gentlewoman from Ohio (Ms. KAPTUR) for the purpose of a unanimous consent request.

Ms. KAPTUR. Mr. Speaker, I rise in opposition to the English bill, which will only create more red ink with Red China in our global trade.

Our job and trade deficit with China is exploding with more jobs being lost every day. Our red ink in jobs and trade give new meaning to the name "Red China." We need strong and effective laws to make China follow the rules to which we hold everyone else responsible.

This bill does not give us those strong and effective rules.

Instead of demanding action, the Republican bill calls for more reports, more studies, and more dialogue. It fails to include real solutions proposed by members on both sides of aisle. These include strengthening remedies for American industries hurt by export surges caused by Chinese imports and requiring the administration to take action to bring down China's trade barriers. Further, the English bill actually adds new loopholes that gut the effect of the bill. The bill would harm U.S. trade laws by giving direct effect to the World Trade Organization to impose its decisions against U.S. laws and would create harmful precedents on U.S. sovereignty.

I support subjecting China and other nonmarket economies to our subsidy laws. But this bill actually places restrictions on the Department of Commerce's ability to go after those very illegal government subsidies.

In fact, this bill may give China an advantage in this situation. This bill places a greater burden on the U.S. Department of Commerce than current U.S. law or WTO rules to protect the U.S. against unfair competition from China's subsidies. By further limiting counting of subsidies, this places China in a special category above all other trading partners. It also places such a burden on the agency that the costs of doing this far outweigh the gains.

There is a provision in this bill that says that DoC must ensure that trade law is implemented consistent with U.S. international trade obligations. This hasn't appeared in U.S. trade law before and could give the WTO special influence over U.S. law. Are we an independent Nation or are we but a client State for multinational giants?

This bill fails to address the real problem of our growing deficit with China. In fact, sadly, it appears that this bill is simply a cover for some Members to vote for CAFTA later today. They can say they spoke out about our widening trade deficits, but actually then make them worse by voting for CAFTA.

I ask Members to consider their conscience. Why use this fig leaf of a bill that will lead to more job loss, poorer working conditions and more misery for working people in the U.S. and in China, and ultimately with Central America.

Mr. POMEROY. Mr. Speaker, I rise today to say that I will be voting against H.R. 3283.

While I too am concerned about China's compliance with its trade commitments and the surge of Chinese imports into the United States, the legislation being considered today is unfortunately a false promise to address those concerns instead of real action that will become law and bring China to the table to correct these problems. In particular, the bill does nothing to address currency manipulation.

I remain strongly supportive of strengthening our trade laws and enforcing the laws we currently have on the books. In particular, I have been supportive of taking action to require cash deposits from new shippers of goods in anti-dumping cases to avoid defaults. This provision affects several domestic industries, and it is certainly important to honey producers in North Dakota and the nation. I hope this provision is passed as a stand-alone bill or included in legislation in the near future that addresses the compliance issues with our trading partners in a meaningful way.

Mr. CARDIN. Mr. Speaker, I would like to address some of the comments made during the colloquy between the gentleman from Pennsylvania, Mr. ENGLISH, and the gentlemen from Utah, Mr. BISHOP, regarding H.R. 3283. In particular, I would like to respond to my colleagues' assertions concerning the application of section 3(b)(2) of the Act, which states that when applying the U.S. countervailing duty law to nonmarket economies, the Department of Commerce "shall ensure that . . . the application [of the law] is consistent with the international obligations of the United States." Mr. Speaker, despite my colleagues' efforts to provide reassurance about this provision, I remain deeply concerned following their exchange—and in some ways, even more so.

First, the exchange between Mr. BISHOP and Mr. ENGLISH provides no comfort to those like me that have raised concerns that section 3(b)(2) of the Act will have a chilling effect on the application of U.S. countervailing duty law. The provision clearly creates a special burden on the U.S. Department of Commerce in cases involving subsidies in nonmarket economy countries like China by requiring Commerce to make a determination about the WTO consistency of the law prior to applying it.

In every other trade remedy case, the Department of Commerce must apply U.S. law as enacted by Congress. The law is presumed to be consistent with WTO obligations unless the WTO finds otherwise.

Under Mr. ENGLISH's bill, Commerce could not apply countervailing duty laws to China and other nonmarket economies to the fullest extent authorized by Congress, but rather could apply the law only to the extent to which Commerce makes a separate determination that the law would pass muster in the WTO. As a result, it is likely that Commerce would not apply the law as intended by Congress, thereby denying American workers and businesses a remedy authorized by both WTO rules and U.S. law.

Second, and even more importantly, section 3(b)(2) of the English bill raises Constitutional issues. After the provision has been applied in a CVD investigation and were a WTO panel to rule against some aspect of the provision, the English bill would create the first directive under U.S. law that WTO decisions are to be self-implementing.

The English bill creates this self-implementing provision by directing Commerce to "ensure that the application [of the provision] is consistent" with WTO rules. In all other cases under U.S. AD/CVD law, the Uruguay Round Agreements Act of 1994 (section 129) creates a procedure for congressional consultation prior to Commerce or USTR taking any action to alter U.S. law, regulation or practice. While Congress technically would not have to approve a change to regulation or practice, in practice, neither the Clinton nor Bush administrations has ever even suggested that it would make such a change absent (bicameral and bipartisan) congressional approval.

The inclusion language in the English bill authorizing, if not directing, Commerce to change regulation or practice even absent Congressional approval undermines the broader statutory scheme carefully established in 1994, shifts the balance of action for implementing WTO decisions that affect one provision of the AD/CVD laws toward the Administration, and erodes further congressional authority over the unfair trade laws.

In simple terms, section 3(b)(2) of the English bill authorizes Commerce to take action to align U.S. law with the decisions of a WTO panel or Appellate Body—without the assent of Congress as provided under existing U.S. law (in the case of Commerce, changes to regulation or practice).

Mr. Speaker, section 3(b)(2) of H.R. 3283 is bad policy and may be unconstitutional as a matter of law. By requiring the Department of Commerce to ensure WTO compliance before acting on Chinese subsidies, the bill would prevent the Administration from vigorously enforcing our trade laws. In addition, the provision violates traditional notions of separation of powers by specifically directing the Department of Commerce to take steps to alter the application of U.S. law without an act of Congress.

Mr. Speaker, I yield back the balance of my time.

Mr. ENGLISH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). Pursuant to House Resolution 387, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CARDIN

Mr. CARDIN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CARDIN. I am at this time

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Cardin moves to recommit the bill H.R. 3283 to the Committee on Ways and Means with instructions that the Committee report the same back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. TREATMENT OF CURRENCY MANIPULATION.

(a) DEFINITION OF UNJUSTIFIABLE ACTS, POLICIES, AND PRACTICES.—Section 301(d)(4)(B) of the Trade Act of 1974 (19 U.S.C. 2411(d)(4)(B)) is amended to read as follows:

"(B)(i) Acts, policies, and practices that are unjustifiable include, but are not limited to, any act, policy, or practice described in subparagraph (A) which involves currency manipulation, or denies national or most-favored nation treatment or the right of establishment or protection of intellectual property rights.

"(ii) In this subparagraph, the term 'currency manipulation' means the protracted large-scale intervention by an authority to undervalue its currency in the exchange market that prevents effective balance of payments adjustment or gains an unfair competitive advantage over the United States.".

(b) INVESTIGATION INTO CURRENCY MANIPULATION BY THE PEOPLE'S REPUBLIC OF CHINA.—

(1) INVESTIGATION, DETERMINATIONS, ACTIONS.—The United States Trade Representative shall—

(A) conduct an investigation, under sections 302 and 303 of the Trade Act of 1974, of the currency practices of the People's Republic of China;

(B) make the applicable determinations under section 304 of that Act pursuant to that investigation; and

(C) implement any action, under section 305 of that Act, in accordance with such determinations.

(2) INITIATION OF INVESTIGATION.—The United States Trade Representative shall initiate the investigation required by paragraph (1) not later than 90 days after the date of the enactment of this Act.

SEC. 2. AMENDMENTS RELATING TO INTERNATIONAL FINANCIAL POLICY.

(a) BILATERAL NEGOTIATIONS.—Section 3004(b) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5304(b)) is amended in the second sentence by striking "(1) have material global account surpluses; and (2)".

(b) DEFINITION OF MANIPULATION.—Section 3006 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5306) is amended by adding at the end the following:

"(3) MANIPULATION OF RATE OF EXCHANGE.—A country shall be considered to be manipulating the rate of exchange between its currency and the United States dollar if there is a protracted large-scale intervention by an authority to undervalue its currency in the exchange market that prevents effective balance of payments adjustment or gains an unfair competitive advantage over the United States.".

(c) REPORT.—Section 3005(b) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5305(b)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following:

"(9) a detailed explanation of the test the Secretary uses to determine whether or not a country is manipulating the rate of exchange between that country's currency and the dollar for purposes of preventing effective balance of payments adjustment or gaining an unfair competitive advantage over the United States.".

Mr. CARDIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. CARDIN) is recognized for 5 minutes in support of his motion to recommit.

Mr. CARDIN. Mr. Speaker, the only opportunity we have is on a motion to recommit, and this motion to recommit will deal with the currency manipulation issue with China, and will take real action on China's currency manipulation.

Since 1994, China has pegged its currency to the U.S. dollar. This policy has caused China's currency to become undervalued by as much as 40 percent. What this means in practice is that Chinese manufacturers have a significant unfair advantage over U.S. manufacturers because China's currency manipulation makes Chinese exports to the United States cheaper and U.S. exports to China more expensive.

It is simply unacceptable that this administration has allowed China to continue this policy, and the Chinese Government appears to realize that this administration is not serious about stopping China's currency manipulation. Just last year when the vice governor of the People's Bank of China was asked when China would change its currency policy, he stated, "China has 8,000 years of history. One year, three years, five years, or ten years, for Chinese, that is just a twinkling of an eye."

Now I know that the administration and many of those on the opposite side of the aisle will point to the fact that China reevaluated its currency by about 2 percent last week. However, I would urge them to read the report in today's Washington Post and New York Times indicating that China's Central Bank issued a statement yesterday to clarify that last week's change was a one-time event, and that we should not expect more changes any time soon.

China's continuing refusal to end its currency manipulation demands action by this body. However, the bill before us today, H.R. 3283, calls on one more report and another delay. The Treasury Department has already issued reports on Chinese currency and has not taken any action.

Mr. Speaker, I have heard my colleagues talk about taking action against China during this debate. Here is an opportunity to do that. What this motion to recommit would do would be to bring the bill immediately back with an amendment that would have the administration file a WTO claim. That is consistent with the WTO. It starts the process. It tells China we are serious. It does not do anything in violation of the WTO. It starts the process, but it tells China that this body is serious about their dealing with their currency issue. That is what China understands. We cannot justify tying a currency to another currency. That is manipulation. That is working to the disadvantage of American manufacturers.

I would hope that we could join together. I have heard many of my Republican and Democratic colleagues tell me it is time to take action against China. This does it in a responsible way. It does not require any tariff; it does not do anything inconsistent with the WTO obligations. It exercises the constitutional responsibility that we have on trade. It is the legislative branch that is responsible for trade. We delegate to the executive branch. We should be willing to assume our responsibility.

If Members believe it is wrong for China to continue to manipulate its currency to the disadvantage of U.S. manufacturers and producers and employment here in this Nation, vote for the motion to recommit so we can finally start action against China on currency manipulation.

Mr. Speaker, I yield back the balance of my time.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. ENGLISH) is recognized for 5 minutes.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I rise with mixed feelings because in a different setting, I might be very sympathetic to the argument the gentleman from Maryland (Mr. CARDIN) is making. I have been involved myself in the fight to specifically challenge the Chinese on currency issues, but I am disappointed in the timing of this motion, particularly in view of China's recent and very modest actions to move forward on currency, and with the fact that in this context, this motion would function effectively as a poison pill that might very well kill the bill in the Senate.

On the substance, the motion from the other side of the aisle seeks to force the administration to bring a section 301 case against China based on its old currency peg to the dollar. It would also force the administration to use a very narrow and simplistic definition of currency manipulation in its foreign exchange reports.

My understanding is the USTR rightly rejected this petition twice in the past because it would hinder the efforts to change China's former currency regime. In fact, China's recent steps in moving in the direction of a float, however limited, have made it very clear that the timing on this provision is not good.

I would argue that my bill requires that the USTR instead report to Congress every 6 months on the degree to which the new mechanism moves the currency closer to a market-based representation of its value and requires Treasury to reconsider how it currently defines currency manipulation.

The gentleman from Maryland (Mr. CARDIN) might argue that in a sense all that this does is force the United States to bring a WTO case against China on grounds that China is manipulating its currency However, the motion itself does not appear designed to force the United States to bring a WTO case. In fact, the motion's definition of currency manipulation clearly bears no relationship to the WTO rules.

Instead, this proposal from the other side of the aisle would force the United States to take unilateral action under section 301, which would potentially place us in violation of WTO rules. Section 301 mandates specific actions, including possibly trade retaliation if a foreign act or measure: one, violates or is inconsistent with a trade agreement such as the WTO agreements; or, two, is unjustifiable and burdens or restricts U.S. commerce.

These are separate grounds for taking mandatory action under section 301. The recommittal defines currency manipulation using a fabricated definition as "unjustifiable." Thus, it appears that this initiative is really intended to force the United States to take action under the second prong of section 301, not the prong intended to be used where there are potential WTO violations.

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The intent thus appears to be to force the U.S. to impose sanctions without a WTO finding of a breach, thus allowing China to shift the focus from China's currency policies to claims of U.S. breaches of the WTO. In the current context, in my view, that would not be helpful.

Accordingly, with great regret and acknowledging that my colleague from Maryland has been serious about moving forward in the area of currency reform and challenging the Chinese, I feel that his motion to recommit comes up short, and I would urge all of my colleagues to vote it down.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CARDIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on the passage of H.R. 3283, if ordered; suspending the rules on House Resolution 383; and suspending the rules on House Resolution 384.

The vote was taken by electronic device, and there were—yeas 195, nays 232, not voting 6, as follows:

[Roll No. 436]

YEAS—195

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—232

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus

Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Smith (WA)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Brady (PA)
Cox
Cummings
Jenkins
Murphy
Murtha

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY) (during the vote). Members are advised that there are 2 minutes left in this vote.

☐ 1638

Messrs. LARSEN of Washington, FORBES, OTTER, SHAYS, FLAKE, HALL, MORAN of Virginia, and Mrs. WILSON of New Mexico changed their vote from "yea" to "nay."

Ms. HARMAN, Ms. MCKINNEY, and Messrs. WEXLER, COSTELLO, KANJORSKI, and GORDON changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 255, nays 168, not voting 10, as follows:

[Roll No. 437]

YEAS—255

Ackerman
Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cooper
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, M.
Dicks
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
Engel
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Issa
Istook
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—168

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Bartlett (MD)
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boyd
Brown (OH)
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Cleaver
Clyburn
Conyers
Costa
Costello
Crowley
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Doyle
Edwards
Emanuel
Eshoo
Evans
Farr
Fattah
Filner
Flake
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kirk
Kolbe
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Rahall
Rangel
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—10

Brady (PA)
Clay
Cox
Cummings
Diaz-Balart, L.
Hastings (FL)
Jenkins
Murphy
Murtha
Reyes

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes left in this vote.

☐ 1646

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ENCOURAGING TRANSITIONAL NATIONAL ASSEMBLY OF IRAQ TO ADOPT A CONSTITUTION GRANTING WOMEN EQUAL RIGHTS

The SPEAKER pro tempore (Mr. TERRY). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 383.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 383, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 426, nays 0, not voting 7, as follows:

[Roll No. 438]

YEAS—426

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler

Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—7

Brady (PA)
Cox
Cummings
Jenkins
Murphy
Murtha
Tiahrt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1655

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. TIAHRT. Mr. Speaker, on rollcall No. 438 I was inadvertently detained. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. JENKINS. Mr. Speaker, on rollcall Nos. 436, 437 and 438 I was in a room in the Longworth building and the bell did not ring. I was unaware of votes occurring. Had I been present, I would have voted "nay" on rollcall No. 436 and "yea" on rollcall Nos. 437 and 438.

CONDEMNING TERRORIST ATTACKS IN SHARM EL-SHEIKH, EGYPT, ON JULY 23, 2005

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 384.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 384, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 428, nays 0, not voting 5, as follows:

[Roll No. 439]

YEAS—428

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)

Moore (WI)
Moran (KS)
Moran (VA)
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
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Price (GA)
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Ramstad
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Ros-Lehtinen
Ross
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Roybal Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
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Sabo
Salazar
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
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Smith (NJ)
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Taylor (MS)
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Thompson (CA)
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Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Walden (OR)
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Weiner
Weldon (FL)
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Weller
Westmoreland
Wexler
Whitfield
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Wilson (NM)
Wilson (SC)
Wolf
Woolsey
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Wynn
Young (AK)
Young (FL)

NOT VOTING—5

Brady (PA)
Cummings
Jefferson
Murphy
Murtha

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1705

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HASTINGS of Florida. Mr. Speaker, on the vote on H.R. 3283, I was in the Intelligence Committee when the vote was cast. Had I been present, I would have voted "no."

PROVIDING FOR CONSIDERATION OF H.R. 5, HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2005

Mr. GINGREY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 385 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 385

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system. The bill shall be considered as read. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) two hours of debate on the bill equally divided and controlled by the Majority Leader and the Minority Leader or their designees; and (2) one motion to recommit.

SEC. 2. During consideration of H.R. 5 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. GINGREY) is recognized for 1 hour.

Mr. GINGREY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 385 is a closed rule that provides 2 hours of debate in the House, equally divided and controlled by the majority leader and the minority leader or their designees. It waives all points of order against consideration of the bill, provides that notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker, and it provides one motion to recommit.

Mr. Speaker, I rise today as the proud sponsor of H.R. 5, the Help Efficient, Accessible, Low Cost, Timely Health Care Act of 2005, or the Health Act, and to speak on behalf of both the rule and the underlying bill.

First, I would like to thank both the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Judiciary Committee, and the gentleman from Texas (Mr. BARTON), the chairman of the Energy and Commerce Committee, for their work on this issue, as this is not the first time the House of Representatives has considered this measure.

Mr. Speaker, H.R. 5 is a good bill that has passed this House in the 108th Congress with bipartisan support. Therefore this bill and its substance have been thoroughly debated both on this floor and in committee in the previous two Congresses.

As the sponsor of H.R. 5, I am very excited about the opportunity that we have today to strengthen our health care system for the sake of every household's health and every household's pocketbook.

Mr. Speaker, H.R. 5 is without question one of the best opportunities this Congress has to address the health care crisis we face today. There is no doubt among the American people, and there should be no doubt among Members of this Congress, that we need fundamental reforms to strengthen access to health care and to control the burgeoning cost of health care.

Having practiced for almost 30 years as an OB/GYN physician, I have not forgotten the experiences and the lessons that I learned on the front lines of medicine. I came to this Congress not only with a background in health care, but also with an important charge to do all that I could to make our health care system better.

And, Mr. Speaker, I can tell you in no uncertain terms, we have a problem. We are losing too many good doctors because of the skyrocketing costs of medical liability insurance and the threat of frivolous lawsuits.

These costs have been driven up by frivolous lawsuits and runaway awards that are more about someone's ship coming in, and I do not mean the injured plaintiffs, than the provision of justice for those who are injured.

In fact, the Department of Health and Human Services reports: "The litigation system is threatening health care quality for all Americans as well as raising the cost of health care for all Americans."

While I am no economist, it does not take a financial expert to know that with fewer and fewer practicing doctors and an ever-growing number of patients, the price of health care will inevitably go up and skyrocket out of the reach of the average consumer.

These increasing costs not only create a significant burden on the American people, but also increasingly aggravate the current strain on the Federal budget resulting in bigger and bigger deficits.

Therefore, Mr. Speaker, I, along with the gentleman from Texas (Mr. SMITH), introduced H.R. 5 as a simple, straightforward solution to reform and strengthen our civil justice system as it pertains to medical liability.

Mr. Speaker, I am thankful for the other 55 Members who have joined with us to cosponsor this bill. Mr. Speaker, the HEALTH Act will not, let me repeat, it will not limit economic awards such as medical bills and lost wages.

So if, as an example, a plaintiff has $10 million in economic damages, they can still collect $10 million for their economic damages. Again, there is no limit to the economic awards. H.R. 5 would, however, limit noneconomic awards to $250,000.

Additionally, punitive damages, if assessed, would be limited to $250,000 or twice the amount of economic loss suffered, whichever of the two is greater.

And, again, Mr. Speaker, as an example, if the economic damages were $5 million, and there were cause to impose punitive damages because of someone's deliberate action, deliberately harmed a patient, then the punitive damages could be $10 million in addition to the $5 million in economic, while the noneconomic would still be limited to $250,000.

The HEALTH Act will also make liability more equitable. If one or more parties is a defendant and ordered to pay damages, then each party pays damages proportional to their fault in the case as determined by the trier of fact, the jury.

Mr. Speaker, no one should have to take the blame and pay damages for the negligence of another defendant, as under current law. That is not justice and this bill will make sure that this inequity is eliminated.

Now, I realize that there are some who have tried to cloud the issue here, and they will certainly oppose this bill. And while I am not questioning anybody's motives, I have to insist that each and everyone of us ask ourselves, Where do my loyalties lie? Do they lie with the American people and their best interests, or do they lie with those special interest trial lawyers?

Some, some, seek to game our judicial system for big bucks, of which their clients, the actual victims, see very little.

□ 1715

For this reason, H.R. 5 includes a provision that will limit the contingency fees of lawyers and health care lawsuits on a sliding-scale basis. This provision will ensure that victims actually receive fair compensation for their damages and they are not bilked and taken advantage by certain greedy trial lawyers.

I cannot stress enough the importance of this bill, Mr. Speaker. Too many of our States are now in a condition of medical liability crisis. My home State of Georgia is one of those States in crisis. And while our legislature, along with Governor Sonny Perdue, has passed meaningful medical liability reform in this past session, there is still much work to be done to undo the damage inflicted on Georgia's health care system. Specifically, according to the Alliance of Specialty Medicine, over the past 3 years, 15 of Georgia's 20 active insurance companies have stopped issuing medical malpractice policies for doctors. This fact flies in the face of the argument from the other side that suggests that greedy insurers are just overcharging doctors for their insurance coverage. And without this insurance coverage, doctors from emergency medical specialists, neurosurgeons, OB-GYN physicians, they are being chased out of their profession and leaving ordinary people without their specialty doctor and without efficient and timely health care.

Mr. Speaker, H.R. 5 is not the silver bullet to America's health care problems. However, in conjunction with things like associated health plans, which we just passed again, the Medicare Part D prescription drug benefit which will go into effect January 1 of 2006, and other important initiatives developed by the majority in this Congress, this bill is the right prescription for the American people at the right time and will put us well on the road toward recovery.

I would like to encourage my colleagues to give their full consideration to H.R. 5. This Congress has an important opportunity to pass this meaningful health care reform.

Mr. Speaker, the American people deserve no less from us. Again, I would encourage my colleagues on both sides of the aisle to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I rise in opposition to this rule.

Mr. Speaker, I rise in opposition to H.R. 5, which purports to help stem rising medical malpractice insurance premiums and relieve health care professionals, but, in reality, will have very little effect.

What this body should be considering today is comprehensive medical malpractice reform and this measure does not even come close to achieving this important goal.

Last night, the Rules Committee did not make in order several amendments, which taken together, would have achieved true comprehensive medical malpractice reform.

Earlier this year, I, along with BRIAN BAIRD, DUTCH RUPPERSBERGER and DAN LIPINSKI, introduced the Comprehensive Medical Malpractice Reform Act of 2005, which would have achieved three key goals, namely (1) constrain the cost of medical liability insurance and reduce unwarranted litigation; (2) protect the rights of patients who have been harmed to receive proper and justified compensation; and (3) improve overall the quality of health care in our country.

Unfortunately, we, along with several other Members, were denied the opportunity to improve H.R. 5 with these amendments.

One of our amendments that was denied debate would have set reasonable limits on non-economic damages.

We all know that a cap of $250,000 on noneconomic damages is too low since some valid cases with catastrophic or lifetime injuries may merit additional compensation, particularly in the case of the negligent death of an infant.

Our amendment would have set a cap on awards for pain and suffering that is based on California's enactment into law of the Medical Injury Compensation Reform Act in 1975. Many provisions of H.R. 5, including caps on non-economic damages, are modeled after this California law.

Our amendment would have indexed noneconomic damages at the rate of inflation, which comes to about $877,000 in today's market. Certainly a far more reasonable number than $250,000.

This amendment would also have weeded out frivolous lawsuits by going after lawyers who continue to file claims that are not substantiated by evidence or expert opinion. Courts would be able to impose a "3 Strikes & You're Out" law and suspend from practice for no less than one year, lawyers who file their third frivolous lawsuit.

Our comprehensive medical malpractice reform package also considers alternative dispute resolution, as a means of avoiding litigation, while at the same time, still addressing victims' rights. We modeled this provision after a successful program at Rush Medical Center in Illinois.

This first-ever hospital based mediation program has proven to be very beneficial to the hospital and other health care providers, and brings closure for individual plaintiffs and defendants.

Over the years, the number of suits against Rush has declined and other hospitals have conducted mediations and have reported favorable results. Our amendment would have given health care institutions the training necessary to implement mediation programs.

Another rejected amendment would have given liability protection to those health care providers, who in good faith, report to report to state medical boards regarding the competence or professional conduct of a physician. These good-faith reporting health care providers would not be held responsible for attorney fees and costs incurred as a result of legal action.

According to data from the National Practitioner Data Bank from 1990 to 2002, just 5 percent of doctors were involved in 54 percent of all medical malpractice payouts, including jury awards and settlements. More startling, the data shows that of the 35,000 doctors with two or more payouts during that period, only 8 percent were disciplined by state medical boards.

Health care providers need better whistleblower protections. Currently there is an imbalance between the legal obligation health care workers have to report errors or unusual incidents and the legal protections they have against retaliation once they report these incidents.

Greater liability protections for health care workers would help to ensure that future medical errors are not made, as well as give state medical boards the opportunity to work with colleagues on weeding out those doctors that provide an inadequate quality of care to patients.

Those who are going to support H.R. 5 today will return to their respective congressional districts during the August recess and brag to the doctors that they voted in favor of medical malpractice reform.

What they will not tell their constituents is that H.R. 5 is DOA when it is sent to the Senate for consideration, and that the other body would not think of entertaining legislation with inadequate caps on awards.

Nor will proponents of this bill reveal that H.R. 5, if signed into law, would not stem rising medical malpractice insurance premiums, because not one provision contained in this bill reforms the insurance industry.

Last night our colleagues on the Rules Committee squandered a valuable opportunity to actually fix the root problem of medical malpractice.

Let us send a message to the American people that we are now prepared to take the issue of medical malpractice reform seriously. I urge all my colleagues to vote against H.R. 5.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I thank the gentleman from Georgia (Mr. GINGREY), my friend, for yielding me the time. I should say Doctor GINGREY and that I want him to call me Attorney HASTINGS so we get it clear as to who we are around here.

Mr. Speaker, I rise today in strong opposition to this closed rule. Like a broken record, my friends on the other side on the aisle are yet again blocking every single Member of this body, Republican and Democrat, from offering an amendment to this ill-conceived legislation. I might add, no hearings were held regarding same.

Under this closed rule the majority is committing the greatest form of political malpractice. The Republican medical malpractice bill does nothing to lower the cost of health care for low- and middle-income families. Instead, insurance companies make out like bandits while the 45 million uninsured Americans continue to live without access to quality health care.

This is the third time in as many years that Republicans are bringing this incredulous bill to the floor under a closed rule. In the last 3 years, 67 amendments have been offered to the underlying bill in the Committee on Rules. Republicans have blocked all 67 of them from being considered by the House.

The gentleman from Michigan (Mr. CONYERS) and the gentleman from Michigan (Mr. DINGELL), the ranking Democrats of the two committees of jurisdiction, offered a fair and balanced substitute to this legislation last night. Their substitute takes steps to weed out frivolous lawsuits, requires insurance companies to pass their savings on to health care providers, and provides targeted assistance to physicians and communities that need it most. The House, however, will never have a chance to debate their proposal. As they have done so often in the past, what Republicans cannot defeat, they simply do not allow.

The gentleman from Illinois (Mr. EMANUEL) and the gentleman from Arkansas (Mr. BERRY) were also prohibited under the rule from offering their common-sense amendment. Their amendment would have taken out language from the underlying legislation that protects manufacturers of medical products, including pharmaceutical companies, from being sued even when they knowingly place a faulty product on the market.

For example, when Merck did an internal test on the side effects of Vioxx, it reported that only one-half of 1 percent of those tested had incurred some type of cardiovascular event. A further investigation showed that Merck had actually doctored the study when, in fact, 14.6 percent of Vioxx patients were negatively affected by the medication.

Under the Republican medical malpractice bill, those who have died or been injured when taking Vioxx will have no legal ground on which to seek compensation for Merck's outright negligence. Many at home may be asking themselves, How could Congress knowingly protect a manufacturer from being sued if it continues producing a product that it knows is faulty and can cause real harm or even death to someone? What about corporate responsibility? What about protecting the lives of innocent Americans?

To them I say, if the underlying legislation becomes law, what I just described will become the norm. The majority have made it crystal clear that they do not believe irresponsible companies and manufacturers should be held responsible for their actions no matter the harm they inflict. As my colleague and good friend on the Committee on Rules, the gentleman from Massachusetts (Mr. MCGOVERN) said last night, welcome to the Committee on Rules, where democracy goes to die.

Mr. Speaker, President Bush and the Republican Party have unfairly singled out trial lawyers as the root cause of skyrocketing medical malpractice insurance rates across the Nation. They suggest that the prevalence of "pain and suffering" awards in malpractice suits have forced insurance companies to raise their liability insurance rates and force doctors out of business. This suggestion is both superficial and wrong.

H.R. 5 does nothing to help doctors with high malpractice insurance premiums. Study after study have confirmed that while the insurance company is raising premiums for doctors at a record pace, the amount they pay out for lawsuits has remained stable. The insurance industry is price-gouging physicians and lying to the public all to justify limiting the rights of victims so that the industry can add to its already record-setting bottom line.

This bill is a distraction from the real problems that exist in America's failing health care system. Physicians and lawyers are pointing fingers at each other while insurance companies are quietly and quickly running to the bank.

Solutions to our Nation's health care woes do exist, Mr. Speaker, but they go beyond blaming one group of Americans and involve more than one easy-to-fix resolution. I urge my colleagues to oppose this closed rule and reject the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GINGREY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this mention of greedy, gouging insurance companies, I just want to point out to my colleague that the only insurance company that still is offering medical malpractice insurance in the State of Georgia is Mag Mutual. And in 2004 they made $7 million on their rather conservative investment portfolio and still lost money because of the claims paid and defending all of these frivolous lawsuits.

Mr. Speaker, I yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO), my colleague on the Committee on Rules.

Mrs. CAPITO. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in strong support of the Help Efficient, Accessible, Low-Cost, Timely Healthcare Act of 2005, commonly referred to as the HEALTH Act.

If it seems like you have seen me speaking on this before, that is because I have. The House of Representatives has done their part and passed this much-needed legislation several times during my service in Congress. It is my sincere hope that the other body will answer the call of millions of Americans who have been impacted with the loss of their doctor and help rein in an out-of-control medical liability system.

I am very optimistic we can achieve this goal, primarily because my home State of West Virginia has passed very similar legislation. If West Virginia's Legislature and Governor can put politics aside and work for the common good, then this Congress should be able to do the same.

Five years ago the medical liability climate in West Virginia reached a fevered pitch. Countless physicians, especially specialists, were beginning to leave the State, their home State, because of the prohibitively high cost of insurance premiums. Our largest trauma center was forced to close because of lack of physicians. Many of these physicians were orthopedists, OB-GYNs, and neurologists, and for a rural State with already limited access to specialists, this was a critical blow to health care accessibility.

Individuals throughout the State were extremely concerned about the ability to find a doctor, keep a doctor, and about the doctor that they love and trust leaving the practice of medicine. Thankfully, the leaders in West Virginia enacted sensible reforms that have stabilized our healthcare delivery system.

As a matter of fact, the hospitals in West Virginia have said one of the biggest benefits to this legislation, very similar to the legislation we have today, is that it stabilized the situation so they can now recruit and retain physicians in the State of West Virginia.

The HEALTH Act is needed on a Federal level because other States have not had the success of my State. This act puts in common-sense reforms to the tort system. I urge all to support the rule and to realize that this approach, which is similar to California's approach and West Virginia's approach, can work successfully and can be passed in a bipartisan way.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Massachusetts (Mr. McGOVERN), my good friend who serves on the Committee on Rules.

Mr. McGOVERN. Mr. Speaker, I thank the gentleman from Florida for yielding me time.

I rise in opposition to this rule and to the underlying legislation. This bill is a perfect example of the ironclad control that the pharmaceutical industry has over the Republican leadership of this House. It is so in your face, it is so out in the open, it takes my breath away.

Instead of improving the medical industry and providing protection to its consumers, H.R. 5 provides sweeping liability protections to drug manufacturers. H.R. 5 does nothing to address the dramatic escalation of insurance premiums and health care costs. Forty-five million Americans, 16 percent of our population, do not have health insurance. Placing caps on the punitive damages that could be awarded to victims of medical malpractice will not provide one single American with health insurance.

From the onset this bill has been handled improperly: no mark-ups, no amendments, no hearings. In fact, for the third time in 3 years, as the gentleman from Florida (Mr. HASTINGS) has pointed out, the Committee on Rules' Republicans have prevented any House Members from offering amendments to this bill.

Last night the committee Republicans rejected all 15 amendments offered, including an amendment that would have stripped the bill of the special protections for irresponsible drug companies. Over the past 3 years, Committee on Rules' Republicans have rejected a whopping 67 amendments to medical malpractice legislation. Eliminating amendments and shutting down debate is not how this House should operate.

Why has this bill been rushed to the floor, bypassing both the Committee on the Judiciary and the Committee on Energy and Commerce despite the abundance of startling information in the headlines regarding the misconduct of drug industry giants like Merck, the creator of the deadly drug Vioxx?

According to testimony given by FDA scientist Dr. David Graham before the Senate Committee on Finance, Vioxx may have caused as many as 55,000 deaths and 160,000 hearts attacks. Mr. Speaker, how can we reward a company that has knowingly created, marketed and distributed a drug which has caused 55,000 deaths?

Well, that is exactly what this bill does. By providing across-the-board immunities to drug and device manufacturers, the pharmaceutical industry would never be held accountable for injuring or even killing people.

Without the threat of full liability, there are no financial incentives for drug companies to keep life-threatening drugs like Vioxx off the market. Vioxx was always a dangerous drug. From its inception in 1999, Merck knew that Vioxx significantly increased the chance of hearts attacks and cardiovascular problems. In 1999 and 2000, two clinical trials showed that people taking Vioxx had a fivefold increase in hearts attacks.

☐ 1730

It was not until 2002, after multiple requests from the FDA, that Merck reluctantly change its warning label to include the severe risk of heart attack.

Mr. Speaker, this was too little, too late. Vioxx should have been pulled from the market years ago, and its victims and victims' families should have been compensated appropriately.

It was not until September 2004, after several more studies and testimonies from high-level FDA officials that Merck voluntarily withdrew Vioxx from the market. And here we are, less than a year later, considering a bill that provides immunity for drug manufacturers that create and distribute unsafe, possibly deadly, drugs.

Mr. Speaker, everyone is aware of the dangers of Vioxx, and the fact that Merck continued selling it knowing of its dangers. How can this House in good conscience reward the drug industry for bad behavior? The American people deserve a better bill, a bill that actually protects, not endangers them.

I would like to say to my friends on the other side of the aisle: if you want to protect irresponsible drug companies, that is your choice. Go right ahead and do it. But I am interested in protecting people. The least you could do is allow us to vote up or down on amendments that would hold the drug companies accountable.

There is no reason why, none whatsoever, why this rule needs to be closed. It is a disgrace that this has been brought to the House floor under a closed rule. I urge my colleagues to vote "no" on the rule and "no" on the underlying bill.

Mr. GINGREY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. WELDON), an internal medicine specialist.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me this time; and as he stated, I practiced internal medicine, but that was not the only type of medicine I practiced. I also practiced defensive medicine.

We can talk about medical malpractice premiums and the costs for doctors, and we can talk about suing drug companies, and we can talk about high premiums in States like West Virginia, which we heard about from the gentlewoman from West Virginia, how specialists leave the States. We had that problem in Florida. We had the neurosurgeons in Orlando threatening to leave because of the high premiums in Orlando. The trauma center would have been downgraded from a level one to a level two center.

But those are really not the issues. The real issue here is the incredible, incredible cost of defensive medicine. And I practiced it every day. I confess, I ordered extra tests to keep myself from being sued. And if you think this is just anecdotal, it is not, my colleagues. This was studied very nicely at Stanford University.

This is old data. It was published in the Quarterly Journal of Economics, 1996. They looked at California, and they looked at just two diagnostic codes, unstable angina, eschemic heart disease; and the study showed after the medical malpractice reforms went in place in California, the charges to the Medicare plan declined significantly. Guess what? Morbidity and mortality did not go up. Quality was maintained.

They estimated in that study, in 1996 dollars, that defensive medicine cost our health care delivery system $50 billion a year. It is estimated by today's dollars that it is well over $100 billion a year.

Now, my colleagues want to take care of the uninsured and they want prescription drugs for senior citizens? Then do something about this very costly system.

Mr. WELDON of Florida. Mr. Speaker, the study earlier referred to follows:

[From Forbes Magazine, Jan. 27, 1997]

RX: RADICAL LAWYERECTOMY

(By Peter Huber)

How do you trim $20 billion a year from Medicare? That's about what it will take to stave off bankruptcy. The easiest way: amputate lawyers.

It can be done. In 1995 Congress immunized community health care centers from malpractice suits. The federal government now covers the claims incurred by these federally subsidized clinics—claims are heard by a judge, not a jury, and there are no punitive awards. The clinics save an estimated $40 million in malpractice insurance. That funds treatment for an additional half-million indigent patients.

Why stop there? The country spends about $8 billion a year treating elderly heart-disease patients. Cap awards, abolish punitive damages, implement a few other direct, financial limits on medical malpractice suits, and you reduce hospital expenditures on cardiac patients by 5% to 9%.

If limits like these had been written into federal law, nationwide spending on cardiac disease in the late 1980s would have been $600 million a year lower. Extrapolate these results to medical spending generally—a debatable but reasonable enough basis for estimation—and you find that tort reform would save the country as a whole well over $50 billion a year.

But how much more negligent medicine would that encourage? How many more cardiac patients would die? How many more would get inferior treatment and suffer a second heart attack as a result? The best estimate: None at all. Nor would any true victims of negligence go uncompensated. The reforms we're talking about here don't eliminate liability, they just place sensible limits on windfalls and double-dipping. They are in fact already part of the law in many states.

The numbers I cite come from a very important paper, "Do Doctors Practice Defensive Medicine?" written by Daniel Kessler and Mark McClellan, both of Stanford University. The paper appeared in the May 1996 Quarterly Journal of Economics.

The authors analyze data on all elderly Medicare beneficiaries hospitalized for serious heart disease in 1984, 1987 and 1990. The study correlates spending for medical care with state tort laws. About three patients in five were treated in states that placed no direct limits on rights to sue. But two in five were hospitalized in states that did. Direct liability limits have clear, strong effects on medical spending, the study concludes.

But that's just the first half of the story. Previous studies—most notably one conducted by Harvard Medical School in 1990—asked panels of doctors to review patient files and attach subjective judgments about adverse outcomes and deficient treatment. Much of the "negligence" identified in this way had no significant impact on the ostensible victim. Studies like this didn't reveal much about the consequences of malpractice litigation because they didn't pin down the consequences of malpractice itself.

With elderly cardiac patients there are objective standards for assessing ineffective care: Patients die, or they end up back in a cardiac ward not long after discharge. Analyzing the record on these solid criteria, Kessler and McClellan reach a second, clear conclusion: None of the liability reforms studied "led to any consequential differences in mortality or the occurrence of serious complications."

If liability doesn't force doctors to provide better treatment, why does it boost the cost of medicine so sharply? Unlimited liability gets you more medicine, not better. Lawyer-shy doctors administer tests willy-nilly, and hand off patients to specialists with great alacrity. They know that the surest way to avoid liability is to dispatch your problem patient to someone else—a lab technician or another doctor. This can go on indefinitely. It's very expensive. And medically useless.

Congress has generally left medical malpractice reform to the states. But when Medicare and Medicaid patients sneeze, it's the federal Treasury that catches cold. No principle of federalism requires federal taxpayers in Montana to pay for Mississippi medicine ordered up by the lawyers there, not the doctors or patients.

The best place for Congress to balance the Medicare budget is on the backs of trial lawyers. These lawyers are not old, not poor and not needed.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 3 minutes and 20 seconds to the very distinguished gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I want to thank my colleague for yielding me this time.

I was a sponsor of the Vioxx amendment, to strip out the protection of the pharmaceutical industry. As Americans are watching this debate here, here we are on the floor debating about protecting the pharmaceutical industry from all liability in a protection that no other industry in America would receive, and on the other side of the screen the American people are going to be watching the trial on Vioxx down in Texas, where a marathon runner, who was also a personal trainer, and who took Vioxx for 6 months, died a premature death. They will see what this Congress is doing on that civil case.

Now, we know from the head of FDA that by their estimate 55,000 Americans died because of Vioxx and the medication. Yet my colleagues want to deny that man's family their day at trial and give this industry, the only industry in America, a single protection.

Last year, my colleagues voted for a prescription drug bill to give the pharmaceutical industry $132 billion in extra profit, and now you want to give them liability protection. This Congress is like the gift that keeps on giving. You just do not know how to stop yourself.

Now, there is a place to redress these grievances. It is called the courtroom. With 55,000 deaths, have you no shame? Have you no respect for what is going on in America? The American people will see what is being done and understand the cost. But Merck, with Vioxx, is not the only pharmaceutical company. There is beckstra, accutane. There is phen-fen. Those are just some of the medications where other companies have not provided the FDA the material they needed to make the decision, and then, after the fact, after the consequences, those drugs get pulled.

What is ironic about this whole case and this whole piece of legislation is very simple. Just a year ago, many of our colleagues on the other side of the aisle joined us in agreeing that the FDA did not have the authority, the capability, or the funding to regulate the drug market. We were talking about in this very Chamber, on both sides of the aisle, setting up another whole entity to regulate this agency. So now what do we do in the dark of night, and nonrelevant to the medical malpractice legislation, you want to stick in a provision to protect the pharmaceutical industry because the FDA approval somehow gives them a Good Housekeeping seal when you said here in the well that the FDA was not doing its job.

George Orwell would smile upon this Chamber for the hypocrisy that runs free. You have done it with the pharmaceutical industry in the prescription drug bill last year, with $132 billion in additional profits over 10 years, and now you give them liability protection that no other industry in the Nation has, to our knowledge. And all the while Americans will watch their TVs, read in their newspapers, and listen on radio of the case of an individual's death because of the medication he took that was prescribed, and Merck, the company, had data before that drug got approved that it would lead to heart attacks and premature deaths.

The right forum is the American court. Yet my colleagues want to do this. Let us have an up-and-down vote. Do not be scared. Do not hide behind some little rule. Come on out here. Put it out on the table, and let us have a vote. The Senate knew it was wrong and pulled it out. So do not hide behind the rule. If this is what you want to do, let us have an up-and-down vote. You can put your votes right up there if you want to stand with this industry, and then the American people can see what it is all about.

I would recommend to my colleagues on the other side that there is a gift ban here. You gave them $132 billion in additional profits last year. There is a gift ban. The gift has got to stopping giving to the pharmaceutical industry.

Mr. GINGREY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Georgia (Mr. PRICE), my physician colleague, an orthopedic surgeon.

Mr. PRICE of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the rule and the bill. This debate, this issue is about patients and the principal challenge that we have. What is the principal challenge that we have? I believe it is that it is imperative that we provide a system which allows patients to have access to the highest level of health care, and we are losing this across this Nation for a variety of reasons, but not the least of which is the lottery mentality of our court system.

Our system is woefully broken. As a physician for over 25 years, as an orthopedic surgeon, I have seen a vast array of medical and surgical problems. I have also stood back and been astounded, astounded by certain surprising occurrences.

One was with a patient who was cared for by one of my partners. Not too long ago, across this land, we asked patients to identify whether their surgery was to be on the right side or the left side so that we did not operate on the wrong leg or the wrong arm. And we asked the patient in the preoperative area to identify which side was the correct side. This one patient marked the incorrect side. The patient did. He marked the wrong side on purpose. On purpose.

Thankfully, thankfully there were enough checks and balances in place in this hospital that it was caught just before the surgery began. When asked why he marked the wrong side, he said. I thought I'd take a chance and see if I could make some money.

This is the lottery mentality. This is the climate that we are in out there. Our system is woefully broken. The mentality in the system that we have right now drives hospitals to close, and it drives doctors to end their practice. And patients, then, lose the ability to see their doctor.

To ensure Americans have access to the highest-quality care, I encourage my colleagues to support both the rule and the underlying bill.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 4 minutes to the gentleman from Arkansas (Mr. BERRY), who is a farmer and a pharmacist.

Mr. BERRY. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, I continue to be amazed as I listen to this debate. I can tell you this. I know the difference between butter beans and turnip greens, and I am wondering if these folks from Georgia have figured that out. They said they passed tort reform, and still the insurance companies cannot make any money. They might need to retrain their docs.

I do not know what is going on in Georgia, but I can tell you this, you guys pass this bill and you are going to live under it too. It is going to be the law of the land, and you are going to have to live under it. When your people get hurt, when your family gets damaged, when somebody that does not know what they are doing hurts your family, when a drug company sells you a bad product and kills somebody in your family, you are going to live under this bill, too. Think about it. Is that what you really want to do?

Are you so in bed with the drug companies and the insurance companies that you just cannot pass up, as my colleague from Illinois just talked about, you just cannot pass up another opportunity to give them money? It is absolutely amazing.

The pharmaceutical industry in this country has proven beyond a shadow of a doubt that they do not care about people or anything else. All they care about is money. Give us more money. And this Republican Congress and this Republican President have given them money in the most unashamed possible way that I can imagine.

If you all really believe this is going to solve the health care cost problems in the United States, I have some ocean front property in Arkansas I would love to talk to you about.

This is the most incredible thing I have ever seen. How you have the audacity to come before this body and even make the claim that that is going to happen is beyond me, and then criticize me and my side of the aisle because we are protecting trial lawyers? My goodness alive, that is just absolutely amazing.

The bottom line here is this: just like the gentleman from Massachusetts said, the Committee on Rules is where democracy goes to die in the U.S. House. You will not even let us have an up-or-down vote. Let us have a vote. If you want to protect the drug companies, let it stand alone. Let us let you be on the voting block. Let your name be public and say, I protected the drug companies. I protected the insurance companies. I want to do all I can to help those people. Be accountable.

You are so proud of this, boy, I would get up here and I would really talk about it a lot. And when you go home, you are going to meet that person that you kept from having their day in court and that you ruined their life and there was nothing they could do about it because of this law. They are going to be all over the place. Let us just hope it is not someone that is near and dear to you.

For me, there is not enough money to repay if you hurt my children or grandchildren. My grandson is sitting out here today. I have got three other grandchildren. There is not enough money in the whole wide world. And yet you all would limit their ability to be repaid to $250,000. That is, on its face, absolutely and utterly ridiculous; and why you would want to do that is beyond me.

□ 1745

And why you would want to do that is beyond me, and why you would want to do it for the drug companies is certainly beyond my ability to understand. But if you do it, you will ultimately be held accountable.

Mr. GINGREY. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, eight States have specifically focused on pharmaceuticals and punitive damages and statutorily provide an FDA regulatory compliance defense against such damages. Those States are: Arizona, Colorado, Illinois, New Jersey, North Dakota, Ohio, Oregon and Utah.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, I rise in support of the rule and the bill. Without a doubt, medical liability lawsuits and the extravagant awards drain vital resources from our health care system, and the most important resource being drained is doctors.

In Chester County, Pennsylvania, where I live, which happens to be the wealthiest county of the 67 counties in Pennsylvania, we have no more trauma surgeons. One-third of Pennsylvania doctors in high-risk specialties said they plan to leave the State because of the huge malpractice insurance rates. Seventy percent of Pennsylvania doctors have considered closing their practice because of the cost of medical malpractice insurance.

A few years back, the Lancaster Health Alliance, another county I represent, was planning to open a new clinic to serve the poor in Lancaster, but a $1.5 million hike in malpractice insurance forced them to abandon the project.

In Pennsylvania and many other States, we have a crisis on our hands, and the cost of this crisis is measured in terms of doctors leaving, hospitals closing, new clinics not being built, and patients not being served. H.R. 5 is the right answer for the crisis. I urge my colleagues to support the legislation and the rule.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Speaker, I oppose this rule, and I oppose this overreaching bill. A lot of people on the other side of the aisle are trying to claim that caps on awards for victims of medical malpractice will help doctors. Some are claiming that caps on awards will even help patients.

The other side has one crucial fact wrong. Capping medical malpractice awards does not mean insurance rates will fall. A recent study, looking at premiums over the last 5 years, found that claims payments have been stable while premiums have more than doubled. In fact, malpractice insurers' total premiums were three times higher than total payments in 2004.

If we want to decrease medical malpractice insurance costs for doctors, let us talk about that. Let us talk about reducing medical errors by improving hospital resources and funding for graduate medical school education. Or let us talk about investigating insurance companies' pricing practices. But to pretend that this is medical malpractice awards set by juries and judges who have actually listened to victims' grievances, to put the blame for rising insurance costs on victims, that is not only cruel, it is completely false.

If we want to cap medical malpractice awards, let us call it for what it is: a gift to the insurance industry at the expense of innocent victims.

This bill hurts patients wrongly injured or killed by bad doctors, does not lower medical malpractice rates for the so many good doctors out there, and really only benefits the insurance companies. The other side would rather drive a wedge between two noble professions: doctors and lawyers. I say that is wrong-headed. Vote down this rule; and more importantly, vote down this bill.

Mr. GINGREY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, listen to these numbers: 19, the number of States in a full-blown medical liability crisis; 72 percent, the number of Americans who favor a law that guarantees full payment for lost wages and medical expenses, but limits noneconomic damages; $70 to $127 billion a year, the cost of the defense of medicine, which could be significantly reduced by medical liability reforms; $10.2 billion, the amount of money paid out by licensed commercial insurers in 2002 for medical liability claims; 100 percent or more, the increase in liability insurance premiums that one-third of the Nation's hospitals saw in 2002; 48 percent, the proportion of America's medical students in their third or fourth year of medical school who indicated that the liability crisis was a factor in their choice of specialty, threatening patients' future access to critical services; 3.9 million, the increase in the number of Americans with health insurance if Congress were to pass common-sense reforms.

Mr. Speaker, we are not talking about anybody's right to a redress of grievances when they have been injured because of a physician or provider of care or a facility or hospital practicing below the standard of care in that local community. There are no limits on economic awards. As I said earlier, that could be $5 million. And as I said earlier, when you get into a courtroom and you listen to the plaintiff's attorney calculating the cost, the economic cost, a new home because of a disability access need costing $450,000, an au pair, a companion to go to the movies with the person that was injured, and on and on and on, these economic costs sometimes are astronomical.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I rise as an opponent to the rule that is before us, and I will vote "no" also on the bill.

I would like to go back to one of the speakers just a few moments ago who mentioned in his State Mag Mutual. Mag Mutual is one of the 12 largest monoline medical malpractice insurers in the United States. And in 2004, coincidentally, they had 216 percent above what is adequately called their surplus. They have excess surplus.

We have a crisis, we have a problem, but I personally believe that we are attacking the wrong folks in order to resolve the problem. The key words here are insurance reform. It is true that due to premium increases, the cost of practicing medicine in the State of New Jersey is rising at an unsustainable pace, but not for the reasons that the proponents of H.R. 5 are claiming.

According to the Kaiser Family Foundation, medical malpractice premiums are not rising because of claims or settlements. In fact, medical malpractice pay-outs have increased by 5.7 percent since 2001, and this is the chart to prove it. Payouts increased by 5.7 percent and 120 percent increase in premiums, you have the wrong dog in this race. Premiums nationally have risen over 120 percent in the same period. That is the real story.

Monetary caps are not the answer. You have not addressed the example that was put before this body: The Vioxx. Nobody wants to face that. Nobody wants to address that. A woman injured, cannot provide, cannot have a pregnancy, cannot give birth to a child, $250,000 cap. You have to be kidding me. I want that to be addressed. Monetary caps are not the answer.

Actually, the premiums in States without caps on damages are almost 10 percent lower than those with caps.

In California, Mississippi, Nevada, Ohio, Oklahoma, and Texas, insurers have continued to raise premiums despite the fact that these States passed caps. And what happened in California, they had Proposition 103. That is what leveled off, if we consider it leveling off, the antitrust exemption that rates began to finally come down.

It is a gift to the insurance companies, the HMOs, the medical institutions that harm patients and are filled with liability protections for manufacturers of defective or harmful health care products. This is plain and simple.

The Committee on Rules prevented any Member from offering amendments to this legislation. It is too serious. We are talking about life or death in many cases; the substitute amendment of the gentleman from Michigan (Mr. CONYERS) and the gentleman from Michigan (Mr. DINGELL) that takes steps to stop frivolous lawsuits, insurance reform and targeted assistance to the physicians in the communities who need it most. For these reasons I urge my colleagues to defeat the rule and this piece of legislation, H.R. 5.

Mr. GINGREY. Mr. Speaker, I yield myself 3 minutes.

A couple of minutes ago I was given some statistics. I want to continue in that vein. The gentleman from New Jersey (Mr. PASCRELL) just mentioned the situation in California. Of course, this bill, H.R. 5, is patterned after that very successful MICRA legislation, Medical Injury Compensation Reform Act, passed in 1979 in California. Here we are some 26 years later, and medical malpractice insurance premium rates have stabilized, growing only at about 6 percent per year.

But listen to these numbers in regard to whether people continue to get just compensation for their injuries when you do have a cap on so-called noneconomic or pain and suffering.

September 2003, 9-year-old boy, San Francisco jury awarded $70.9 million in compensatory damages after finding a hospital and a medical clinic negligent for failing to diagnose his metabolic disease.

December 2002, $84.250 million total award, Alameda County, a 5-year-old boy with cerebral palsy and quadriplegia because of delayed treatment of jaundice after birth.

January 1999, $21.789 million award, Los Angeles County, newborn girl with cerebral palsy and mental retardation because of a birth-related injury.

October 1997, $25 million total award, San Diego County, boy with severe brain damage, spastic quadriplegia, mental retardation because of too much anesthesia administered during a procedure.

November of 2000, $27.573 million, San Bernardino, California, 25-year-old woman with quadriplegia because of failure to diagnose a spinal injury.

July 2002, $12.5 million, Los Angeles County, 30-year-old homemaker with brain damage because of lack of oxygen during recovery from surgery.

Mr. Speaker, people are not being denied access to an opportunity to redress their grievances when they have been injured when someone has practiced below the standard of care. No physician member of this body, no physician in this United States would want anything like that. We want people to recover when one of our colleagues have indeed caused that harm.

Mr. Speaker, we know of cases in our own hospitals where lawsuits are brought against one of our colleagues where we know they practiced below the standard of care, and we are the biggest cheerleaders for the plaintiffs in those situations. H.R. 5 has nothing to do with that.

Mr. Speaker, we are just limiting this noneconomic so-called pain and suffering. It has worked in California, and it will work in the rest of the country.

Mr. Speaker, I reserve the balance of my time.

□ 1800

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

I went to school and almost became a physician. I do not know what there is about some of the damages that the gentleman from Georgia calls so-called damages. I do not know how brain damage, losing my legs, double mastectomies, those kinds of things, are so-called punitive damages. If doctors commit those kinds of errors, they ought to be held accountable, and juries are the best place for that to occur.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. I thank the gentleman for yielding time.

Mr. Speaker, this is a perfect bill. It must be perfect because not one amendment will be allowed, including my amendment. Now, the Republicans say free markets. We want free markets. How come we do not have a free market in insurance, I ask them? The insurance industry is exempt from the antitrust law. They can and do get together legally and collude to drive up the price of insurance for every American in every line of insurance. Not just medical malpractice. That is legal for the insurance industry. It is not legal for the two corner gas stations. They would go to Federal prison. It is not legal for any other industry in America. But they would not allow a vote on my amendment just to say, let us have a market in insurance. Let us take away their antitrust exemption. Let us have competition. Maybe that will lower prices. They seem to believe in competition until their pockets are being filled at election time by an industry that is exempt from competition. But they say they are going to solve the problem here tonight with this bill.

Now, the other thing the gentleman from Georgia is not talking much about is why we should exempt the pharmaceutical industry for deadly and dangerous drugs, people who have died and been seriously injured, from any liability. What other industry in America has that exemption? So this is sort of a perfect bill; is it not? The two largest contributors to the Republicans are the pharmaceutical and insurance industries. The insurance industry is exempt from competition and antitrust law, and now they want to exempt the pharmaceutical industry from having to pay people for having killed their spouse, their children, or having perhaps caused so-called brain damage or a so-called heart attack or something else with a defective product. That is unbelievable.

I wish the gentleman would spend the rest of his time talking about why the pharmaceutical industry needs an exemption when they have actually maimed or killed people. If we are going to extend it to the pharmaceutical industry, how about the automobile industry? We have got a lot of industries in America that could use an exemption from liability that have to pay and go to court now. But, no, they are saying the pharmaceutical industry should not have to do that, because, as we know, they have the best interests of Americans at heart. That is why they do not want to allow us to import cheaper drugs from Canada, and they are threatening the Canadian Government. That is why they are the most consistently profitable industry in America when our seniors are cutting their drugs in half. No, they need protection from this horrible scourge of being sued when they have sold a defective product like Vioxx and actually concealed the tests from the American people and perhaps from the FDA.

I wish the gentleman would spend the rest of his time defending the antitrust exemption for the insurance industry, because if he believes in free markets, he should support my amendment. It should be part of this bill. We should get to vote on that. We should say, let us have competition in insurance. That will help the doctors. It is not the total solution, there are other things that need to be done, but that certainly would help the doctors.

It would help every other American with every other line of insurance, too. Your car insurance might come down. Your homeowner insurance might come down. But they do not want to allow that vote, and now they want to have a huge new exemption for the pharmaceutical industry. I guess we know who is lining up behind their next campaign with very generous contributions.

Mr. GINGREY. Mr. Speaker, I yield myself 2 minutes.

I am sure the gentleman from Oregon was not questioning anyone's motives in his remarks. I think maybe the section of H.R. 5 that says no punitive damages to a pharmaceutical company, a drug maker or a medical products manufacturer that makes something, a drug or a medical product, that has been ruled safe, it has gone through all FDA testing, there is absolutely no reason to suspect that the drug or product is defective based on phase 1, phase 2, phase 3 trials, and then something turns up. It only relieves that manufacturer of punitive damages. As I say, Mr. Speaker, maybe we ought to call that section the Oregon model, because that is the exact same thing that exists under Oregon law.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 1½ minutes to the gentleman from Illinois (Mr. LIPINSKI), a new Member, the son of a former Member of the United States Congress, our former colleague Bill Lipinski.

Mr. LIPINSKI. I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, I rise today in opposition to the closed rule on H.R. 5 and the underlying bill. There is a need for medical malpractice reform, and the amendments offered in the Rules Committee could have made this a good bill for improving access and care. But the Rules Committee refused consideration of all the amendments, including one that I offered that would have directly reduced the number of malpractice cases in court by facilitating the use of mediation. Mediation has proven to be a cost-effective and timely way to settle malpractice cases. Rush Medical Center in Chicago now has one-third of its cases go to mediation instead of litigation. Other hospitals around the country have begun to try to attempt similar programs, but have hit the roadblock of a lack of mediators with a medical background who are available.

My amendment would have provided grants to set up mediation programs and to train medical malpractice mediators. This would have done exactly what this bill purports to do, reduce the burden of litigation.

We should have the opportunity to debate this and all the amendments proposed. I urge my colleagues to vote against this rule and vote against this bill.

Mr. GINGREY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, in addition to about 75 percent of the American public that are in favor of placing caps on noneconomic damages, let me just list a few other organizations that are in favor of that as well: The American Academy of Family Physicians, the American Academy of Pediatricians, the American Association of Home and Services For the Aging, the American College of Emergency Physicians, the American College of Nurse Midwives, the American College of Obstetricians and Gynecologists, the American College of Surgeons, the American Health Care Association, the American Hospital Association, the American Medical Association; the absence, of course, of the American Trial Lawyers Association.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the balance of my time.

One of the previous speakers, the gentleman from Georgia (Mr. PRICE), said that some victims have won, quote, the malpractice lottery. Tell that to, for example, Ms. Linda McDougal, who had a double mastectomy because a doctor misdiagnosed her condition and recommended this radical procedure. Does the gentleman from Georgia (Mr. PRICE) really think that Ms. McDougal has won some sort of lottery? I just cannot believe that.

Key findings from "The Growth of Physician Medical Malpractice Payments: Evidence From The National Practitioner Data Bank" show that the average annual malpractice claim payout rose only 4 percent a year from 1991 to 2003, in line with the average overall increase in the cost of health care.

Time will not permit me to go into a litany of statistics and supporters, but I do want to point out that the thought seems to be that people do not want to practice medicine. Well, the number of doctors increased throughout the Nation from 1985 to 2001, even in States with no malpractice award caps. The study showed that there were 497,140 professionally active doctors in 1985 and 709,168 in 2001. The report found little evidence that doctors are leaving one State for another State with malpractice award caps.

Mr. Speaker, I urge Members to vote "no" on the previous question so I can amend the rule to make in order the Emanuel-Berry amendment. This amendment would strike from the bill a provision granting immunity to manufacturers of medical products from being sued when it is discovered that those manufacturers withheld potentially damaging information from the FDA and the public. The amendment was offered in the Rules Committee yesterday, but, like all the rest, was defeated on a straight party-line vote.

Mr. Speaker, I ask unanimous consent to print the text of the amendment immediately prior to the vote on the previous question.

The SPEAKER pro tempore (Mr. BASS). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, what is a provision protecting the drug companies doing in a bill that is supposed to be about doctors' malpractice premiums? How does this provision ever get into this bill in the first place? My guess is that many of my colleagues who support this bill have been asking the same question and would vote to strike it from the bill if they were given the opportunity. But because of this closed rule, the House will not have the opportunity to strike this embarrassing sop to the pharmaceutical industry from this legislation. Defeating the previous question will give Members a chance to vote on what has now been dubbed the "Merck loophole."

This section is not just bad policy, Mr. Speaker, it is almost criminal. Every day we read about more evidence that the pharmaceutical company Merck concealed information about the risks of its FDA-approved drug Vioxx. I do not think any of my colleagues want to find themselves in the position of defending people who hid information about this drug that could have saved someone's life.

Vote "no" on the previous question so we can debate this important amendment. I want to make it very clear that a "no" vote will not stop us from considering this legislation. We will still be able to consider the medical malpractice legislation on the floor today. However, a "yes" vote will prevent us from considering the Emanuel amendment to strike this ill-conceived language.

Again, vote "no" on the previous question.

Mr. Speaker, I yield back the balance of my time.

Mr. GINGREY. Mr. Speaker, I yield 1½ minutes to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Speaker, we had a situation a few years ago where on the homeland security bill at about 11 o'clock at night, they stuck language in the bill which prohibited class action lawsuits against the manufacturers of thimerosal, which is a preservative that is in vaccines, and 50 percent of it is ethyl mercury. We have hundreds of thousands of kids that have been damaged by ethyl mercury in vaccines. It is called thimerosal. The language in this bill, and I want to read it to you, says, "No punitive damages may be awarded against the manufacturer or distributor of a medical product, or a supplier of any component or raw material of such medical product, based on a claim that such product caused the claimant's harm where," and it goes on.

The way I read this, these people who have been damaged, and we have been fighting for years to get them the ability to get money from the Vaccine Injury Compensation Fund, one of the negotiating things that we have had is the language that is being put in this bill that is going to stop that. What this means simply is that if this passes with this language in it, the way I understand it, those people, those thousands and thousands of people that have children that have been damaged by thimerosal, mercury, in vaccines will have no recourse, and they cannot get any restitution out of the Vaccine Injury Compensation Fund the way it is right now. I do not know how this got in here, but I can tell you right now, this is not good. I want to support my chairman and the Rules Committee, but this language is not good.

Mr. DREIER. Mr. Speaker, if the gentleman will yield, there is an exception that is provided for vaccine injury in the bill. I think it is also very important to note, as the gentleman from Georgia said earlier, that this deals with equipment and pharmaceutical products that have been approved by the Food and Drug Administration. That is the reason that this is provided, because that kind of direction that has come from the FDA is included.

Mr. BURTON of Indiana. Thimerosal was approved as well. You say there is language in here that does exempt vaccines?

Mr. DREIER. Section 10, Effect on Other Laws, there is a vaccine injury exemption that is included in the bill. I have got it right here. I am happy to show it to the gentleman.

□ 1815

Mr. GINGREY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in concluding this debate on House Resolution 385, I would like to encourage my colleagues to not only support this rule but also the underlying bill. I want to thank all of those who spoke on behalf of the rule and applaud them for their willingness to address this problem in an honest and an open fashion.

Unfortunately, some opponents of this legislation seem content to demagogue the issue and pander to those special interests who are determined to keep the playing field tilted in their favor.

Mr. Speaker, I include for the RECORD letters of the many organizations that have been submitted to me in support of this bill.

LETTERS OF SUPPORT

A. PIAA (Physician Insurers Association of America)
B. American Osteopathic Association
C. American College of Obstetricians and Gynecologists
D. American Academy of Ophthalmology
E. American College of Surgeons
F. The Society of Thoracic Surgeons
G. The Doctor's Company
H. Californians Allied for Patient Protection
I. Physicians Insurance
J. JPMSLIC Insurance Company
K. American College of Physicians
L. American Society of Anesthesiologists
M. Premier Advocacy
N. American Association of Nurse Anesthetists
O. American Medical Directors Association
P. American Association of Orthopaedic Surgeons
Q. American Medical Association—Michael Maves, Executive Vice President
R. Chamber of Commerce
S. American Benefits Council
T. American College of Cardiology
U. American Academy of Otolaryngology—Head and Neck Surgery
V. American College of Osteopathic Family Physicians

Mr. Speaker, some might not want to see reform, but I have list upon list and a binder full of organizations and individuals who recognize that we have a problem, and they see H.R. 5 as the solution. Over 200 medical organizations from the American Medical Association, the American College of Surgeons, to the American Dental Association to the United States Chamber of Commerce have urged this Congress to act now, not later.

A recent survey by the Health Coalition on Liability and Access found that 72 percent of Americans favor a law that would guarantee full payment for economic losses like lost pay and medical costs, but would limit noneconomic costs. With an overwhelming majority of the American people and most health care organizations in support of the language of this legislation, we in the House of Representatives cannot stand idly by with a good commonsense solution at our fingertips.

Again, this bill in no way, shape, or form limits the amount an individual can receive in economic damages. If someone's hospital bill or lost wages costs $50,000, $500,000, or even $5 million, they can still be awarded the full amount in damages less attorneys' costs and fees. If there are punitive damages that are applicable because a physician or health care provider deliberately, deliberately, causes injury to a patient, then punitive damages can be awarded double the economic damages. So if it were $5 million worth of economic damages, then there could be $10 million worth of punitive damages.

The same thing, Mr. Speaker, is applicable to medical product manufacturers and the pharmaceutical industry that produces these drugs. The other side would make us believe that they were granted complete immunity. Absolutely not, if they knowingly withheld information. Only economic damages are limited; and punitive damages, as I say, would be calculated by a responsible formula.

Finally, H.R. 5 ensures that victims benefit from a fairer system and they receive a greater portion of their damages. Ultimately, the biggest winner in H.R. 5 is the American consumer-patient who will have better access to health care and lower health care costs. I think that alone testifies to the importance of this bill and the need to put partisanship aside for the sake of the people who sent us here to represent them. They deserve no less.

Again, I want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentleman from Texas (Mr. BARTON) for their timely consideration of this bill, as well as the gentleman from Texas (Mr. SMITH), who is the Courts, the Internet, and Intellectual Property Subcommittee chairman of the Committee on the Judiciary and floor manager of H.R. 5.

I again would encourage my colleagues to support House Resolution 385 and H.R. 5.

Mrs. CHRISTENSEN. Mr. Speaker, as most members of this body know, I am a physician, and a member of physician organizations who practiced family medicine for 21 years. So, I know this issue first hand, and I am deeply troubled about patients who will be denied just compensation under the approach this bill takes—caps on damages.

I am also outraged that physicians are being used as pawns in the game of political one-upmanship this bill plays with its narrow, misguided and ineffective focus and attack on trial lawyers.

And we all know, because we read the same reports that H.R. 5 bill will not fix the problem. The causes of high premiums are not the result of medical malpractice lawsuits or increasing payouts. In fact, a recent report commissioned by the Center for Justice and Democracy clearly demonstrates that over the last 5 years, there has been little to no increase in malpractice payouts.

Despite this, there have been humongous increases in malpractice insurance premiums. In fact, the report found that many of the leading malpractice insurers have substantially increased their premiums while decreasing their actual claims payments and reducing the amount they project to payout in the future, but significantly increasing their surplus or profits.

Let me just give you a few examples from the report so everyone understands:

1. In fact, in 2004 alone, the leading medical malpractice insurers took in about three times as much in premiums as they paid out in claims.

2. And, in 2004, the 15 leading malpractice carriers, taken in sum, increased their premiums by 9.3 percent, yet their losses fell by 21.1 percent.

3. Between 2000 and 2004, the premiums of the 15 leading medical malpractice insurers have more than doubled, yet the amount they paid out in claims during this same period remained constant. In fact, during this time frame, gross premiums increased 134.5 percent while gross payouts increased by 9.6 percent.

4. Another way to put it: between 2000 and 2004, the increase in premiums collected by the 15 leading medical malpractice insurers on a net basis was twenty-one times as great as the increase in payments on a net basis.

So not allowing for Democratic alternatives which sought to address the full scope of the malpractice problem, and provide a real remedy has precluded us from having a bill on the floor that merits our vote.

My colleagues please don't disrespect patients and their families and their pain and suffering; and do not play the hard working doctors.

Vote no on H.R. 5 and then let's pass a bill that truly addresses the crisis that many factors—like lack of insurance, language barriers, limited providers of color, inadequate funding for prevention and malpractice insurance coverage is creating.

Mr. SENSENBRENNER. Mr. Speaker, I wish to include in the CONGRESSIONAL RECORD an explanation for my decision not to participate in legislative consideration of H.R. 5, the "Help Efficient, Accessible, Low-Cost, Timely Healthcare ('HEALTH') Act of 2005."

House Rule III(1) states:

> Every Member . . . shall vote on each question put, unless he has a direct personal or pecuniary interest in the event of such question.

House precedents establish that "where the subject matter before the House affects a class rather than individuals, the personal interest of Members who belong to the class is not such as to disqualify them from voting."

As a result, House precedent has held that a Member's ownership of common stock in a corporation, "was not, under House precedents, sufficient to disqualify him from voting on" legislation that benefitted the corporation in which that Member held stock.

I currently own shares in at least two corporations that may benefit from the enactment of H.R. 5. Shares of these corporations are generally held, and do not represent "uniquely-held" financial interests. As a result, my participation in legislative consideration of H.R. 5 would not appear to violate current House Rules and established precedent. However, as in all matters susceptible to subjective examination, there are no bright line rules to determine whether a Member should not participate in legislation that may benefit that Member in a personal or financial manner.

In common parlance, the term "conflict of interest" is subject to various interpretations. However, the House Ethics Manual states that this term "is limited in meaning; it denotes a situation in which an official's conduct of his office conflicts with his private economic affairs."

The House Committee on Standards of Official Conduct has admonished all Members "to avoid situations in which even an inference might be drawn suggesting improper action."

The Committee on Standards and Ethics has also endorsed the principle that "each individual Member has the responsibility of deciding for himself whether his personal interest in pending legislation requires that he abstain from voting." I have concluded that my holdings in at least two corporations that may benefit if H.R. 5 is enacted into law, coupled with my Chairmanship of the Committee of primary jurisdiction over this legislation, raise legitimate questions concerning whether my participation in this legislation conflicts with my private economic affairs.

While this may be a gray area, questions concerning whether my participation in legislation may raise the appearance of a conflict of interest must be subject to no doubt. As a result, I wish to forcefully dispel any appearance of such a conflict by recusing myself from legislative consideration of H.R. 5.

Participation in the political process, particularly voting on legislation, is central to maintaining the official responsibilities to which Members of Congress are sworn. In all of my public life, I have striven to energetically and conscientiously discharge my official responsibilities while preserving the public trust and confidence I have been elected to uphold.

While House rules may provide an important benchmark for determining the propriety of a Member's decision to vote on legislation before the House, nothing can substitute for a Member's conscience. For this reason, I hereby recuse myself from participation in legislative consideration of H.R. 5 during the 109th Congress.

Mr. LIPINSKI. Mr. Speaker, I rise today in opposition to the closed rule on H.R. 5, the HEALTH Act. There is a need for medical malpractice reform, and the amendments offered in the Rules Committee could have made this a good bill for improving patient access and care. I am deeply disappointed that the Committee refused consideration of all the amendments, including mine that would have reduced the number of malpractice cases in court by facilitating the use of mediation. Mediation has proven to be a cost-effective and timely way to settle malpractice cases. Rush Medical Center in Chicago now has one-third of its cases go to mediation instead of litigation. Other hospitals around the country have begun to implement similar programs, but have been hindered by the lack of mediators with a medical background. My amendment would have provided grants to set up mediation programs and to train medical malpractice mediators. This would have done exactly what this bill purports to do, reduce the burden of litigation. We should have an opportunity to debate this and all the amendments proposed, so I urge my colleagues to vote against this Rule.

Mr. COSTELLO. Mr. Speaker, I rise today in opposition to the rule and to the bill, H.R. 5. Republicans on the Rules Committee blocked the consideration of several amendments offered by me and my colleagues to this bill. This body should have the right to openly discuss and to consider each of these amendments.

One of the amendments blocked was one I offered that is modeled after the state of California's 1975 reform laws (Proposition 103) which has been successful in leveling off insurance rates.

My amendment would require the insurance commissioner or a similar public body in each respective State to hold public hearings when an insurer proposes a rate increase in premiums for medical malpractice liability insurance that exceed 15 percent. If a State has a lower insurance rate than 15 percent, this legislation would not apply.

Mr. Speaker, I believe that the issue of rising medical malpractice insurance premiums is best handled at the state level, as 29 states, including Illinois, have passed legislation to address this problem.

However, if Congress is going to consider legislation, it should be comprehensive. H.R. 5 is not a balanced piece of legislation. Earlier this year, I supported the Class Action Fairness bill because it was a product of bipartisan input and compromise. The bill we are considering today does not contain input from Democrats and fails to take a comprehensive approach to the problem of rising medical malpractice rates.

H.R. 5 is a caps only bill. Numerous studies show that caps alone do not lower insurance rates. According to the Medical Liability Monitor, states with caps on damages have average insurance premiums that are 9.8 percent higher than insurance premiums in states without caps on damages.

Under H.R. 5 insurance carriers can still raise rates any amount and at any time, without justifying their rate increases. A bill that only places caps on non-economic and punitive damages but does not provide insurance reform will not solve our medical malpractice crisis today.

The insurance industry has been very clear: passing caps on non-economic damages will not result in reduced medical practice premiums. A recent study by the National Council of Insurance Commissioners revealed that medical malpractice carriers in Illinois raised their rates 13 percent last year, despite the fact that their direct losses only increased 3 percent.

Serious reform of the insurance industry must be part of any attempt to bring the cost of medical malpractice premiums down.

The material previously referred to by Mr. HASTINGS of Florida is as follows:

PREVIOUS QUESTION FOR H. RES. 385, H.R. 5—MEDICAL MALPRACTICE ("HEALTH" ACT)

In the resolution strike "and (2)" and insert the following

"(2) the amendment printed in Section 2 of this resolution if offered by Representative Emanuel of Illinois or Representative Berry of Arkansas or a designee, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read, and shall be separately debatable for 60 minutes equally divided and controlled by the proponent and an opponent; and (3)"

At the end of the resolution add the following new section:

"SEC. 3. The amendment by Representative Emanuel of Illinois and Representative Berry of Arkansas referred to in Section 1 is as follows:

"Strike section 7(c)".

Mr. GINGREY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. BASS). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 3045, DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION ACT

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 386 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 386

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3045) to implement the Dominican Republic-Central America-United States Free Trade Agreement. All points of order against the bill and against its consideration are waived. The bill shall be considered as read. The bill shall be debatable for two hours equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. Pursuant to section 151 of the Trade Act of 1974, the previous question shall be considered as ordered on the bill to final passage without intervening motion.

SEC. 2. During consideration of H.R. 3045 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker in consonance with section 151 of the Trade Act of 1974.

SEC. 3. A motion to proceed to consideration of H.R. 3045 pursuant to section 151 of the Trade Act of 1974 shall be in order only if offered by the Majority Leader or his designee.

The SPEAKER pro tempore. The gentleman from California (Mr. DREIER) is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. DREIER. Mr. Speaker, with today's consideration of the Dominican Republic-Central America Free Trade Agreement, we are now embarking upon debate on one of the most important national security issues of the 109th Congress. At the same time, we are addressing the extraordinarily important issues of border protection and economic growth in this country and throughout this hemisphere. These issues are becoming increasingly intertwined.

Just last week, India's Prime Minister stood right here in this Chamber and spoke very eloquently when he said the following: "Globalization has made the world so interdependent that none of us can ignore what happens elsewhere. Peace and prosperity are more indivisible than ever before in human history."

Mr. Speaker, Prime Minister Singh is absolutely right. We cannot afford to pretend that poor, political, and economic conditions outside our borders do not affect the security of our Nation. As we work to spread democracy in Iraq, Afghanistan, and elsewhere to combat global terrorism, we must not neglect the anti-democracy, anti-American forces that are at work in Latin America.

Although our neighbors to the south have chosen democracy over dictatorship, their old oppressors still refuse to go quietly. Nicaragua's former communist dictator, Daniel Ortega, wants to return to power. He has tried time and time again, Mr. Speaker, to do that. And he is staking his campaign in large part on the defeat of the Dominican Republic-Central America Free Trade Agreement. He has found good company with Venezuela's Hugo Chavez, who is actively using his nation's oil proceeds to undermine democracy, free markets, and American interests throughout this hemisphere.

Together with Tomas Borge, the former defense minister, the only surviving founding member of the Sandinista Front, they oppose this agreement because it would solidify the region's commitment to political and economic freedom, thus subverting their plans for reinstalling leftist control in Nicaragua. The only alliance they seek would bind together other anti-American parties like Cuba's Fidel Castro.

Mr. Speaker, The Washington Post editorialized just yesterday in strong support of the Dominican Republic-Central America Free Trade Agreement, and they said the following: "The defeat of CAFTA would help . . . anti-American demogogues, starting with Mr. Chavez. For them, the retreat of the United States from partnership with Central America would be a major victory."

Mr. Speaker, ceding this victory to the likes of Chavez and Ortega clearly goes against our best interests, against our national security priorities. It would be the beginning of a return to the era that Central Americans, with the help of the United States, worked so hard during the decade of the 1980s to leave behind, an era marked by totalitarianism, unrest, and the poverty that breeds desperation. This would obviously be a harsh reality for the people of Central America.

But a return to the Ortega style of government would have grave consequences for the United States of America as well. Without political and economic freedom, there can be little hope for the future. And without hope, Central Americans with families to feed will look north for economic opportunity.

Nearly all illegal immigrants to the United States come in search of work because of limited opportunity at home. In fact, Mr. Speaker, T.J. Bonner, the president of the National Border Patrol Council, estimates that 98 percent of illegal immigrants come to this country for economic opportunity, seeking a chance to feed their families.

If we want to combat illegal immigration, we must address its root causes. By providing the tools for economic growth in the region, DR-CAFTA will create new opportunities and provide hope for the future in the region where these people are. The people of Central America will have a powerful incentive to stay and build their lives in their own countries rather than make the dangerous and illegal attempt to enter our country.

Rejecting this agreement, Mr. Speaker, would simply sanction, even exacerbate, the problem of illegal immigration. We simply cannot ignore the fact that the strength of democratic and free market institutions throughout the globe, particularly in our own backyard, directly impacts our own security. By the same token, we cannot ignore the fact that the worldwide marketplace directly impacts our own economic strength.

Mr. Speaker, we all know and everyone recognizes that we have a global economy. We live in a world that continues to shrink, enabling us to, in the words of the New York Times columnist Tom Friedman, "reach around the world farther, faster, deeper, and cheaper than ever before."

Mr. Speaker, new technologies are connecting the world's entrepreneurs, risk takers, creative thinkers, and capital, including human capital. This worldwide network has been a powerful engine for growth in the United States economy. We have grown to an $11.5 trillion economy. We are the world's largest exporter and importer. We lead the global economy not just by sheer size but by the force of our innovation.

But we cannot take our global economic leadership for granted. The worldwide economy is dynamic and fast paced. China has emerged as a global powerhouse and shows no signs whatsoever of slowing down. India, as we heard from the Prime Minister, is becoming a formidable competitor in one of our core areas of strength, the high-tech sector. Passage of the Dominican Republic-Central America Free Trade Agreement represents an opportunity we simply cannot afford to forfeit, the chance to dramatically strengthen our competitiveness as a country and as a region. Further integration of our regional economy will allow us to draw upon all of our strengths and resources to produce locally and compete globally.

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The DR-CAFTA and U.S. economies already complement each other well. The textile and apparel industries are a great example of that, Mr. Speaker. The DR-CAFTA region represents our second largest market for fabric and our largest market for yarn. Nearly 25 percent of U.S. fabric exports and 40 percent of U.S. yarn exports are sent to the Central American countries and the Dominican Republic. The region exports nearly all of its apparel; 97 percent of its apparel comes to consumers right here in the United States of America.

As a result of this close, complementary relationship, apparel manufactured in the DR-CAFTA region is made up of 80 percent U.S.-made content. By contrast, Chinese apparel is made up of less than 2 percent U.S. content. Again, that is 80 percent versus 2 percent in terms of American-made content.

Now, I ask my colleagues, Mr. Speaker, in the face of the Chinese juggernaut, why on Earth would we turn our backs on the very region that supports U.S. industries and offers the opportunity for us to effectively compete with China and other global competitors?

Trade with the DR-CAFTA countries is so important precisely because of this global context. The U.S. economy will not be weakened as a result of the people of Latin America lifting themselves out of poverty, but it will be weakened if we reject the economic partnerships that make us strong and enable us to compete in the global economy.

In this interconnected world, isolation is simply not possible. The state of the global economy affects our economic strength. Our economic partnerships affect the prosperity of our neighbors and the security of our borders. Prosperity leads to a greater commitment to the principles of political and economic freedom; and strong, democratic institutions throughout the globe lead to greater security for our country.

National security and economic competitiveness must be addressed in a comprehensive way that fully accounts for this interconnected global context. With DR-CAFTA, we have the opportunity, Mr. Speaker, to do just that. We can enhance our competitiveness while creating new opportunities for growth in the DR-CAFTA countries. By spurring economic growth, we can reduce the incentives for illegal immigration and strengthen democracy and the rule of law in the region. And, by supporting democratic institutions, we can advance our own security and our interests.

Mr. Speaker, I urge my colleagues to support this rule and the very important vote that we are going to have on the Dominican Republic Central American Free Trade Agreement so that we can enhance the quality of life and the standard of living for the people of the United States of America, for the people of the five Central American countries impacted by this, and the people of the Dominican Republic.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I thank the distinguished gentleman from California (Mr. DREIER), the chairman of the Committee on Rules, for yielding me the customary 30 minutes.

Mr. Speaker, I yield myself such time as I may consume.

Today the House is debating a trade agreement of tremendous import not because the markets, exports or money involved are especially significant: the six countries involved, Costa Rica, El Salvador, Nicaragua, Guatemala, Honduras, and the Dominican Republic, are smaller in combined economic clout than the average midsize American city. Most of their products already enter the United States duty free, and our exports to them are modest.

No, Mr. Speaker, this debate is important because it brings into sharp focus the differences over what our global economy should look like, of how we in the United States and our global trading partners seek to grow our national economies, create good jobs at decent wages, and generate the kind of revenue necessary to provide basic public goods and services, promote human health, and protect the environment.

That is why, Mr. Speaker, this rule is an outrage, an absolute disgrace. It is one of the most disrespectful rules issued by the Committee on Rules, which has become infamous for shutting down debate.

This rule allows for only 2 hours of debate on the CAFTA Implementation Act. That is just 60 minutes each for supporters and opponents of this agreement to make their voices heard on this very important and very controversial trade agreement.

I know that nearly every Member on this side of the aisle would like an opportunity to speak on this bill, to make clear to the American people, and especially to their constituents at home, why he or she supports or opposes this trade bill. Mr. Speaker, if every opponent wanted time to speak, then this rule would allow each of them to have just 16.8 seconds to make a statement, and the same holds true for those Members who support CAFTA. What a mockery of the democratic process.

In 1993, when the Congress debated the North American Free Trade Agreement, the rule granted Members 8 hours of debate; 8 hours, Mr. Speaker. Sadly, since Republicans have exercised control of Congress, we have seen the complete erosion of debate on trade agreements, where now just 2 hours of debate has become the standard. Well, a couple of hours might serve for a debate on a Free Trade Agreement with Australia or Jordan or even Chile or Singapore, agreements that garnered fairly broad bipartisan support and were not viewed as very controversial.

But CAFTA is arguably the most controversial trade agreement that has come before this House since NAFTA, and the Members of this House deserve much better than the shabby treatment handed to them by the Republicans of the Committee on Rules.

Mr. Speaker, this is not a debate over whether or not to trade with Central America. We already trade extensively with Central American countries and the Dominican Republic. But this is a debate, Mr. Speaker, about people's jobs, both here in the United States and in Central America. Now, maybe they do not care about jobs on the other side of the aisle, but, to the average worker, it is a big deal.

I am tired of trade agreements that do not improve workers' wage protections or benefits, but, rather, are a rush to the bottom that puts profits above people.

Since 2000, the United States has lost 2.8 million manufacturing jobs and 1 million high-technology jobs. We now have a $162 billion trade deficit with China, and a $42 billion deficit with Mexico. Clearly, the rules of international trade have failed the American worker, the American standard of living, and the American dream, and have made American jobs our number one export. CAFTA will further this trend by rewarding companies that throw U.S. workers out on the streets and by creating jobs in countries where labor is cheapest, environmental laws are weakest, and where the rights of workers are violated and scorned.

But this rule, Mr. Speaker, will deny Members the right to debate these very serious matters.

I urge my colleagues on both sides of the aisle to reject this rule and demand the right to speak.

Mr. Speaker, today the House is debating a trade agreement of tremendous import—not because the markets, exports or money involved are especially significant—the six countries involved—Costa Rica, El Salvador, Nicaragua, Guatemala, Honduras and the Dominican Republic—are smaller in combined economic clout than the average mid-size American city. Most of their products already enter the United States duty-free, and our exports to them are modest.

No, Mr. Speaker, this debate is important because it brings into sharp focus the differences over what our global economy should look like; of how we in the United States and our global trading partners seek to grow our national economies, create good jobs at decent wages, and generate the kind of revenue necessary to provide basic public goods and services, promote human health, and protect the environment.

This is not a debate over whether or not to trade with Central America. We already trade extensively with all the Central American countries and the Dominican Republic. In addition, we have special trade relations with all of them under the GSP and the Caribbean Basin Initiative.

Mr. Speaker, the months and weeks leading up to this vote have been filled with the sounds of battle between so-called "free trade" versus "fair trade." Mr. Speaker, I am more interested in "smart" trade.

Smart trade is about who gets protected under this agreement and who does not.

Smart trade provides significant gains for U.S. workers and consumers, as well as businesses.

Smart trade supports and strengthens development, democracy and the rule of law.

Smart trade guarantees economic opportunity for those who may be displaced by trade.

Smart trade is concerned about what happens to the most vulnerable—in our country and in our trading partners.

Smart trade is sustainable, both here at home and abroad, because it is created in a bipartisan fashion—and because it brings the benefits of trade to all countries, and to all the people of those countries, including the poorest.

Judged against these standards and principles, CAFTA is neither "free" nor "fair" trade, and it is certainly not "smart trade."

Mr. Speaker, since the year 2000, the United States has lost 2.8 million manufacturing jobs and one million high-technology jobs. We now have a $162 billion trade deficit with China and a $45 billion deficit with Mexico. Clearly, the rules of international trade have failed the American worker, the American standard of living and the American dream, and have made American jobs our number one export. CAFTA will further this trend by rewarding companies that throw U.S. workers out on the streets, and by creating jobs in countries where labor is cheapest, environmental laws are weakest, and where the rights of workers are violated and scorned.

Even so, CAFTA is not likely to provide any real increase in U.S. jobs or production. The six CAFTA countries together currently account for barely one percent of U.S. trade. In addition, about 80 percent of the people in CAFTA countries live at or below the poverty line—which is about two to three dollars a day—or $400 to $900 a year, depending on which country we're looking at. Almost half the population works in subsistence agriculture. The only significant export industries in these countries—with the exception of Costa Rica—are apparel and agriculture.

This is the reality of life in Central America, and it should be a sobering reminder to all of us: The overwhelming majority of people in the CAFTA–DR region are not consumers of high-value American goods—but they are extremely vulnerable to the kind of dislocation caused by such trade openings.

Mr. Speaker, we should not visit the mistakes of NAFTA upon the people of Central America. To take just one example, wages for Mexican workers are even lower today than they were before NAFTA.

And while U.S. agricultural exports to Mexico greatly increased, millions of poor Mexican farmers lost what little income they had, often even losing their small plots of land. In order to survive, they now farm even more marginal land, cut down forests, or use chemical inputs that pollute the water and poison the soil. Is this what we have in mind for Central America's campesino farmers? It is if we adopt this CAFTA agreement.

Mr. Speaker, a critical issue in strengthening democracy is to protect and expand human rights. Workers' rights are human rights. They are not a luxury. As every wealthy nation can attest, they are central to improving living standards and quality of life, and creating a broad middle class.

While there are a number of labor provisions in the CAFTA agreement, they are enforceable under only one trigger: Namely, if a country fails to enforce its own labor laws. CAFTA countries' labor laws, Mr. Speaker, are internationally recognized as weak.

Whether you are looking at reports by Human Rights Watch, Amnesty International, the International Labor Organization, the United Nations, or our own State Department Country Reports—Central American labor laws are criticized for failing to meet international standards of freedom of association, the right to organize, and the right to bargain collectively. This doesn't even begin to touch upon the lack of health and safety guarantees in the workplace.

Also universally acknowledged is that even these weak laws are not enforced. Ineffective judicial systems, coupled with the power exercised by political and economic elites, derail nearly every attempt to enforce current labor laws.

We had an opportunity under CAFTA to negotiate provisions that would have promoted the enactment of stronger labor laws and dispute mechanisms in the CAFTA region. But under the agreement before us today, that opportunity has been squandered.

Mr. Speaker, I am very familiar with the CAFTA region. I have traveled widely throughout Central America, especially in El Salvador, Guatemala and Nicaragua. I have formed deep attachments to the people of this region, and I appreciate how far these countries have come since the wars there ended. I want to see their democracies thrive; I want to see their lives and livelihoods improve; and I think a good trade agreement could make a valuable contribution to these efforts.

But this CAFTA is not such an agreement.

All the issues of concern that will be raised during today's debate are not new. They have been cited and documented for the past 3 years in anticipation of the initiation of talks between the U.S. and the Central American governments, during the negotiations, and after CAFTA was signed.

The central design for fast-track, up-or-down voting procedures on trade agreements was to place a premium on consultation and accommodation during the conception and negotiations of trade agreements—in effect, to pursue a bipartisan trade policy. But the DR–CAFTA negotiations turned its back on this process. Not just Democrats—but anyone and everyone who tried to raise issues about labor rights, or environmental protection, or transparency and participation, or the need for access by the poor to critical life-saving drugs, or the vulnerability of critical agricultural or manufacturing industries, or the need to account for the vulnerability of the rural poor—were completely and totally shut down and shut out.

This is why this trade agreement in particular has been so universally criticized throughout Central American and the United States by religious leaders and communities, labor organizations, campesino groups, environmental and women's organizations, legal advocates, small farmers, and consumer groups.

When the U.S. Trade Representative announces there is absolutely no way for CAFTA to be renegotiated, I can only ask, "Why not?" If the fast track, one-vote-is-all-you-get process results in the defeat of this CAFTA agreement, then wouldn't the House clearly be calling for a renegotiation of the agreement? Saying—Pay attention to our concerns and go back to the table? It took the Bush administration barely 1 year to negotiate this CAFTA—why not take some time to get it right?

Mr. Speaker, this agreement fails to learn from the mistakes of NAFTA. It fails poor workers and poor farmers throughout the CAFTA region, who make up the majority of the people. And most importantly, it fails our own workers, consumers and communities.

Vote it down, Mr. Speaker. Vote it down.

Mr. McGOVERN. Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Let me just say that one of our colleagues on the Committee on Rules, the gentleman from Utah (Mr. BISHOP), said we should make it retroactive, the 2 hours of debate. We clearly have been debating this issue for weeks and months. Special Orders have been taken out here, and we are looking forward to a rigorous debate not only during the hour on this rule, but for an additional 2 hours, or 3 hours this evening at this point.

Mr. Speaker, I yield 2 minutes to the gentleman from Miami, Florida (Mr. LINCOLN DIAZ-BALART), my very distinguished friend, the vice chairman of the Committee on Rules, and a great champion for political pluralism and democratic institutions in this region.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, every once in a while, a vote comes before us that is evidently more than important, and this is one such vote. This is an historic vote that we are taking today on a special relationship with the countries of Central America and the Dominican Republic. Those countries, their Presidents, their Parliaments, have taken a definitive step; they have resisted the totalitarian temptations, the destabilization efforts of the axis of Ortega and Chavez with his hundreds of millions of dollars that he is pouring into these countries and the entire region to destabilize them. They have resisted that access, and they have voted for a special relationship with the United States.

Talk about pressure, I say to my colleagues, Mr. Speaker, the pressures that are genuine, that are extraordinary, are the ones that are felt by those countries, the countries of Central America and the Dominican Republic, to accept, to go forth with a totalitarian temptation, and they have rejected that.

They have provided troops to help us in the war against terrorism in Iraq. What would we be saying, Mr. Speaker, if we voted against CAFTA today? "Thank you. Thank you for your help in Iraq. Thank you for progressing with democratic reforms, for establishing democracy. Thank you, but no thanks. We do not want you to tie your histories, your destinies, your futures to the United States, which is what you have decided to do."

We have an obligation, Mr. Speaker, to say, yes, we are proud of our special relationship with our brother countries of this hemisphere. We recognize that you are our allies, you are our friends. You have stood with us in peace, you have stood with us in war, you have decided to tie your futures to us, and we say, welcome.

That is what this vote is all about, Mr. Speaker. It is a critically important historic vote. Say "yes" to the rule and say "yes" to this agreement. Say "yes" to CAFTA.

Mr. McGOVERN. Mr. Speaker, at this time I yield 5 minutes to the distinguished gentlewoman from New York (Ms. SLAUGHTER), the ranking Democrat on the Committee on Rules and someone who believes that we should have a deliberative process here in the House.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am deeply concerned that as this discussion on CAFTA moves forward that the majority will, once again, succumb to the temptation to twist, bend, and break off the rules of debate and consideration in order to meet their objectives, just as they did during the Medicare debate of the 108th Congress.

During that debate the vote on final passage was held open for a shameful 3 hours while the Republican leadership twisted arms and cut deals to make up their vote deficit. The events of that night constituted one of the worst abuses of power I have witnessed in my almost 20 years in this House.

In the aftermath, allegations of bribery were leveled by a Republican Congressman, and an Ethics Committee investigation followed closely behind, one that ended in the admonishment of the majority leader of this House.

It is no secret that, just like last time, the Republican leadership is desperately scrambling to find the votes necessary to pass this bill, which I and many of my colleagues strongly oppose. But I would warn my friends in the majority that we dare not see a return to those underhanded tactics used by the leadership during the 108th Congress. There should be no votes held open for 3 hours. There should be no unethical arm-twisting on this House floor. The American people are watching this time.

Sadly, though, we are already seeing evidence that this pattern of abuse will once again carry the day. Last night in the Committee on Rules, we were given a paltry 1 hour's notice by the Republicans that we would be considering the most controversial trade agreement this body has contemplated since NAFTA. And of the three contentious bills that we considered in the Committee on Rules, not a single amendment was allowed, nor even a single substitute. It was a shut-out of democracy. And coming from a country trying to export democracy to the rest of the world, it showed us on our side of the Committee on Rules that we do not have it right yet.

Even though the House rules clearly state that 20 hours of debate is appropriate for a trade agreement, we offered to accept only 8 hours as a compromise, but that was too much democracy for this leadership. For the most contested trade agreement this body has considered in 12 years, we will have a whopping 2 hours of debate, less time than it would take you to watch "Saving Private Ryan" on a DVD.

We were actually given more time to debate the renaming of five post offices Monday. Most high school debate teams spend more time considering the serious issues that face our country than we do here in the House.

But CAFTA clearly warrants our full and undivided attention. This is a major piece of legislation that will affect the lives of every American. CAFTA threatens to export even more American jobs and encourages American companies to relocate their factories in other countries. It does not provide adequate protection for workers, it turns back the clock on labor standards, and it does not provide any safeguards for improving environmental standards.

We need trade agreements that expand our access to the new markets and raise the standard of living for American families. This legislation falls far short on each of those standards.

As the arbiters of the rules of this hallowed institution, the Committee on Rules has a special responsibility to ensure that the integrity of the democratic process is preserved. That is why last night I asked the Republicans on the Committee on Rules for their assurance that we will not again see the egregious abuses of power and the trampling of the democratic process that we experienced in the last Congress on the Medicare debate, because we should be having 8 hours of debate and a 15-minute vote, not the other way around. Their reply was that "rules would be followed," but they must not have meant the Rules of the House of Representatives when they made that promise, because what actually followed was a shut-down of any consideration of amendments to the medical malpractice bill, the prevention of any up-or-down votes on amendments to the China Trade Act, and the restriction of debate in consideration of CAFTA.

For the sake of the millions of American families depending on this Congress to spend the time and get it right on legislation, and especially on CAFTA, I hope that this time the debate lasts longer than the vote.

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Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say that this rule is in compliance with the 1974 Trade Act, which calls for an up-or-down vote on these agreements.

And I also believe that it is very important to note, as my colleague has just pointed out, that for more than a decade, on every single trade agreement that has come before this House, we have had 2 hours of general debate.

Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. HASTINGS).

Mr. HASTINGS of Washington. Mr. Speaker, I thank the gentleman for yielding me the time. I want to congratulate him on the work that he has done on free trade issues in this Congress.

Mr. Speaker, I rise in support of this rule and the underlying bill, to implement the Dominican Republic-Central America-United States Free Trade Agreement. This agreement is especially important for my State of Washington, which is one of the most trade-dependent States in the Nation.

Mr. Speaker, we live in a global economy. And while 80 percent of Central American and Dominican Republic products enter the United States duty free, American exports face tariffs of 33 to 100 percent or higher in these countries; this is simply not a level playing field.

By approving CAFTA–DR, tariffs on American exports will be drastically reduced or eliminated. In fact, under CAFTA–DR, 80 percent of U.S. exports will become duty free immediately and the remaining tariffs will be phased out over 10 years.

Mr. Speaker, more than half of current U.S. farm exports to Central America and the Dominican Republic will gain immediately duty-free access, including beef, wheat, wine, fruits, and vegetables.

In particular, the agreement includes a provision I worked for that would grant central Washington's apple, pear, and cherry growers immediate duty-free access to Central American and to Dominican Republic markets. These tariffs currently range from 14 to 25 percent. And our fruit growers' major competitor in the region, Chile, which has already signed a trade treatment with CAFTA countries, is not subject to similar duties. This does level the playing field.

Mr. Speaker, this agreement will help potato growers in central Washington fairly compete with Canadian potato exporters who are subject to lower tariffs because of favorable trade agreements reached by Canada and Costa Rica. According to the Washington State Potato Commission, central Washington and U.S. potato exports to Costa Rica have declined by 81 percent as a result of the Canada-Costa Rica agreement, and U.S. producers will continue to lose market share unless CAFTA–DR is approved.

Many associations in my State have voiced support for CAFTA–DR, including the Washington State Farm Bureau, the Northwest Horticultural Council, the Washington State Hispanic Chamber of Commerce, the Washington Apple Commission, the Washington State Potato Commission, to name only a few.

Mr. Speaker, CAFTA–DR will help level the playing field for our farmers and tree fruit growers and is a crucial step forward for agriculture and many other industries that create jobs and play important roles in the long-term growth of our economy.

The Senate has approved this agreement by a vote of 54 to 45. It is now time for the House to do the same to ensure that this measure and the benefits that it will provide will become law.

Mr. Speaker, I urge my colleagues to support the rule and the underlying bill.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. HASTINGS) who believes that if 8 hours of debate was good enough for NAFTA, it should be good enough for CAFTA.

Mr. HASTINGS of Florida. I thank the gentleman for yielding me the time. Mr. Speaker, I thank him also for his articulate leadership on this issue and the others which affect working people throughout this country.

Let my say at the outset, I opposed this closed rule and the limited amount of time to debate the underlying legislation. Like the owner of the restaurant in Casablanca who feigned surprise at the illegal gambling in his club, let me just say that I am shocked, shocked that the majority would bring a bill of such importance to the House floor and only permit 2 hours of debate to be split by the 440 Members of the House of Representatives.

This is not about trade. Trade is a two-way economic street. And the simple fact of the matter is, no one can demonstrate to me what Guatemala and Nicaragua are going to be buying from Florida and elsewhere in the United States. It is a one-way agreement.

Look, NAFTA was bad for your district like it was for the State of Florida. This deal is going to make things worse. If CAFTA is like NAFTA, too many Americans will get the shafta. Ten years of NAFTA have shown just how devastating these agreements can be for working families and the environment.

Florida has lost more than 35,000 jobs because of NAFTA. Industries that once were thriving and successful in the State of Florida and elsewhere in this Nation employing tens of thousands of hard-working Americans have been shipped south of the border where labor is cheap and environmental protections are but a figment of our imagination

Mr. Speaker, I voted for NAFTA and the administration was unable to uphold the things that they said they were going to do with reference to the environment and labor standards. And I doubt very seriously if this administration can do any better than the previous one. My distinguished friend, and he is my good friend, the gentleman from California (Mr. DREIER), began his remarks this evening by saying national security and border security.

I invite the chairman to tell me how it is our border security is better on Mexico because of NAFTA, or that our national security is better. In western Palm Beach County, a region which I am proud to represent, and is our country's second most sugar cane-intensive area, unemployment is already above 15 percent.

Under CAFTA, the future of this industry, which provides more than 20,000 jobs to this area alone, will undoubtedly be in jeopardy.

Considering who wins and who loses with CAFTA, it is clear that only the most selfish of fat cats would favor this terrible agreement. I challenge any of my colleagues to raise a family on a minimum wage in America, and indeed to find a job in America when CAFTA has sucked yet more of our factories and other businesses out of our country.

But a bigger challenge would be to survive as a campesino in any Central American nation, where wages are even lower, where environmental controls are weak or non-existent, where there is little or no access to health care, and where openly complaining about working conditions could mean death or disappearance. This is what the majority claims they want to approve today. We should be ashamed of ourselves.

Mr. Speaker, I urge a "no" vote.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, I have heard for so long we keep talking about

NAFTA as if it was somewhat of a disaster. But I think there are some statistics that have to be really examined when we are talking about NAFTA.

Sure, there have been some jobs lost in this country because of NAFTA. There have also been some jobs created. In fact, there are many more jobs created since NAFTA than there are jobs that went overseas.

Since NAFTA was formed in 1994, U.S. exports of manufacturing goods to Canada and Mexico have grown 55 percent faster than shipments to the rest of the world. And when you look down and see what has happened in Chile, actually our exports have vastly outpaced our imports from Chile.

Now, let U.S. talk about what we are trying to do here. We are just trying to have fair trade. Right now, the Central American countries have a preference where their goods come into this country without paying any meaningful tariffs, and there are very few areas where they are restricted.

We simply now say give U.S. that privilege in Central America, and Central America says, yes, we will do that, because they know that that is good for their future.

And we have another thing to do think about. What about the security interests there? I was here and the gentleman from California (Mr. DREIER) when we first came in 1981 during the Reagan administration. We had huge security problems in Central America. Communism was on the rise; Castro was having all kinds of influence in that part of the world.

Since then, wonderful things have happened. These communist countries have collapsed. They have embraced democracy. They have embraced capitalism. And they are looking where? They are looking north to the United States. There is where they find their future. There is where their future is. Let us not cut them short.

This is a good, good bill. It is well balanced. It is good for American business. It is good for American farmers. It is good for American laborers. Let us get together and pass this bill.

Mr. McGOVERN. Mr. Speaker, I yield 5 minutes to gentlewoman from California (Ms. MATSUI).

Ms. MATSUI. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me this time.

Mr. Speaker, I rise in opposition to the rule and the underlying measure to implement CAFTA. As we debate CAFTA, I can only express my disappointment from the restrictive rule limiting debate to the failure of the administration to use the full force and weight of the United States in negotiating all aspects of this agreement.

Because CAFTA has sparked much debate, the House needs robust discussion of this legislation. And during the Rules Committee hearing on CAFTA, I offered an amendment to allow 8 hours of debate, the same as for NAFTA.

But the Republicans on the committee voted down the amendment. And we have a mere 2 hours to debate an agreement, which in its entirety is over 3,600 pages, the implications of which may well determine the future direction of U.S. trade policy.

As a world leader, the United States has a crucial role to play on trade. We cannot step back from the global community. However, free trade must be tempered with meaningful policy which acknowledges that each trade agreement produces winners and losers, and it is our responsibility to do right by those displaced in the process.

CAFTA falls far short in this regard and is thus fatally flawed. Those flaws are apparent throughout CAFTA's chapters and are most egregious on labor and environmental protections, for CAFTA offers only tokens and symbols.

In contrast are the intellectual property provisions where it is obvious the United States Trade Representative used the full weight of the United States to ensure protection for business interests.

This administration's handling of workers' protections relative to other issues raises troubling questions about their agenda for these negotiations. The only enforceable worker protections in CAFTA state that participating countries must enforce their own laws. It does not set any standards those laws must meet.

Yet CAFTA countries already have a history of failing to provide even minimal worker protections.

There is nothing within CAFTA to prohibit these countries from weakening their labor laws. If a CAFTA country wants to pass a law that encourages child labor, CAFTA merely requires that country to enforce its own law. These enforcement provisions are a step back from the previous accord governing trade with Central America established in 1984.

This is different than labor management debates here in the United States. This is about basic human decency and fairness. There is a reason for the bipartisan opposition to CAFTA. It cannot pass this Chamber on its merits.

I am sure no one will be surprised if this vote is held open until enough Members relent, as we have seen before. But this flawed agreement should be returned to the President to be renegotiated.

Trade is a powerful phenomenon that is capable or raising living standards, encouraging innovation, and building lasting ties between nations. And as we work to conclude the Doha Round, global trade is at a critical point.

America must promote trade policies that acknowledge the fundamental rights of workers and reassert our belief that the benefits of trade should flow throughout the population. If the House passes CAFTA, we will be abdicating this duty.

The future direction of trade will be shaped by our actions today, as the implication of the vote will resonate far beyond Latin America. While trade agreements encourage the flow of goods and services, they also embody important values and principles.

What message does it send if we start passing trade agreements that concentrate benefits in the hands of special interests and the privileged few at the expense of workers in the United States and in some of the poorest countries in the world?

I have heard some of my colleagues on the other side of the aisle hesitantly talk about this agreement saying trade is usually a good thing, so I guess I will vote for CAFTA.

I say to you, that, yes, free trade agreements are a good thing, but only when based on solid principles that reflect the concern for all parties involved. CAFTA fails to meet the standard.

I urge my colleagues to reject this inferior agreement. If we do not get CAFTA right, we risk undercutting support for all future trade agreements.

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Mr. DREIER. Mr. Speaker, I would say to my colleague that free trade is a good thing. The labor rights that are recognized here in the opening up of markets for U.S. workers into Central America is very important.

Mr. Speaker, I yield 2 minutes to the gentleman from Indianapolis, Indiana (Mr. BURTON), my very good friend, the distinguished chairman of the Subcommittee on the Western Hemisphere, who has been a champion for freedom and democracy in Central America for years.

Mr. BURTON of Indiana. Mr. Speaker, I thank my colleague for that very eloquent introduction. I am not sure I deserve it, but I appreciate it.

Let me say to my colleagues who are undecided and my colleagues on the Democrat side of the aisle, I voted against NAFTA, I voted against GATT, I voted against the World Trade Organization. So why am I for CAFTA? And I want to tell you why, because I think it is extremely important. There are three reasons.

First of all, right now as the gentleman from Florida (Mr. SHAW) said a minute ago, the trade balance is in favor of the countries in the Caribbean and the Central American nations because they have duty free into our country, and we have to pay a duty to sell products in their country. CAFTA will change that. It will balance it out so there will be free trade in both directions. That will encourage more trade in both directions.

Second, this is a national security issue, and the President of the United

States talked about this today, and we need to talk about it right now on this floor.

The gentleman from Florida (Mr. SHAW) talked about what went on in the early 1980s when we had wars in Nicaragua and El Salvador, and people's bodies were laying all over the place because of this insurrection and these civil wars down there. If we do not do something to stabilize those countries in Central and South America, we will see wars not only in Nicaragua and El Salvador and possibly other Central American countries, we will see them in South America. We have got governments down there that are trying to export revolution right now by undermining some of the fledgling democracies in Central and South America.

CAFTA is one of the mechanisms that we could use to stabilize those fledgling democracy by creating more jobs and helping fight poverty in those countries. It is extremely important from a national security standpoint. That is one of my biggest concerns. If there is destabilization in those Central and South American countries, you can rest assured that there will be massive flight from those countries when wars break out, and they will be coming north. We have an immigration problem right now that we must solve, and we have talked about this time and again. But the problem is going to be exacerbated and made a lot worse if we let those countries, those fledgling democracies, starting to be destabilized by revolutionaries. There are governments down there right now that are using their resources to undermine some of these democracies, and we need to do everything we can to countermand that.

This is a very important piece of legislation. It is very important. I hope my colleagues will see that and vote for it.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. NEAL), who believes that it is shameful that the majority has stifled debate on this important trade agreement.

Mr. NEAL of Massachusetts. Mr. Speaker, I want to make a quick note of this. Is the previous speaker arguing that NAFTA derailed illegal immigration to the United States or slowed it down?

Mr. Speaker, let me stand in opposition to the Central American Free Trade Agreement. Let me say at the outset that I do not reflexively oppose international trade. The previous speaker noted the trade agreements he has voted against. Let me talk about the trade agreements I have voted for, all of them from this administration: Australia, Singapore, Chile, Morocco; and in the past, China, GATT and WTO.

I know that done the right way with carefully balanced provisions, these agreements can expand the U.S. economy and create jobs. Trade can really be good for American workers and American businesses. Indeed, I believe we could have struck an acceptable agreement with Central America. I have no choice but to oppose this agreement because it failed to reach a crucial balance. In truth, it did not even come close.

CAFTA would exacerbate the crisis in our country's trade deficit, and it is completely unfair to U.S. workers and companies. We have already got trade deficits with every one of the CAFTA countries, and this agreement will only make that situation worse. What is more, it is the first time that the United States has negotiated a trade agreement with developing countries that have weak labor laws and histories of violent suppression of worker rights.

CAFTA should have stipulated that our trading partners adhere to basic internationally recognized labor standards like prohibitions on child labor, prison labor, and guaranteeing workers the right to organize. Instead, it only requires that those countries enforce whatever laws they happen to have on their books. Those laws are wholly inadequate, and they will only get worse because CAFTA will set off a race to the bottom. We are already seeing it. Some of the CAFTA countries have already taken steps to water down their labor laws so that they are the cheapest destination for foreign investment.

This CAFTA agreement passed up an opportunity to conduct trade the right way. It passed up an opportunity to expand the U.S. economy and create jobs. It passed up an opportunity to help our neighbors to the south develop safe and decent workplaces. It passed up an opportunity to reduce our country's trade deficit. It passed up an opportunity to do the right thing by U.S. workers and firms.

I intend to oppose this misguided agreement, and I urge the rest of the Members of this institution to do the same.

Mr. DREIER. Mr. Speaker, I yield 2½ minutes to the very distinguished gentleman from Birmingham, Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Speaker, I rise in support of the rule. Let me say that there have been several newspaper articles lately dealing with these side agreements that we had under NAFTA and China, NTPR, and the two fast tracks. And, in fact, here is one in a newspaper yesterday after the side agreement that we made on textiles. It said, The nonprofit Public Citizen reviewed past trade votes and found that 89 percent of the side deals affecting trade policy were broken. Never enacted. And, in fact, I got that information, and it is about a 40-page attachment with all the broken side agreements. Very sobering to read. Promises made in the midst of negotiations, then promises broken.

But let me just say this, and I want to be positive here. These are the trade agreements, these are the side agreements that President Bush made, and although there have been almost 89 broken agreements, President Clinton, of all the ones he has made, 3 of the over 80 have been by President Bush. The vast majority of the side agreements that President Bush has made he has kept, and they are on the books today.

So is there a difference between this and past agreements? I think the difference is that we have a President who has honored his side agreements in the past 3 or 4 years and will honor them again. That is his track record. He has made side agreements, and the vast majority of those he has abided by.

As we talk about these side agreements, and I will just say that here it says, "Democrats opposing CAFTA have warned colleagues about last-minute promises in exchange for votes. 'Side letters and so-called side agreements promised are not worth the paper they are written on,' said Sherrod Brown, Democrat of Ohio, Jan Schakowsky, Democrat of Illinois."

There is a lot of truth to that. There is a record of broken side agreements, but not by President Bush. The Business Week says, "Signed, sealed and undelivered. The history of broken side agreements." That was in the paper about CAFTA.

Again, I will say to you, this President has honored his agreements.

Mr. McGOVERN. Mr. Speaker, let me just say, if it is not in the agreement, it is not in the agreement.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. MENENDEZ), who believes that the debate on CAFTA should be longer than the vote on CAFTA.

Mr. MENENDEZ. Mr. Speaker, the Republican leadership has submitted a rule for CAFTA that makes a mockery of our Democratic process. The restrictive rule is part and parcel of a Republican leadership strategy to win passage of CAFTA at any cost, whatever the price to the taxpayer, whatever the damage to the fabric of our democracy. The Republican leadership has shown that when it comes to CAFTA, they will cross any line and stifle any voice.

CAFTA will hurt workers here at home and devastate the lives of the rural poor in Central America, a region where the inequality of income is the leading economic and political challenge. It will widen the gap between the haves and have-nots, weaken labor and environmental standards, and set a dangerous precedent for future trade agreements.

Carnegie Endowment points out that under NAFTA, the rural population in Mexico suffered the greatest consequences, losing 1.3 million agricultural jobs. Repeating that outcome in

Central America will leave only more of the poorest in the region to migrate north, further exacerbating the challenges we face in securing our border.

It is appalling and inexcusable how President Bush has sold the CAFTA deal with one hand while busily cutting aid that helps the poor throughout Central America with the other. Not only is this agreement bad for Central America, it also undermines labor policy and workers around the world. Under this agreement, countries get paid for the abuses suffered by workers because the fines paid for violations go to the countries in which it was committed. Some justice.

Tonight will be a defining moment for this Congress. The American people are watching this debate, and they will not stand for waking up tomorrow to read that in the darkness of the night, the leadership of this House has passed yet another bill by holding a vote open for hours while the purveyors of threats and intimidation perform their work under the cover of darkness.

This ill-conceived measure is a bad deal for workers, a bad deal for America, and a bad vote.

Mr. DREIER. Mr. Speaker, as I listen to people malign the procedure we are going under, let me just say the procedure is the procedure that is prescribed by the 1974 Trade Act, which says, "No amendment to an implementing bill or approval resolution shall be in order in either the House of Representatives or the Senate."

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING), a the dear friend, a hard-working Member committed to free trade.

Mr. HENSARLING. Mr. Speaker, I rise tonight in support of the rule for CAFTA. For over 200 years America has been benefited from trade. It means American families can buy more, using less of their paycheck. Trade means more competition. Competition is the consumer's best friend, and it does not matter whether that competition comes from Houston or Honduras or El Paso or El Salvador.

Now, CAFTA is a very simple trade agreement regardless of what you hear tonight. It allows our consumers to buy a few more items from Central America, and it allows our producers to sell a whole lot more to those same countries. It creates jobs. It will help ease our trade deficit. It is more than fair trade for us.

Now, you hear some people opposing CAFTA, claiming that somehow this is actually going to hurt jobs. Yet 80 percent of Central America are already entering our country duty free. What will help us is our ability to export to those countries duty free.

Now, some are talking about labor and environmental standards; but, Mr. Speaker, by helping further impoverish Latin America, we are somehow going to help improve their labor standards? We are somehow going to help improve their environmental standards? I think not.

There is no rational economic reason, Mr. Speaker, to oppose CAFTA. Increasingly this debate against CAFTA is boiling down to raw protectionism and bitter partisanship. It is amazing how many people love competition and the products they buy, but they seem to hate competition in the products they sell. That just cheats American consumers.

And then there are those who just reflexively oppose anything that President Bush favors, anything, regardless of its merits. Mr. Speaker, we ought to all read the headlines. Everybody knows about the threats and arm-twisting taking place on the Democrat side of the aisle. It is time to put aside protectionism, put aside the bitter partisanship. It is time to vote for personal economic freedom. Vote for more American exports, and vote for the rule for the Central American Free Trade Agreement.

Mr. McGOVERN. Mr. Speaker, I would just like to point out that the little black book that the chairman of the Committee on Rules read from also said that the Rules of the House allows for up to 20 hours of debate on trade agreements.

Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. CARDIN), who believes that a full and thorough debate is a good thing.

Mr. CARDIN. Mr. Speaker, let me thank my friend for yielding me time.

Mr. Speaker, I, along with many Democrats, have supported every trade agreement that has been presented. We do that because we believe trade has the potential to generate economic growth and raise the standard of living. The trick though is to make sure that we realize that potential.

During the last several decades we have really changed our focus in opening up markets for American manufacturers and producers. We have initially worked on removing tariff barriers. Now we are concerned about nontariff barriers. It does not mean we have done all we need to on tariff barriers, but the priority in our country has been to open up markets by removing nontariff barriers. That is why we spend a lot of time on intellectual property protection, on opening up opportunity for services, and, yes, Mr. Speaker, working on basic international labor standards.

I believe everybody in this body would agree with me that we do not want products coming into this country that violate child labor standards. Well, the same is true with other basic internationally recognized labor rights. We have made progress. The Caribbean Basin Initiative, the CBTPA, AGOA and GSP all have improved labor standards around the globe because we have raised the issue and raised the bar.

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In the Central American countries today, we have the Caribbean Basin Initiative. It has worked. It gives trade preferences to the Central American countries provided that they recognize international labor standards. The failure to do so allows us to impose trade sanctions. The threat has made progress in raising international labor standards and workers' rights in the Central American countries.

Mr. Speaker, I do not expect the administration to perform miracles when they negotiate free trade agreements, but I do expect them to represent the priorities of our Nation. In the CAFTA agreement, they repeal the rights we currently have under CBI, under the Caribbean Basin Initiative. Therefore, CAFTA is left with a weaker standard than current law in regards to workers' rights.

All CAFTA provides is for a country to enforce their own laws, regardless of how they may be; and then the sanction for failure to enforce their own laws that we have under the dispute settlement resolution are weaker standards. We cannot impose trade sanctions. All we can do is impose a fine, and that fine goes back to their own country. We cannot even enforce these weak standards.

You have to draw a line somewhere, Mr. Speaker. We have the constitutional responsibility on trade. We have to make that judgment. This agreement fails in that regard.

I had hoped that we would be able to renegotiate so that we could have a strong bipartisan vote on CAFTA. After all, we did that with textiles, and we could have done that with workers' rights. But this administration chose not to do it. In a way, Mr. Speaker, it is more important for a CAFTA agreement than some of the other agreements that have passed, for Chile and Singapore, Morocco and Australia, because of the standard of living in the Central American countries. For people living in poverty, trade, if properly structured, holds out the promise of more meaningful economic opportunities and a better way of life. But trade without basic labor standards will not do that.

I think this agreement is not a good agreement for the Central American countries, and it is not a good agreement for the United States.

Mr. DREIER. Mr. Speaker, may I inquire of the Chair how much time remains on each side.

The SPEAKER pro tempore (Mr. BASS). The gentleman from California (Mr. DREIER) has 5½ minutes remaining, and the gentleman from Massachusetts (Mr. McGOVERN) has 6 minutes remaining.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 1½ minutes to the gentleman from New

Jersey (Mr. PASCRELL), who believes that 2 hours of debate is an insult to American workers.

Mr. PASCRELL. Mr. Speaker. I rise in strong opposition to this rule. Think of the voiceless, the poor for once, and not play and pray at the alter of the multinational corporations.

I just talked to a group of folks that came back from Nicaragua, and that you have the nerve to stand before this House and talk about those six governments of purity is an insult to our intellect. Some of these politicians that run these countries are despised by the very people in their country. It is those leaders that made the deal, not the people of those countries. In every one of those countries, the majority of the people are against this deal.

Trade agreements are not just tariff levels and quotas; they are human beings. By passing this agreement, Congress is giving up more of its authority under article I, section VIII. We have done that under three Presidents in a row. Our CAFTA becomes a legally-bound treaty. It will supersede any legislation passed by this Congress.

And by the way, a slight detail: the CBO has told us that CAFTA will cost the American taxpayers $4.4 billion over the next 10 years. And since those in favor of CAFTA turn to this document, Mr. Speaker, this document shows that of the 14 agreements, the 14 agreements since Bush became the President of the United States, only three have been outrightly kept. He has as bad a record as President Clinton.

Mr. DREIER. Mr. Speaker, I yield myself 30 seconds to say that the democratically elected parliaments in El Salvador, Honduras, and Guatemala all have had votes on this issue. It was 49 to 30 in the democratically elected parliament of El Salvador; 126 to 12 in the democratically elected parliament of Guatemala; and 100 of 128 legislators in Honduras were supportive of the Central American Free Trade Agreement.

Mr. Speaker, I yield 2 minutes to the gentleman from Midland, Texas (Mr. CONAWAY), my very good friend and a hard-working new Member of Congress.

Mr. CONAWAY. Mr. Speaker, I appreciate the gentleman yielding me this time, and I rise tonight to support this rule and also the underlying document that we will vote on later on tonight.

We have heard it is important for national security issues, and it is. Strengthening these six democracies, fledgling though they may be, makes America a safer place to be.

We have heard that it is good for immigration control, and it is. Prosperity and jobs created in Central American countries will lessen the pressure of those folks trying to percolate up through Mexico and trying to get into America to get a job here.

We have heard it is good for trade, and it is. Our manufacturers and producers will no longer pay the tariffs and duties we are currently paying. Manufacturers like Kraft Macaroni & Cheese and breakfast cereals will now be able to be sold in these Central American countries with that trade.

It seems odd to me if I have a job, and a group comes to me and says we want to help you get a better job, we want you to earn more and we want the labor standards to be improved, but we want you to keep that job, well, that is the kind of idea I would like to have help with. But if I have another side that says I want to help you with labor standards and I want to help you have a better job, but in the meantime I want you to be unemployed, that does not make a lot of sense to me.

Mr. Speaker, I ask my colleagues to vote for this rule and the underlying bill.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER), the distinguished minority whip who recognizes that curtailing debate is an abuse of power.

Mr. HOYER. Mr. Speaker, I have been a strong advocate for free trade and open markets because I believe that the American businesses and workers can compete in a global market. The United States is the most powerful Nation in the world, and it is incumbent upon us to lead, to foster global trade, to engage our partners in a system based on rules and law and to work to raise the living standards of working men and women both at home and abroad.

However, the centrality of free trade in our interdependent world cannot relegate our commitment to working men and women to the peripheral. We must seek to provide a level playing field for American workers and improve living and working conditions for foreign workers by guaranteeing fair wages and basic workplace protections. I have consistently supported legislation and trade agreements that have furthered these goals.

I was hopeful the Bush administration would pursue these objectives in negotiating CAFTA and that we would ultimately be presented an agreement that advanced the cause of free trade, promoted the rule of law, and generated economic development in countries in great need, and extended to U.S. workers, farmers, and businesses the advantages of expanded access to new markets. Regrettably, the agreement before us does not meet these goals.

Specifically, CAFTA fails to ensure the implementation and enforcement of the five core internationally recognized labor rights. Compounding the problem is the failure to allow trade sanctions to enforce the deal's modest labor provisions. In other words, the enforcement structure is absent.

I am, therefore, regrettably unable to support the Central American Free Trade Agreement for its failure to guarantee basic workplace protections for Central Americans and a level playing field for American workers.

It is interesting, Mr. Speaker, that given the problems that we have with CAFTA, given the questions that have been raised, that the majority is unwilling to give sufficient debate to develop the arguments. This is a critically important issue. NAFTA was an important issue. It was 8 hours of debate. This is one-quarter of that.

We are unable to fully develop the deficiencies in this bill with the 1 hour of debate that the minority will be given. Perhaps that is the point. Perhaps that is the objective. Perhaps the meaning of this rule is to shut us up, shut us out, and shut us down. That is a shame, that my colleagues do not have the confidence in their proposition that they put on this floor to give it a full airing, a full debate in the light of day.

Why do these issues always come up in the late of night? I do not understand that. Oppose this rule. Oppose this bill. It is not good for America. It is not good for the countries that have signed it.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, fast track up-or-down voting procedures place a premium on consultation and accommodation during the conception and negotiation of trade agreements. But the DR–CAFTA negotiations turned its back on this process. Everyone who raised concerns about labor rights, environmental standards, or the vulnerability of key agricultural and manufacturing sectors was shut out. That is why this agreement has been so universally criticized throughout Central America and the United States.

Mr. Speaker, I am very familiar with Central America. I have deep attachments to the people, and I appreciate how far these countries have come since the wars there ended. I want their democracies to thrive. I want their lives and livelihoods to improve. And I think a good trade agreement could make a valuable contribution to these efforts. But this CAFTA is not that agreement, and this rule deprives Members of their democratic rights to speak on the floor of the House on this controversial issue.

It is shameful how the Republican leadership of this House continues to use the Committee on Rules as a weapon to undermine the deliberative process. It is disrespectful to American workers that the Republican leadership is shortchanging this debate. It is a disgrace. But, sadly, that has become the norm around here. I urge all my colleagues to vote down this rule and vote down this CAFTA bill.

Mr. Speaker, I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Morris, Illinois (Mr. WELLER), a hard-working member of the Committee on Ways and Means.

Mr. WELLER. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the rule as well as in support of the Dominican Republic-Central American Free Trade Agreement.

Let me ask a very simple question. Next door to you is a neighbor, and you are charged by your neighbor to enter his back yard. But then when he comes over to visit your back yard, he can come in free. That is really what this trade agreement is all about.

Right now, 80 percent of all manufactured goods made in the Dominican Republic-Central America come in duty free into Illinois, into my State in the United States, and 99 percent of all farm products from the DR and Central America come into Illinois and the United States duty free.

Now, is there reciprocity under the current status quo? No. Illinois corn faces a 20 percent tariff, Illinois soybeans a 30 percent tariff, Illinois pork a 40 percent tariff. Under DR-CAFTA, those tariffs are either eliminated immediately or phased out very quickly.

We make yellow bulldozers. Caterpillar is the biggest manufacturer in the State of Illinois and the biggest employer in my district. Those yellow bulldozers made in Joliet face a 14 to 20 percent tariff under the status quo. Under DR-CAFTA it is eliminated immediately.

Vote “yes” for DR-CAFTA. It is good for Illinois workers and good for Illinois farmers.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, back on November 6 of 1979, Ronald Reagan announced his candidacy for President of the United States; and in that announcement, he envisaged a free trade accord of all the Americas, where we could have the free flow of goods and services and capital and ideas.

☐ 1930

This is a very important part of that vision which has not only been supported by Republicans, but President Clinton was a strong supporter of that notion, the free trade area of the Americas; back in 1993, by a 392–18 vote, passed the Caribbean Basin Initiative. Why, so rather than sending aid, we would open up the U.S. market to these struggling countries in the Caribbean.

We now have an opportunity to respond to the fact that we have provided unlimited access to our consumer market by these countries.

Mr. Speaker, it is true, the gentleman from Florida (Mr. SHAW) and I have been here for a quarter century, the gentleman from Indiana (Mr. BURTON) a little less than that. I have never witnessed greater politicization or a greater mischaracterization of a piece of legislation than I have this. For the last decade we have had 2 hours of debate on trade agreements that we have dealt with. Yes, the statute says up to 20 hours. The last time that happened was November 14, 1980. And once they started it, they pared it back.

We have been debating this issue for literally months. Special Orders and 1-minute speeches have taken place. It is time for us to vote. I believe we are going to have a great opportunity, a great opportunity, to enhance the standard of living for people in the United States and in this region. It is going to create an opportunity for us to better compete globally, and as we enhance the standard of living in Latin America, it will clearly help us with this very important problem that we have of border security and illegal immigration.

We have a win-win all of the way around. We have seen great benefits from trade. The much-maligned North American Free Trade Agreement has created a scenario whereby we have a third of a trillion dollars in trade between Mexico and the United States. Mexico's population now has a middle class that is larger than the entire Canadian population. Yes, there is poverty; yes, it needs to improve, but clearly the cause of freedom is an important one. The cause of stability in our region is a very, very important one.

I urge support of this rule. I urge support of the Dominican Republic-Central American Free Trade Agreement.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BASS). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McGOVERN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3304

Mr. GERLACH. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3304.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SURFACE TRANSPORTATION EXTENSION ACT OF 2005, PART V

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that the Committee on Transportation and Infrastructure, the Committee on Ways and Means, the Committee on Science, and the Committee on Resources be discharged from further consideration of the bill (H.R. 3453) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Surface Transportation Extension Act of 2005, Part V”

SEC. 2. ADVANCES.

(a) IN GENERAL.—Section 2(a)(1) of the Surface Transportation Extension Act of 2004, Part V (23 U.S.C. 104 note; 118 Stat. 1144; 119 Stat. 324; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “and the Surface Transportation Extension Act of 2005, Part IV” and inserting “the Surface Transportation Extension Act of 2005, Part IV, and the Surface Transportation Extension Act of 2005, Part V”.

(b) PROGRAMMATIC DISTRIBUTIONS.—

(1) SPECIAL RULES FOR MINIMUM GUARANTEE.—Section 2(b)(4) of such Act (119 Stat. 324; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “$2,301,370,400” and inserting “$2,324,000,000”.

(2) EXTENSION OF OFF-SYSTEM BRIDGE SET-ASIDE.—Section 144(g)(3) of title 23, United States Code, is amended by striking “July 27” and inserting “July 30”.

(c) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 1101(l)(1) of the Transportation Equity Act for the 21st Century (118 Stat. 1145; 119 Stat. 324; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “$27,968,968,718 for the period of October 1, 2004, through July 27, 2005” and inserting “$28,243,990,320 for the period of October 1, 2004, through July 30, 2005”.

(d) LIMITATION ON OBLIGATIONS.—Section 2(e) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1146; 119 Stat. 324; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) in paragraph (1)—

(A) by striking “July 27” and inserting “July 30”;

(B) by striking “and the Surface Transportation Extension Act of 2005, Part IV” and inserting “the Surface Transportation Extension Act of 2005, Part IV, and the Surface Transportation Extension Act of 2005, Part V”; and

(C) by striking “82.2 percent” and inserting “83 percent”; and

(2) in paragraph (2)—

(A) by striking “July 27, 2005, shall not exceed $28,520,554,600” and inserting “July 30, 2005, shall not exceed $28,801,000,000”; and

(B) by striking “$525,205,602” and inserting “$530,370,000”; and

(3) in paragraph (3) by striking “July 27” and inserting “July 30”.

SEC. 3. ADMINISTRATIVE EXPENSES.

Section 4(a) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1147; 119 Stat. 325; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$289,334,862" and inserting "$292,179,920".

SEC. 4. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE I OF TEA-21.—

(1) FEDERAL LANDS HIGHWAYS.—

(A) INDIAN RESERVATION ROADS.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112; 118 Stat. 1147; 119 Stat. 325; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(i) in the first sentence by striking "$226,027,450 for the period of October 1, 2004, through July 27, 2005" and inserting "$228,250,000 for the period of October 1, 2004, through July 30, 2005"; and

(ii) in the second sentence by striking "$10,684,934" and inserting "$10,790,000".

(B) PUBLIC LANDS HIGHWAYS.—Section 1101(a)(8)(B) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 325; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$202,191,828 for the period of October 1, 2004, through July 27, 2005" and inserting "$204,180,000 for the period of October 1, 2004, through July 30, 2005".

(C) PARK ROADS AND PARKWAYS.—Section 1101(a)(8)(C) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 325; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$135,616,470 for the period of October 1, 2004, through July 27, 2005" and inserting "$136,950,000 for the period of October 1, 2004, through July 30, 2005".

(D) REFUGE ROADS.—Section 1101(a)(8)(D) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$16,438,360 for the period of October 1, 2004, through July 27, 2005" and inserting "$16,600,000 for the period of October 1, 2004, through July 30, 2005".

(2) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—Section 1101(a)(9) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$115,068,520 for the period of October 1, 2004, through July 27, 2005" and inserting "$116,200,000 for the period of October 1, 2004, through July 30, 2005".

(3) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

(A) IN GENERAL.—Section 1101(a)(10) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$31,232,884 for the period of October 1, 2004, through July 27, 2005" and inserting "$31,540,000 for the period of October 1, 2004, through July 30, 2005".

(B) SET ASIDE FOR ALASKA, NEW JERSEY, AND WASHINGTON.—Section 5(a)(3)(B) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(i) in clause (i) by striking "$8,219,180" and inserting "$8,300,000";

(ii) in clause (ii) by striking "$4,109,590" and inserting "$4,150,000"; and

(iii) in clause (iii) by striking "$4,109,590" and inserting "$4,150,000".

(4) NATIONAL SCENIC BYWAYS PROGRAM.—Section 1101(a)(11) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$21,780,827 for the period of October 1, 2004, through July 27, 2005" and inserting "$21,995,000 for the period of October 1, 2004, through July 30, 2005".

(5) VALUE PRICING PILOT PROGRAM.—Section 1101(a)(12) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$9,041,098 for the period of October 1, 2004, through July 27, 2005" and inserting "$9,130,000 for the period of October 1, 2004, through July 30, 2005".

(6) HIGHWAY USE TAX EVASION PROJECTS.—Section 1101(a)(14) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$4,109,590 for the period of October 1, 2004, through July 27, 2005" and inserting "$4,150,000 for the period of October 1, 2004, through July 30, 2005".

(7) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—Section 1101(a)(15) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 1149; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$90,410,980 for the period of October 1, 2004, through July 27, 2005" and inserting "$91,300,000 for the period of October 1, 2004, through July 30, 2005".

(8) SAFETY GRANTS.—Section 1212(i)(1)(D) of such Act (23 U.S.C. 402 note; 112 Stat. 196; 112 Stat. 840; 118 Stat. 1149; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$410,959 for the period of October 1, 2004, through July 27, 2005" and inserting "$415,000 for the period of October 1, 2004, through July 30, 2005".

(9) TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.—Section 1221(e)(1) of such Act (23 U.S.C. 101 note; 112 Stat. 223; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$20,547,950 for the period of October 1, 2004, through July 27, 2005" and inserting "$20,750,000 for the period of October 1, 2004, through July 30, 2005".

(10) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION.—Section 188 of title 23, United States Code, is amended—

(A) in subsection (a)(1) by striking subparagraph (G) and inserting the following:

"(G) $107,900,000 for the period of October 1, 2004, through July 30, 2005.";

(B) in subsection (a)(2) by striking "$1,643,836 for the period of October 1, 2004, through July 27, 2005" and inserting "$1,660,000 for the period of October 1, 2004, through July 30, 2005"; and

(C) in the item relating to fiscal year 2005 in table contained in subsection (c) by striking "$2,136,986,800" and inserting "$2,158,000,000".

(11) NATIONAL SCENIC BYWAYS CLEARINGHOUSE.—Section 1215(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 210; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(A) by striking "$1,232,877" and inserting "$1,245,000"; and

(B) by striking "July 27" and inserting "July 30".

(b) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE V OF TEA-21.—

(1) SURFACE TRANSPORTATION RESEARCH.—Section 5001(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 419; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$84,657,554 for the period of October 1, 2004, through July 27, 2005" and inserting "$85,490,000 for the period of October 1, 2004, through July 30, 2005".

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 5001(a)(2) of such Act (112 Stat. 419; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$41,095,900 for the period of October 1, 2004, through July 27, 2005" and inserting "$41,500,000 for the period of October 1, 2004, through July 30, 2005".

(3) TRAINING AND EDUCATION.—Section 5001(a)(3) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$16,438,360 for the period of October 1, 2004, through July 27, 2005" and inserting "$16,600,000 for the period of October 1, 2004, through July 30, 2005".

(4) BUREAU OF TRANSPORTATION STATISTICS.—Section 5001(a)(4) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$25,479,458 for the period of October 1, 2004, through July 27, 2005" and inserting "$25,730,000 for the period of October 1, 2004, through July 30, 2005".

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—Section 5001(a)(5) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$90,410,980 for the period of October 1, 2004, through July 27, 2005" and inserting "$91,300,000 for the period of October 1, 2004, through July 30, 2005".

(6) ITS DEPLOYMENT.—Section 5001(a)(6) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$100,273,996 for the period of October 1, 2004, through July 27, 2005" and inserting "$101,260,000 for the period of October 1, 2004, through July 30, 2005".

(7) UNIVERSITY TRANSPORTATION RESEARCH.—Section 5001(a)(7) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$21,780,827 for the period of October 1, 2004, through July 27, 2005" and inserting "$21,995,000 for the period of October 1, 2004, through July 30, 2005".

(c) METROPOLITAN PLANNING.—Section 5(c)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1150; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$178,767,165 for the period of October 1, 2004, through July 27, 2005" and inserting "$180,525,000 for the period of October 1, 2004, through July 30, 2005".

(d) TERRITORIES.—Section 1101(d)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 111; 118 Stat. 1150; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$29,917,815 for the period of October 1, 2004, through July 27, 2005" and inserting "$30,212,000 for the period of October 1, 2004, through July 30, 2005".

(e) ALASKA HIGHWAY.—Section 1101(e)(1) of such Act (118 Stat. 1150; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$15,452,058 for the period of October 1, 2004, through July 27, 2005" and inserting "$15,604,000 for the period of October 1, 2004, through July 30, 2005".

(f) OPERATION LIFESAVER.—Section 1101(f)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$410,959 for the period of October 1, 2004, through July 27, 2005" and inserting "$415,000 for the period of October 1, 2004, through July 30, 2005".

(g) BRIDGE DISCRETIONARY.—Section 1101(g)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking "$82,191,800" and inserting "$83,000,000"; and

(2) by striking "July 27" and inserting "July 30".

(h) INTERSTATE MAINTENANCE.—Section 1101(h)(1) of such Act (118 Stat. 1151; 119 Stat.

328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking "$82,191,800" and inserting "$83,000,000"; and

(2) by striking "July 27" and inserting "July 30".

(i) Recreational Trails Administrative Costs.—Section 1101(i)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$616,439 for the period of October 1, 2004, through July 27, 2005" and inserting "$622,500 for the period of October 1, 2004, through July 30, 2005".

(j) Railway-Highway Crossing Hazard Elimination in High Speed Rail Corridors.—Section 1101(j)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking "$4,315,069" and inserting "$4,357,500";

(2) by striking "$205,480" and inserting "$207,500"; and

(3) by striking "July 27" each place it appears and inserting "July 30".

(k) Nondiscrimination.—Section 1101(k) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) in paragraph (1) by striking "$8,219,180 for the period of October 1, 2004, through July 27, 2005" and inserting "$8,300,000 for the period of October 1, 2004, through July 30, 2005"; and

(2) in paragraph (2) by striking "$8,219,180 for the period of October 1, 2004, through July 27, 2005" and inserting "$8,300,000 for the period of October 1, 2004, through July 30, 2005".

(l) Administration of Funds.—Section 5(l) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1151; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking "and section 4 of the Surface Transportation Extension Act of 2005, Part IV" and inserting "section 4 of the Surface Transportation Extension Act of 2005, Part IV, and section 4 of the Surface Transportation Extension Act of 2005, Part V"; and

(2) by striking "and section 4(a) of the Surface Transportation Extension Act of 2005, Part IV" and inserting "section 4(a) of the Surface Transportation Extension Act of 2005, Part IV, and section 4(a) of the Surface Transportation Extension Act of 2005, Part V".

(m) Reduction of Allocated Programs.—Section 5(m) of such Act (118 Stat. 1151; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking "and section 4 of Surface Transportation Extension Act of 2005, Part IV" and inserting "section 4 of the Surface Transportation Extension Act of 2005, Part IV, and section 4 of the Surface Transportation Extension Act of 2005, Part V";

(2) by striking "and section 4 of the Surface Transportation Extension Act, Part IV" the first place it appears and inserting "section 4 of the Surface Transportation Extension Act of 2005, Part IV, and section 4 of the Surface Transportation Extension Act of 2005, Part V"; and

(3) by striking "and section 4 of the Surface Transportation Extension Act, Part IV" the second place it appears and inserting "section 4 of the Surface Transportation Extension Act of 2005, Part IV, and section 4 of the Surface Transportation Extension Act of 2005, Part V".

(n) Program Category Reconciliation.—Section 5(n) of such Act (118 Stat. 1151; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "and section 4 of the Surface Transportation Extension Act, Part IV" and inserting "section 4 of the Surface Transportation Extension Act of 2005, Part IV, and section 4 of the Surface Transportation Extension Act of 2005, Part V".

SEC. 5. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) Chapter 1 Highway Safety Programs.—

(1) Seat belt safety incentive grants.—Section 157(g)(1) of title 23, United States Code, is amended by striking "$92,054,794 for the period of October 1, 2004, through July 27, 2005" and inserting "$92,975,342 for the period of October 1, 2004, through July 30, 2005".

(2) Prevention of intoxicated driver incentive grants.—Section 163(e)(1) of such title is amended by striking "$90,410,958 for the period of October 1, 2004, through July 27, 2005" and inserting "$91,315,068 for the period of October 1, 2004, through July 30, 2005".

(b) Chapter 4 Highway Safety Programs.—Section 2009(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$135,616,438 for the period of October 1, 2004, through July 27, 2005" and inserting "$136,972,603 for the period of October 1, 2004, through July 30, 2005".

(c) Highway Safety Research and Development.—Section 2009(a)(2) of such Act (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$59,178,082 for the period of October 1, 2004, through July 27, 2005" and inserting "$59,769,863 for the period of October 1, 2004, through July 30, 2005".

(d) Occupant Protection Incentive Grants.—Section 2009(a)(3) of such Act (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$16,438,356 for the period of October 1, 2004, through July 27, 2005" and inserting "$16,602,704 for the period of October 1, 2004, through July 30, 2005".

(e) Alcohol-Impaired Driving Countermeasures Incentive Grants.—Section 2009(a)(4) of such Act (112 Stat. 337; 118 Stat. 1153; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$32,876,712 for the period of October 1, 2004, through July 27, 2005" and inserting "$33,205,479 for the period of October 1, 2004, through July 30, 2005".

(f) National Driver Register.—

(1) Funding.—Section 2009(a)(6) of such Act (112 Stat. 338; 118 Stat. 1153; 119 Stat. 330; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$2,958,904 for the period of October 1, 2004, through July 27, 2005" and inserting "$2,988,493 for the period of October 1, 2004, through July 30, 2005".

(2) Contract authority.—Funds made available by the amendments made by paragraph (1) and by section 5(f) of the Surface Transportation Extension Act of 2005 (119 Stat. 330; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 6. FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAM.

(a) Administrative Expenses.—Section 7(a)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153; 119 Stat. 330; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$211,682,467 for the period of October 1, 2004, through July 27, 2005" and inserting "$213,799,290 for the period of October 1, 2004, through July 30, 2005".

(b) Motor Carrier Safety Assistance Program.—Section 31104(a)(8) of title 49, United States Code, is amended to read as follows:

"(8) Not more than $140,293,151 for the period of October 1, 2004, through July 30, 2005.".

(c) Information Systems and Commercial Driver's License Grants.—

(1) Authorization of appropriation.—Section 31107(a)(6) of such title is amended to read as follows:

"(6) $16,602,740 for the period of October 1, 2004, through July 30, 2005.".

(2) Emergency CDL grants.—Section 7(c)(2) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153; 119 Stat. 330; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(A) by striking "July 27" and inserting "July 30"; and

(B) by striking "$821,918" and inserting "$830,137".

(d) Crash Causation Study.—Section 7(d) of such Act (118 Stat. 1154; 119 Stat. 330; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking "$821,918" and inserting "$830,137"; and

(2) by striking "July 27" and inserting "July 30".

SEC. 7. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

(a) Allocating Amounts.—Section 5309(m) of title 49, United States Code, is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1) by striking "July 27, 2005" and inserting "July 30, 2005";

(2) in paragraph (2)(B)(iii)—

(A) in the heading by striking "JULY 27, 2005" and inserting "JULY 30, 2005";

(B) by striking "$8,547,000" and inserting "$8,550,000"; and

(C) by striking "July 27, 2005" and inserting "July 30, 2005";

(3) in paragraph (3)(B)—

(A) by striking "$2,465,754" and inserting "$2,470,000"; and

(B) by striking "July 27, 2005" and inserting "July 30, 2005"; and

(4) in paragraph (3)(C)—

(A) by striking "$41,095,900" and inserting "$41,506,850"; and

(B) by striking "July 27, 2005" and inserting "July 30, 2005".

(b) Formula Grants Authorizations.—Section 5338(a) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking "JULY 27, 2005" and inserting "JULY 30, 2005";

(2) in paragraph (2)(A)(vii)—

(A) by striking "$2,795,000,000" and inserting "$2,796,817,658"; and

(B) by striking "July 27, 2005" and inserting "July 30, 2005";

(3) in paragraph (2)(B)(vii) by striking "July 27, 2005" and inserting "July 30, 2005"; and

(4) in paragraph (2)(C) by striking "July 27, 2005" and inserting "July 30, 2005".

(c) Formula Grant Funds.—Section 8(d) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1155; 119 Stat. 331; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) in the heading by striking "July 27, 2005" and inserting "July 30, 2005";

(2) in the matter preceding paragraph (1) by striking "July 27, 2005" and inserting "July 30, 2005";

(3) in paragraph (1) by striking "$3,986,261" and inserting "$4,026,123";

(4) in paragraph (2) by striking "$41,095,900" and inserting "$41,506,850";

(5) in paragraph (3) by striking "$79,100,000" and inserting "$79,102,926";

(6) in paragraph (4) by striking "$210,000,000" and inserting "$212,000,000"; and

(7) in paragraph (5) by striking "$5,712,330" and inserting "$5,769,452".

(d) Capital Program Authorizations.—Section 5338(b)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "JULY 27, 2005" and inserting "JULY 30, 2005";

(2) in subparagraph (A)(vii)—

(A) by striking "$2,309,000,366" and inserting "$2,336,442,169"; and

(B) by striking "July 27, 2005" and inserting "July 30, 2005"; and

(3) in subparagraph (B)(vii) by striking "July 27, 2005" and inserting "July 30, 2005".

(e) Planning Authorizations and Allocations.—Section 5338(c)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "JULY 27, 2005" and inserting "JULY 30, 2005";

(2) in subparagraph (A)(vii)—

(A) by striking "$49,546,681" and inserting "$50,146,668"; and

(B) by striking "July 27, 2005" and inserting "July 30, 2005"; and

(3) in subparagraph (B)(vii) by striking "July 27, 2005" and inserting "July 30, 2005".

(f) Research Authorizations.—Section 5338(d)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "JULY 27, 2005" and inserting "JULY 30, 2005";

(2) in subparagraph (A)(vii)—

(A) by striking "$39,554,804" and inserting "$39,950,343"; and

(B) by striking "July 27, 2005" and inserting "July 30, 2005";

(3) in subparagraph (B)(vii) by striking "July 27, 2005" and inserting "July 30, 2005"; and

(4) in subparagraph (C) by striking "July 27, 2005" and inserting "July 30, 2005".

(g) Allocation of Research Funds.—Section 8(h) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1156; 119 Stat. 332; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) in the heading by striking "July 27, 2005" and inserting "July 30, 2005";

(2) in the matter preceding paragraph (1) by striking "July 27, 2005" and inserting "July 30, 2005";

(3) in paragraph (1) by striking "$4,315,070" and inserting "$4,358,219";

(4) in paragraph (2) by striking "$6,780,824" and inserting "$6,848,630"; and

(5) in paragraph (3)—

(A) by striking "$3,287,672" and inserting "$3,320,548"; and

(B) by striking "$821,918" and inserting "$830,137".

(h) University Transportation Research Authorizations.—Section 5338(e)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "JULY 27, 2005" and inserting "JULY 30, 2005";

(2) in subparagraph (A)—

(A) by striking "$4,131,508" and inserting "$4,180,822"; and

(B) by striking "July 27, 2005" and inserting "July 30, 2005";

(3) in subparagraph (B) by striking "July 27, 2005" and inserting "July 30, 2005"; and

(4) in subparagraphs (C)(i) and (C)(iii) by striking "July 27, 2005" and inserting "July 30, 2005".

(i) Allocation of University Transportation Research Funds.—

(1) In general.—Section 8(j) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1157; 119 Stat. 332; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(A) in the matter preceding subparagraph (A) of paragraph (1) by striking "July 27, 2005" and inserting "July 30, 2005";

(B) in paragraph (1)(A) by striking "$1,643,836" and inserting "$1,660,274";

(C) in paragraph (1)(B) by striking "$1,643,836" and inserting "$1,660,274"; and

(D) in paragraph (2) by striking "July 27, 2005" and inserting "July 30, 2005".

(2) Conforming amendment.—Section 3015(d)(2) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5338 note; 112 Stat. 857; 118 Stat. 1157; 119 Stat. 332; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "July 27, 2005" and inserting "July 30, 2005".

(j) Administration Authorizations.—Section 5338(f)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "JULY 27, 2005" and inserting "JULY 30, 2005";

(2) in subparagraph (A)(vii)—

(A) by striking "$53,709,604" and inserting "$54,350,686"; and

(B) by striking "July 27, 2005" and inserting "July 30, 2005"; and

(3) in subparagraph (B)(vii) by striking "July 27, 2005" and inserting "July 30, 2005".

(k) Job Access and Reverse Commute Program.—Section 3037(l) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 391; 118 Stat. 1157; 119 Stat. 333; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) in paragraph (1)(A)(vii)—

(A) by striking "$82,739,750" and inserting "$83,767,125"; and

(B) by striking "July 27, 2005" and inserting "July 30, 2005";

(2) in paragraph (1)(B)(vii) by striking "July 27, 2005" and inserting "July 30, 2005"; and

(3) in paragraph (2) by striking "July 27, 2005, not more than $8,219,180" and inserting "July 30, 2005, not more than $8,301,370".

(l) Rural Transportation Accessibility Incentive Program.—Section 3038(g) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393; 118 Stat. 1158; 119 Stat. 333; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking paragraph (1)(G) and inserting the following:

"(G) $5,769,452 for the period of October 1, 2004, through July 30, 2005."; and

(2) in paragraph (2)—

(A) by striking "$1,428,082" and inserting "$1,428,124"; and

(B) by striking "July 27, 2005" and inserting "July 30, 2005".

(m) Urbanized Area Formula Grants.—Section 5307(b)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "JULY 27, 2005" and inserting "JULY 30, 2005"; and

(2) in subparagraph (A) by striking "July 27, 2005" and inserting "July 30, 2005".

(n) Obligation Ceiling.—Section 3040(7) of the Transportation Equity Act for the 21st Century (112 Stat. 394; 118 Stat. 1158; 119 Stat. 333; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking "$6,335,343,944" and inserting "$6,398,695,996"; and

(2) by striking "July 27, 2005" and inserting "July 30, 2005".

(o) Fuel Cell Bus and Bus Facilities Program.—Section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361; 118 Stat. 1158; 119 Stat. 333; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking "July 27, 2005" and inserting "July 30, 2005"; and

(2) by striking "$3,986,000" and inserting "$4,026,164".

(p) Advanced Technology Pilot Project.—Section 3015(c)(2) of the Transportation Equity Act for the 21st Century (49 U.S.C. 322 note; 112 Stat. 361; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking "July 27, 2005" and inserting "July 30, 2005,"; and

(2) by striking "$4,100,000" and inserting "$4,150,685".

(q) Projects for New Fixed Guideway Systems and Extensions to Existing Systems.—Subsections (a), (b), and (c)(1) of section 3030 of the Transportation Equity Act for the 21st Century (112 Stat. 373; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) are amended by striking "July 27, 2005" and inserting "July 30, 2005".

(r) New Jersey Urban Core Project.—Subparagraphs (A), (B), and (C) of section 3031(a)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) are amended by striking "July 27, 2005" and inserting "July 30, 2005".

(s) Local Share.—Section 3011(a) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5307 note; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "July 27, 2005" and inserting "July 30, 2005".

SEC. 8. SPORT FISHING AND BOATING SAFETY.

(a) Funding for National Outreach and Communications Program.—Section 4(c)(7) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(c)) is amended to read as follows:

"(7) $8,301,370 for the period of October 1, 2004, through July 30, 2005;".

(b) Clean Vessel Act Funding.—Section 4(b)(4) of such Act (16 U.S.C. 777c(b)(4)) is amended to read as follows:

"(4) First 303 days of fiscal year 2005.—For the period of October 1, 2004, through July 30, 2005, of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $68,071,233, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

"(A) $8,301,370 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

"(B) $6,641,096 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

"(C) The balance remaining after the application of subparagraphs (A) and (B) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.".

(c) Boat Safety Funds.—Section 13106(c) of title 46, United States Code, is amended—

(1) by striking "$4,100,000" and inserting "$4,150,685"; and

(2) by striking "$1,643,836" and inserting "$1,660,274".

SEC. 9. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA–21.

(a) Highway Trust Fund.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in the matter before subparagraph (A), by striking "July 28, 2005" and inserting "July 31, 2005",

(B) by striking "or" at the end of subparagraph (N),

(C) by striking the period at the end of subparagraph (O) and inserting ", or",

(D) by inserting after subparagraph (O) the following new subparagraph:

"(P) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2005, Part V.", and

(E) in the matter after subparagraph (P), as added by this paragraph, by striking "Surface Transportation Extension Act of 2005, Part IV" and inserting "Surface Transportation Extension Act of 2005, Part V".

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking "July 28, 2005" and inserting "July 31, 2005",

(B) in subparagraph (L), by striking "or" at the end of such subparagraph,

(C) in subparagraph (M), by inserting "or" at the end of such subparagraph,

(D) by inserting after subparagraph (M) the following new subparagraph:

"(N) the Surface Transportation Extension Act of 2005, Part V.", and

(E) in the matter after subparagraph (N), as added by this paragraph, by striking "Surface Transportation Extension Act of 2005, Part IV" and inserting "Surface Transportation Extension Act of 2005, Part V".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(6) of such Code is amended by striking "July 28, 2005" and inserting "July 31, 2005".

(b) AQUATIC RESOURCES TRUST FUND.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking "Surface Transportation Extension Act of 2005, Part IV" each place it appears and inserting "Surface Transportation Extension Act of 2005, Part V".

(2) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking "July 28, 2005" and inserting "July 31, 2005", and

(B) by striking "Surface Transportation Extension Act of 2005, Part IV" and inserting "Surface Transportation Extension Act of 2005, Part V".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of such Code is amended by striking "July 28, 2005" and inserting "July 31, 2005".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on July 30, 2005, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of the Surface Transportation Extension Act of 2003.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

Ordering the previous question on H. Res. 385, by the yeas and nays;

Adoption of H. Res. 385, if ordered;

Adoption of H. Res. 386, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF H.R. 5, HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2005

The SPEAKER pro tempore. The pending business is the question on ordering the previous question on H. Res. 385 on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question on the resolution.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adopting the resolution and on adopting H. Res. 386.

The vote was taken by electronic device, and there were—yeas 226, nays 200, answered "present" 1, not voting 6, as follows:

[Roll No. 440]

YEAS—226

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—200

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty

Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED "PRESENT"—1

Sensenbrenner

NOT VOTING—6

Brady (PA)
Carson
Davis, Jo Ann
Leach
Murphy
Sanchez, Linda T.

□ 1956

Messrs. ORTIZ, CARDOZA, CASE, DAVIS of Alabama, and DAVIS of Tennessee changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BASS). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 226, noes 200, answered "present" 1, not voting 6, as follows:

[Roll No. 441]

AYES—226

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—200

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED "PRESENT"—1

Sensenbrenner

NOT VOTING—6

Abercrombie
Brady (PA)
Carson
Davis, Jo Ann
Leach
Murphy

□ 2006

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 3045, DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION ACT

The SPEAKER pro tempore (Mr. BASS). The pending business is the question of agreeing to the resolution, House Resolution 386, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 227, nays 201, not voting 5, as follows:

[Roll No. 442]

YEAS—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)

Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—201

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—5

Brady (PA)
Carson
Davis, Jo Ann
Leach
Murphy

□ 2015

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MURPHY. Mr. Speaker, due to illness, I was not present in the Chamber on Wednesday, July 27, 2005, and was regrettably unable to cast my vote on rollcall No. 432, rollcall No. 433, rollcall No. 434, rollcall No. 435, rollcall No. 436, rollcall No. 437, rollcall No. 438, rollcall No. 439, rollcall No. 440, rollcall No. 441, and rollcall No. 442.

Had I been present, I would have voted "yea" on rollcall No. 432, "yea" on rollcall No. 433, "yea" on rollcall No. 434, "yea" on rollcall No. 435, "no" on rollcall No. 436, "yea" on rollcall No. 437, "yea" on rollcall No. 438, "yea" on rollcall No. 439, "yea" on rollcall No. 440, "yea" on rollcall No. 441, and "yea" on rollcall No. 442.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 3453. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

The message also announced that the Senate has passed bills of the following titles in which concurrence of the House is requested:

S. 203. An act to reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes.

S. 243. An act to establish a program and criteria for National Heritage Areas in the United States, and for other purposes.

S. 285. An act to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 442. An act to provide for the Secretary of Homeland Security to be included in the line of Presidential succession.

DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION ACT

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 386, I call up the bill (H.R. 3045) to implement the Dominican Republic-Central America-United States Free Trade Agreement, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 3045 is as follows:

H.R. 3045

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Dominican Republic-Central America-United States Free Trade Agreement Implementation Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

Sec. 101. Approval and entry into force of the Agreement.
Sec. 102. Relationship of the Agreement to United States and State law.
Sec. 103. Implementing actions in anticipation of entry into force and initial regulations.
Sec. 104. Consultation and layover provisions for, and effective date of, proclaimed actions.
Sec. 105. Administration of dispute settlement proceedings.
Sec. 106. Arbitration of claims.
Sec. 107. Effective dates; effect of termination.

TITLE II—CUSTOMS PROVISIONS

Sec. 201. Tariff modifications.
Sec. 202. Additional duties on certain agricultural goods.
Sec. 203. Rules of origin.
Sec. 204. Customs user fees.
Sec. 205. Retroactive application for certain liquidations and reliquidations of textile or apparel goods.
Sec. 206. Disclosure of incorrect information; false certifications of origin; denial of preferential tariff treatment.
Sec. 207. Reliquidation of entries.
Sec. 208. Recordkeeping requirements.
Sec. 209. Enforcement relating to trade in textile or apparel goods.
Sec. 210. Regulations.

TITLE III—RELIEF FROM IMPORTS

Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefiting From the Agreement

Sec. 311. Commencing of action for relief.

Sec. 312. Commission action on petition.
Sec. 313. Provision of relief.
Sec. 314. Termination of relief authority.
Sec. 315. Compensation authority.
Sec. 316. Confidential business information.
Subtitle B—Textile and Apparel Safeguard Measures
Sec. 321. Commencement of action for relief.
Sec. 322. Determination and provision of relief.
Sec. 323. Period of relief.
Sec. 324. Articles exempt from relief.
Sec. 325. Rate after termination of import relief.
Sec. 326. Termination of relief authority.
Sec. 327. Compensation authority.
Sec. 328. Confidential business information.
Subtitle C—Cases Under Title II of the Trade Act of 1974
Sec. 331. Findings and action on goods of CAFTA–DR countries.
TITLE IV—MISCELLANEOUS
Sec. 401. Eligible products.
Sec. 402. Modifications to the Caribbean Basin Economic Recovery Act.
Sec. 403. Periodic reports and meetings on labor obligations and labor capacity-building provisions.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to approve and implement the Free Trade Agreement between the United States, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b));

(2) to strengthen and develop economic relations between the United States, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua for their mutual benefit;

(3) to establish free trade between the United States, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua through the reduction and elimination of barriers to trade in goods and services and to investment; and

(4) to lay the foundation for further cooperation to expand and enhance the benefits of the Agreement.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term "Agreement" means the Dominican Republic-Central America-United States Free Trade Agreement approved by the Congress under section 101(a)(1).

(2) CAFTA–DR COUNTRY.—Except as provided in section 203, the term "CAFTA–DR country" means—

(A) Costa Rica, for such time as the Agreement is in force between the United States and Costa Rica;

(B) the Dominican Republic, for such time as the Agreement is in force between the United States and the Dominican Republic;

(C) El Salvador, for such time as the Agreement is in force between the United States and El Salvador;

(D) Guatemala, for such time as the Agreement is in force between the United States and Guatemala;

(E) Honduras, for such time as the Agreement is in force between the United States and Honduras; and

(F) Nicaragua, for such time as the Agreement is in force between the United States and Nicaragua.

(3) COMMISSION.—The term "Commission" means the United States International Trade Commission.

(4) HTS.—The term "HTS" means the Harmonized Tariff Schedule of the United States.

(5) TEXTILE OR APPAREL GOOD.—The term "textile or apparel good" means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)), other than a good listed in Annex 3.29 of the Agreement.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), the Congress approves—

(1) the Dominican Republic-Central America-United States Free Trade Agreement entered into on August 5, 2004, with the Governments of Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua, and submitted to the Congress on June 23, 2005; and

(2) the statement of administrative action proposed to implement the Agreement that was submitted to the Congress on June 23, 2005.

(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that countries listed in subsection (a)(1) have taken measures necessary to comply with the provisions of the Agreement that are to take effect on the date on which the Agreement enters into force, the President is authorized to provide for the Agreement to enter into force with respect to those countries that provide for the Agreement to enter into force for them.

SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

(2) CONSTRUCTION.—Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States, or

(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term "State law" includes—

(A) any law of a political subdivision of a State; and

(B) any State law regulating or taxing the business of insurance.

(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the Agreement.

SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

(a) IMPLEMENTING ACTIONS.—

(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act—

(A) the President may proclaim such actions, and

(B) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date the Agreement enters into force.

(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction contained in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force of any action proclaimed under this section.

(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

(B) the Commission;

(2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth—

(A) the action proposed to be proclaimed and the reasons therefor; and

(B) the advice obtained under paragraph (1);

(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met has expired; and

(4) the President has consulted with such Committees regarding the proposed action

during the period referred to in paragraph (3).

SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

(a) Establishment or Designation of Office.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 20 of the Agreement. The office may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

(b) Authorization of Appropriations.—There are authorized to be appropriated for each fiscal year after fiscal year 2005 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office established or designated under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 20 of the Agreement.

SEC. 106. ARBITRATION OF CLAIMS.

The United States is authorized to resolve any claim against the United States covered by article 10.16.1(a)(i)(C) or article 10.16.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section B of chapter 10 of the Agreement.

SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

(a) Effective Dates.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date the Agreement enters into force.

(b) Exceptions.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act.

(c) Termination of CAFTA–DR Status.—During any period in which a country ceases to be a CAFTA–DR country, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to have effect with respect to that country.

(d) Termination of the Agreement.—On the date on which the Agreement ceases to be in force with respect to the United States, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to have effect.

TITLE II—CUSTOMS PROVISIONS

SEC. 201. TARIFF MODIFICATIONS.

(a) Tariff Modifications Provided for in the Agreement.—

(1) Proclamation authority.—The President may proclaim—

(A) such modifications or continuation of any duty,

(B) such continuation of duty-free or excise treatment, or

(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 3.3, 3.5, 3.6, 3.21, 3.26, 3.27, and 3.28, and Annexes 3.3, 3.27, and 3.28 of the Agreement.

(2) Effect on GSP status.—Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall terminate the designation of each CAFTA–DR country as a beneficiary developing country for purposes of title V of the Trade Act of 1974 on the date the Agreement enters into force with respect to that country.

(3) Effect on CBERA status.—

(A) In general.—Notwithstanding section 212(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)), the President shall terminate the designation of each CAFTA–DR country as a beneficiary country for purposes of that Act on the date the Agreement enters into force with respect to that country.

(B) Exception.—Notwithstanding subparagraph (A), each such country shall be considered a beneficiary country under section 212(a) of the Caribbean Basin Economic Recovery Act, for purposes of—

(i) sections 771(7)(G)(ii)(III) and 771(7)(H) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(G)(ii)(III) and 1677(7)(H));

(ii) the duty-free treatment provided under paragraph 12 of Appendix I of the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement; and

(iii) section 274(h)(6)(B) of the Internal Revenue Code of 1986.

(b) Other Tariff Modifications.—Subject to the consultation and layover provisions of section 104, the President may proclaim—

(1) such modifications or continuation of any duty,

(2) such modifications as the United States may agree to with a CAFTA–DR country regarding the staging of any duty treatment set forth in Annex 3.3 of the Agreement,

(3) such continuation of duty-free or excise treatment, or

(4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions provided for by the Agreement.

(c) Conversion to Ad Valorem Rates.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States to Annex 3.3 of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICULTURAL GOODS.

(a) General Provisions.—

(1) Applicability of subsection.—This subsection applies to additional duties assessed under subsection (b).

(2) Applicable NTR (MFN) rate of duty.—For purposes of subsection (b), the term "applicable NTR (MFN) rate of duty" means, with respect to a safeguard good, a rate of duty that is the lesser of—

(A) the column 1 general rate of duty that would, at the time the additional duty is imposed under subsection (b), apply to a good classifiable in the same 8-digit subheading of the HTS as the safeguard good; or

(B) the column 1 general rate of duty that would, on the day before the date on which the Agreement enters into force, apply to a good classifiable in the same 8-digit subheading of the HTS as the safeguard good.

(3) Schedule rate of duty.—For purposes of subsection (b), the term "schedule rate of duty" means, with respect to a safeguard good, the rate of duty for that good that is set out in the Schedule of the United States to Annex 3.3 of the Agreement.

(4) Safeguard good.—In this section, the term "safeguard good" means a good—

(A) that is included in the Schedule of the United States to Annex 3.15 of the Agreement;

(B) that qualifies as an originating good under section 203, except that operations performed in or material obtained from the United States shall be considered as if the operations were performed in, and the material was obtained from, a country that is not a party to the Agreement; and

(C) for which a claim for preferential tariff treatment under the Agreement has been made.

(5) Exceptions.—No additional duty shall be assessed on a good under subsection (b) if, at the time of entry, the good is subject to import relief under—

(A) subtitle A of title III of this Act; or

(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

(6) Termination.—The assessment of an additional duty on a good under subsection (b) shall cease to apply to that good on the date on which duty-free treatment must be provided to that good under the Schedule of the United States to Annex 3.3 of the Agreement.

(7) Notice.—Not later than 60 days after the Secretary of the Treasury first assesses an additional duty in a calendar year on a good under subsection (b), the Secretary shall notify the country whose good is subject to the additional duty in writing of such action and shall provide to that country data supporting the assessment of the additional duty.

(b) Additional Duties on Safeguard Goods.—

(1) In general.—In addition to any duty proclaimed under subsection (a) or (b) of section 201, and subject to subsection (a), the Secretary of the Treasury shall assess a duty, in the amount determined under paragraph (2), on a safeguard good of a CAFTA–DR country imported into the United States in a calendar year if the Secretary determines that, prior to such importation, the total volume of that safeguard good of such country that is imported into the United States in that calendar year exceeds 130 percent of the volume that is set out for that safeguard good in the corresponding year in the table for that country contained in Appendix I of the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement. For purposes of this subsection, year 1 in that table corresponds to the calendar year in which the Agreement enters into force.

(2) Calculation of additional duty.—The additional duty on a safeguard good under this subsection shall be—

(A) in the case of a good classified under subheading 1202.10.80, 1202.20.80, 2008.11.15, 2008.11.35, or 2008.11.60 of the HTS—

(i) in years 1 through 5, an amount equal to 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty;

(ii) in years 6 through 10, an amount equal to 75 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

(iii) in years 11 through 14, an amount equal to 50 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

(B) in the case of any other safeguard good—

(i) in years 1 through 14, an amount equal to 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty;

(ii) in years 15 through 17, an amount equal to 75 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

(iii) in years 18 and 19, an amount equal to 50 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty.

SEC. 203. RULES OF ORIGIN.

(a) Application and Interpretation.—In this section:

(1) Tariff classification.—The basis for any tariff classification is the HTS.

(2) Reference to HTS.—Whenever in this section there is a reference to a chapter, heading, or subheading, such reference shall be a reference to a chapter, heading, or subheading of the HTS.

(3) Cost or value.—Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether the United States or another CAFTA–DR country).

(b) Originating Goods.—For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the Agreement, except as otherwise provided in this section, a good is an originating good if—

(1) the good is a good wholly obtained or produced entirely in the territory of one or more of the CAFTA–DR countries;

(2) the good—

(A) is produced entirely in the territory of one or more of the CAFTA–DR countries, and—

(i) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in Annex 4.1 of the Agreement; or

(ii) the good otherwise satisfies any applicable regional value-content or other requirements specified in Annex 4.1 of the Agreement; and

(B) satisfies all other applicable requirements of this section; or

(3) the good is produced entirely in the territory of one or more of the CAFTA–DR countries, exclusively from materials described in paragraph (1) or (2).

(c) Regional Value-Content.—

(1) In general.—For purposes of subsection (b)(2), the regional value-content of a good referred to in Annex 4.1 of the Agreement, except for goods to which paragraph (4) applies, shall be calculated by the importer, exporter, or producer of the good, on the basis of the build-down method described in paragraph (2) or the build-up method described in paragraph (3).

(2) Build-down method.—

(A) In general.—The regional value-content of a good may be calculated on the basis of the following build-down method:

$$RVC = \frac{AV-VNM}{AV} 100$$

(B) Definitions.—In subparagraph (A):

(i) RVC.—The term "RVC" means the regional value-content of the good, expressed as a percentage.

(ii) AV.—The term "AV" means the adjusted value of the good.

(iii) VNM.—The term "VNM" means the value of nonoriginating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

(3) Build-up method.—

(A) In general.—The regional value-content of a good may be calculated on the basis of the following build-up method:

$$RVC = \frac{VOM}{AV} 100$$

(B) Definitions.—In subparagraph (A):

(i) RVC.—The term "RVC" means the regional value-content of the good, expressed as a percentage.

(ii) AV.—The term "AV" means the adjusted value of the good.

(iii) VOM.—The term "VOM" means the value of originating materials that are acquired or self-produced, and used by the producer in the production of the good.

(4) Special rule for certain automotive goods.—

(A) In general.—For purposes of subsection (b)(2), the regional value-content of an automotive good referred to in Annex 4.1 of the Agreement may be calculated by the importer, exporter, or producer of the good, on the basis of the following net cost method:

$$RVC = \frac{NC-VNM}{NC} 100$$

(B) Definitions.—In subparagraph (A):

(i) Automotive good.—The term "automotive good" means a good provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, or in any of headings 8701 through 8708.

(ii) RVC.—The term "RVC" means the regional value-content of the automotive good, expressed as a percentage.

(iii) NC.—The term "NC" means the net cost of the automotive good.

(iv) VNM.—The term "VNM" means the value of nonoriginating materials that are acquired and used by the producer in the production of the automotive good, but does not include the value of a material that is self-produced.

(C) Motor vehicles.—

(i) Basis of calculation.—For purposes of determining the regional value-content under subparagraph (A) for an automotive good that is a motor vehicle provided for in any of headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the formula contained in subparagraph (A), over the producer's fiscal year—

(I) with respect to all motor vehicles in any 1 of the categories described in clause (ii); or

(II) with respect to all motor vehicles in any such category that are exported to the territory of one or more of the CAFTA–DR countries.

(ii) Categories.—A category is described in this clause if it—

(I) is the same model line of motor vehicles, is in the same class of vehicles, and is produced in the same plant in the territory of a CAFTA–DR country, as the good described in clause (i) for which regional value-content is being calculated;

(II) is the same class of motor vehicles, and is produced in the same plant in the territory of a CAFTA–DR country, as the good described in clause (i) for which regional value-content is being calculated; or

(III) is the same model line of motor vehicles produced in the territory of a CAFTA–DR country as the good described in clause (i) for which regional value-content is being calculated.

(D) Other automotive goods.—For purposes of determining the regional value-content under subparagraph (A) for automotive goods provided for in any of subheadings 8407.31 through 8407.34, in subheading 8408.20, or in heading 8409, 8706, 8707, or 8708, that are produced in the same plant, an importer, exporter, or producer may—

(i) average the amounts calculated under the formula contained in subparagraph (A) over—

(I) the fiscal year of the motor vehicle producer to whom the automotive goods are sold,

(II) any quarter or month, or

(III) its own fiscal year,

if the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

(ii) determine the average referred to in clause (i) separately for such goods sold to 1 or more motor vehicle producers; or

(iii) make a separate determination under clause (i) or (ii) for automotive goods that are exported to the territory of one or more of the CAFTA–DR countries.

(E) Calculating net cost.—The importer, exporter, or producer shall, consistent with the provisions regarding allocation of costs set out in generally accepted accounting principles, determine the net cost of an automotive good under subparagraph (B) by—

(i) calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the automotive good;

(ii) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the portion of the total cost allocated to the automotive good; or

(iii) reasonably allocating each cost that forms part of the total cost incurred with respect to the automotive good so that the aggregate of all such costs does not include any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, or nonallowable interest costs.

(d) Value of Materials.—

(1) In general.—For the purpose of calculating the regional value-content of a good under subsection (c), and for purposes of applying the de minimis rules under subsection (f), the value of a material is—

(A) in the case of a material that is imported by the producer of the good, the adjusted value of the material;

(B) in the case of a material acquired in the territory in which the good is produced, the value, determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act, as set forth in regulations promulgated by the Secretary of the Treasury providing for the application of such Articles in the absence of an importation; or

(C) in the case of a material that is self-produced, the sum of—

(i) all expenses incurred in the production of the material, including general expenses; and

(ii) an amount for profit equivalent to the profit added in the normal course of trade.

(2) Further adjustments to the value of materials.—

(A) Originating material.—The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of one or more of the CAFTA–DR countries to the location of the producer.

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or more of the CAFTA–DR countries, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

(B) NONORIGINATING MATERIAL.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (1), may be deducted from the value of the nonoriginating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of one or more of the CAFTA–DR countries to the location of the producer.

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or more of the CAFTA–DR countries, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

(iv) The cost of originating materials used in the production of the nonoriginating material in the territory of one or more of the CAFTA–DR countries.

(e) ACCUMULATION.—

(1) ORIGINATING MATERIALS USED IN PRODUCTION OF GOODS OF ANOTHER COUNTRY.—Originating materials from the territory of one or more of the CAFTA–DR countries that are used in the production of a good in the territory of another CAFTA–DR country shall be considered to originate in the territory of that other country.

(2) MULTIPLE PROCEDURES.—A good that is produced in the territory of one or more of the CAFTA–DR countries by 1 or more producers is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

(f) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a good that does not undergo a change in tariff classification pursuant to Annex 4.1 of the Agreement is an originating good if—

(A) the value of all nonoriginating materials that—

(i) are used in the production of the good, and

(ii) do not undergo the applicable change in tariff classification (set out in Annex 4.1 of the Agreement),

does not exceed 10 percent of the adjusted value of the good;

(B) the good meets all other applicable requirements of this section; and

(C) the value of such nonoriginating materials is included in the value of nonoriginating materials for any applicable regional value-content requirement for the good.

(2) EXCEPTIONS.—Paragraph (1) does not apply to the following:

(A) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90, that is used in the production of a good provided for in chapter 4.

(B) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90, that is used in the production of the following goods:

(i) Infant preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.10.

(ii) Mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, provided for in subheading 1901.20.

(iii) Dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90.

(iv) Goods provided for in heading 2105.

(v) Beverages containing milk provided for in subheading 2202.90.

(vi) Animal feeds containing over 10 percent by weight of milk solids provided for in subheading 2309.90.

(C) A nonoriginating material provided for in heading 0805, or any of subheadings 2009.11 through 2009.39, that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.39, or in fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, provided for in subheading 2106.90 or 2202.90.

(D) A nonoriginating material provided for in heading 0901 or 2101 that is used in the production of a good provided for in heading 0901 or 2101.

(E) A nonoriginating material provided for in heading 1006 that is used in the production of a good provided for in heading 1102 or 1103 or subheading 1904.90.

(F) A nonoriginating material provided for in chapter 15 that is used in the production of a good provided for in chapter 15.

(G) A nonoriginating material provided for in heading 1701 that is used in the production of a good provided for in any of headings 1701 through 1703.

(H) A nonoriginating material provided for in chapter 17 that is used in the production of a good provided for in subheading 1806.10.

(I) Except as provided in subparagraphs (A) through (H) and Annex 4.1 of the Agreement, a nonoriginating material used in the production of a good provided for in any of chapters 1 through 24, unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

(3) TEXTILE OR APPAREL GOODS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification, set out in Annex 4.1 of the Agreement, shall be considered to be an originating good if—

(i) the total weight of all such fibers or yarns in that component is not more than 10 percent of the total weight of that component; or

(ii) the yarns are those described in section 204(b)(3)(B)(vi)(IV) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)(B)(vi)(IV))(as in effect on the date of the enactment of this Act).

(B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of a CAFTA–DR country.

(C) YARN, FABRIC, OR FIBER.—For purposes of this paragraph, in the case of a good that is a yarn, fabric, or fiber, the term "component of the good that determines the tariff classification of the good" means all of the fibers in the good.

(g) FUNGIBLE GOODS AND MATERIALS.—

(1) IN GENERAL.—

(A) CLAIM FOR PREFERENTIAL TARIFF TREATMENT.—A person claiming that a fungible good or fungible material is an originating good may base the claim either on the physical segregation of the fungible good or fungible material or by using an inventory management method with respect to the fungible good or fungible material.

(B) INVENTORY MANAGEMENT METHOD.—In this subsection, the term "inventory management method" means—

(i) averaging;

(ii) "last-in, first-out";

(iii) "first-in, first-out"; or

(iv) any other method—

(I) recognized in the generally accepted accounting principles of the CAFTA–DR country in which the production is performed; or

(II) otherwise accepted by that country.

(2) ELECTION OF INVENTORY METHOD.—A person selecting an inventory management method under paragraph (1) for a particular fungible good or fungible material shall continue to use that method for that fungible good or fungible material throughout the fiscal year of that person.

(h) ACCESSORIES, SPARE PARTS, OR TOOLS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), accessories, spare parts, or tools delivered with a good that form part of the good's standard accessories, spare parts, or tools shall—

(A) be treated as originating goods if the good is an originating good; and

(B) be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 4.1 of the Agreement.

(2) CONDITIONS.—Paragraph (1) shall apply only if—

(A) the accessories, spare parts, or tools are classified with and not invoiced separately from the good, regardless of whether they appear specified or separately identified in the invoice for the good; and

(B) the quantities and value of the accessories, spare parts, or tools are customary for the good.

(3) REGIONAL VALUE-CONTENT.—If the good is subject to a regional value-content requirement, the value of the accessories, spare parts, or tools shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

(i) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 4.1 of the Agreement, and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

(j) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers for shipment shall be disregarded in determining whether a good is an originating good.

(k) INDIRECT MATERIALS.—An indirect material shall be treated as an originating material without regard to where it is produced.

(l) TRANSIT AND TRANSHIPMENT.—A good that has undergone production necessary to qualify as an originating good under subsection (b) shall not be considered to be an originating good if, subsequent to that production, the good—

(1) undergoes further production or any other operation outside the territories of the CAFTA-DR countries, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of a CAFTA-DR country; or

(2) does not remain under the control of customs authorities in the territory of a country other than a CAFTA-DR country.

(m) Goods Classifiable as Goods Put Up in Sets.—Notwithstanding the rules set forth in Annex 4.1 of the Agreement, goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless—

(1) each of the goods in the set is an originating good; or

(2) the total value of the nonoriginating goods in the set does not exceed—

(A) in the case of textile or apparel goods, 10 percent of the adjusted value of the set; or

(B) in the case of a good, other than a textile or apparel good, 15 percent of the adjusted value of the set.

(n) Definitions.—In this section:

(1) Adjusted value.—The term "adjusted value" means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act, adjusted, if necessary, to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation.

(2) CAFTA-DR country.—The term "CAFTA-DR country" means—

(A) the United States; and

(B) Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, or Nicaragua, for such time as the Agreement is in force between the United States and that country.

(3) Class of motor vehicles.—The term "class of motor vehicles" means any one of the following categories of motor vehicles:

(A) Motor vehicles provided for in subheading 8701.20, 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, or motor vehicles for the transport of 16 or more persons provided for in subheading 8702.10 or 8702.90.

(B) Motor vehicles provided for in subheading 8701.10 or any of subheadings 8701.30 through 8701.90.

(C) Motor vehicles for the transport of 15 or fewer persons provided for in subheading 8702.10 or 8702.90, or motor vehicles provided for in subheading 8704.21 or 8704.31.

(D) Motor vehicles provided for in any of subheadings 8703.21 through 8703.90.

(4) Fungible good or fungible material.—The term "fungible good" or "fungible material" means a good or material, as the case may be, that is interchangeable with another good or material for commercial purposes and the properties of which are essentially identical to such other good or material.

(5) Generally accepted accounting principles.—The term "generally accepted accounting principles" means the recognized consensus or substantial authoritative support in the territory of a CAFTA-DR country with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. The principles may encompass broad guidelines of general application as well as detailed standards, practices, and procedures.

(6) Goods wholly obtained or produced entirely in the territory of one or more of the CAFTA-DR countries.—The term "goods wholly obtained or produced entirely in the territory of one or more of the CAFTA-DR countries" means—

(A) plants and plant products harvested or gathered in the territory of one or more of the CAFTA-DR countries;

(B) live animals born and raised in the territory of one or more of the CAFTA-DR countries;

(C) goods obtained in the territory of one or more of the CAFTA-DR countries from live animals;

(D) goods obtained from hunting, trapping, fishing or aquaculture conducted in the territory of one or more of the CAFTA-DR countries;

(E) minerals and other natural resources not included in subparagraphs (A) through (D) that are extracted or taken in the territory of one or more of the CAFTA-DR countries;

(F) fish, shellfish, and other marine life taken from the sea, seabed, or subsoil outside the territory of one or more of the CAFTA-DR countries by vessels registered or recorded with a CAFTA-DR country and flying the flag of that country;

(G) goods produced on board factory ships from the goods referred to in subparagraph (F), if such factory ships are registered or recorded with that CAFTA-DR country and fly the flag of that country;

(H) goods taken by a CAFTA-DR country or a person of a CAFTA-DR country from the seabed or subsoil outside territorial waters, if a CAFTA-DR country has rights to exploit such seabed or subsoil;

(I) goods taken from outer space, if the goods are obtained by a CAFTA-DR country or a person of a CAFTA-DR country and not processed in the territory of a country other than a CAFTA-DR country;

(J) waste and scrap derived from—

(i) manufacturing or processing operations in the territory of one or more of the CAFTA-DR countries; or

(ii) used goods collected in the territory of one or more of the CAFTA-DR countries, if such goods are fit only for the recovery of raw materials;

(K) recovered goods derived in the territory of one or more of the CAFTA-DR countries from used goods, and used in the territory of a CAFTA-DR country in the production of remanufactured goods; and

(L) goods produced in the territory of one or more of the CAFTA-DR countries exclusively from—

(i) goods referred to in any of subparagraphs (A) through (J), or

(ii) the derivatives of goods referred to in clause (i),

at any stage of production.

(7) Identical goods.—The term "identical goods" means identical goods as defined in the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act;

(8) Indirect material.—The term "indirect material" means a good used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including—

(A) fuel and energy;

(B) tools, dies, and molds;

(C) spare parts and materials used in the maintenance of equipment or buildings;

(D) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

(F) equipment, devices, and supplies used for testing or inspecting the good;

(G) catalysts and solvents; and

(H) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.

(9) Material.—The term "material" means a good that is used in the production of another good, including a part or an ingredient.

(10) Material that is self-produced.—The term "material that is self-produced" means an originating material that is produced by a producer of a good and used in the production of that good.

(11) Model line.—The term "model line" means a group of motor vehicles having the same platform or model name.

(12) Net cost.—The term "net cost" means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost.

(13) Nonallowable interest costs.—The term "nonallowable interest costs" means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate for comparable maturities of the CAFTA-DR country in which the producer is located.

(14) Nonoriginating good or nonoriginating material.—The terms "nonoriginating good" and "nonoriginating material" mean a good or material, as the case may be, that does not qualify as originating under this section.

(15) Packing materials and containers for shipment.—The term "packing materials and containers for shipment" means the goods used to protect a good during its transportation and does not include the packaging materials and containers in which a good is packaged for retail sale.

(16) Preferential tariff treatment.—The term "preferential tariff treatment" means the customs duty rate, and the treatment under article 3.10.4 of the Agreement, that are applicable to an originating good pursuant to the Agreement.

(17) Producer.—The term "producer" means a person who engages in the production of a good in the territory of a CAFTA-DR country.

(18) Production.—The term "production" means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

(19) Reasonably allocate.—The term "reasonably allocate" means to apportion in a manner that would be appropriate under generally accepted accounting principles.

(20) Recovered goods.—The term "recovered goods" means materials in the form of individual parts that are the result of—

(A) the disassembly of used goods into individual parts; and

(B) the cleaning, inspecting, testing, or other processing that is necessary for improvement to sound working condition of such individual parts.

(21) Remanufactured good.—The term "remanufactured good" means a good that is

classified under chapter 84, 85, or 87, or heading 9026, 9031, or 9032, other than a good classified under heading 8418 or 8516, and that—

(A) is entirely or partially comprised of recovered goods; and

(B) has a similar life expectancy and enjoys a factory warranty similar to such a new good.

(22) TOTAL COST.—The term "total cost" means all product costs, period costs, and other costs for a good incurred in the territory of one or more of the CAFTA-DR countries.

(23) USED.—The term "used" means used or consumed in the production of goods.

(o) PRESIDENTIAL PROCLAMATION AUTHORITY.—

(1) IN GENERAL.—The President is authorized to proclaim, as part of the HTS—

(A) the provisions set out in Annex 4.1 of the Agreement; and

(B) any additional subordinate category necessary to carry out this title consistent with the Agreement.

(2) FABRICS AND YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES IN THE UNITED STATES.—The President is authorized to proclaim that a fabric or yarn is added to the list in Annex 3.25 of the Agreement in an unrestricted quantity, as provided in article 3.25.4(e) of the Agreement.

(3) MODIFICATIONS.—

(A) IN GENERAL.—Subject to the consultation and layover provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63, as included in Annex 4.1 of the Agreement.

(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 104, the President may proclaim before the end of the 1-year period beginning on the date of the enactment of this Act, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63, as included in Annex 4.1 of the Agreement.

(4) FABRICS, YARNS, OR FIBERS NOT AVAILABLE IN COMMERCIAL QUANTITIES IN THE CAFTA-DR COUNTRIES.—

(A) IN GENERAL.—Notwithstanding paragraph 3(A), the list of fabrics, yarns, and fibers set out in Annex 3.25 of the Agreement may be modified as provided for in this paragraph.

(B) DEFINITIONS.—In this paragraph:

(i) The term "interested entity" means the government of a CAFTA-DR country other than the United States, a potential or actual purchaser of a textile or apparel good, or a potential or actual supplier of a textile or apparel good.

(ii) All references to "day" and "days" exclude Saturdays, Sundays, and legal holidays.

(C) REQUESTS TO ADD FABRICS, YARNS, OR FIBERS.—(i) An interested entity may request the President to determine that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the CAFTA-DR countries and to add that fabric, yarn, or fiber to the list in Annex 3.25 of the Agreement in a restricted or unrestricted quantity.

(ii) After receiving a request under clause (i), the President may determine whether—

(I) the fabric, yarn, or fiber is available in commercial quantities in a timely manner in the CAFTA-DR countries; or

(II) any interested entity objects to the request.

(iii) The President may, within the time periods specified in clause (iv), proclaim that a fabric, yarn, or fiber that is the subject of a request submitted under clause (i) is added to the list in Annex 3.25 of the Agreement in an unrestricted quantity, or in any restricted quantity that the President may establish, if the President determines under clause (ii) that—

(I) the fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the CAFTA-DR countries; or

(II) no interested entity has objected to the request.

(iv) The time periods within which the President may issue a proclamation under clause (iii) are—

(I) not later than 30 days after the date on which the request is submitted under clause (i); or

(II) not later than 44 days after the request is submitted, if the President determines, within 30 days after the date on which the request is submitted, that the President does not have sufficient information to make a determination under clause (ii).

(v) Notwithstanding section 103(a)(2), a proclamation made under clause (iii) shall take effect on the date on which the text of the proclamation is published in the Federal Register.

(vi) Not later than 6 months after proclaiming under clause (iii) that a fabric, yarn, or fiber is added to the list in Annex 3.25 of the Agreement in a restricted quantity, the President may eliminate the restriction if the President determines that the fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the CAFTA-DR countries.

(D) DEEMED APPROVAL OF REQUEST.—If, after an interested entity submits a request under subparagraph (C)(i), the President does not, within the applicable time period specified in subparagraph (C)(iv), make a determination under subparagraph (C)(ii) regarding the request, the fabric, yarn, or fiber that is the subject of the request shall be considered to be added, in an unrestricted quantity, to the list in Annex 3.25 of the Agreement beginning—

(i) 45 days after the date on which the request was submitted; or

(ii) 60 days after the date on which the request was submitted, if the President made a determination under subparagraph (C)(iv)(II).

(E) REQUESTS TO RESTRICT OR REMOVE FABRICS, YARNS, OR FIBERS.—(i) Subject to clause (ii), an interested entity may request the President to restrict the quantity of, or remove from the list in Annex 3.25 of the Agreement, any fabric, yarn, or fiber—

(I) that has been added to that list in an unrestricted quantity pursuant to paragraph (2) or subparagraph (C)(iii) or (D); or

(II) with respect to which the President has eliminated a restriction under subparagraph (C)(vi).

(ii) An interested entity may submit a request under clause (i) at any time beginning 6 months after the date of the action described in subclause (I) or (II) of that clause.

(iii) Not later than 30 days after the date on which a request under clause (i) is submitted, the President may proclaim an action provided for under clause (i) if the President determines that the fabric, yarn, or fiber that is the subject of the request is available in commercial quantities in a timely manner in the CAFTA-DR countries.

(iv) A proclamation declared under clause (iii) shall take effect no earlier than the date that is 6 months after the date on which the text of the proclamation is published in the Federal Register.

(F) PROCEDURES.—The President shall establish procedures—

(i) governing the submission of a request under subparagraphs (C) and (E); and

(ii) providing an opportunity for interested entities to submit comments and supporting evidence before the President makes a determination under subparagraph (C) (ii) or (vi) or (E)(iii).

SEC. 204. CUSTOMS USER FEES.

Section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is amended by adding after paragraph (14), the following:

"(15) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.".

SEC. 205. RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS OF TEXTILE OR APPAREL GOODS.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, and subject to subsection (c), an entry—

(1) of a textile or apparel good—

(A) of a CAFTA-DR country that the United States Trade Representative has designated as an eligible country under subsection (b), and

(B) that would have qualified as an originating good under section 203 if the good had been entered after the date of entry into force of the Agreement for that country,

(2) that was made on or after January 1, 2004, and before the date of the entry into force of the Agreement with respect to that country, and

(3) for which customs duties in excess of the applicable rate of duty for that good set out in the Schedule of the United States to Annex 3.3 of the Agreement were paid,

shall be liquidated or reliquidated at the applicable rate of duty for that good set out in the Schedule of the United States to Annex 3.3 of the Agreement, and the Secretary of the Treasury shall refund any excess customs duties paid with respect to such entry.

(b) ELIGIBLE COUNTRY.—The United States Trade Representative shall determine, in accordance with article 3.20 of the Agreement, which CAFTA-DR countries are eligible countries for purposes of this section, and shall publish a list of all such countries in the Federal Register.

(c) REQUESTS.—Liquidation or reliquidation may be made under subsection (a) with respect to an entry of a textile or apparel good only if a request therefor is filed with the Bureau of Customs and Border Protection, within such period as the Bureau of Customs and Border Protection shall establish by regulation in consultation with the Secretary of the Treasury, that contains sufficient information to enable the Bureau of Customs and Border Protection—

(1)(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located; and

(2) to determine that the good satisfies the conditions set out in subsection (a).

(d) DEFINITION.—As used in this section, the term "entry" includes a withdrawal from warehouse for consumption.

SEC. 206. DISCLOSURE OF INCORRECT INFORMATION; FALSE CERTIFICATIONS OF ORIGIN; DENIAL OF PREFERENTIAL TARIFF TREATMENT.

(a) Disclosure of Incorrect Information.—Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) is amended—

(1) in subsection (c)—

(A) by redesignating paragraph (9) as paragraph (10); and

(B) by inserting after paragraph (8) the following new paragraph:

"(9) Prior disclosure regarding claims under the Dominican Republic-Central America-United States Free Trade Agreement.—An importer shall not be subject to penalties under subsection (a) for making an incorrect claim that a good qualifies as an originating good under section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act if the importer, in accordance with regulations issued by the Secretary of the Treasury, promptly and voluntarily makes a corrected declaration and pays any duties owing."; and

(2) by adding at the end the following new subsection:

"(h) False Certifications of Origin Under the Dominican Republic-Central America-United States Free Trade Agreement.—

"(1) In general.—Subject to paragraph (2), it is unlawful for any person to certify falsely, by fraud, gross negligence, or negligence, in a CAFTA–DR certification of origin (as defined in section 508(g)(1)(B) of this Act) that a good exported from the United States qualifies as an originating good under the rules of origin set out in section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act. The procedures and penalties of this section that apply to a violation of subsection (a) also apply to a violation of this subsection.

"(2) Prompt and voluntary disclosure of incorrect information.—No penalty shall be imposed under this subsection if, promptly after an exporter or producer that issued a CAFTA–DR certification of origin has reason to believe that such certification contains or is based on incorrect information, the exporter or producer voluntarily provides written notice of such incorrect information to every person to whom the certification was issued.

"(3) Exception.—A person may not be considered to have violated paragraph (1) if—

"(A) the information was correct at the time it was provided in a CAFTA–DR certification of origin but was later rendered incorrect due to a change in circumstances; and

"(B) the person promptly and voluntarily provides written notice of the change in circumstances to all persons to whom the person provided the certification.".

(b) Denial of Preferential Tariff Treatment.—Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) is amended by adding at the end the following new subsection:

"(h) Denial of Preferential Tariff Treatment Under the Dominican Republic-Central America-United States Free Trade Agreement.—If the Bureau of Customs and Border Protection or the Bureau of Immigration and Customs Enforcement finds indications of a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the rules of origin set out in section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act, the Bureau of Customs and Border Protection, in accordance with regulations issued by the Secretary of the Treasury, may suspend preferential tariff treatment under the Dominican Republic-Central America-United States Free Trade Agreement to entries of identical goods covered by subsequent representations by that importer, exporter, or producer until the Bureau of Customs and Border Protection determines that representations of that person are in conformity with such section 203.".

SEC. 207. RELIQUIDATION OF ENTRIES.

Subsection (d) of section 520 of the Tariff Act of 1930 (19 U.S.C. 1520(d)) is amended—

(1) in the matter preceding paragraph (1), by striking "or section 202 of the United States-Chile Free Trade Agreement Implementation Act" and inserting ", section 202 of the United States-Chile Free Trade Agreement Implementation Act, or section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act"; and

(2) in paragraph (2), by inserting "or certifications" after "other certificates".

SEC. 208. RECORDKEEPING REQUIREMENTS.

Section 508 of the Tariff Act of 1930 (19 U.S.C. 1508) is amended—

(1) by redesignating subsection (g) as subsection (h);

(2) by inserting after subsection (f) the following new subsection:

"(g) Certifications of Origin for Goods Exported Under the Dominican Republic-Central America-United States Free Trade Agreement.—

"(1) Definitions.—In this subsection:

"(A) Records and supporting documents.—The term 'records and supporting documents' means, with respect to an exported good under paragraph (2), records and documents related to the origin of the good, including—

"(i) the purchase, cost, and value of, and payment for, the good;

"(ii) the purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and

"(iii) the production of the good in the form in which it was exported.

"(B) CAFTA–DR certification of origin.—The term 'CAFTA–DR certification of origin' means the certification established under article 4.16 of the Dominican Republic-Central America-United States Free Trade Agreement that a good qualifies as an originating good under such Agreement.

"(2) Exports to CAFTA–DR countries.—Any person who completes and issues a CAFTA–DR certification of origin for a good exported from the United States shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection all records and supporting documents related to the origin of the good (including the certification or copies thereof).

"(3) Retention period.—Records and supporting documents shall be kept by the person who issued a CAFTA–DR certification of origin for at least 5 years after the date on which the certification was issued."; and

(3) in subsection (h), as so redesignated—

(A) by inserting "or (g)" after "(f)"; and

(B) by striking "that subsection" and inserting "either such subsection".

SEC. 209. ENFORCEMENT RELATING TO TRADE IN TEXTILE OR APPAREL GOODS.

(a) Action During Verification.—

(1) In general.—If the Secretary of the Treasury requests the government of a CAFTA–DR country to conduct a verification pursuant to article 3.24 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

(2) Determination.—A determination under this paragraph is a determination—

(A) that an exporter or producer in that country is complying with applicable customs laws, regulations, and procedures regarding trade in textile or apparel goods, or

(B) that a claim that a textile or apparel good exported or produced by such exporter or producer—

(i) qualifies as an originating good under section 203 of this Act, or

(ii) is a good of a CAFTA–DR country,

is accurate.

(b) Appropriate Action Described.—Appropriate action under subsection (a)(1) includes—

(1) suspension of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines there is insufficient information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to support that claim;

(2) denial of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines that the person has provided incorrect information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that a person has provided incorrect information to support that claim;

(3) detention of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to determine the country of origin of any such good; and

(4) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that the person has provided incorrect information as to the country of origin of any such good.

(c) Action on Completion of a Verification.—On completion of a verification under subsection (a), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make the determination under subsection (a)(2) or until such earlier date as the President may direct.

(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (c) includes—

(1) denial of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines there is insufficient information to support, or that the person has provided incorrect information to support, any claim for preferential tariff treatment that has been made with respect to any such good; or

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to support, or that a person has provided incorrect information to support, that claim; and

(2) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to determine, or that the person has provided incorrect information as to, the country of origin of any such good.

(e) PUBLICATION OF NAME OF PERSON.—The Secretary may publish the name of any person that the Secretary has determined—

(1) is engaged in intentional circumvention of applicable laws, regulations, or procedures affecting trade in textile or apparel goods; or

(2) has failed to demonstrate that it produces, or is capable of producing, textile or apparel goods.

SEC. 210. REGULATIONS.

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

(1) subsections (a) through (n) of section 203;

(2) the amendment made by section 204; and

(3) any proclamation issued under section 203(o).

TITLE III—RELIEF FROM IMPORTS

SEC. 301. DEFINITIONS.

In this title:

(1) CAFTA-DR ARTICLE.—The term "CAFTA-DR article" means an article that qualifies as an originating good under section 203(b).

(2) CAFTA-DR TEXTILE OR APPAREL ARTICLE.—The term "CAFTA-DR textile or apparel article" means a textile or apparel good (as defined in section 3(5)) that is a CAFTA-DR article.

(3) DE MINIMIS SUPPLYING COUNTRY.—

(A) Subject to subparagraph (B), the term "de minimis supplying country" means a CAFTA-DR country whose share of imports of the relevant CAFTA-DR article into the United States does not exceed 3 percent of the aggregate volume of imports of the relevant CAFTA-DR article in the most recent 12-month period for which data are available that precedes the filing of the petition under section 311(a).

(B) A CAFTA-DR country shall not be considered to be a de minimis supplying country if the aggregate share of imports of the relevant CAFTA-DR article into the United States of all CAFTA-DR countries that satisfy the conditions of subparagraph (A) exceeds 9 percent of the aggregate volume of imports of the relevant CAFTA-DR article during the applicable 12-month period.

(4) RELEVANT CAFTA-DR ARTICLE.—The term "relevant CAFTA-DR article" means the CAFTA-DR article with respect to which a petition has been filed under section 311(a).

Subtitle A—Relief From Imports Benefiting From the Agreement

SEC. 311. COMMENCING OF ACTION FOR RELIEF.

(a) FILING OF PETITION.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a CAFTA-DR article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the CAFTA-DR article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

(1) Paragraphs (1)(B) and (3) of subsection (b).

(2) Subsection (c).

(3) Subsection (i).

(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any CAFTA-DR article if, after the date that the Agreement enters into force, import relief has been provided with respect to that CAFTA-DR article under this subtitle.

SEC. 312. COMMISSION ACTION ON PETITION.

(a) DETERMINATION.—Not later than 120 days after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section. At that time, the Commission shall also determine whether any CAFTA-DR country is a de minimis supplying country.

(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d) (1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to the relief described in section 313(c). Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

(1) the determination made under subsection (a) and an explanation of the basis for the determination;

(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

SEC. 313. PROVISION OF RELIEF.

(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

(c) NATURE OF RELIEF.—

(1) IN GENERAL.—The import relief that the President is authorized to provide under this section with respect to imports of an article is as follows:

(A) The suspension of any further reduction provided for under Annex 3.3 of the Agreement in the duty imposed on such article.

(B) An increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization (described in article 8.2.3 of the Agreement) of such relief at regular intervals during the period of its application.

(d) PERIOD OF RELIEF.—

(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President is authorized to provide under this section may not, in the aggregate, be in effect for more than 4 years.

(2) EXTENSION.—

(A) IN GENERAL.—If the initial period for any import relief provided under this section is less than 4 years, the President, after receiving a determination from the Commission under subparagraph (B) that is affirmative, or which the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), may extend the effective period of any import relief provided under this section, subject to the limitation under paragraph (1), if the President determines that—

(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

(ii) there is evidence that the industry is making a positive adjustment to import competition.

(B) ACTION BY COMMISSION.—(i) Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date on which any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

(ii) The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

(iii) The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article—

(1) the rate of duty on that article after such termination and on or before December 31 of the year in which such termination occurs shall be the rate that, according to the Schedule of the United States to Annex 3.3 of the Agreement would have been in effect 1 year after the provision of relief under subsection (a); and

(2) the rate of duty for that article after December 31 of the year in which termination occurs shall be, at the discretion of the President, either—

(A) the applicable rate of duty for that article set out in the Schedule of the United States to Annex 3.3 of the Agreement; or

(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set out in the Schedule of the United States to Annex 3.3 of the Agreement for the elimination of the tariff.

(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on—

(1) any article subject to import relief under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.); or

(2) imports of a CAFTA–DR article of a CAFTA–DR country that is a de minimis supplying country with respect to that article.

SEC. 314. TERMINATION OF RELIEF AUTHORITY.

(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force.

(b) EXCEPTION.—If an article for which relief is provided under this subtitle is an article for which the period for tariff elimination, set out in the Schedule of the United States to Annex 3.3 of the Agreement, is greater than 10 years, no relief under this subtitle may be provided for that article after the date on which that period ends.

SEC. 315. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act.

SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)) is amended in the first sentence—

(1) by striking "and"; and

(2) by inserting before the period at the end ", and title III of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act".

Subtitle B—Textile and Apparel Safeguard Measures

SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

(a) DETERMINATION.—

(1) IN GENERAL.—If a positive determination is made under section 321(b), the President shall determine whether, as a result of the elimination of a duty under the Agreement, a CAFTA–DR textile or apparel article of a specified CAFTA–DR country is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

(3) DEADLINE FOR DETERMINATION.—The President shall make the determination under paragraph (1) no later than 30 days after the completion of any consultations held pursuant to article 3.23.4 of the Agreement.

(b) PROVISION OF RELIEF.—

(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as provided in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry.

(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

SEC. 323. PERIOD OF RELIEF.

(a) IN GENERAL.—Subject to subsection (b), any import relief that the President provides under subsection (b) of section 322 may not, in the aggregate, be in effect for more than 3 years.

(b) EXTENSION.—If the initial period for any import relief provided under section 322 is less than 3 years, the President may extend the effective period of any import relief provided under that section, subject to the limitation set forth in subsection (a), if the President determines that—

(1) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

(2) there is evidence that the industry is making a positive adjustment to import competition.

SEC. 324. ARTICLES EXEMPT FROM RELIEF.

The President may not provide import relief under this subtitle with respect to any article if—

(1) import relief previously has been provided under this subtitle with respect to that article; or

(2) the article is subject to import relief under—

(A) subtitle A; or

(B) chapter 1 of title II of the Trade Act of 1974.

SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief.

SEC. 326. TERMINATION OF RELIEF AUTHORITY.

No import relief may be provided under this subtitle with respect to any article after the date that is 5 years after the date on which the Agreement enters into force.

SEC. 327. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of that Act.

SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.

The President may not release information received in connection with a review under this subtitle which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the President, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information, it shall also provide a nonconfidential version of the information in which the confidential business information is summarized or, if necessary, deleted.

Subtitle C—Cases Under Title II of the Trade Act of 1974

SEC. 331. FINDINGS AND ACTION ON GOODS OF CAFTA-DR COUNTRIES.

(a) EFFECT OF IMPORTS.—If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974, the Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930), the Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether imports of the article of each CAFTA-DR country that qualify as originating goods under section 203(b) are a substantial cause of serious injury or threat thereof.

(b) PRESIDENTIAL DETERMINATION REGARDING IMPORTS OF CAFTA-DR COUNTRIES.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974, the President may exclude from the action goods of a CAFTA-DR country with respect to which the Commission has made a negative finding under subsection (a).

TITLE IV—MISCELLANEOUS

SEC. 401. ELIGIBLE PRODUCTS.

Section 308(4)(A) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; or"; and

(3) by adding at the end the following new clause:

"(iv) a party to the Dominican Republic-Central America-United States Free Trade Agreement, a product or service of that country or instrumentality which is covered under that Agreement for procurement by the United States.".

SEC. 402. MODIFICATIONS TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

(a) FORMER BENEFICIARY COUNTRIES.—Section 212(a)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)(1)) is amended by adding at the end the following new subparagraph:

"(F) The term 'former beneficiary country' means a country that ceases to be designated as a beneficiary country under this title because the country has become a party to a free trade agreement with the United States.".

(b) COUNTRIES ELIGIBLE FOR DESIGNATION AS BENEFICIARY COUNTRIES.—Section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is amended by striking from the list of countries eligible for designation as beneficiary countries—

(1) "Costa Rica", effective on the date the President terminates the designation of Costa Rica as a beneficiary country pursuant to section 201(a)(3);

(2) "Dominican Republic", effective on the date the President terminates the designation of the Dominican Republic as a beneficiary country pursuant to section 201(a)(3);

(3) "El Salvador", effective on the date the President terminates the designation of El Salvador as a beneficiary country pursuant to section 201(a)(3);

(4) "Guatemala", effective on the date the President terminates the designation of Guatemala as a beneficiary country pursuant to section 201(a)(3);

(5) "Honduras", effective on the date the President terminates the designation of Honduras as a beneficiary country pursuant to section 201(a)(3); and

(6) "Nicaragua", effective on the date the President terminates the designation of Nicaragua as a beneficiary country pursuant to section 201(a)(3).

(c) MATERIALS OF, OR PROCESSING IN, FORMER BENEFICIARY COUNTRIES.—Section 213(a)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)(1)) is amended by striking "the Commonwealth of Puerto Rico and the United States Virgin Islands" and inserting "the Commonwealth of Puerto Rico, the United States Virgin Islands, and any former beneficiary country".

(d) DEFINITIONS AND SPECIAL RULES.—Section 213(b)(5) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)(5)) is amended by adding at the end the following new subparagraphs:

"(G) FORMER CBTPA BENEFICIARY COUNTRY.—The term 'former CBTPA beneficiary country' means a country that ceases to be designated as a CBTPA beneficiary country under this title because the country has become a party to a free trade agreement with the United States.

"(H) ARTICLES THAT UNDERGO PRODUCTION IN A CBTPA BENEFICIARY COUNTRY AND A FORMER CBTPA BENEFICIARY COUNTRY.—(i) For purposes of determining the eligibility of an article for preferential treatment under paragraph (2) or (3), references in either such paragraph, and in subparagraph (C) of this paragraph to—

"(I) a 'CBTPA beneficiary country' shall be considered to include any former CPTPA beneficiary country, and

"(II) 'CBTPA beneficiary countries' shall be considered to include former CBTPA beneficiary countries,

if the article, or a good used in the production of the article, undergoes production in a CBTPA beneficiary country.

"(ii) An article that is eligible for preferential treatment under clause (i) shall not be ineligible for such treatment because the article is imported directly from a former CBTPA beneficiary country.

"(iii) Notwithstanding clauses (i) and (ii), an article that is a good of a former CBTPA beneficiary country for purposes of section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) or section 334 of the Uruguay Round Agreements Act (19 U.S.C. 3592), as the case may be, shall not be eligible for preferential treatment under paragraph (2) or (3), unless—

"(I) it is an article that is a good of the Dominican Republic under either such section 304 or 334; and

"(II) the article, or a good used in the production of the article, undergoes production in Haiti.".

SEC. 403. PERIODIC REPORTS AND MEETINGS ON LABOR OBLIGATIONS AND LABOR CAPACITY-BUILDING PROVISIONS.

(a) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than the end of the 2-year period beginning on the date the Agreement enters into force, and not later than the end of each 2-year period thereafter during the succeeding 14-year period, the President shall report to the Congress on the progress made by the CAFTA-DR countries in—

(A) implementing Chapter Sixteen and Annex 16.5 of the Agreement; and

(B) implementing the White Paper.

(2) WHITE PAPER.—In this section, the term "White Paper" means the report of April 2005 of the Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic entitled "The Labor Dimension in Central America and the Dominican Republic - Building on Progress: Strengthening Compliance and Enhancing Capacity".

(3) CONTENTS OF REPORTS.—Each report under paragraph (1) shall include the following:

(A) A description of the progress made by the Labor Cooperation and Capacity Building Mechanism established by article 16.5 and Annex 16.5 of the Agreement, and the Labor Affairs Council established by article 16.4 of the Agreement, in achieving their stated goals, including a description of the capacity-building projects undertaken, funds received, and results achieved, in each CAFTA-DR country.

(B) Recommendations on how the United States can facilitate full implementation of the recommendations contained in the White Paper.

(C) A description of the work done by the CAFTA-DR countries with the International Labor Organization to implement the recommendations contained in the White Paper, and the efforts of the CAFTA-DR countries with international organizations, through the Labor Cooperation and Capacity Building Mechanism referred to in subparagraph (A), to advance common commitments regarding labor matters.

(D) A summary of public comments received on—

(i) capacity-building efforts by the United States envisaged by article 16.5 and Annex 16.5 of the Agreement;

(ii) efforts by the United States to facilitate full implementation of the White Paper recommendations; and

(iii) the efforts made by the CAFTA-DR countries to comply with article 16.5 and Annex 16.5 of the Agreement and to fully implement the White Paper recommendations, including the progress made by the CAFTA-DR countries in affording to workers internationally-recognized worker rights through improved capacity.

(4) SOLICITATION OF PUBLIC COMMENTS.—The President shall establish a mechanism to solicit public comments for purposes of paragraph (3)(D).

(b) PERIODIC MEETINGS OF SECRETARY OF LABOR WITH LABOR MINISTERS OF CAFTA-DR COUNTRIES.—

(1) PERIODIC MEETINGS.—The Secretary of Labor should take the necessary steps to meet periodically with the labor ministers of the CAFTA-DR countries to discuss—

(A) the operation of the labor provisions of the Agreement;

(B) progress on the commitments made by the CAFTA-DR countries to implement the recommendations contained in the White Paper;

(C) the work of the International Labor Organization in the CAFTA-DR countries, and other cooperative efforts, to afford to workers internationally-recognized worker rights; and

(D) such other matters as the Secretary of Labor and the labor ministers consider appropriate.

(2) INCLUSION IN BIENNIAL REPORTS.—The President shall include in each report under subsection (a), as the President deems appropriate, summaries of the meetings held pursuant to paragraph (1).

The SPEAKER pro tempore (Mr. BASS). Pursuant to House Resolution 386, the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 1 hour.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for those individuals within our eyesight and earshot, there may be some people wondering about the debate that was begun under the rule, and that if it, in fact, carries over into the general debate, you will be quite perplexed.

The statement was repeated several times that we are doing this in the dead of the night. My friends, it is 5:30 in California. People are just getting home from work. Would we not rather debate this during prime time when there are people home and who can watch it?

Words such as "shameful," "disrespectful," "arrogant"; accusations about freely-elected people in countries south of our border; someone who is not familiar with the way this place operates would be quite amazed at what has been said. Let me assure you, those of you who are concerned need only turn to the United States Constitution, Article I, section 6. Therein is contained what is often called the Speech and Debate Clause. The Speech and Debate Clause in the Constitution says, "And for any speech or debate in either House they, the Senators and Representatives, shall not be questioned in any other place."

In other words, truth, veracity, facts do not apply here if you choose not to use them. If you choose to misrepresent, you are allowed to do that on the floor of the House. If you wish to confuse, if you wish to say black is white or white is black, you can.

But I do think that you ought to at least give minimum respect for people who laid their lives down to have an opportunity to share the blessings of democracy.

In the 1980s we were all concerned, and speeches were made on the floor of this House, about the impending loss of Central America to totalitarian governments, and, frankly, sometimes it was to the right, and sometimes it was to the left.

We have before us tonight a freely negotiated trade agreement between sovereign countries freely elected by the people of those countries in Central America and in the Dominican Republic and in the United States. Yet a Member feels comfortable coming to the floor, and the gentlewoman from California said that they are going to be able to enforce their own trade laws. Does that not worry you? Well, so do we. She said, they could change their trade laws to allow child labor. Well, so can we. Will we? Of course not. What makes you think they will? The argument that somehow these people down there do not love their children any more than we do is, in fact, the words that were used earlier, that argument is shameful, it is disrespectful, and it is arrogant.

The idea that these people do not care about their families: have you driven around the greater Washington area and run into all these people from Central America who are here because they were driven here because of the political conditions in the 1980s, and that, in fact, the best import they have are the jobs people have here? You do not think they want to go home to their families?

This was negotiated by freely elected people, not because they want to sell products and services in the United States; they already have that. They want this so that our goods, our services, our jobs will come to Central America. And as you make the arguments that you make so shamefully, so disrespectfully, and so arrogantly about the governments freely elected, supported by their people, just remember, they want a job, too. They love their children. They are respectful of you; be respectful of them.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me join with the handful of Republicans in complimenting the chairman of the Committee on Ways and Means. His attack against arrogance has moved my heart, and those of others in the House, as well as his conversations with the immigrants and the newcomers to find out what should be in the trade bill. It certainly would have worked out a heck of a lot better if he had talked with some of the Democrats in the House.

This is one day that we all should remember. A small bill designed to help small countries. I was successful in having the Dominican Republic included in it. People who indeed wanted to work, wanted to have the dignity of having a job, wanted to be able to buy some of those U.S. products, really wanted to be partners, but they also wanted to be a part of this. Arrogance? How can you have a bill you say that is helping these people to make certain that they stave off communism and that become, indeed, a democratic country and, at the same time, exclude them from participating?

Yes, they want a Central American Free Trade Agreement. Yes, the Dominicans want to have a Dominican Republic Free Trade Agreement, but they want to be a part of it, and they want their people protected.

The gentleman talked about people who fought and died for our Constitution. You do not have to remind us about that. Patriotism can bring a tear to our eyes, but why do we not talk about the people who fought and died for workers' rights? Hey, can you not get that on your agenda? Those who fought and died for human rights, should that not be a part of it?

But let us talk about the moral values. The Catholic bishops in the United States, the Catholic bishops in the Dominican Republic, the Catholic bishops throughout the island; the religious leaders, the labor leaders, the peasants, the farmers, those who work in the free trade zone, do they not count for something?

This could have been an easy thing. This is no big deal. It was not before the President came down here. This could have been something we could have worked out. There has to be some compassion and less arrogance on the other side. We could have talked these things out.

And what is wrong with language that protects kids? Just because people do not have a design to commit crime does not mean you do not have a criminal code. Just because people are not inclined to abuse workers does not mean you do not have a code.

All we are saying is this: Let us protect intellectual property rights, let us protect our exporters, let us protect the multinationals, let us protect the big farm corporations. But, while you do that, protect the little guy where, in many of the countries, they have not the slightest clue, and they tell us each and every day, we want trade, we want to improve our lives; all we want to do is to be a part of the agreement.

Now, I was told that we cannot get back to that. With regard to the side agreements, I thought it meant the issue had to be related to trade. But some of the offers that I have heard that relate to getting votes around here, side agreements mean something else. And that is why maybe it may still be light tonight in California, but for those who are wide awake tonight, they should know it is not prime time in Washington, D.C. As a matter of fact, it is the worst of times.

This administration has taken a bill that could have meant something, a bill we could have been proud of, and has made a political toy out of it. They have excluded Democrats; they have offended some Republicans.

So when we hear about this bill tonight, it will not be a trade bill, it will be a bill that would say, which side are you on? Are you on the side of transparency, open discussion, wanting to protect American farmers, wanting to protect American entrepreneurs, wanting to do business with people in these small countries that are impoverished, and do you want to help those who are the lesser among us, who, at the end of the day, have been excluded from consideration from this treaty?

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know the gentleman's district is in New York, and television is very expensive there, but it may surprise the gentleman to know that 8:30 on the east coast is called prime time, and you have to pay for it. We are in prime time.

Just let me say that you must be very proud, as you just indicated, to advocate for your side to vote "no" on democracy, "no" to jobs in their own country, "yes" to continued poverty, and "yes" to a threat to fragile democracies, because that is what this vote is. And it really is a sad night for your once proud, aggressive party, which has a lot of words and no action for people in need.

Mr. Speaker, I yield the remainder of my time to the gentleman from Florida (Mr. SHAW), the chairman of the Subcommittee on Trade of the Committee on Ways and Means, and I ask unanimous consent that he control the remainder of the time.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from California?

There was no objection.

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Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I would point out that probably I do not want to associate myself with either of the opening remarks. This is not political to me. Mr. Speaker, we can sit here all day and argue about what the thousands of pages of CAFTA really mean.

But the meaning of nearly every provision is debatable. That is the problem with this agreement. If it becomes law, the administration, the American courts, even the United States Constitution will have no effect on the final interpretation of this agreement. That will be left to the CAFTA tribunal, two Central American judges, always pitted against one judge from the United States.

Our Bill of Rights will not apply to these courts, neither will any sunshine laws, and there will never be a right of appeal. That is a direct insult to the sovereignty of the United States. CAFTA should not be approved on this point alone.

But let us go on and look at what is at stake in some of these debates, very briefly. CAFTA undermines the ability of the State medical and dental boards and health planning agencies to set public health standards for licensing of professions and institutions. I am sure someone will disagree with me about that, and we will decide it in a tribunal.

CAFTA overturns all of our "buy American" laws that encourage local jobs and suppliers. CAFTA could legally force States and local governments to outsource jobs, not just to Central American countries, but to India and to Pakistan and to Malaysia, or to any country that wants to set up phone banks.

CAFTA gives foreign business greater legal rights in America than our own businesses. CAFTA could overturn our immigration laws, could overturn our immigration laws by allowing CAFTA tribunals to decide whether those laws fairly or unfairly restrict another country's ability to export cheap contract labor into America.

CAFTA countries today can ship chicken to my State of Georgia duty free, while charging up to 160 percent for the chicken my farmers try to ship in return. That is not fair trade.

Instead of fixing this now, we try to solve it by allowing CAFTA to drag out this fair trade policy for over 18 years, during which my chicken farmers will continue to face unfair trade competition. Eighteen years just to get even.

CAFTA takes away the few current protections available to the American textile workers. There are gaping loopholes in every so-called protection for the American workers and farmers. Mr. Speaker, I just used the words "could" and "can" a lot in my comments.

The other side will argue, well, it is not certain if CAFTA will do all of this; it will be left up to three judges.

I urge us to reconsider this and get a really good fair trade, not just fair, but free, trade agreement with Central America.

Mr. SHAW. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. JEFFERSON), a very respected Democratic member of the Ways and Means Committee.

Mr. JEFFERSON. Mr. Speaker, as a Democrat with a firm commitment to eliminate poverty and to improve the lives of workers both here and abroad, I believe it is important to discuss the policy implications contained in the proposed U.S. FTA with the Dominican Republic and the countries of Central America.

In support of the CAFTA, I support the people of my port city. I have determined that the United States can best promote improvements both to working conditions and labor standards in those countries with the commitment and the supporting capacity-building provisions of this agreement.

I understand that our workers are concerned about our growing trade deficit. But CAFTA will have no negative impact here. Our trade deficit is driven by our own behavior as a Nation: massive consumption, low savings rates, and unwise borrow-and-spend economic policies of our own government, not CAFTA-like trade agreements.

In fact, an ITC study concludes CAFTA will reduce overall U.S. trade deficits by $756 million. And the CAFTA-NAFTA talk is a catchy play on words, but the comparison is really inappropriate.

Unlike the situation with Mexico prior to NAFTA, our market is already nearly completely open to Central American products. More than 80 percent of Central American products imported to the United States are already duty free. CAFTA will simply open their markets to our products leveling the playing field.

For years, Democrats and Republicans have promoted democracy in Central America and have spoken about the need to secure commitments from developing countries on core international labor standards, on labor enforcement, and have sought U.S. commitments to substantive and comprehensive labor-capacity building programs.

We have sought to ensure a role for international labor organizations in these efforts. With this unprecedented agreement, we have concluded and included all of these things. CAFTA promotes economic opportunity for the workers of the region who are facing massive competition from Asia and elsewhere in the most significant formal source of economic livelihood, textile and apparel production. With nearly half the population of these countries living in extreme poverty, with formal employment, the continued competitiveness the textile and apparel industry in our and other CAFTA industries can promote is very, very critical.

I have heard my colleagues suggest that the CAFTA textile and apparel rules remain too strict to really make a difference. But the countries and the companies who invest and purchase from the region believe differently.

Many of us had hoped for more flexibility. But those whose livelihoods depend on these issues believe that the new flexibilities CAFTA provides are critical to support an industry that provides some of the best-paying jobs in the region.

Are we to substitute our judgment for theirs?

CAFTA will also help these countries improve their investment climate through a more permanent relationship with the United States and many other provisions of CAFTA, including increased transparency, curbs on corruption and provisions that promote the rule of law, which could in fact be the single most important driver to improve the lives of our neighbors in Central America and the Dominican Republic.

And there are the agreement's labor provisions. Both the commitments made by each country in the labor chapter to enforce domestic laws and the capacity-building program built into the CAFTA, which each of the six governments recently relied on in undertaking an unprecedented commitment to improve labor standards and enforcement in each of their countries in very concrete ways.

But despite all of these provisions and commitments, it is argued that the CAFTA's labor provisions are a backwards step and that CAFTA should not be supported because of the CAFTA countries' histories of weak labor laws and suppressing worker rights.

The biggest labor issue of the CAFTA countries is in fact the inadequacy of their enforcement of existing laws. Indeed, this is where many of the 20-plus labor problems the critics allege actually fall. They are issues of enforcement, not issues with the substantive existing labor laws; and that is where the CAFTA can do the most good.

In taking a close look at the other recent trade agreements that passed with overwhelming bipartisan support, it is difficult to understand why the CAFTA countries are being held to a different standard and therefore a double standard.

The labor laws in the CAFTA countries are similar to those of Jordan and Morocco. For example, foreign nationals cannot lead or administer local labor unions in Morocco. This is the case for all of the CAFTA countries, but Nicaragua. The right to collective bargaining is not recognized in Morocco's constitution, but it is in most of the CAFTA countries. And, finally, Morocco allows minors to work longer per week than all of the CAFTA countries.

If we can vote overwhelmingly for Morocco and Jordan with these labor provisions on the basis that we should engage them economically because they have made progress on liberalizing their economies and on improving their human rights pictures, then why can we not support this FTA with our neighbors in the popularly elected democracies with even better laws on the same grounds?

What all of these countries, Jordan, Morocco and the Centrals, share are the same challenges in enforcement and lack of resources. In fact, the CAFTA provisions are stronger than those in NAFTA, which has labor protections in the signed agreements and did not provide dispute resolutions in the main agreement.

The last point I want to make, Mr. Speaker, is that at our door stand our neighbors from Central America literally pleading with us to approve this CAFTA agreement. We are substituting our judgment for theirs, people who are elected by their own people as we are elected by ours.

Mr. Speaker, I think instead of turning a deaf ear to them, we ought to heed them, we ought to hear them. These are our neighbors and our friends. And we ought to support them. I urge adoption of this agreement.

Mr. RANGEL. Mr. Speaker, the gentleman from Maryland (Mr. CARDIN) is the ranking member of the trade committee. He has worked hard on this, and he probably never has voted against any trade agreement in this House. And I guess he is saying that this is an agreement worthy of his vote.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN).

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair would remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

Mr. CARDIN. Mr. Speaker, I am going to first answer my friend, the gentleman from Louisiana (Mr. JEFFERSON), and he is my friend. I deeply respect his views as to why we would oppose this agreement when we supported the other agreements that he mentioned.

The gentleman from New York (Mr. RANGEL) is correct. In the 18-plus years that I have been honored to served in this body, I have voted for all of the free trade agreements. This will be the first agreement that I will vote against.

This is the first agreement in which we actually move backwards on advancing international labor standards. Currently, with the Central American countries, we had the Caribbean Basin Initiative. The Caribbean Basin Initiative has worked. It has provided opportunity for the Central American countries. It has opened up markets for their products. They get preference. But in order to get that preference, they must move towards international labor standards. That is the requirement.

We use the threat of withholding trade benefits if they do not adopt international labor standards. That is what we currently have with Central American countries, and it is working. We have made progress. CAFTA repeals those obligations. As the gentleman from Louisiana (Mr. JEFFERSON) said, what is in place is enforcing your own rules without any adequate enforcement.

We have a constitutional responsibility, Mr. Speaker, to approve or reject this free trade agreement. Trade opens up opportunity, not only for the United States but for the countries that we do business with.

I represent the Port of Baltimore. I am very much in favor of free trade. I would have liked to have had a CAFTA agreement that I could support.

The standard of living in the CAFTA nations is not as high as previous agreements that we have approved for Chile, Singapore, Morocco, or Australia. So for people living in poverty, trade if properly structured holds out the promise of a more meaningful economic opportunity and a better way of life in providing markets for our products.

But in order for that to occur, we must move the ball forward on protecting labor rights, workers' rights. That is our responsibility. That should be our priority. This agreement moves backwards. We have a constitutional responsibility to make a judgment on this.

I do not know how we can support an agreement that moves us in the wrong direction. I do not expect miracles from our negotiators. But I certainly expect that they will adhere to priorities. I certainly expect that they will not give up something that the other countries have not asked us to give up.

You start to worry when you see those types of provisions in an agreement. Mr. Speaker, this could have been corrected. We made changes in the CAFTA agreement for textiles. We could have made changes for these labor provisions. We could have kept the Caribbean Basin Initiative protections; but, no, we did not do that. We could have done it. If we would have done it, we could have had strong bipartisan support for this legislation, as trade bills should be considered.

This CAFTA agreement is not good for the United States. It is not good for the Central American countries. I urge my colleagues to exercise their constitutional responsibility, as I am, and vote against this agreement.

Mr. SHAW. Mr. Speaker, I would remind the gentleman from Maryland (Mr. CARDIN) who has voted for previous trade agreements that this agreement has the strongest labor provision of any of the agreements that the gentleman has voted for, and that these countries, all of these countries adhere to international labor standards.

Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. MORAN), a distinguished Democratic Member of the House of Representatives.

Mr. MORAN of Virginia. Mr. Speaker, I want to address my colleagues on this side of the aisle, the Democratic side of the aisle, because there are so many good people and true leaders among you, people who understand that we need to do more than we have done for Central America and Central Americans.

In a perfect political world, a Central American trade agreement should have passed on the Consent Calendar.

□ 2045

In a perfect world it would have, because there is virtually no Member of Congress who does not have undocumented immigrants who have risked their life and limb to come to the United States so as to provide some future for themselves and their families. Many of our grandparents could empathize, but surely we who were born here must at least sympathize.

We all know the conditions in Central America. You would have to be blind or without conscience not to recognize the suffering that Central Americans are enduring. Thirty percent of the population cannot afford the most basic foodstuffs. In most countries, more than half of the population are living in poverty. Certainly we feel some obligation, do we not, to do something about it?

I understand the politics, though, and I regret the politics. But from the standpoint of policy, certainly this could and should have been a much better agreement. We should have addressed labor conditions in a more robust way, likewise, in language to preserve the environment. But on the whole this agreement does much more for Central America than we will have the opportunity to do in a long time to come, and that is the reality.

Today we have a perfect storm of political confluence where the elected leaders of all of these nations are products of democratic elections, and their leaders are telling us they want this trade agreement to pass. The leader I have the most respect for, Oscar Arias, a Nobel Peace Prize winner, wrote an editorial, in the Post, and I trust we read it on both sides of the aisle. The thrust of his argument was, please give us an opportunity to stop having to export our people and let us begin to export our products and our services. And the only way that we can do that is to provide an incentive for all these multinational corporations, people with capital to invest, to invest it in Central America; ultimately invested in the physical infrastructure, the roads and the bridges, the transportation and the communication systems, and the human infrastructure, the people, their education, their skills, their training. It will be in their interest. It is not in their interest now.

Central Americans have paid the price for a system of government that continually exploited people who had no power; that was ruled largely by a handful of elite families, many of them descendents from the original European settlers who came there half a millenia ago. For 500 years they have been suffering. It is time to put an end to their desperation and isolation. They need and deserve a seat at the table of the global economy.

I am not going to try to justify or rationalize or excuse all of the problems with a globalized economy. Certainly people lose their jobs and people are hurt, but the global economy is a reality of today's world. And if you are not at the table, you will suffer. We cannot maintain even the status quo in Central America any more than we can in this country. If CAFTA doesn't pass poverty will get worse in Central America. Jobs will continue to be lost at an even faster pace to China and other countries who are more competitive, and capital will go elsewhere if we do not pass this trade agreement.

It is in so many ways deficient. I am not going to argue about that. But it is a fact that over the next 4 years $160 million is going to be invested in enforcement of labor laws, labor laws that are actually pretty good on the books of these nations. They are not enforced, but today this is the best opportunity to have them enforced. There will not be another opportunity to have them enforced, and we have that commitment. And, likewise, the environment will not be exploited to the degree that it has been.

It is not a perfect agreement, but it is our responsibility, our duty, as far as I am concerned, to pass this agreement now, to work with Central America, to work with the people that will invest in Central America to bring about a better world. A world one day of opportunity for the best and brightest Central Americans in their own country, so they don't have to risk everything in pursuit of it outside their country of birth. I do understand that it is important to be on the right side of the political equation tonight, but it is even more important to be on the right side of history, and I think the right side of history will prove to be a yes vote for CAFTA.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to quote what the bishops have said about this because I think the previous speaker gave an eloquent speech, but he said one thing: It could be better for the workers.

I do not have any argument with that. And the bishop said, the panel urged that the agreement should contribute to sustainable human development, especially among the poorest and most vulnerable sectors; that the countries' governments take as much time as necessary to provide adequate information and foster broad debates about the contact and impact of the agreement, and that the moral measure of any trade agreement should be how it affects the lives and the dignity of poor families and vulnerable workers whose voices should receive special attention in this discussion.

Mr. Speaker, the following six pages are organizations representing religious leaders in Central America and the Dominican Republic, representing peasants, representing farmers, representing workers that all they are asking is please include us.

CENTRAL AMERICAN GROUPS OPPOSED TO CAFTA

Acción Ciudadana (Nicaragua)

Action Aid International (Guatemala)

Action Network of Citizens Against Free Trade (SINTI TECHAN)

Advising Committee of Rural Organizations of Honduras

Agrarian Platform of Guatemala

ALERTA-AMBIO (Environmental Alert)

Alexander Von Humboldt Center

Alliance for Life and Peace

Antonio Valdivieso Ecumenical Center (CAV)

Asociación de Mujeres de Occidente (Guatemala)

Asociación de Trabajadores del Campo (Nicaragua)

Asociación Hijos e Hijas del Maíz (Nicaragua)

Asociacion Servicios de Promoción Laboral (ASEPROLA)

Asociación TECUILCAN (Nicaragua)

Asociaciones de Pacientes

Association for Development and Ecology (APDE)

Association for Health and Inter-Communal Social Services in El Salvador (APSIES)

Association for the Advancement of Social Services (AVANSCO)

Association for the Promotion and Development of the Community (CEIBA)

Association of Agronomy Students of Guatemala (FEAG)

Association of Integral Development of Batan (ADIBA)

Association of Organizations of Central American Farmers for Cooperation and Development (ASOCODE)

Association of Professors of Secondary Education (APSE)

Association of Rural Communities for the Development of El Salvador (CRIPDES)

Association of Rural Organics Producers (ACAPRO)

Association of Skilled Women

Association of Social Security Employees (AESS)

Association of Women in Micro-Industries of Salamanca (AMUNTA)

Bishops' Secretariat of Central America (SEDAC)

Bloque Popular–Colomoncagua (Honduras)

Bloque Popular (Honduras)

Bloque Popular Centroamericano

Bufete Juridico Ambientalista "4 de Mayo" (Nicaragua)

Caribbean Theological Center of Bautista (CTC)

Catholic Church of Santa Rosa of Copan

Catholic Church of Trujillo

Center for Consumer Defense (CDC)

Center for Legal Assistance for Indigenous Peoples

Center for Legal Attention in Human Rights (CALDH)

Center for Studies and Publication Preparation

Center for the Costa Rican Workers Movement (CMTC)

Center of Friends for Peace (CAP)

Center of Work Studies (CENTRA-El Salvador)

Central American Federation of Communal Organizations (FCOC)

Centro Civico Democrática (El Salvador)

Centro de Asistencia Legal a Pueblos Indigenas (Nicaragua)

Centro de Estudios Internacionales (Nicaragua)

Centro de Estudios y Apoyo Laboral (El Salvador)

Centro Humboldt (Nicaragua)

Centro para la Defensa del Consumidor (El Salvador)

Citizen Network Against GMOs for Mexico and Central America

Citizen Council of Popular and Indigenous Organizations of Honduras (COPINH)

CNOC (Guatemala)

Civil Society Conference (Costa Rica)

Colectivo de Mujeres de Matagalpa (Nicaragua)

Comisión Intersindical (El Salvador)

Comité "Si a la Vida no a la destrucción del Medio Ambiente" de León v Chichigalpa (Nicaragua)

Comité de Solidaridad "El Arenal" (Nicaragua)

Comité de Solidaridad Zapatista (Nicaragua)

Comité por la Paz, León (Nicaragua)

Committee for Work with Women Farmers (CNTMC)

Committee of Costa Rican Banana Unions (COSIBACR)

Committee of National Rural Organizations

Committee of NGOs (Non-Government Organizations) and Cooperatives (CONGCOOP-Guatemala)

Committee of the Salvadoran Workers Union (CSTS)

Committee of United Farmers (CUC)

Convergence of Movements of Peoples of America (COMPA)

Comunidades Ecleciales de Base (Nicaragua)

Confederation of Federations for Agricultural Reform of El Salvador (CONFRAS)

Confederation of Union Unification (CUS)

Confederation of Union Unity of Guatemala (CUSG)

Confederation of Workers in Honduras (CTH)

Confederation of Workers of the Countryside (CTC)

Consumers Association of Masaya (ACODEMA)

Consumers International—Regional Office for Latin America and the Caribbean (Chile)

Convergence of Movements of Peoples of America (COMPA)

Cooperativa Maquiladora Mujeres de Nueva Vida, Internacional (Nicaragua)

Cooperativa Multisectorial de Jalapa (Nicaragua)

Coordinadora de Organizaciones Indigenas y Campesinas (Guatemala)

Corporación Horticola (Costa Rica)

Costa Rica Association of Energy Producers (ACOPE)

Costa Rica Social Insurance Fund and Allied Institutions (SIPROCEMICA)

Costa Rican Confederation of Democratic Workers (CCTD)

Costa Rican Federation of Health Workers (FECTSALUD)

Costa Rican Lutheran Church (ILCO)

Costa Rican Union of Aids of Infirmary (SINAE)

Council of Development Institutions (COINDE)

Council of Research for Central American Development (CIDECA)

Democratic Civic Center

Education Corporation for Costa Rican Development (CEDECO)

El Salvadoran Center for Appropriate Technology (CESTA)

Electric Industry Union of El Salvador (SIES)

Emaus Forum (Costa Rica)

Employees Union of the National Bank (SEBANA)

Employees Union of the University of Costa Rica (SINDEU)

Encuentro Popular (Costa Rica)

Federación Nacional de Sindicatos Textil, Vestuario, Piel y Calzado (Nicaragua)

Federación Sindical de Trabajadores de los Servicios Públicos de El Salvador (FESTRASPES)

Federation of Cooperative Associations for Agricultural Production—FEDECOOPADES (El Salvador)

Federation of Cooperative Associations of Fishing Craftsmen of El Salvador

Federation of Farming Cooperatives of El Salvador (FEDECOPADES)

Feminine Group for the Betterment of Families (GRUFEPROFAM)

Foro de la Mujer Región II (Guatemala)

Foro de la Sociedad Civil (Nicaragua)

Foundation for the Cooperation and Communal Development of El Salvador (CORDES)

Foundation for the Education of Rural Leaders (FUNDACAMPO—El Salvador)

Fundación del Consumidor y del Usuario (Panama)

Fundación por los Derechos del Consumidor (Dominican Republic)

Friends of the Earth Costa Rica (CEOCO)

General Workers Confederation (CGT)

Global Conference of Guatemala

Green Tropics

Grupo de Solidaridad—El Arenal (Nicaragua)

Hemispheric Consumer Task Force on the FTAA (Chile)

Honduran Confederation of Cooperatives

Independent Federation of Salvadoran Micro Enterprises (FIMES—El Salvador)

Independent Monitoring Group of El Salvador (GMIES)

Indigenous Movement and Mesoamerican Farmer (MOICAM)

Indigenous Movement of Jinotega

Iniciativa CID

International Center of Political Economy for Sustainable Development (CINPE)

Inter-Union Commission

Juntas de Salud

Las Dignas (Women's Association for Dignity and Life—El Salvador)

Latin American Association of Pharmaceutical Industries (ASIFAN)

Latin American Biblical University (UBL)

Latin American Coordinator of Rural Organizations (CLOC)

Maquila Zone Federation

Melida Anaya Montes Women's Movement (MAM)

Mennonite Central Committee (Nicaragua)

Mesa Global de Guatemala

Mesa Laboral de Sindicatos de la Maquila (Nicaragua)

Mesoamerican Institute of Permanent Culture (IMAP)

Mesoamerican Peoples Forum

Movimiento Ambientalista Mesoamericano (Nicaragua)

Movimiento Ciudadano por la Vida con Justicia Social (El Salvador)

Movimiento Ciudadano por un Proyecto de Nación (Nicaragua)

Movimiento Comunal de Nicaragua

Movimiento de Activación Social Alternativo-Estelí (Nicaragua)

Movimiento Sobrevivencia Local (Nicaragua)

Movimiento Social Nicaragüense (Nicaragua)

Mother Jungle

Municipal Committee for Sister City Projects of Tipitapa (COMPALCIHT)

Municipal Workers' Union of the Province of Limón (SITRAMUPL)

National Advisor of Salvadoran Businesses (CONAES)

National Association for the Right of the Salvadoran Social Security Institute (ANDHISSS)

National Association of Public and Private Employees (ANEP)

National Chamber of Generic Products (CANAPROGE)

National Committee for Defense of Social Security and the Costa Rican Social Security Fund (CCSS)

National Committee of Salvadoran Women (CONAMUS)

National Committee of Popular Resistance (CNRP)

National Committee of Settlers of Marginal Areas of Guatemala (CONAPAMG)

National Committee of the Widows of Guatemala (CONAVIGUA)

National Consumer Defense Network

National Federation of Land Cooperatives and Agro-Industries (FENACOOP)

National Federation of Public Service Employees (FNTSP)

National Federation of Small Enterprises (FENAPES)

National Federation of Textile and Clothing Unions

National Foundation for Development (FUNDE—El Salvador)

National Indigenous and Rural Committee (CONIC)

National Medical Union

National Union and Popular Committee (CNSP)

National Union of Assistants of Infirmary and Public Health Related Issues (SINAESPA)

National Union of Costa Rican Small and Medium Sized Farmers (UPANACIONAL)

National Union of Employees Social Security Fund (UNDECA)

National Union of Health Workers of Guatemala (SNTSG)

National Union of Hospital Employees and Assistants (UNEHA)

National Workers Federation (FNT)

National Workers Union of Apprentices (SITRAINA)

Nejapa Foundation

Network of Alternative Community Commercialization (Red COMAL)

Nicaraguan Communal Movement (MCN)

Norma Virgtinia Guirola de Herrera Center for Women's Studies (CEMUJER)

Organization of Salvadoran Women for Peace (ORMUSA)

Pastoral Juvenil (Nicaragua)

Plataforma Contra el Libre Comerico—COMPA (Costa Rica)

Popular Block

Pueblo Indígena de Chorotega (Nicaragua)

Pueblo Indígena de Telpaneca (Nicaragua)

Red COMAL (Honduras)

Red Mexicana de Acción frente al Libre Comercio (México)

Red Nacioinal de Defensa de los Consumidores (Nicaragua)

Red Sinti—Techan (El Salvador)

Renum Novarum Confederation of Democratic Workers (CTRN)

Rural Way—Association of Rural Workers

Salvadoran Foundation for Peace and Development (FUNDASPAD)

Salvadoran Foundation for the Promotion of Social and Economic Development (FUNSALPRODES)

Salvadoran Social Security Institution Workers Union (STISSS)

Salvadoran Women's Movement (MSM)
Sandinista Workers Confederation (CST)
SHARE Foundation
Sindicato de Empresa de Trabajadores del ANDA (El Salvador)
Sindicato de Trabajadores de la Lotería Nacional de Beneficencia (El Salvador)
Sindicato de Trabajadores del Fondo Social para la Vivienda (El Salvador)
Sindicato de Trabajadores del Instituto Salvadoreño del Serguro Social (El Salvador)
Sindicato de Trabajadores del Sector Eléctrico (El Salvador)
Sindicato de Trabajadores por Establecimiento del Aeropuerto Internacional de El Salvador
Sindicato de Unidad de Trabajadores de la Empresa de Telecomunicaciones de El Salvador
Sindicato Nacional de Trabajadores de Industria de Transporte, Similares, y Conexos (El Salvador)
Solidarity Fund for the Benefit of Social Groups (FOSBAS)
Syndicated Organizations of the Health Sector (FOSSS)
Telecommunications Workers Union of El Salvador (SUTTEL)
Trópico Verde (Guatemala)
Tzu Kim Popular Movement
Unidad Ecologica Salvadoreña—UNES (El Salvador)
Unidad Ecológica Salvadoreña (El Salvador)
Unified Workers Union of the Municipality of Pococi (SUTRAM)
Unión Nacional de Pequeños Agricultores (Nicaragua)
Union of Assistants of the Health Sector (SINASS)
Union of Engineers and Professionals of ICE, RASCA & CNFL (SIICE)
Union of Health Workers (SITRASALUD)
Union of Hospital Workers of San Juan de Dios (SITHOSAJUDI)
Union of Industry Workers in the Electrical Sector (STSEL)
Union of the Tourism Industry and Hostelry (STITHS)
United Federation of Workers of General Foodstuffs and Agro-Industry (FESTRAS)
Unity Confederation of Workers of Honduras (CUTH)
Western Civic Committee
Woman and the Community
Women and Economy of El Salvador (REMTE)
Women of Mama Maquin of Guatemala
Workers Union of the Social Fund for Housing (SITRAFOSVI)
Workers' Union of the National University (SITUN)
Young Christian Workers

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. COBLE), who served this country and served it well, and he wears that lapel pin showing how proud he is to be a veteran, not a Republican, not a Democrat.

Mr. COBLE. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL).

Mr. Speaker, weeks ago I said that CAFTA was neither as good nor as bad as its respective proponents contend. At that time I also said whether I vote for or against CAFTA, I will inevitably disappoint many of my constituents. It is that controversial, Mr. Speaker, in my district.

I told President Bush that my late mom was a textile worker. She sewed pockets in overalls. And when textile workers, specifically female workers, plead with me to vote against CAFTA, I said to the President, it is my mama talking to me, and I cannot turn a deaf ear to those pleas.

Now these workers, Mr. Speaker, may know virtually nothing about CAFTA, but their perception is that it is bad for them, it threatens their jobs.

Now, many Members tonight who normally support trade agreements will for some reason, perhaps valid or otherwise, vote no tonight, and that is likely unfortunate because it goes away from their normal voting pattern. And I am confident that there is much good as well as much bad inevitably. I have talked to the gentleman from Florida (Mr. SHAW) about it. Some people are going to be hurt, some people are going to benefit, not unlike other trade agreements that have come before us on this floor in years previous.

I usually vote against trade agreements. Tonight will be no exception, and I will do so.

I thank the gentleman from New York (Mr. RANGEL) for having yielded me time.

Mr. SHAW. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. CUELLAR).

Mr. CUELLAR. Mr. Speaker, I ask you to join me in supporting the best interests of our Nation by passing DR–CAFTA. I support CAFTA because it is deeply in our national interest, and it is a progrowth, projob vote.

In the past I have seen the way free trade has revolutionized south Texas, bringing jobs, prosperity and growth to a part of the country that used to be economically underserved. DR–CAFTA will perpetuate that growth, opening export markets to our American farmers and businesses, thereby creating jobs in farming, manufacturing and industry here at home.

When NAFTA was signed in 1993, there were four Presidents, Clinton, Bush, Carter, and Ford, present at the signing. We have a long history of bipartisan cooperation when it comes to the benefits of free trade. I hope to see that tradition continue.

American farmers currently face deep tariffs when exporting their goods to Central America, while 99 percent of the CAFTA agricultural products come into the United States duty free. This is a one-way street that needs to be redrawn into a two-way street, a two-way street of fair trade.

American farmers are struggling against an unfair international trading system, and they are at risk of failing. CAFTA levels that playing field. According to the American Farm Bureau, CAFTA would expand U.S. farm exports by $1.5 billion per year. CAFTA is also going to bring major gains to U.S. manufacturing. The National Association of Manufacturers recently reported that as a direct result of DR-CAFTA, U.S. manufacturers stand to gain approximately 12,000 new job opportunities for American workers.

CAFTA will also create tremendous job opportunities for the 13,000 American small businesses that are currently already exporting to those Central America countries. The economic opportunities created by DR-CAFTA will bring new jobs and the possibility of a middle-class life to millions of Central Americans who are currently living in poverty. If we create economic opportunities in those countries, fewer will be forced to flee to the United States out of economic desperation.

The prosperity created by CAFTA will act as the foundation for more a stable and democratic future for Central America.

Mr. Speaker, trade has the power to change the world. Out of all the policy instruments that we have here in Washington, few have as much power to change lives, bring hope, and draw people together in a rising tide of prosperity as our ability to promote free and fair trade.

I am a supporter of DR-CAFTA because I think it is not only as a smart policy of the United States, but also it is a way to change our whole atmosphere for the better.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN), who has been not only a supporter of trade agreements, but he has been an architect in designing trade agreements. Every major agreement he just did not vote for, but he helped to make it better. That is when we used to work together on trade agreements.

Mr. LEVIN. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) for his kind words. What a privilege it has been to work with the gentleman.

This agreement as negotiated misses an historic opportunity. It fails a key growing challenge to globalization to expand trade so that its benefits are widely shared. Trade agreements must level up, not level down. And unlike Chile or Singapore or Australia, CAFTA nations have immense poverty, among the worst income inequalities in the world, and a weak middle class. And to change that, to change that, workers must be able to lift themselves up the economic ladder. And to do so, they have to have their basic internationally recognized rights, including the right to bargain and to associate.

The fact of the matter is contrary to any of the rhetoric that comes forth here tonight or any of the disclaimers, a majority of workers do not have enforceable rights in their nations' legal structures.

Unlike CBI now in effect, CAFTA gives Central American governments a pass on worker rights. All they have to do is to enforce their own laws, no matter how bad they are presently, or no matter how bad they make them in the future. It is a standard used nowhere else: Enforce your own laws in this agreement is a double standard that would stimulate a race to the bottom.

That is bad, number one, for millions of Central American workers mired in poverty.

□ 2100

Number two, it is bad for the nations desperately needing a growing middle class. Three, it is bad for our workers, who will not compete with nations who suppress their workers. And it is bad for our businesses who need middle classes to buy their products.

I want to emphasize this, because the President has talked about security. Denial of worker rights and persistent poverty and inequalities are a source of insecurity, not security. A denial of democracy in the workplace is harmful to the spread of democracy. So not heeding our repeated warnings, the administration negotiated this CAFTA so it shattered the bipartisan foundation many of us have tried to build.

CAFTA needs to be defeated so that it can be renegotiated to meet the challenge of globalization. And that challenge is to shape a trade agreement so that it spreads more broadly the benefits of expanded trade, not reinforces an unsustainable status quo. Defeat this CAFTA so we can renegotiate a CAFTA that meets the challenges of globalization.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume to point out that the last couple of speakers here, including the gentleman who just left the well, voted for trade preferences for these countries with much weaker labor standards in 1983. It passed this House by 392 to 18. It passed in 1990 by a voice vote. And then with the labor standards put in there, more labor standards, it was 309 to 110. We have strengthened the labor standards.

Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Speaker, as chairman of the Committee on Energy and Commerce, which has some jurisdiction on trade, I rise in strong support of the CAFTA agreement.

Mr. Speaker, I rise today in strong support of H.R. 3045, the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (DR–CAFTA). This important Agreement ensures the spread of fair and open markets for American goods and services. I want to commend the Bush administration, the majority leader, and my good friends on the Committee on Ways and Means for bringing this important legislation before the House.

The provisions in DR–CAFTA go beyond the mere dissolution of tariffs. This wide-ranging Agreement sets forth detailed requirements to eliminate the non-tariff trade barriers erected by the member countries. Often more nefarious than traditional protectionist measures, these barriers now constitute the principle impediment to achieving free and unfettered foreign commerce.

The elimination of all trade barriers to foreign commerce has long been a goal of the Committee on Energy and Commerce. So I want to express my great satisfaction that DR–CAFTA contains numerous chapters resolving potential non- tariff trade barriers.

Chapter 6 addresses each country's ability to promulgate needed sanitary measures. It is very important that our countries cooperate closely, and assist one another in protecting human, animal, and plant health. Plant- and animal-borne pests and diseases, including toxins and disease-causing organisms, must be carefully controlled, and the reaffirmation of WTO rules in this area strengthens the Agreement in a significant way.

Chapter 13 and 14 focus on telecommunications and E-commerce. These are some of the most important pieces of the Agreement before us. They promote, instead of hamper, growth in these areas. Chapter 13 ensures non-discriminatory access to public telecommunications networks in the Member countries, and requires the signatories to regulate their dominant telecommunications suppliers in ways that will ensure a level playing field for new market entrants; deregulation and technological neutrality are the key goals. Costa Rica is of particular note because of its government-provided telecom services, and the Agreement has special requirements for this country to open its market to American competition. Additionally, Chapter 14 builds on these goals by prohibiting discriminatory regulation of electronic trade. This chapter represents a major advance over previous international arrangements with regard to E-commerce.

The protection of Intellectual Property, IP, rights must be a part of any Free Trade Agreement, FTA, and Chapter 15 complements and enhances existing international standards in this area. It requires the Parties to ratify or accede to several existing agreements on IP rights, including two significant World Intellectual Property Organization agreements to which the U.S. is already a Party.

Chapter 17 sets out the Parties' commitments and undertakings regarding environmental protection. It draws on the North American Agreement on Environmental Cooperation and the environmental provisions of other recent U.S. FTAs, including those with Jordan, Chile, Singapore, Australia, and Morocco. DR–CAFTA goes further however, and notably is the first American FTA that includes a process for public submission on environmental enforcement matters. The Parties must ensure that their laws provide a high level of environmental protection, and no Party may strive to weaken these laws to promote trade with Another.

The Committee on Energy and Commerce has jurisdiction over the areas I have discussed—as well as jurisdiction over non-tariff trade barriers generally—and my Committee plans to continue to exercise its jurisdiction over trade barriers to further the expansion of free and open foreign commerce.

Finally—and aside from the actual text of the Agreement—this implementing legislation offers an opportunity to show the people of the developing countries of Central America and the people of the world that when we speak of freedom and liberty and the importance of self-rule, we mean every word of it. The still-struggling, but nascent democracies of the DR–CAFTA countries need political stability to continue to grow. Economic stability and growth are important parts of that goal. Passing this legislation will help to tie these countries' futures to our own, and to reinforce our own democratic principles.

Mr. Speaker, I would again like to commend all the parties that made this Agreement possible, and to once again urge my colleagues to support unimpeded trade with foreign nations and to help strengthen economic and political stability in our hemisphere through the adoption of DR–CAFTA.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. LEWIS), a member of the House Committee on Ways and Means.

Mr. LEWIS of Kentucky. Mr. Speaker, I rise to register my strong support for H.R. 3045. For too long, the U.S. has watched from the sidelines while other nations have traded in the global marketplace. Thanks to the leadership of President Bush and the chairman of the Committee on Ways and Means, the gentleman from California (Mr. THOMAS), we passed the Trade Promotion Authority Act in 2001. This important legislation allowed the administration to engage with other countries and find opportunities for U.S. companies to sell their products to new customers. DR-CAFTA is another step towards knocking down trade barriers and opening new markets for U.S. products. DR-CAFTA countries are the second largest U.S. market in Latin America.

The debate on CAFTA has gone on for a long time. Like many of my colleagues, I have reviewed a lot of information. The most important thing we must remember is that this agreement levels the playing field. Right now, nearly 80 percent of imports from the DR-CAFTA countries already enter the United States duty free. Again, 80 percent of imports from CAFTA countries already enter the United States duty free. By leveling the field, we are opening markets to U.S. goods.

After passage, DR–CAFTA will immediately provide duty-free treatment to 80 percent of U.S. industrial products and 50 percent of agricultural products. This means jobs for U.S. workers and farmers. For the textile industry, DR-CAFTA will maintain the link between the U.S. and the region. Once passed, more than 90 percent of all apparel made in the region will be sewn from fabric and yarn made in the United States. This will allow the U.S. and the region to compete against China imports. As we heard earlier, China is a concern to some of my colleagues.

Finally, trade is key to freedom. By passing DR-CAFTA, we are making a firm commitment to the leaders of these Central American countries who are fighting corruption and supporting economic reform. President Bush has made DR–CAFTA his top priority. The U.S. Trade Representative has done an outstanding job in putting together this agreement, and Chairman Thomas and Subcommittee Chairman Shaw have successfully moved the agreement through the legislative process.

Let us finish this job and pass CAFTA now, tonight.

Mr. RANGEL. Mr. Speaker, I yield 2½ minutes to the gentleman from North Carolina (Mr. Jones), a distinguished Member of the House and of the majority party.

Mr. JONES of North Carolina. Mr. Speaker, I thank the gentleman from New York for yielding me this time, and I am pleased and honored to be here to say it is time to defeat CAFTA.

This is not what we need for American workers nor what we need for those in Central America. I come from North Carolina, and I want to be on the floor tonight to speak on behalf of those 200,000 North Carolinians that lost their jobs because of NAFTA. I want to be on the floor to speak on behalf of the 2.5 million American workers that lost their jobs because of NAFTA.

NAFTA has been a failure for the American worker. Proponents of NAFTA promised that agreement would reduce illegal immigration in this country. Since then, 1993, Mr. Speaker, illegal immigration is up 350 percent. It does not work. CAFTA is NAFTA's ugly cousin. In fact, 85 percent of what is in the CAFTA bill is in the NAFTA bill. It is a cousin that is not very attractive at all.

Mr. Speaker, let me share with you and those on the floor tonight that I received a letter written to every Member of Congress from seven legislators, seven legislators from El Salvador, Nicaragua, Guatemala, and Honduras. Seven of these representatives, elected like we are by the people of those countries to speak out, have said that the CAFTA market has fewer than 9.2 million people who can buy U.S. goods. They say that this should be defeated.

Just a couple more points, Mr. Speaker. I want to quote from this letter: "Our countries want trade, but trade agreements like CAFTA that limit the possibilities for our countries to enact policies that will truly develop our economies and improve the lives of our people." This CAFTA bill will not help the people in Central America and will not help them in this great Nation of America.

I want to take one more moment, and then I will close. I think how sad it is that we have lost so many manufacturing jobs in this country. How can a Nation remain strong without a strong manufacturing base? I want to close by putting this out on the floor. How sad would it be if 15 years from now we have to order our tanks and planes from China, and then drape the coffins of our heroes who have died from this country with flags that say "Made in China," or "Made in Honduras."

Let us defeat this evil bill called CAFTA.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. Linder), a distinguished member of the Committee on Ways and Means.

Mr. LINDER. Mr. Speaker, I thank the gentleman for yielding me this time.

I was actually here when NAFTA was passed, and I voted for it. And I represented northeast Georgia, where all the textile mills closed over the next 10 years. When we voted on NAFTA, the unemployment rate was 6.0 in Georgia, and 10 years later it was 2.8. They did not have textile jobs, but they had jobs.

I spoke with President Clinton about it, and he said this is a jobs bill. And I said, Mr. President, this is not a jobs bill. Jobs come and jobs go. They go to cheaper fingers. It is a modest foreign policy agreement between two increasingly friendly countries that share a 2,000 mile border.

I actually own a plant in Mexico. You can pay them 58 cents an hour. But you pay them on Friday and they do not show up on Monday, and it gets very expensive as a businessman to rehire and retrain your workforce every Monday. So we now pay them $5.50 or $6.00 per hour, plus health care and profit sharing. And they are buying houses, planting grass, and buying American products. This is what happens in the world. You make their economy better, and they buy more American products. And we should continue to do that.

This is a modest foreign policy agreement between America and five countries plus the Dominican Republic that will make them safer and us safer in our hemisphere.

In one of the speeches that Chris Patton made, who was the last British Governor of Hong Kong around the time of NAFTA, he said "If a spaceship had come from some foreign galaxy and landed in the teepee huts of North America or the typhoid streets of London or the warring clans of France, they would have concluded within a millisecond that China would rule the world for centuries. China had discovered gun powder, the printing press, and had a rich and engaging culture. And then she built a wall around herself and history told a different tale.

Free trade agreements are about tearing down those walls.

Mr. RANGEL. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Michigan (Mr. Kildee).

Mr. KILDEE. Mr. Speaker, I rise in strong opposition to CAFTA.

Mr. Speaker, I rise in strong opposition to the CAFTA.

My statement can be summed up in two words: job loss.

We are voting today on an outsourcing agreement, not a trade agreement.

If anyone here thinks that CAFTA will help our economy, they need to look at the report prepared by the international trade commission.

The ITC says that CAFTA would actually increase our trade deficit with Central America while benefiting our economy by less than one-hundredth of one percent.

This same report says that sugar, textiles, apparel, electronics, transport, coal, oil and gas industries will see job losses if CAFTA is approved.

And in the case of sugar farmers and workers—like the 5,000 in Michigan—the report says job loss will be 38 times that of other industries.

The sugar industry is a major economic driver in my district and state, adding $525 million to the economy every year.

It's unbelievable that we are even here talking about destroying the lives of so many Michigan families, just so we can increase our trade deficit with Central America.

as a Nation, we need to get our priorities straight.

CAFTA's big brother, NAFTA, cost this country one million jobs.

And since NAFTA, our trade deficit with Canada and Mexico has increased by $100 billion.

Why then, did U.S. trade negotiators use the NAFTA model to construct CAFTA?

I implore my colleagues to make a stand with me today to not make the same mistake we made with NAFTA.

Let's tell our constituents that their jobs are more important than big business panning for cheap labor. Vote "no" on the CAFTA.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. McDermott), a senior member of the Committee on Ways and Means, and who, without his research and support, we never would have the Africa Growth and Opportunity Bill and who has worked on every trade agreement that we have passed in this House.

Mr. McDERMOTT. Mr. Speaker, a question you might ask tonight is: Why are we passing this Central American Free Trade Agreement?

Today, the President of the United States came up to the Republican caucus and someone reported to me that he made some statement equal to, we have had a marvelous year. Now, if you think about what has gone on in the last 6 months, you would have a hard time finding any marvelous year. I must have missed it somewhere.

Our trade deficit is as big as it has ever been in our history. So is this a fix for that? If we pass the Central American Free Trade Agreement, will that fix our problems in trade?

Let me put it in perspective for you. The combined economies of these six countries is $85 million GDP. That is equivalent to Tampa, Florida, and the neighborhood around it. That is what kind of place we are talking about. We are talking about a little bitty place.

Now, what do they have down there? Well, they have lots of poor people. Right? Good workers. Hard workers. A lot of them go to a lot of trouble to try to come up here and get into this country. And people wonder why? Well, it is because they are hard-working people. They are tough, they work hard, and they go through a lot of stress and strain. So if we can keep them down in their own country and keep them working down there where they do not have any laws and move our jobs down there to them, well, who wins in that?

I guess they get a 50-cent-an-hour job. That is a real improvement. With no protections, no guarantees from a union that they are going to have health care or education or worker safety or any of the things that our workers have in this country. But we have got a cheap workforce.

You heard the gentleman from North Carolina (Mr. JONES) talk about one of the underlying things here. One of the ideas about this bill is if we can keep them down there, they will not be coming in up here. We will stop that immigration. Let me tell you something, folks. It has not stopped it from Mexico. It is not going to stop it from Central America. These people know. They are not stupid. They may be poor, but they can figure it out. And they can figure out working for 50 cents an hour down there is not as good as coming up here and getting involved in even the most menial jobs in this country.

So what we are saying is we have negotiated a treaty. Did we negotiate a trade agreement with the workers? No. If you look at every single one of those countries, they are all the same. They have a very thin elite who control the whole country, and have for centuries. And all we are doing is giving them more power to work on their workers. That, in my view, is not fair to the workers, and it is not an honest way for this country to operate. We are setting no example for the world by keeping poor workers down.

Mr. Speaker, I rise in support of the American worker and American business, and the best way I can do that this week is to vote against CAFTA and I urge every I Member to do the same.

We know better, it is as simple as that.

CAFTA is bad public policy that has no place in a 21st century global economy.

Free trade between the United States, and the Dominican Republic and Central America is vitally important, but it has to be fair trade and CAFTA does not measure up. We have known this about CAFTA for some time.

For over a year, the American people kept hearing that CAFTA was coming, but it never arrived. The majority didn't have the votes because they had not earned the votes—even within their own party—by floating a blatantly unfair agreement that fails repeatedly to make real gains and real change.

For over a year, Democrats and many rank-and-file Republicans repeatedly urged the majority to act like statesmen and not henchmen for the administration.

Instead, Republican leaders have chosen destructive confrontation instead of constructive dialogue. If their strong arm tactics succeed, America will have an unfair international trade policy that would not help Central America much and will harm America a lot.

The omissions are glaring in CAFTA—chief among them: environmental protection, worker rights, and fair policies that could benefit every American business, not just a few.

As the largest market in the world, United States international trade policy should be leading the world, not following special interests, which have only their own interests in mind. But that is not the case in CAFTA, which retains protectionist trade policies that benefit U.S. textile interests and no one else.

CAFTA represented a real opportunity for the United States to apply what we have learned—both good and bad—from NAFTA and all the other trade agreements implemented over the last decade.

In CAFTA, we could have supported American jobs and American companies. We could have led the region into creating real family wage jobs instead of any wage employment.

There is so much we could have done but what we have is a Republican majority attempting to export their philosophy of the Haves and Have-nots. "Greed is good" should not be the mantra that comes from CAFTA.

The United States and Central America need an honest trade agreement that represents the best of America and CAFTA doesn't come close. Vote to keep America as a beacon of hope and not a bastion of greed.

We need to renegotiate CAFTA and the first step in that process is to vote "no" on this hopeless, helpless, and hapless agreement.

Mr. SHAW. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Mr. BRADY), a member of the Committee on Ways and Means who has been very active in putting together this agreement.

Mr. BRADY of Texas. Mr. Speaker, I thank the gentleman for yielding me this time. In recent years, a bipartisan Congress, Republicans and Democrats together, has extended our trade hand to the Muslim people of Morocco, the sub-Saharan nations of South Africa, our Asian allies in Singapore, and Arab friends in Jordan. Why would we now refuse to extend the same hand of trade to our Hispanic neighbors in Central America?

This ought to be larger than raw partisan politics. This is a test of American leadership in a changing world. We cannot claim to be fighting for American jobs yet turn our backs on 44 million new customers in Central America, already the tenth largest buyer of America's goods and services, when much of the world has firmly posted "America need not apply" signs on their markets.

We cannot claim to be serious about winning the textile war against China if we turn our back on the partnership with Central America where our textile workers in America and Central America can compete and win against the surge of China's imports.

□ 2115

And we cannot claim to be the world's beacon of freedom if we turn our back on Central America, a region which 20 years, amid civil war, chose the values of freedom and democracy, and, to their credit, have made absolutely remarkable progress in free and fair elections, rule of law, human rights, labor rights, and environmental protections.

Central America has painfully pulled itself up the ladder of democracy. Rather than kick them back down as opponents suggest, we ought to continue to extend our hand of trade to help them pull themselves up even further.

America must not retreat or disengage. We must not abandon our commitment to democracy and human rights in our hemisphere. We must continue to stand for economic opportunity at home and abroad. This Central American trade agreement is a test we cannot fail.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho (Mr. OTTER) on the other side of the aisle.

Mr. OTTER. Mr. Speaker, in my other life I was a salesman. As a salesman, I negotiated a few trade agreements, trade agreements between my potato company in Idaho and McDonald's all over the world; in fact, 82 foreign countries.

I would venture to say that I could challenge anybody on this floor that I sold more potatoes, more French fries, more product for more money than probably anybody else in the United States Congress. So let me come at this from a little different perspective, and the reason I want to come at it from a little different perspective is because I cannot flimflam. I cannot overpromise and underdeliver hoping that people will forget in a couple of years, a la NAFTA.

Mr. Speaker, when I was working, my boss said, you come home with an order, you come home with an agreement, you get an agreement from somebody, you better perform on it.

So I would do this tonight, Mr. Speaker. I would tell Members, everybody that wants to adopt this agreement, put your job on the line. If in 2 years all of the things that you say are going to come true do not come true, quit. Quit the United States House of Representatives, because, my friends, you are the salesmen for the United States.

If you want to stand behind this trade agreement, you go ahead. But I am not; I would not risk, if I were you, your job on this, because as Patrick Henry said, I have been one lamp that guides my path into the future, and that is the lamp of experience.

We have experienced NAFTA. And by the way, as we stand on the shoulders of those Founding Fathers that built the very foundation of philosophy and politics that we stand on today, let me also quote George Washington who said. If to please the people we promise that which we ourselves disprove, how will we later defend our work?

You will not be able to defend your work, folks. Give it up.

Mr. SHAW. Mr. Speaker. I guess that challenge would go in both directions.

Mr. Speaker. I yield 2 minutes to the gentleman from Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we have heard a lot about manufacturing jobs and about the trade deficit tonight. I think we will probably hear more.

As one of the very few Members of this body who actually spent my entire adult life in manufacturing, I rise in strong support of DR-CAFTA. The reason I support it is because during my business career, I learned a couple things. One of the first things I learned is that when you are trying to export your goods outside the United States, no tariffs is a good thing. When you do not have to pay tariffs for your products you are exporting, you are more competitive, you sell more of your products, and you create more jobs.

The other thing I learned is that in business you have to make your decisions based on facts. If you make your decisions based on rhetoric, you will go out of business pretty darn quickly. When it comes to the trade deficit, the facts are that 82 percent of our trade deficit comes from countries we do not have trade agreements with. Thirty percent of our imports come from countries we do have trade agreements with. while 40 percent of our exports go to countries we do have trade agreements with. And 96 percent of the world's consumers are outside of the United States.

Mr. Speaker, the facts are if we are serious about creating jobs, if we are serious about reducing our trade deficit, we must tear down trade barriers and give American companies access to the world's consumers, and that is exactly what DR-CAFTA does. I urge all of my colleagues to support it tonight.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BECERRA), someone who has studied and is very familiar with this legislation.

Mr. BECERRA. Mr. Speaker, President Reagan said it best: Trust, but verify. On CAFTA, that is all we are asking. I think most of us believe that the Central American governments want to prove that they can play by the rules in the international marketplace, but before we agree to open up America's markets, and that means America's jobs, to fierce competition, we must know that the rules will be followed and enforced. Trust, but verify.

An agreement that merely says enforce your own existing laws fails President Reagan's test. The truth is if the American public knew that we were about to open up America's markets to further international competition based solely on the good faith of our competitors, they would run us out of Washington. Just as no consumer today would buy or sell a house on a handshake, neither should we open our markets with one.

When we shook hands with China and allowed them to receive favored-trading status with America, did we expect that they would respond by pirating America's goods or by paying industrial wages of 60 cents an hour? That is the kind of cutthroat competition that CAFTA will permit, but this time that kind of distorted competition will live and breathe in our neighboring Central American countries, not 6,000 miles away. Will the Central America countries feel the pressure to trade under America's standards or China's standards?

Mr. Speaker, no one wins in a race to the bottom. The vast majority of people in the Central American countries, the workers, the farmers, the small merchants, would not win, and certainly U.S. businesses will not win in the long run.

Mr. Speaker, it is better to lift all boats so we can trade as partners and as equals. I recognize the importance of trade in our hemisphere. I have supported every piece of legislation for every trade agreement that has come before me in my 12 years in Congress. Regrettably, this is not a trade agreement I can support. It does not reward work in America or Central America. It is not an agreement that deserves our vote. Vote "no" on CAFTA.

Mr. SHAW. Mr. Speaker. I yield 2 minutes to the gentleman from Wisconsin (Mr. RYAN), a distinguished member of the Committee on Ways and Means.

Mr. RYAN of Wisconsin. Mr. Speaker, I have been sitting listening to this debate, and there are some points that are being missed. Everybody says we should not open our markets to Central America. They are already open to Central America. We already gave them free access to the American market.

Everybody says this is going to encourage companies to relocate to Central America. That is what we are doing today. The current system is an incentive to relocate because right now an American company can move to Central America, build their equipment or product there, and bring it back tariff free to the United States.

Right now if we want to sell a product into these countries, we have to build it there. We have to relocate jobs there if we want to sell it there in order to avoid these tariffs.

Mr. Speaker, what this simply does is open up their markets as we have opened up ours to them. It takes a one-way trade agreement and makes it a two-way trade agreement because we are already giving them free and fair access. That is what I call fair trade, having them treat us as we treat them.

Look at what it does in just my own State of Wisconsin. The corn tariffs, our tariff on corn, 35 percent; tariff on their corn, zero. That goes to zero tomorrow if this passes.

Tariff on American soybeans going into the CAFTA countries, 20 percent; tariff on theirs coming here, zero. Our tariffs goes to zero tomorrow.

Manufacturing goods, most of our products in the State of Wisconsin that are exported is our manufacturing sector. This takes those manufacturing tariffs and drops them so we can export more manufacturing goods and keep these jobs in Wisconsin. This is good for our States. This is good for our economy.

I heard Members say it is bad for labor. Most Republicans and Democrats voted for the Moroccan trade agreement. This is even stronger than that Moroccan trade agreement. This is the strongest labor agreement of any trade agreement that we have brought to this floor to date.

Mr. Speaker, lastly, it is no secret the antidemocracy movement is trying to stop this. Let us strike a blow for democracy and help these fledgling democracies and pass this bill.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong opposition to this legislation. As many Members know, I frequently vote no in this House because I have a very strict rule. The rule is I look to Article I, section 8 for authority. Article I, section 8 gives very precise items that we have authority over. One is foreign commerce. We, the Congress alone, have authority over regulating foreign commerce.

This bill is a violation of that provision in the Constitution. We as a Congress have done something over the past several years that is unconstitutional in transferring this power first to the President and then to an international bureaucratic agency. This is wrong. It is not practical. It is not beneficial, it is unconstitutional, and it is a threat to our national sovereignty.

Members say it is not a threat to our national sovereignty and that we can veto what they tell us to do; but it does not happen that way. If we were interested in free trade, as the pretense is, you could initiate free trade in one small paragraph. This bill is over 1,000 pages, and it is merely a pretext for free trade.

At the same time we talk about free trade, we badger China, and that is not free trade. I believe in free trade, but this is not free trade. This is regulated, managed trade for the benefit of special interests. That is why I oppose it.

There is one specific provision in this bill that bothers me a lot, and that has to do with the Codex Alimentarius. These are rules and regulations written by the WTO, accepted by the European community, and it is specifically mentioned in this bill in chapter 6, paragraph number 6, and it talks about a forum where you can come and complain about regulation on vitamins and nutritional products.

If Members are interested in freedom to buy vitamins without going to a doctor for a prescription, you have to vote against this bill. If you want international harmonization of nutrition and vitamins, you can vote for this bill, but I am opposed to that, and most Americans are as well. Vote no on this legislation.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will supply to the gentleman who just left the well the case number of the case which settles this. This is certainly within the bounds of the Constitution.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. BURTON).

□ 2130

Mr. BURTON of Indiana. Mr. Speaker, I would like to talk to my colleagues who were here back in the early to mid-1980s, some of the older gentry in this body. Do you remember when we saw the Contras and the Sandinistas fighting and the bodies in the streets of Nicaragua, Managua? Do you remember all the wrangling that went on in this place because of the war down there? Do you remember the FMLN in El Salvador and the killing that went on down there?

The same people that were involved in the leftist movements down there that Fidel Castro was supporting, the Communists down there that Che Guevara was supporting are the same people that are opposing CAFTA today because they believe in a different form of government and a different approach to government. The Sandinistas are opposed in Nicaragua to CAFTA. The leftists throughout Central and South America are opposed to CAFTA because they do not want free enterprise to flourish down there. They do not want trade to flourish.

I would like to say to my colleagues tonight, look back at history. It is extremely important that you think about not only trade, but the security of the United States and immigration. When the wars broke out in Nicaragua and El Salvador, there was a massive migration of people to the United States. Go to Miami today. There are a lot of people who illegally came into this country from El Salvador and Nicaragua because they were fleeing the war down there. The people who could not afford it came up through Mexico and started coming across the border.

I submit to you tonight if we do not pass CAFTA and help stabilize those fledgling democracies and deal with the poverty problems down there, that we are going to have more wars down there, we are going to have more civil disorder and insurrection. There are governments down there that are trying to undermine fledgling democracies with their largesse, and they are going to continue to do it. What we have to do to combat that, in my opinion, is to support CAFTA, support trade, which will create more jobs down there and create an economy that will keep people at home and stop massive immigration into the United States. If we do not, in my opinion, there will be wars there, there will be massive immigration, and the security of the United States as well as the immigration problems will increase.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Indiana is really so entertaining. After he got past Fidel Castro, I was ready for Osama bin Laden and Saddam Hussein. Now that you mention it, I think we ought to have a search for weapons of mass destruction. I do not know how short you are on votes, but I want the gentleman to know, I appreciate his edification of how serious it can be. The Communists can come back.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I love you, man. You know that. But I have got to tell you, the Sandinistas and the leftists in Central and South America are against this for the reasons I stated. If you really believe in stability in our hemisphere, and you do not want to see more conflict and massive immigration, this is a good vehicle to vote for. And I love you, man.

Mr. RANGEL. You have access to secret information from what I read in the paper, so be careful what you say because you may have to go to Niger.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES), a member of the committee.

Mrs. JONES of Ohio. I would like to thank the gentleman from New York for this opportunity to be heard.

Mr. Speaker, I rise today against CAFTA because the agreement not only lacks significant labor protections for workers in the CAFTA countries, but also lacks necessary support for American workers. Charity begins at home. Let us not talk about our neighbors' workers. Let us talk about our own workers. With international trade comes economic pain.

The United States has lost 2.8 million manufacturing jobs since January 2001. In Ohio, we have lost 200,000 jobs. Past administrations and Congresses have acknowledged a relationship between international trade and domestic job losses by having created the Trade Adjustment Assistance program in 1962 and subsequently expanding it. The program assists workers who have lost their jobs due to international trade by extending unemployment compensation and providing job training. Training is arguably the most important TAA component, as education and learning new skills is essential to finding a new job.

During the Ways and Means Committee markup, I introduced an amendment that addressed that problem in order to keep up with worker demand. Unfortunately, that amendment was rejected. Additionally, during CAFTA markup, the Senate Finance Committee adopted an amendment that would have expanded TAA. Unfortunately, that provision was stripped from the CAFTA legislation. So right now there is nothing in TAA or in this final CAFTA legislation to assist American workers that have lost their jobs. Even a provision that Chairman THOMAS originally included in the bill is stripped from the legislation. That study would have looked into whether TAA should be expanded as a result of any negative effects of CAFTA.

So I ask, where is the commitment to the American worker in the CAFTA bill? NAFTA, CAFTA, SHAFTA for American workers.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased to rise in support of this trade agreement. This has enormous upside potential for financial services. As chairman of the Financial Services Committee, we have studied this issue at great length. The opportunity for American financial services companies to provide services in the DR-CAFTA region is truly a unique opportunity for those companies. We would be foolhardy if we were to ignore the opportunity for a two-way street in providing those financial services.

Let us review the bidding. The Caribbean Basin Initiative essentially was a one-way street. That is going to expire. This is an opportunity for American companies, financial services, manufacturers, farmers, to be able to introduce their products to these markets. Currently over 80 percent of the exports that come in from the Caribbean countries come in duty free in this country, unlike some of the rules that restrict our ability to do that in that region.

This is a huge opportunity for my home State of Ohio, whether it be manufacturing or whether it be agriculture. It is easy to talk about job losses, but the idea is to actually improve the opportunity to expand exports into these countries. This Congress time and time again has approved free trade agreements, with Australia, with Chile, with Morocco and other countries, on a large bipartisan majority. Why would we ignore the opportunity in our own backyard to improve the markets and to improve the ability of our exporters to penetrate those markets when we are doing the same for other countries throughout the globe? This is an incredibly important statement. Let us support this free trade agreement and move on.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY), an outstanding member of the Committee on Ways and Means.

Mr. POMEROY. Mr. Speaker, I represent the family farmers of the Red River Valley. They are descendants of the families that broke the prairie of the northern plains and are now raising sugar beets as part of an industry that they have grown with their own sweat and tears. This industry from the farmers to the workers in the processing plants today amounts to an economic impact of $2 billion to $3 billion and nearly 30,000 jobs in our rural region alone.

The CAFTA deal places all of this at risk. It allows sugar to pour in from the CAFTA countries whose wages have no relation to ours, and whose environmental protections in their plants are all but nonexistent That is just the start, because this will serve as a precedent for any number of trade deals with sugar-producing countries to follow.

Some supporters argue we should not even have a domestic sugar industry anymore, that these farms and these jobs should be sacrificed at the altar of free trade just like so many jobs that have been lost in the flawed trade deals that have gone on before. We are now at the deepest trade deficit in the history of our country. My colleagues, this year we are on track to import more food than we sell. The United States of America. A net food importer.

This has to end. When will it end? When will we decide U.S. jobs are worth fighting for and that the economic hopes and dreams of our families are what we ought to be representing? It should end tonight. Tonight we stand for our constituents, their jobs, their lives, their hopes and dreams of a better life. Tonight we need to defeat this bad trade deal. Let us win one for the American people. Vote "no" on CAFTA.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. KOLBE), a great advocate of free trade.

Mr. KOLBE. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the Central American Free Trade Agreement. CAFTA is a little trade agreement with small economic consequences for our country, but it is a huge national security issue with enormous implications for our entire foreign policy. With CAFTA, we can close the book and forever put the decade of the 1980s behind us, or we can start at the beginning and relive the nightmares of earlier chapters in U.S. relations with Central America.

In a single generation, Central America has been transformed from a region of conflict, instability, and authoritarian regimes to a region of peace, emerging democracies, and growing prosperity.

Today we cast our votes for more than a trade agreement. We are voting for an initiative that will strengthen democracy and promote prosperity in our hemisphere. It is a vote that will have enormous consequences for U.S. national security, because without economic growth and opportunity for the nations and people of Central America, the U.S. will inevitably be confronted with growing political instability and social unrest in our own backyard. Deprive Central America of economic opportunities, and we run the risk of a return to authoritarian regimes and a rising tide of illegal immigration from people without jobs and without hope.

None of us want to return to the dark days of the 1980s when the Sandinistas and the rebel groups prospered from economic policies that left people desperate for a better life, but no one stands to gain more from the defeat of CAFTA than President Hugo Chavez of Venezuela. Fueled by $100 million each day of oil money, President Chavez is already meddling in Central American affairs and would like nothing more than to pick up the pieces of an economic policy in a region shattered by the defeat of CAFTA. The Washington Post editorialized that Mr. Chavez has spread his money around the region, sponsoring anti-American and anti-democratic movements and promoting alternatives to U.S. initiatives.

Those in opposition say CAFTA will increase poverty, spur immigration, ruin the environment, and exploit workers. Nothing could be further from the truth. Certainly CAFTA does not fix all the problems facing Central America, but increased economic integration can only add jobs and help alleviate poverty, reduce the flow of migration northward, and make our region more competitive in world markets.

Mr. Speaker, let us turn the page and write a new chapter of partnership with the peoples and the countries of Central America. I urge an "aye" vote.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. BROWN), who has worked very hard in trying to perfect this legislation:

Mr. BROWN of Ohio. I thank the gentleman from New York for yielding me this time.

Mr. Speaker, I have been privileged to work closely with dozens of Democrats and Republicans in building a strong coalition against the Central American Free Trade Agreement. I would like to thank the gentleman from North Carolina (Mr. JONES), the gentleman from Idaho (Mr. OTTER) and their staffs for their outstanding efforts in helping to build this coalition. I thank the gentleman from New York (Mr. RANGEL), the gentleman from Michigan (Mr. LEVIN) and the gentleman from Maryland (Mr. CARDIN) for their leadership, as well as Tim Reif and Julie Herwig and, in my office, Joanna Kuebler and Brett Gibson for their outstanding work. A special thank you to the members and staff of the CAFTA whip operation, a grassroots bipartisan operation numbering literally in the hundreds, made up of Members and staff on both sides of the aisle.

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CAFTA faces broad and deep opposition because it was crafted by a select few for a select few. More than 200,000 Central Americans have protested the Central America Free Trade Agreement. In the United States, thousands, literally thousands of Democrats and Republicans, business and labor groups, small manufacturers, family farmers and ranchers, religious leaders have called on the administration not to reject any CAFTA, but to renegotiate this Central American Free Trade Agreement. We do want trade with Central America, but we want a trade agreement that deserves to pass Congress based on its merits.

CAFTA supporters have resorted to toothless side deals and strong-arm tactics. Late last week, a CAFTA supporter and member of the congressional leadership said they would win this vote by twisting arms until they break in a thousand pieces. By twisting arms until they break into a thousand pieces. When facts fail, they twist arms. They make deals. They buy votes.

The CAFTA debate is not a Democrat or Republican issue. The call to renegotiate crosses party lines and ideologies, as we have seen tonight. Tonight's debate is about social and economic responsibility to our families in this country and our communities and our trading partners abroad. This agreement is about U.S. companies moving plants to Honduras, outsourcing jobs to El Salvador, and exploiting cheap labor in Guatemala. It is not about lifting up standards in the developing world. It hurts our families in this country. It does nothing for the Dominican Republic and the five Central American countries.

Mr. Speaker, when the nations' poor can buy American products, not just make them, then we will know finally that our trade policies are succeeding.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN), who knows what it is like to lose freedom in her native country.

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentleman from Florida for yielding me this time and for his great leadership on this important issue.

America is the beacon of hope, the beacon of freedom and hope and opportunity for so many people. It was the beacon of hope and opportunity for my family when we came over from Cuba. America spreads democracy to every corner of the world. We stand firm in the belief that every person is entitled to the freedom that we in the United States are so fortunate to enjoy. Open trade and free markets with democracies play key roles in sustaining that vision.

This House tonight will demonstrate our unwavering commitment to the spread of democracy by passing CAFTA. Some countries in this region were riddled with internal strife and political instability. I know. I represent many of those people who escaped from that internal strife in their countries. Although many of them have traveled a long way toward democracy in their homelands, now their homelands have arrived. They have democracies, and they are flourishing. But they need our help.

CAFTA will be a critical tool in maintaining this momentum towards a prosperous future. Not only will it promote expanded development and openness in the region; CAFTA will also create new opportunities, economic opportunities, jobs and growth, by eliminating tariffs, by promoting transparency, and by opening markets to U.S. products going abroad.

We have a commitment to work together to promote civil society, the rule of law, and to spread democracy throughout the world; and CAFTA–DR will help us achieve that commitment.

(The gentlewoman from Florida spoke in Spanish.)

Mr. RANGEL. Mr. Speaker, we are privileged on this side to have someone who is very familiar with that area, who worked hard and became a Member of this body.

Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I thank our ranking member for yielding me this time, and I thank the Members in the House tonight.

I have to tell the Members that, as a proud member of Congress, the only Member of Congress of Nicaraguan descent, I am proud to say that my mother just returned from Nicaragua. The news was not a happy sound at all. Poverty, yes, is very bad. The people there are looking for leadership in the U.S. House of Representatives. They are asking us to vote down CAFTA because they know that the government there does not realize that the people there have been suffering for over 40 years. And to this day, they are looking for Members in the House to provide support so that people there can have dignity and respect.

Why is it that we can pass an agreement like this that does not allow for people in those countries, in El Salvador and Nicaragua and Costa Rica, to collectively bargain? Why is it in El Salvador two people who were trying to organize were shot to death in front of their houses? Why is it that we have to stand up and allow for that disgrace to occur when this country is so rich and so wealthy that we cannot provide other types of aid and assistance so that people can be empowered to do what they choose to do, to build their houses, to have dignity, to have health care?

What we are doing and are proposing tonight is that the pharmaceutical companies would take away very important medical assistance to people who are dying of HIV and AIDS in Guatemala. How dare we decide the destiny of people in Guatemala by saying we are going to raise the price of medicine for them and for their children. Yes, they are going to want to come to this country because do the Members know why? We are cutting them off at the knees.

And as a proud member of the Hispanic Caucus, 14 members, a majority of that caucus, voted against DR–CAFTA.

We need to go back to the table. We need to have more transparency. We need to stand up for those young women who are going to be drawn into those jobs, who are going to be abused, who are currently being abused even in Mexico.

I would just like to tell the Members that in Mexico, where my father was raised, in the area of Ciudad Juarez, the people who were attracted to those jobs were ages 14 to 20 years old. These are young women who were drawn into the maquiladores. They are the same type of individuals that we have drawn into these types of factories that will work in El Salvador and Nicaragua. Right now there are some free trade zones there. The people that I see lining up for those jobs are 14 and 16 years of age, working 12 hours a day, in an encampment where they are not even allowed to go to the restroom without having permission.

We do not need DR–CAFTA. Please vote for humanity, for respect for the people of Latin America and Central America. I stand tall with the Democratic Party.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to the gentlewoman in the well that this bill contains an unprecedented amount of capacity-building in which we will give assistance to these countries to enforce their own labor laws, more than in any other bill that has ever come to the floor of this House. Also, the enforcement provisions are within the trade bill itself.

Mr. Speaker, I yield 1½ minutes to the gentleman from South Carolina (Mr. INGLIS).

Mr. INGLIS of South Carolina. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I had real doubts about CAFTA as it started. In particular, representing a textile district, there were three specific concerns. And the very exciting thing is that this House really went to work to fix those. I am looking at the gentleman from California (Chairman THOMAS), who has worked very hard with us, along with Rob Portman, USTR, to address those concerns.

Three of them: one was pockets and linings. That is important only if one comes from a district that makes pockets and linings, I suppose. Another was Mexican cumulation. And then a third was the Nicaraguan TPL.

In working through Rob Portman's office and through the chairman, we were able to get some progress on those, some commitments for some supplemental agreements, some implementation agreements that will address those concerns and go a long way toward fixing the problem in the textile world.

It is not perfect. There are some still in textile districts that are not sure. But I stand here tonight certain that CAFTA is a wise Western Hemisphere strategy. I stand here convinced that it is the best strategy available to combine with our neighbors to the south to compete with the Chinese. If I am concerned, and I am concerned, about the future of the textile industry in competition with China, the best way that I see to fix that is to combine with our neighbors to the south. So I particularly call on those from textile districts to consider is there a better strategy.

This is the best strategy available. Let us vote for CAFTA. Let us pass it and get on with this good strategy.

Mr. RANGEL. Mr. Speaker, I have been reminded by staff that the Costa Rican Government has not approved of these changes; but since they are merely side agreements, I guess that means it is on the side.

Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. DOGGETT), a distinguished member of the Committee on Ways and Means.

Mr. DOGGETT. Mr. Speaker, it is possible to enjoy the many benefits of trade extolled here tonight without having a race to the bottom on working conditions. It is possible to enjoy the benefits of expanded trade without endangering our environment. It is possible to enjoy trade without yielding our sovereignty by granting foreigners more legal rights than Americans will have under this agreement—special preferences that these foreigners can use to undermine our health and safety laws. It is possible to have a modern 21st-century trade policy, which recognizes that we cannot measure the benefits of trade solely on how many widgets move across the border while forgetting what happens to the workers and the air we breathe and the water that we drink.

But it is impossible to accomplish any of this when the negotiators for our side come from an administration that cares as little about workers in America as those in Honduras, an administration that views the environment as just something to exploit.

I am against CAFTA because, basically, I am against protectionism. I reject an administration that protects polluters, that protects corporate wrongdoers, that protects those who think that arrogance alone can represent an effective foreign policy. I am proud to stand with the NAACP and LULAC and the League of Conservation Voters and so many Americans, who say we need a new trade policy, not yet another failed foreign policy from a narrow-minded administration.

Mr. SHAW. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I think everybody knows. They have heard quite a bit this evening.

Trade adds growth, generates more jobs, and raises our standard of living. Passing CAFTA–DR will bring more of these benefits to our economy.

Let us be very clear: it will. This is a big deal for America.

We already have a trade agreement with the CAFTA–DR countries. It is just not good enough. It is only one way. Currently, 80 percent of their exports come into the U.S. duty free. In fact, about 5 years ago, 309 Members of this House voted in May of 2000 to unilaterally cut and eliminate our tariffs on their goods to help their economies. And I have the list, 183 Republicans and 126 Democrats.

Tonight, those same Members can now vote in favor of this trade agreement which will eliminate their tariffs on our goods and help our economy. And then when this agreement goes into effect, 80 percent of our manufactured exports and 50 percent of our agricultural exports will be immediately duty free. The rest will be phased out over 10 years.

I do not think we can ask for a better deal, and it is about time we evened the score. The facts are clear. CAFTA–DR is a great deal for America.

By the way, I have those results, if anybody is interested, of the vote 5 years ago.

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Mr. RANGEL. Mr. Speaker, I yield 2 minutes and 10 seconds to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I thank the esteemed Ranking Member from New York (Mr. RANGEL) for granting me this time.

I want to begin by saying, Mr. Speaker, that DR–CAFTA will give us more of the great sucking sound that we said NAFTA would accelerate, and, indeed, it did: 1 million more lost U.S. jobs, worsening squalor in Mexico, huge trade deficits with Mexico and Canada, as we predicted would happen.

I urge those who have been offered a deal tonight for your vote not to trade your conscience for a deal.

If you think about this, American icon companies leaving our country are—just a month ago, Brunswick Bowling Balls left Muskegon, Michigan, adding to this trade deficit, taking 115 more jobs; and then last week from Nashville, Louisville Ladder Group, 110 more lost jobs; and then this week a Kansas radiator company leaving announced it was leaving for Mexico. These jobs go to places where working conditions are abominable, as the gentlewoman from California (Ms. SOLIS) has so well documented tonight. Sweatshops rule the day.

CAFTA will fuel more such trade deficits as with Mexico, more illegal immigration as people, desperate, try to find some type of refuge north. We know illegal immigration has doubled just since NAFTA passed. We know CAFTA will increase drug trafficking, sexual harassment of women in the workplace. Environmental conditions will worsen. CAFTA will keep Central American workers in sweatshop conditions by rolling back enforcement provisions of the Caribean Basin Initiative, CBI. Indeed, the administration has cut the U.S. contribution to the International Labor Organization for child labor enforcement by 87 percent. What kind of commitment is that?

CAFTA will regress democratic reform in the countries where our Central American neighbors live.

Your conscience should not allow you to vote for this flawed approach that will bring lower wages and benefits, exploitation and hardship to individuals in our country and our sister nations, where full liberties do not exist. Our policy should be free trade among free people.

Mr. SHAW. Mr. Speaker, I yield 2½ minutes to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Speaker, today we have an historic choice to make. It is a choice to unite America and our partners in Central America and the Caribbean in the continued march for progress and democracy, or a choice that pushes them into the arms of Bolivarian socialism, the clutches of Venezuela's Hugo Chavez and Cuba's Fidel Castro.

Mr. Speaker, if we fail to pass DR–CAFTA, then we will potentially undermine the stability of our regional democratic allies across Central America and the Caribbean Basin. Worse, we will open the door for the Venezualan-Cuban alliance to fill the vacuum created by our failure to construct an economic security partnership with Central America and Caribbean democracies.

This weekend I had 300 pages translated for me to see what the people or the governments in Venezuela and Cuba were saying about this agreement. Castro and Chavez want to defeat CAFTA. I encourage my colleagues to go to the Web page, read the agreement between the President of the Bolivarian Republic of Venezuela and the President of the Council of the State of Cuba for the implementation of the Bolivarian alternative for the Americas. They have an alternative vision for Central and South America and the Caribbean, and it does not include the United States. Read this agreement and see where they are headed. Read their documents. Venezuela, politics of oil and energy.

The sixteenth World Youth and Students Festival is going to meet in Caracas, Venezuela, August 7 to August 15. Here is what they have to say: Venezuela has the potential to become a center of resistance to imperialist intervention in Latin America. Holding the festival there will be a strong answer of the progressive youth of the world to U.S. imperialism designs to pacify working people in Latin America. Where has the youth conference been held before? In 1947 it was in Prague, 1949 in Budapest.

Now is the time to stand with our allies in Central America. In the war on terror, they have been there with us. Four of these countries have sent troops to Iraq. All six of these countries are part of the coalition to defeat terrorism. Build the relationships with these countries who have stood with us. This is a good agreement. Let us move forward, and let us vote "yes" on CAFTA.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. DAVIS).

Mr. DAVIS of Alabama. Mr. Speaker, I thank the gentleman from New York for his leadership on this issue.

Let me begin with an image the President of the United States laid out before us. In his inaugural address very close to where we stand today, the President said that we have the capacity as a superpower on this planet to change the world, to reform it, to make it a better and more democratic place.

I wish that with respect to this debate, I say to the gentleman from New York, that those same values and that same vision had been brought to the floor, because the reality is that, as one who believes an American power can make a difference, this agreement is a missed opportunity.

Instead of taking these nations that struggle so much day in and day out, instead of challenging them to move to a better place, we gave up and we accepted the status quo. And one of the cruelest and strangest arguments, I say to the gentleman from New York, that I have heard tonight is that somehow we are not standing by these countries if we defeat this agreement.

What a bizarre, upside-down world we would have, Mr. Speaker, if we think that we are standing by these countries when we are not standing by the millions of children between the ages of 5 and 14 who got up to go to work this morning, will get up to go to work again tomorrow morning. What a strange and bizarre world if we think we are standing by these countries when we cannot stand by the dignity of their women. And what a strange and bizarre world if we think we stand by these countries when we do not stand by their voiceless and by the people who work and who are shot down in fire because they speak up for their political rights.

For the Republicans and the conservatives who support this agreement, if you believe in what your President said, if you believe that the superpower has the capacity to help remake this world, then let it begin in Central America, and let it begin by pushing these nations to do better.

The final statement I will make is that this is a values statement. We hear the word "values" in this Chamber a lot. Well, the strongest value is what we take of our conscience and how we extend it to other people. A value is whether or not we push others to do better, and we fall short on the value scale tonight.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. BEAUPREZ), a valued member of the Committee on Ways and Means.

Mr. BEAUPREZ. Mr. Speaker, I thank the chairman of the Subcommittee on Trade for yielding me this time.

After what we just heard from the gentleman from Alabama, I simply have to respond. We had a meeting, we members of the Committee on Ways and Means had a meeting with the six economic ministers of these countries, and I have to tell the Members of this body that it was those ministers who sat in front of us and begged us, be our economic mentor, be our political mentor. Help us as developing countries to become like the great country of the United States of America. They held their hand out.

I have heard all night long about phantoms and ghosts and about how terrible things are going to happen if the United States of America, the greatest country on God's green Earth, would not reach out and grasp a hand that is reaching toward us. How in the world can we leave an empty hand? How can we spit in that very hand and say, no, you are not worthy somehow to participate in the freedom, in the dream that we as United States citizens have?

It says right up there, "In God We Trust," and we ask God to bless us, and God has blessed this Nation. We are the greatest Nation on God's green Earth, and it is nations like the United States of America that are good neighbors. This is a good neighbor trade agreement. Neighbors help neighbors. This is a chance to do the right thing.

Mr. Speaker, I have heard all night long, I have heard all night long about the horrors that are going to happen. You can go looking, when you get up in the morning, you can go looking for reasons to not do something. I was raised by a guy who got up in the morning and looked for reasons to do something, to show up. .

This is a bill, this is a trade agreement that allows us to do the right thing, to do the right thing for American workers, because the day it is signed, $1 billion worth of tariffs, like an anvil around their neck, goes away.

I was in the farming business. I know what competitiveness is about. This will make our workers more competitive. This is good for America, and good for our friends in Central America. Let us support CAFTA. Let us do the right thing.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

I have voted for every trade agreement. I say to the gentleman from California (Mr. THOMAS), that has come before this Congress; all the ones that have been listed tonight. I was not here when NAFTA passed, my dad was, but I probably would have voted for it had I been here. Large employers and others in my district and farmers all across my State benefit when markets are open.

But I ran into a problem not long ago. I was traveling through a little area, and, as a matter of fact, the son of this mayor in Crossville, Tennessee, came to me today, Mayor Graham's son, and I ran into a lady who was there with her daughter and granddaughter. Now, the grandmama had just lost her job from a little company called Mallory in Crossville. She is about, almost 60 years old. The daughter is a middle school teacher, eighth grade teacher, and the 11-year-old granddaughter is going to sixth grade.

I felt bad for the grandmother, and I felt okay for the mom, because she had a job. The grandmother worked almost 30 years. But I felt worse for the 11-year-old, because I think about all of these trade agreements and trade policies, and I got to tell you, I like the idea of us being able to sell goods anywhere.

I come back to what the gentleman from Idaho (Mr. OTTER) said a little while ago here. I do not know what to tell the 60-year-old grandmother anymore, because I used to tell them that jobs would be created once we did these things, but she lost hers. She is past her prime, so where does she go? Does she move to India, China, Singapore, Canada, Mexico? I doubt it. The daughter at least has a job. But the granddaughter is 11 years old, and we did not have a national strategy to teach her math, science, or any of the essentials that she needs to learn to compete in a global society.

President Clinton, who supported all of these trade agreements, at least had an investment agenda that accompanied his trade policies. We have neither now.

The challenge before this Congress this evening is not whether we pass this trade bill in the interests of some of my dear friends in the financial services and in the computer and IP industries and entertainment industries; the question we have tonight is, what are be doing for the 11-year-old girl? Sure, we can produce movies here in town, but will we be producing it here? Sure, we can make things and have the capacity to do it, but will we be making things here?

I ask my colleagues, as somebody that supported you all the time, I say to the gentleman from Florida (Mr. SHAW), how do we answer that 11-year-old granddaughter in Crossville, Tennessee?

I will vote "no" on CAFTA this evening.

Mr. SHAW. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), a distinguished member of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, this is how we answer that little girl. We tell her the world that she is going to work in is going to be a world in which there will be better labor laws better enforced.

For the very first time ever, the International Labor Organization spent 1 year working with these countries to upgrade their labor laws, and, everyone agrees, their labor laws meet the core standards of the ILO. For the very first time ever, the ILO is going to be the enforcement mechanism to see that those laws are enforced as enforcement is always the weakness. Always the weakness.

Many of you voted for the Jordan Free Trade Agreement. Many of you voted for the Moroccan Free Trade Agreement. Not nearly as good of a body of laws in those countries, and the enforcement was: You must be making efforts towards; you must be striving to enforce. In this labor agreement, in CAFTA, the ILO will come in and review every 6 months and publicly report every 6 months: Are you implementing the plan?

Now, they have written the plan. You can see whether they will have implemented the plan, because it is laid out, how many inspectors, and so on and so forth. It is all detailed. They will be accountable for implementing those plans.

Those Presidents whom we met with were proud that they are upgrading their labor law and upgrading their enforcement. This is capacity-building. The very first Free Trade Agreement or trade agreement that focuses on capacity-building, building the ability of departments of labors within these governments to enforce domestic labor law which meets international labor standards, and the International Labor Organization is going to be there to oversee it, and we are putting money behind it. We are, and others are.

This is a unique labor agreement. It really, really pains me that there is so much ignorance about the details of this agreement. You sit with the people who negotiate an agreement, you sit with the economic ministers, you sit with the Presidents, and you get a concrete, tactical sense of the tremendous strides they have made through the agreement to improve new labor laws and enforcement capacity. This is not status quo; this is going to change their world and protect their workers.

□ 2215

Now, if in addition you care about fair trade, and you want to walk the walk of fair trade and not just talk the talk, then you better remember, their goods come in, no tariffs, no duties, no nothing into our country.

Do you not think our guys deserve the same right? To me that is fair trade. Level the playing field. Our products should have the same access their products have. And their people deserve the same respect our people do. They do not deserve a double standard.

Mr. RANGEL. Mr. Speaker, I yield 30 seconds to the gentleman from Rhode Island (Mr. KENNEDY) for purposes of correcting the record.

Mr. KENNEDY of Rhode Island. Mr. Speaker, just to answer the lady about walking the walk and talking the talk, this administration and this Congress just cut child labor enforcement around the world by 87 percent in our dollars that we contribute to the international labor organization.

So on the one hand for people to say that we are really strengthening labor law, but on the other hand not putting the dollars behind it to make sure children are protected to me does not sound like we are walking the walk that we are so talking the talk.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I rise in support of the DR-CAFTA agreement. And I stand here supporting it from a district that has a pretty significant portion of organized labor, and a district that has a pretty significant portion of manufacturing.

Many of my colleagues who support this agreement are from very similar districts. One might wonder why, if one has been listening to the arguments from the other side of the aisle all night. But one does not wonder why if one made the phone calls into the district like we have been making over the last several months, talking to employers about this agreement.

And what we have learned was that companies employing from 12 to 600 are excited about this. American companies with American employees, many of them organized labor, are excited about this agreement. And why? Because they have a very difficult time getting their products into Central America as it is today.

That is because there are very high tariffs on our products going into Central America. Right now Central American countries have very little, if any, barrier getting their products into the United States. It has been that way for 20 years. But one of the best ways we can help move them forward is to get our products into Central America.

Partially because a lot of their industrial development needs to be advanced, and we have the products to help them do that. How to raise their standard of living? Certainly raise their quality of manufacturing. Raise their opportunity to sell quality goods, give us the opportunity to help them do that.

Interestingly enough, the arguments we hear do not seem to make any sense; they are very circular. We have to oppose this because we will hurt Central Americans, but we have to oppose this because we will hurt Americans. Neither of those arguments holds water.

This agreement is good for Central America, it is good for the United States manufacturing, and I urge my colleagues to support it.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Speaker, tonight we stand on the precipice of doing something great for America. And I think we ought to pause for a moment and ask the question: What would the American people want us to do here tonight?

Well, I am here to tell you what I think the American people want us to do. The American people who are watching television tonight, they are hoping with their fingers crossed that finally, finally the Congress will stand up for America.

We stood up for Morocco, we stood up for Singapore, we stood up for China, for India. Now we are about to stand up for the nations in Central America. America is saying, when are you going to stand up for us, the workers, the backbone of America?

This CAFTA is fraught with weaknesses in terms of labor rights all throughout. Ever since we have had our trade agreements, just over the past 10 years we have lost 3 million jobs, manufacturing jobs. We have lost 2½ million jobs to China, to India in servicing.

I say to you tonight, stand up for America and America will be very thankful and very proud that we did. Vote "no" on CAFTA. Let us send it back, and let us fix it.

Trade agreements must benefit both workers and corporations. CAFTA benefits corporations but does not benefit workers. CAFTA fails to include adequate protections for workers. In fact, the U.S. State Department has documented numerous areas where CAFTA countries failed to comply with even the most basic minimum labor standards and worker's rights.

CAFTA will cost American jobs and this is the Achilles' heal in our approach to trade agreements which I find most disturbing. Were sending millions of jobs overseas and manufacturing plants are closing in America because of our trade policies. In the last 10 years, we have lost 3 million manufacturing jobs and nearly 1 million financial services and call center jobs to China and especially, India because of our trade agreements.

CHINA AND INDIA ARE EATING OUR LUNCH

We must fix this "outsourcing of American jobs" problem in this CAFTA bill before we move forward with it. During one of our Financial Services Committee hearings, I asked Federal Reserve Chairman Alan Greenspan what he thought was the big threat to the American economy and he said the 'loss of jobs, the loss of skilled jobs." We are lossing too many American jobs to overseas foreign markets and we are not investing in retaining, retooling our workforce for the technically skilled jobs of the 21st Century.

Finallty, we need to ask ourselves how the American people want us to vote on CAFTA tonight. All over the country, they are watching us to see what Congress is going to do. I am there to tall you that the people of America wants us to stand up for Americans, for change. In our trade agreements, they want us to keep American jobs in America, to protect workers' rights protect the environment, and stop out sourcing jobs to other countries.

Vote "no" on CAFTA so that we can go back and fix this imbalance. We can do this and still keep trade benefits for American corporations.

To night, let's stand up for American. Ladies and Gentlemen vote "no" on CAFTA.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. MELANCON).

Mr. MELANCON. Mr. Speaker, I have got a lot of emotions running through me tonight. I represent a sugar area. But more important than that, I come from a sugar family. My three sisters and I owe our education and our families and our success to an industry that has been around in Louisiana for 225 years.

It is an efficient industry. It is a good industry. It is the same hard-working people that get up in the West and get up in the East and get up in the North every morning. They are no different. They have just been attacked by the big multinational corporations, and you keep falling for it. NAFTA was horrible.

We were lucky, we had a side letter. We are still negotiating sugar 10 years later. I do not see any benefits for workers, for sugar people. We have given away textiles. We have given away steel. We have given away fruits and vegetables. Now let us just go ahead and give away everything and be dependent on every other country for our food and our defense.

Mr. SHAW. Mr. Speaker, I would remind the gentleman in the well that the vast majority of our agriculture community vigorously supports this bill.

Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, I represent one of the richest agricultural districts in the world in Northern California, in the northern Sacramento Valley. And this CAFTA agreement will create important new export opportunities for the Northern California farmers and ranchers I represent.

Three nations have already ratified this one-of-a-kind agreement. However, if this enacting legislation fails, the prospects of approving any similar agreement for the Central American countries fail as well.

Placed in a broader historical context, in May of 2000, I joined 308 of my 435 colleagues in lowering or eliminating completely the tariffs on products entering the U.S. from CAFTA nations. At the time there was no reciprocal treatment, and our U.S. products continued to face high tariffs in CAFTA nation markets.

The ratifying bill now before us will immediately zero out tariffs on 50 percent of U.S. agricultural products exported to the region, with the remaining scheduled to be reduced and eliminated over time.

This is vitally important to all U.S. agriculture, especially in my home State. California produces 350 different agricultural commodities and is America's largest agricultural exporting State. When fully implemented, it is estimated that CAFTA could help boost U.S. agriculture exports by $1.5 billion.

I firmly believe trade must be a two-way street. Currently, our Nation's agricultural exports like rice, almonds, pistachios, and dried plums, grown in my district, face average tariffs of 35 to 60 percent.

As I previously stated, we already allow 99 percent of CAFTA nations' imports duty free. Mr. Speaker, CAFTA will level the playing field for American agriculture and will help producers from California and other States gain valuable new export opportunities. I urge my colleagues on both sides of the aisle to approve this measure.

Mr. RANGEL. Mr. Speaker, I yield 1 minute the gentleman from Ohio (Mr. KUCINICH), a former Presidential candidate.

Mr. KUCINICH. Mr. Speaker, the average hourly earnings of U.S. manufacturing workers was $16.01 in March of 2004. The average hourly wages for Honduran workers producing goods for the U.S., 90 cents.

CAFTA is about institutionalizing cheap labor. Multinational corporations want trade agreements where they can make a profit by closing factories in the U.S. and moving jobs to places where workers have no rights and work for very low wages. Cheap labor.

Now, I have traveled across America. And I have seen the effects of agreements like NAFTA and CAFTA: padlocked gates of abandoned factories, grass growing in parking lots of places where workers used to make steel, used to make washing machines, used to make textiles, used to make machine parts.

Free trade has meant freedom for the American worker to stand in the unemployment line while their jobs were traded away. So-called free trade has brought broken dreams, broken homes, broken hearts to the American manufacturing worker. Trade without equity is tyranny. Trade without economic justice is theft. Trade without integrity, without workers' rights, without human rights, without environmental principles is not worthy of a free people.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Maine (Mr. MICHAUD).

Mr. MICHAUD. Mr. Speaker, I thank the gentleman for yielding. As a mill worker at Great Northern Paper Company for over 30 years, I rise in strong opposition to CAFTA. Two days after I was sworn in as a Member of Congress, I learned that the very mill that I worked at, that my dad worked at for 43 years, my grandfather before him for 40 years, filed bankruptcy and was shutting down.

The reason? Unfair trade policies that have devastated our industry. Job loss is something that we Mainers know all about. In Maine, in the wake of NAFTA, we have lost 23 percent of our manufacturing base in the last 3 years alone. The unemployment rate in certain areas is over 30 percent.

CAFTA takes most of the language right out of NAFTA. It only has promises of more job losses. Business organizations, family farms, church groups, Republicans and Democrats are united in opposition to CAFTA.

I ask my colleagues tonight, do not sell the American people out for some back-room deal. Our workers deserve more.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, there are many reasons to oppose the CAFTA-DR deal. But I want to talk about one reason that has not gotten much attention, the inclusion of tobacco products.

Mr. Speaker, tobacco is a unique commodity, killing millions of people around the globe each year. Trade agreements are supposed to benefit consumers by spurring competition and reducing prices for beneficial products such as wheat, computers, and auto ports.

While increased trade may offer a range of benefits for exporters and importers alike, these benefits do not apply to tobacco products. Reducing tariffs on cigarettes, other tobacco products, or removing public health measures that may run afoul of trade agreement's rules on non-tariff barriers is going to result in increased smoking rates, needless preventable deaths, and disease. That is a fact.

Tobacco products were excluded from the tariff schedules in the U.S.-Jordan and U.S.-Vietnam free trade agreements negotiated under the Clinton administration.

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This administration has done an about-face including tobacco products in the U.S.-Chile agreement at the behest of Philip Morris. This unfortunate turn of events should not be repeated. I urge my colleagues to reject the CAFTA-DR trade agreement. It is bad for workers, it is bad for the environment, and with the inclusion of tobacco products, it is bad for health.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. Mr. Speaker, I thank the gentleman for yielding me time.

We have talked about a lot of different issues tonight. Let me tell you what it is all about, how it hit home with me. Stephen Felker, Avondale Mills, Graniteville, South Carolina, textile manufacturer, asked me to coming down Monday to his factory to look around, and we did. We had a wonderful tour. He showed us around, and I was on the floor taking a tour and happened to see a gentleman behind one of the weaver machines, Roosevelt Mims. This was not a staged event or anything like that. I just happened to see Roosevelt behind the weaver there.

I walked up to him and said, I am Congressman BARRETT. What is your name? He said, Roosevelt Mims. I said, Roosevelt, how long have you been working with Avondale Mills? He said, 36 years. His supervisor came over and whispered in my ear, he said, 36 years, Congressman, perfect attendance.

Roosevelt Mims is the heart and soul of this whole debate, a textile worker in Graniteville, South Carolina; a textile worker in Graniteville, South Carolina that a good CAFTA is going to save.

I do not know about you, but at the end of this debate, I am going to vote for CAFTA. I am going to vote for Roosevelt Mims, and I urge my colleagues to do the same.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the outstanding gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) for yielding me time.

Almost 2.8 million American manufacturing jobs have been lost since President Bush took office in 2001. These were good jobs with good wages, and they have been shipped overseas to countries with cheap labor. CAFTA will export even more American jobs, but it will do nothing to improve wages and living conditions in Central America.

CAFTA is not about free trade at all. It is an outsourcing agreement. It allows profit-hungry corporations to ship American jobs to impoverished countries where workers can be forced to work long hours for little pay and no benefits. It is a bad deal for Central American workers, and it is an equally bad deal for workers here in the United States.

I ask my colleagues who are thinking of voting in favor of CAFTA, how will you tell poor workers in Central America who are trying to organize labor unions and demand living wages that you voted for this agreement which does not require their governments to respect human rights or comply with international labor standards? How will you go home to your constituents and tell them you voted to export their jobs overseas? How will you tell working families in your district that you care more about corporate profits than workers wages?

I request Members to vote no on CAFTA.

Mr. RANGEL. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from New York (Mr. RANGEL) has 7 minutes remaining. The gentleman from Florida (Mr. SHAW) has 6 minutes remaining.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Mr. Speaker, the reason we do not have enough time is we have so many speakers; but when people talk tonight about how CAFTA will help us with immigration, obviously this side voted for NAFTA, and we have had a bigger problem with illegal immigration, people who are looking for work, coming to this country.

I was in Michoacan in February and saw villages that were 60 percent depopulated because they had no opportunity to work, and that was 10 years after NAFTA. Just wait until 10 years after CAFTA. It is outrageous that we are trying to sell this as a benefit to the American worker.

The ILO is a weak sister compared to even our laws, and in this case if a country in Central America or Dominican Republic does not enforce their laws, they pay themselves a fine. Come on now. This is so outrageous. I cannot believe we even have it on the floor.

To say we are worried about Venezuela the way we are worried about Cuba, do not sell it on that. Sell it on that we are really friends with Costa Rica and Nicaragua and Guatemala and the Dominican Republic. Say we are friends with them, and let us make sure they have a decent standard of living.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, there is a dump in Nicaragua where 700 adults and children pick through fields of rotting garbage for scraps of food, metal and plastic to eat and sell.

I want the American people to know that this is the trade agreement, 3,600 pages, 3,000-plus pages; not one statement is in this document that talks about protecting American jobs. Not one statement is in here that confirms that the language in the laws of labor in these particular nations refers to the children age 5 and 14 to work that are working in these dumps, that are picking up the trash in these dumps.

There is no language in here about creating American jobs. There is no specific language in here that talks about the language of labor laws that would protect the children from these dumps.

I say to you out of 3,000 pages, do you not think America deserves one line protecting their jobs? Do not you think the children of Central America deserve one specific line about keeping them from the damages of a dump in Central America?

Vote against CAFTA. It does not protect American jobs, and it does not protect children.

Mr. Speaker I rise in opposition to CAFTA though not without reservation. Increased Economic, social, and political ties with Central America are noble goals and ones for which we should strive. However, the facts behind the crafting of DR–CAFTA suggest that this is an irresponsible and rushed trade agreement.

I can support an agreement that serves to support the interests of all parties at stake. By this standard, I have based my previous votes on free trade agreements, and by this standard I have decided to vote against CAFTA. While I do not doubt that several parts of the US economy will benefit from passage of this bill I shudder at the repercussions that will face many of our manufacturing industries.

Increased trade with this region will lead to an increase in economic exchange and probably to overall job growth. I also recognize that overall job growth as a result of NAFTA in all likelihood exceeded job losses. However, trade agreements should not be judged by job loss and creation statistics alone. CAFTA will undoubtedly create more opportunities for exports to Central America and will produce more wealth, but where does that wealth go? Thousands of hard working Americans will lose their jobs under CAFTA. Will they benefit from the increased trade with Central America?

The problem with wealth created through free trade agreements is the high probability it will not reach the average worker. The example of NAFTA proves this point. Some economic gains in both the Untied States and Mexico have made from NAFTA, but there is scant evidence as to the improvement of the livelihood of the average worker. The fact of the matter is that NAFTA has lead to neither improved working conditions in Mexico nor a windfall for higher paying jobs here in the U.S. Instead it has lead to more employer who pay their employees 5 dollars per day. There simply has not been enough effort on the part of the US or the Mexican government to ensure that the poor and middle classes benefited from the accord.

Trade agreements should be implemented to increase the standing of both nations and help both all people. We must guarantee the protection of rights and wellbeing of the poor. Without this guarantee, we can not nor we will we make strides in fighting poverty. In the words of the Great Cesar Chavez, "What is at stake is human dignity. If a man is not accorded respect he cannot respect himself and if he does not respect himself, he cannot demand it." When the lower classes have no power or support, they cannot stand up and fight for themselves. Poverty reduction must be a key factor in all trade agreements.

The United States does not see such indept poverty. I have been to Honduras and Guatemala and have seen the pain and suffering of the masses. In Guatemala, over 75 percent of the population lives below the poverty line. In Nicaragua, the GDP per capita is $2,300. This sort of endemic poverty is far too common in the region. At the "La Chureca" dump in Managua, Nicaragua about 700 adults and children pick through fields of rotting garbage for scraps of food, metal, and plastic to eat and sell. For these residents, the dump is home—one laden with disease and danger, broken bottles and old tires, cardboard-and-tin shacks, grazing cattle, circling buzzards, screeching bulldozers and smoke that often obscures the sun. This is poverty on a level most Americans have never seen.

In order to fight this poverty, we must be committed to a comprehensive plan to help the poor. I would like to think that free trade agreements would alleviate poverty in third world nations, but unfortunately, the facts prove otherwise. Conditions in Mexico over the past 10 years demonstrate this fact quite succinctly. Since the passage of NAFTA, environmental problems along the border with Mexico have worsened, drug trafficking and violent crime in the border regions have increased, and violence against women has intensified. Ten years ago, there were few reports of rape and kidnappings of women in northern Mexico, today they are wide spread. These are not the indicia of progress.

In order to ensure progress, we must establish a system of improved standards in education, labor, and environment, among others. In this regard, the DR–CAFTA fails drastically. The DR–CAFTA does not have sufficient labor protection provisions. This omission of labor standards will result in the continuation of awful and unconscionable labor conditions for both adults and children. What concerns me most is the use of child labor throughout the region. Child labor is an activity that must eradicated from of all corners of the world. The DR–CAFTA contains no provisions that would prevent or alleviate the use of child labor. The DR–CAFTA fails to enforce international labor standards set by the International Labor Organization. This will result in the continued use of child labor in the fields and factories of the signatory countries. With this agreement, many will make money on the backs of Central American children, literally. These Children will be our beast of burden. I cannot accept an agreement that allows others to increase their profits margins on the backs of children. These children should be in school getting educated, not toiling on a farm for 5 dollars a day under the hot Central American sun.

It seems clear to me that under the current system of "free trade to fight poverty," sufficient resources are not being used to help the poor. Businesses are often more interested in the bottom line then the bottom of society. Foreign governments are often far too eager to invite these companies into their nations. This is not the best manner to help fight poverty in the third world. In order to fight poverty, we must insist on the resources used to protect the poor, not exploit them. We must insist on better labor and environmental standards in order to ensure that the poor also benefit from free trade agreements. Fair trade should be our paramount concern.

Supporters of the bill have claimed that its passage is imperative for Central America and will be mutually beneficial to all parties. They also argue that since 80 percent of goods from the DR–CAFTA countries already enter the United States duty free as a result of the Caribbean Basin Initiative and on that basis we have no reason to fear job exportation to the region. They argue that if job exportation was to happen, it would have occurred all ready. Yet, they also argue that passage of the DR–CAFTA is imperative for Central American economies to succeed. It seems to me that while they use the 80 percent duty free number to quell fears of job exportation, they somehow forget it when they talk of the necessity of the agreement for Central America's economies. If the DR–CAFTA countries already import 80 percent of their goods duty free then they have already received most of the benefits of a free trade agreement!

I am not opposed to allowing Central American nations to import many of their goods duty free. I believe that this number, 80 percent duty free importation, is a good number because it was designed to help alleviate poverty in the region. It has succeeded in doing so. Central America is far better off today then it was 20 years ago. Yet, this duty free access also means that it is not imperative for the US to pass this legislation. Since these countries already import 80 percent of goods duty free, the remaining 20 percent will not have such a dramatic effect. The USTR should have taken the success of the Caribbean Basin Initiative and used it to negotiate a fair and balanced trade agreement. Clearly, passage of this bill is not imperative to the economic well-being of Central America. So why were the USTR and the Bush administration so hasty in forcing execution and enactment of this agreement? Because of the success of the Caribbean Basin Initiative, we have the leeway to send this agreement back to the Bush Administration and ask that it not return until it has an agreement that genuinely benefits the poor and marginalized sectors of society both here in the United States and in Central America and the Dominican Republic.

The DR–CAFTA is not a fair trade agreement. It is a mechanism to support business interests in the United States and Central America. In the United States, we have sufficient labor standards to accommodate business interests. Over the past 200 years, the labor movement in this country has fought diligently to provide us with these protections. In Central America, these safeguards exist on paper, but not in practice. When we submit to special interests in this situation, we forfeit work protections. Therefore, we must insist that our trade agreements contain more then an expansion of business interests, they must contain provisions that expand social and justice interests. We must ensure that trade agreements benefit all of the people, men and women, young and old. This agreement fails to meet these standards and therefore should not be supported.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Chicago, Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I do not profess to know everything that CAFTA is going to do, but I do know that when I wake up in the morning, my congressional district has lost more than 150,000 good-paying manufacturing jobs. I know that we make candy. We make a lot of it. We used to be called the Candy Capital of the World. But my candy makers are leaving because the price of sugar is too high.

I was told and I was hoping that CAFTA would help reduce the price of sugar for my candy makers. It will not. Therefore, there is no reason for me to vote for CAFTA, and I shall not.

Vote "no" for CAFTA.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I am about to cast my first vote ever against a trade agreement. While this has very little impact overall in the United States economy, it is very important for the direction of our trade and economic policy. Are we going to continue to parcel out piecemeal agreements? When pushed, are we going to cut side deals and understandings like we have done of late with citrus and steel and textiles and sugar? Are we going to fail to own up to our own agriculture subsidies?

We do not do a very good job in this country anymore enforcing our own labor laws. I am no longer interested in one more suboptimal agreement. Because it has such a small impact, there is no excuse for not advancing workers and their environment at home and abroad. There is no reason to settle for this agreement, and I urge its rejection.

Mr. RANGEL. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. Mr. Speaker, I have supported trade agreements that have come through this body since I have been here, but this one falls short. I stand in opposition to the legislation.

Mr. Speaker, I rise today in reluctant opposition to the implementation legislation for the Free Trade Agreement with the Dominican Republic and Central America, known as DR–CAFTA.

Throughout my service in the U.S. House, I have supported policies that encourage export promotion because exports can play an important role in strengthening our economy. But our economic policies must work to build the American middle class by investing in education, training and health care for working families as well as expanding access to new markets for our products. Our trade policies must lift living standards in other countries whose workers will compete for American jobs. If American workers are forced to compete with workers from countries without a growing standard of living, the race to the bottom will lower the economic opportunities and quality of life for everyone. I firmly believe that America must exert our global economic leadership to promote democracy and economic growth, but that engagement must be matched with a commitment to empower middle class Americans to compete and win in the global economy. We can do better than this DR–CAFTA, and we must.

First, as a member of the House New Democrats Coalition, I have worked with administrations of both political parties, including the Bush administration, to promote policy for sound economic growth and a growing middle class. I have met with business leaders and officials from each of the DR–CAFTA countries, and I recently traveled to visit Honduras and El Salvador to see for myself the conditions of these trading partners. Although I want to help the peoples of the DR–CAFTA countries to secure their democracies and build economic opportunities, this free trade agreement fails to erect the conditions necessary for those goals. For example, in Honduras, I saw oxen pulling carts as a primary means of industrial production and impoverished workers struggling to eke out a meager living. Without strict, enforceable labor standards, these workers will suffer exploitation of market forces without enjoying any upward mobility. I also want to see our trading partners make the kind of commitment to education and infrastructure that we have in the U.S. that has provided us the foundation for our economic growth and rising living standards for our people.

Unfortunately, this DR–CAFTA represents a step backwards in strengthening labor standards, and thereby standards of living, abroad. Specifically, DR–CAFTA is a step back from the progress made in the Jordan Free Trade Agreement and even the rules under the Generalized System of Preferences, GSP, and the Caribbean Basin Initiative, CBI. America must maintain our global economic leadership and be a force for rising living standards with all of our trading partners so that broad-based economic growth creates sustainable markets for American goods and services. The countries of the DR–CAFTA accord possess some of the world's worst records for workers' rights, and this DR–CAFTA not only fails to correct this glaring problem but reverses progress made in previous trade agreements to raise labor standards abroad.

It is also important to note DR–CAFTA's weak environmental enforcement provisions. Although the agreement contains important protections for intellectual property that are subject to dispute resolution, it fails to include adequate enforcement of environmental protection, which will put American companies at a competitive disadvantage with companies in the DR–CAFTA countries. In fact, what language DR–CAFTA does contain on environmental protection and improvement of standards is explicitly excluded from dispute settlement under the agreement, rendering it meaningless. Previous trade pacts, such as the Jordan Free Trade Agreement, contain strong labor and environment provisions, and DR–CAFTA should as well.

Finally, the vote on DR–CAFTA comes at a time when the Bush administration economic program has reversed years of progress in building a thriving middle class. Instead of making critical investments in education, training and health care so working families can compete and prosper in the global economy, the administration is cutting these vital initiatives. Specifically, this administration and Congress have shortchanged our schools $39 billion they were promised in order to comply with the No Child Left Behind education reform law. And last month, the House passed an appropriations bill with devastating cuts in needed efforts for education, Trade Adjustment Assistance and other job training, and rural health care. In the global economy of the 21st century, working Americans can compete and win only if they are equipped with the tools to make the most of their God-given abilities. We need an economic policy that helps middle class families, those striving to get into the middle class and those struggling to stay in the middle class.

In conclusion, I will vote against DR–CAFTA because it is a missed opportunity to help our neighbors in the Dominican Republic and Central America and put America back on the path to a growing middle class.

Mr. RANGEL. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I rise in opposition to the bill, which will hurt workers and cost jobs.

I am opposed to the Central American Free Trade Agreement (CAFTA), because if enacted, it would have severe economic and social consequences.

CAFTA virtually turns back the clock on labor and environmental standards.

Many factory workers in Central America are underpaid and overworked, and CAFTA's weak labor provisions will not effectively force the Central American governments to enforce their labor laws.

If CAFTA is enacted, goods produced by industries that overwork their labor force and abuse the environment will have an unfair advantage over products manufactured in the United States.

Additionally, CAFTA threatens the livelihood of U.S. sugar producers and refineries, including Domino Sugar in my district in Yonkers. CAFTA would open the U.S. market to sugar from CAFTA countries which need not comply with the robust U.S. labor and environmental protections.

Thousands of people in Central America have protested against CAFTA. These people worry about their jobs, their health, and their families. They deserve an agreement which would improve their livelihoods and promote economic stability.

I would prefer to see reasonable, fair trade agreements which contain adequate labor and environmental protections with our Latin American neighbors.

Mr. Speaker, I have supported free trade agreements in the past when there have been adequate labor and environmental standards. But CAFTA does not measure up.

I believe CAFTA would not serve the best interests of the nation, and I urge my colleagues to vote no.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to a gentleman from California (Mr. FARR), who was a Peace Corps volunteer in South America.

Mr. FARR. Mr. Speaker, I want to ask this body what is the rush? There is no need to adopt. There is no deadlines on this agreement. Three of the six countries have not even ratified it yet. I think when we are trying to do a trade agreement, we have got to do the best that America can do.

The richest country in the world is about to enter into a trade agreement with the poorest countries in the Western Hemisphere so that we can open up nontariff issues. They send us goods without tariffs. Yes, we do not grow bananas in the United States or guanabana or platano, but we want to send them our goods so that people who are earning $2 a day can buy Two Buck Chuck.

Come on, America, can do better. You cannot have fair trade until you have basic aid. You cannot have a middle class without having schools and water and sewers. There is nothing in here; even the Millennium Fund that the President introduced, a good program, underfunded it to these countries.

You have got to build up countries so that they have a faith in themselves before they have the opportunity for a middle class. We can do better, America. Congress, put this over. Vote against it.

Mr. SHAW. Mr. Speaker, I yield myself 3½ minutes.

Mr. Speaker, I have been listening to particularly the last few people who have gotten up, and they talk about how they support free trade, but they cannot support this agreement. And I ask why. This is the strongest trade agreement we have ever had, it has the best labor standards of any that we ever had, and they voted for the others, and they cannot vote for this.

Mr. Speaker, we already have free trade. The problem is it is free trade from the CAFTA countries into the United States, not from the United States into the CAFTA countries. Now we want fair trade. We want to have the same privacy for American workers and American business, American farmers that the CAFTA countries have by having access to our markets. How can one be against that, particularly when these other countries are behind it?

We even put capacity building into this agreement so that we are assisting these countries in enforcing their own labor laws, and we put more enforcement money in this for our being able to enforce those labor laws and keep watch over these other countries.

This is a strong agreement. It is a strong agreement. But let us look at something else. The President was up here on the Hill yesterday talking to the Republican Members, and he made a statement that I think all of us can agree to, and that statement is that family values do not end at our border. And he is absolutely correct.

We know right well that any of us here as a mother and a father, that if our children are hungry, we are going to find a way to work. And so many of these countries now send their workers north into the United States, most of them illegally. We want to build jobs at home for them, permanent jobs, good jobs, and at the same time we would be able to use our markets to get to supply them.

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If you get a pair of blue jeans made in Honduras, it is 70 percent American content. These jobs that go to China, if those sewing factories move out and it goes to China, those same jeans are 1 percent American content. So we know that American workers, American jobs will benefit from this type of agreement. And it brings wealth into our hemisphere. Right now, in Nicaragua, the average salary, the average pay for a worker is somewhere less than $800 a year. This will help.

Politically, let us talk about it. What is going on down there politically and what will happen? We are going to be driving these countries away that are looking towards us. They are all looking north. They have democracies now, they are capitalistic systems, and they are working towards being a part of this hemisphere. And my colleagues want to kick them in the teeth? They are also supporting us in our war against terror in Iraq, and that is not an easy lift for all of these countries, I can tell you that.

This CAFTA agreement has been endorsed by a number of groups, and I would like to put their endorsement in the RECORD at this time. Former President Jimmy Carter, the American Jewish Committee, and B'nai B'rith, they have all endorsed this agreement. We have also enjoyed the endorsement by many of the newspapers, including The Washington Post and the New York Times, the Miami Herald and the Orlando Sentinel.

This is a good agreement. It is good for America, so let us vote for it.

Mr. Speaker, I submit herewith for the RECORD the letters of support I just referred to:

JUNE 8, 2005.

Hon. BILL THOMAS,
Rayburn House Office Building,
Washington, DC.

TO REPRESENTATIVE BILL THOMAS: As you prepare for your initial consideration of the Central American Free Trade Agreement (CAFTA) with the nations of Central America and the Dominican Republic, I want to express my strong support for this progressive move. From a trade perspective, this will help both the United States and Central America.

Some 80 percent of Central Americas exports to the U.S. are already duty free, so they will be opening their markets to U.S. exports more than we will for their remaining products. Independent studies indicate that U.S. incomes will rise by over $15 billion and those in Central America by some $5 billion. New Jobs will be created in Central America, and labor standards are likely to improve as a result of CAFTA.

Some improvements could be made in the trade bill particularly on the labor protection side, but, more importantly, our own national security and hemisphere influence will be enhanced with improved stability, democracy, and development in our poor, fragile neighbors in Central America and the Caribbean. During my presidency and now at The Carter Center, I have been dedicated to the promotion or democracy and stability in the region. From the negotiation of the Panama Canal Treaties and the championing of human rights at a time when the region suffered under military dictatorships to the monitoring of a number of free elections in the region, Central America has been a major focus of my attention.

There now are democratically elected governments in each of the countries covered by CAFTA. In negotiating this agreement, the presidents of each of the six nations had to contend with their own companies that fear competition with U.S. firms. They have put their credibility on the line, not only with this trade agreement but more broadly by promoting market reforms that have been urged for decades by U.S. presidents of both parties. If the U.S. Congress were to turn its back on CAFTA, it would undercut these fragile democracies, compel them to retreat to protectionism, and make it harder for them to cooperate with the U.S.

For the first time ever, we have a chance to reinforce democracies in the region. This is the moment to move forward and to help those leaders that want to modernize and humanize their countries. Moreover, strong economies in the region are the best antidote to illegal immigration from the region.

I appreciate your consideration of my views and hope they will be helpful in your important deliberations.

Sincerely,

JIMMY CARTER.

THE AMERICAN JEWISH COMMITTEE,
New York, February, 2005.

Hon. ———,
House of Representatives
Washington, DC.

DEAR REPRESENTATIVE: We are writing to express our deep support for the free trade agreement between the U.S., the Dominican Republic and Central America. (DR-CAFTA). The American Jewish Committee has been actively involved in Latin America for many decades, promoting democracy, the rule of law and respect for human rights. We actively support free trade—and therefore DR-CAFTA—as a tool to generate sustained development in the region and as a contributor to long-term potential and strategic cooperation between the United States and some of its closest neighbors.

We believe this historic pact makes sense for various reasons. Once in force, DR-CAFTA will become the U.S. second largest free trade agreement after NAFTA. As such it will surely contribute much to generate economic prosperity by securing increased trade and investment flows and thus better opportunities for the improvement of living standards for all of the people in this region who only two decades ago were immersed in civil wars. In addition, it will strengthen the ties between the U.S. and the Central American nations as key allies in the fight against narcotics and terrorism.

As an organization committed to U.S leadership in world affairs and as a friend of the Dominican Republic and the Central American nations, we urge you to support this important agreement which stands out as a shining example of our country's commitment to bolstering democracy and promoting stability in Latin America and elsewhere. It represents, undoubtedly, a joint investment in a more vibrant future for our countries and for the hemisphere at large.

We thank you for your consideration of our views.

Sincerely,

E.R. GOODKIND,
President,
American Jewish Committee.
BRUCE RAMER,
Chair,
Latino and Latin American Institute.

B'NAI B'RITH INTERNATIONAL,
Washington, DC, July 27, 2005.

Hon. KEVIN BRADY,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE KEVIN BRADY: On behalf of B'nai B'rith International's more than 110,000 members and supporters, we write to urge your vote in favor of the Central America Free Trade Agreement. (CAFTA). B'nai B'rith, which has members throughout Latin America, strongly encourages the passage of CAFTA, a trade agreement with the Central American nations of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, as part of a broader support for democracy and economic stability.

B'nai B'rith, an organization with a long history of involvement in Latin America and a registered NGO member of the Organization of American States, views CAFTA as a positive step in the U.S.-Central America trade relationship, one that will greatly help the economies of Central American nations and bolster democratization in the region. As we believe that the spread of democracy is essential to the advancement of human rights worldwide, we feel that CAFTA will produce lasting and far-reaching benefits.

B'nai B'rith further recognizes the significance of the decision by Costa Rica and El Salvador to maintain embassies in Jerusalem; they are the only two countries in the wodd to do so. Costa Rica and El Salvador have persisted in keeping their embassies in Jerusalem, despite intense international pressure to move them to Tel Aviv, in what has amounted to a remarkable act of solidarity with America's greatest ally in the Middle East: the State of Israel.

We ask that you encourage these positive trends by voting in favor of CAFTA. We look forward to remaining in contact with you on this and other issues of mutual interest in the near future.

Respectfully,

JOEL S. KAPLAN,
President.
DANIEL S. MARIASCHIN,
Executive Vice President.

Mr. SHAW. Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume to note that when the chairman of the Committee on Ways and Means indicated that the speech and debate clause of the Constitution allowed us to distort the truth, I had no idea where he was coming from. But I now truly understand why he opened up the debate that way.

Mr. Speaker, I yield the balance of my time to the gentlewoman from California (Ms. PELOSI), our gentle minority leader, who made certain that we did not make this a partisan issue, who struggled hard to keep this agreement and to try to get it open so that we could have input and have a bipartisan agreement, and who will close on behalf of the minority.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time and, more importantly, for his distinguished leadership on many issues concerning America's working families. I know I speak for all our colleagues when I say it is a privilege to call the gentleman from New York (Mr. RANGEL) colleague.

I also extend my thanks to the distinguished ranking member of the Subcommittee on Trade, the gentleman from Maryland (Mr. CARDIN), for his very, very substantive review of this CAFTA treaty. It has been an enormous help to Members, and I thank him for his leadership as well.

Mr. Speaker, I rise in strong opposition to the Central American Free Trade Agreement. It is a small treaty economically, but it has enormous implications for our country. I oppose CAFTA because it is a step backward for workers in Central America and a job killer here at home.

As a Californian, and there are many of us in the Chamber this evening, we all know full well the significance of our close ties to Central America. My own city of San Francisco is blessed with large populations of Central Americans, including those who sought sanctuary from El Salvador and those fleeing decades of civil war in Guatemala. Our fate is tied with our neighbors in the hemisphere.

President John F. Kennedy recognized this in 1961 when he announced the Alliance for Progress calling for "vast multilateral programs to relieve the continent's poverty and social inequities." The Alliance for Progress included both economic cooperation and called for economic reforms as conditions of participation, just as we call for stronger labor and environmental standards today as the reasonable condition for trade agreements.

Mr. Speaker, I wish that the CAFTA bill we are debating tonight were an agreement that opened markets, included basic labor standards, and protected our environment. This type of agreement would have lifted the economies of both the United States and Central America. It would have attracted support from a large number of Democratic Members who have long histories of supporting free and fair trade, including recent trade agreements with Australia, Singapore, Chile, Morocco, Jordan, Vietnam, and Cambodia. Unfortunately, that is not the type of trade agreement before us tonight.

Instead, we are considering a trade agreement that promotes a race to the bottom, that hurts U.S. workers, that turns back the clock on basic internationally accepted worker protections, and fails to protect the environment. As a result, the Republican leadership is having a hard time convincing its own Members to vote for this bill.

We have heard our colleague earlier, the gentleman from Ohio (Mr. BROWN), talking about twisting arms until they are broken into a thousand pieces. The New York Times today, the gentleman referenced The New York Times, so I will too, said that a White House official said that the last votes are likely to be won with the most expensive deals. We should be able to pass good fair trade agreement treaties on their merits. Instead, the administration is trying to persuade people with side bars, side letters, and side deals. They have never worked in the past. They are just a con. And I hope that our colleagues will not fall for the con.

In their desperation to win votes, the President and the Republican leadership in the House have also proclaimed that CAFTA here tonight will promote U.S. security and democracy in Central America. The truth is if we want to improve our national security and promote democracy there, we should heed the words of Pope Paul VI, who said "If you want peace, work for justice."

Trade alone, devoid of basic living and working standards, has not and will not promote security, nor will it lift developing nations out of poverty. Our national security will not be improved by exploiting workers in Central America.

Here at home, this CAFTA threatens U.S. jobs by making it harder for American businesses and farmers to compete with countries that have excessively low wages and deficient working conditions. Mr. Speaker, I repeat: here at home CAFTA threatens U.S. jobs by making it harder for American businesses and farmers to compete with countries that have excessively low wages and deficient working conditions. We have lost 2.8 million manufacturing jobs since President Bush took office. CAFTA does not solve the jobs problem; it only digs the hole deeper.

These downward pressures create a race to the bottom that needlessly threaten U.S. jobs. Nothing in this agreement will help raise substandard wages in Central America or help create a strong middle class that has the disposable income to buy U.S. goods. Democrats understand the need to help our Central American neighbors reap the benefits of increased trade, but the cost of this CAFTA are too high, with too little to justify this agreement's deficiencies.

We must have basic worker protections which ensure that our trading partners abide by the most fundamental standards of common decency and fairness. The CAFTA we are debating today fails to promote these basic measures of decency and fairness and, in fact, takes a step backward from current law because it removes the requirement from these countries to abide by the workers' rights standards of the international labor standards.

When it comes to the environment, Democrats believe that environmental principles must be a central part of the core trade agreement. CAFTA will do absolutely nothing to improve environmental protection in Central America, and it will open up our own environmental laws to attack by foreign corporations.

My colleagues, this CAFTA allows multinational corporations to sue governments, including our own, for compensation if the environmental laws reduce the value of their investment or cut their profits. I repeat: CAFTA allows multinational corporations to sue governments, including our own, for compensation if an environmental law reduces the value of their investment or cuts into their profits.

CAFTA places no value on the environmental health of the Americas. Moreover, the enforcement provisions of this CAFTA are virtually nonexistent. It merely calls for CAFTA countries to enforce their own laws. Enforcement in these areas must be written in to CAFTA if they are to be effective. They are not.

Democrats believe that to keep America in the lead, the Nation must adopt a bold new and sustained commitment to technological innovation and educational excellence. That commitment would ensure that our country remains competitive and vibrant against formidable international competition, generating high-quality jobs throughout the 21st century.

We are committed to addressing challenges of increasing competitive global market. Our economic future rests on our ability to innovate new products and to create new markets for those goods and services. We insist that this administration revisit its flawed trade policy and work with Democrats so that we can pass free trade agreements, including a new improved CAFTA that will expand markets, spur economic growth, protect the environment, and raise living standards in the United States and abroad. That would allow us to move forward with our other priorities.

Mr. Speaker, American families are facing serious challenges: rising health care costs, record gas prices, climbing college costs, and massive job layoffs. They are worried about the direction of our country. Instead of addressing the serious issues that directly affect America's families and coming up with real solutions, Republicans have abused their power and focused on the wrong priorities: pursuing an energy bill that does nothing to lower gas prices or a Social Security privatization plan that weakens the safety net for America's elderly.

Sadly, this trade agreement and the way it has been pursued by the administration has become yet another example of those misplaced priorities and missed opportunities. Again, President Kennedy said in 1961 that the United States and Latin America are "firm and ancient friends, united by history and experience and by our determination to advance the values of American civilization. We must support all economic integration, which is a genuine step toward larger markets and greater competitive opportunity." It was true then; it is an inspiration now.

I urge my colleagues to send this CAFTA back to the drawing board. The administration can negotiate a new CAFTA that will open new markets, include basic labor standards, and protect the environment. Such an agreement would attract strong bipartisan support. This CAFTA does none of the above. It does not protect the environment, it does not grow the economy in our country, it does not lift the living standard in Central America, and it does not have my support. Vote "no" on this CAFTA.

Mr. SHAW. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. THOMAS), chairman of the Committee on Ways and Means.

□ 2300

Mr. THOMAS. Mr. Speaker, I wondered when this moment would come, and apparently it comes tonight.

For more than 40 years the Democratic Party was a very forward-looking, progressive party. It led us into many new and important endeavors in helping people around the world. It was FDR that coined the phrase "good neighbor policy." I want to explain what this is all about.

This is a letter from 20 labor leaders, and it is addressed to the minority leader. It says, The American labor movement has been one of the Democratic Party's most consistent and stalwart supporters. Every election cycle labor delivers. We expect that House Democratic leadership will convey very strongly to all wavering Democrats that voting for CAFTA against our strong, clear, and loud objections, would signal to the labor movement that those candidates do not want our support. Our work to help elect at-risk Members at your urging will not extend to those who vote against us on this issue.

Tonight I will tell my party, they moved from the majority to the minority. We moved from the minority to the majority. And tonight we have an opportunity to move to the progressive, aggressive and good neighbor policy party. They have urged all-night protectionism. They have urged fear. They have urged that we do not do what is right.

All I ask of Members is tonight we have been a majority for a decade. It is time that we mature into a permanent majority. We will lead, we will be progressive, we will help our neighbors. We will not quote 40-year-old quotes about how much we want to help and, when we have an opportunity to do so, heel to the protectionism labor union movement in this country.

Please, those freely elected Presidents came to us and said, help us. We help them by voting "yes" on CAFTA. We will be the good neighbors.

Mr. COSTA. Mr. Speaker, I fully support global commerce.

Almonds, which I grow on my land in Fresno, have become one of California's most valuable exports through development of foreign markets. In fact, more than two-thirds of this $1 billion a year crop is shipped outside of the United States every year. So, I truly understand the benefit of opening the world to the abundance of U.S. products. Of the producers in my district, some will win and some will lose with CAFTA.

I am here to speak on behalf of America's best interest. That interest is a trade policy that is free and, more importantly, fair.

Unfortunately, regardless of the diligent work and excellent intentions of our trade negotiators, the bi-lateral and multi-lateral agreements we have entered into are not serving America well, especially not American agriculture, if you use the last 10 years of increasing trade deficit as the standard.

The evidence of our trade failures is undeniable. Over the last dozen years, the U.S. trade deficit has grown exponentially from a deficit of $38 billion in 1992 to $668 billion last year, a incredible increase of more than $630 billion in 12 years—more than 1700 percent. This year, in spite of the Trade Promotion Authority enjoyed by the President and the plethora of agreements brought before this body, America's trade deficit is the largest it has been in nearly 50 years.

Last year, of the ships arriving from Asia to West Coast ports—Seattle, Portland, Oakland, Los Angeles—more than half of them traveled back across the Pacific empty. This is a tragic illustration of a trade policy that is not working.

It is not working because these agreements give us little or no ability to leverage our strengths as a trading partner.

Do we truly need another agreement when Japan, one of our most important trading partners, continues to refuse entry to American beef—one of our safest and highest quality food products?

For the sake of the American agricultural economy, and other American industries, we must do better. We must seriously evaluate the way in which we conduct trade, beginning with the agreements we negotiate; to look at what is working and, more importantly, what is not working.

Ten years ago, I supported NAFTA. But, with the current state of our trade situation and the weakness and our current agreements, I cannot find any sense in supporting another trade agreement that perpetuates this sort of ineffective policy. I am reminded of a familiar quote attributed to Albert Einstein that illustrates my hesitation about CAFTA. "Insanity is doing the same thing over and over and expecting different results."

In light of our trade deficits, how can we approve another agreement and expect different, better results for the American farmer?

In conclusion, my vote today against CAFTA is a vote of protest, a vote of dissatisfaction, a line in the sand. My "nay" vote today is a message on behalf of American agriculture, American businesses, and American workers to the administration and my colleagues in Congress that we absolutely must develop a new trade strategy, a strategy that reverses, over time, our trade deficit.

This new trade strategy must be straight with the American public. It must define who—over the next 10, or 20, or 30 years—will be the winners and losers. Because, for America to be economically strong in the 21st century, we must have a plan to address the transitions and shifts in our domestic economy.

As participants in the 21st century economy that Thomas Friedman refers to as "the new flat earth," American workers and businessmen deserve to know what their chances are in the global economy. They need to know who among them will be the winners and losers. And, throughout that deliberation, American agriculture must have a seat at the table.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in strong opposition to the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act, DR–CAFTA or CAFTA. This trade agreement will eliminate thousands of American jobs without raising the quality of life for Central Americans and Dominicans. It is an agreement written to raise profits for multinational corporations at the expense of workers and the environment in the U.S. and the CAFTA countries. CAFTA should be renegotiated or voted down.

There is wide, bipartisan opposition to this bill here in the Congress because it endangers workers and jobs in the U.S. and abroad, it endangers our economy and it endangers the environment. Opposition to congressional ratification of this flawed agreement also runs deep outside of the Congress, throughout this country and the other signatory nations. The public as well as labor leaders, environmentalists, economists, and business owners and the clergy all strongly oppose the measure. Hundreds of thousands of Central Americans have taken to the streets to protest CAFTA.

I strongly support increased global trade for the United States. However, when negotiated, I believe free trade agreements should place human and labor rights and the protection of the environment on an equal par with the rights of capital. While CAFTA provides extensive protections for goods and capital, it provides no new protections for workers or the environment, and allows the signatory nations to do nothing more than enforce their own laws on labor and the environment.

Implementation of CAFTA would further the failed experiment that was NAFTA. As a result of NAFTA, my home State of Illinois has suffered the loss of over 100,000 jobs. The Nation has lost almost 1 million jobs due to the displacement of production that supported them prior to the implementation of NAFTA. Free trade agreements like NAFTA and PNTR for China perpetuate the race to the bottom in the global economy. They lower working and living standards for workers in other countries and kill jobs in the United States. CAFTA's effects would be no different.

The labor provisions in CAFTA are intentionally unenforceable. Violations of core labor standards cannot be taken to dispute resolution. The commitment to enforce domestic labor laws is subject to remedies weaker than those available for commercial disputes. This violates the negotiating objective of current U.S. trade law that equivalent remedies should exist for all parts of an agreement. Further, the "enforce your own laws" standard allows countries the opportunity to rewrite and weaken their labor laws to attract investment.

Instead of pursuing policies that undermine the rights and security of U.S. workers and workers in other countries, the United States should lead the world by example through a trade policy that improves the lives of individuals and does not just add to the profits of major corporations. Our policies should benefit workers here in this country, create and sustain jobs and help our small and medium-sized and family-owned businesses grow. CAFTA will not accomplish those goals nor will it offer better opportunities to the people of Central America and the Dominican Republic.

The abysmal working conditions in Mexico should serve as a sign of what CAFTA will bring to Central America and the Dominican Republic. The Mexican middle class that was supposed to arise as a result of NAFTA is missing. I visited Ciudad Juarez on the tenth anniversary of NAFTA. Instead of finding a thriving Mexican middle class, I found workers living in the packing crates of the products that they were manufacturing. The poverty rates and disparities in wealth in Mexico have actually grown since NAFTA. CAFTA would just spread those conditions further south by offering multinational corporations new opportunities to profit off the backs of low-wage workers.

I dispute the attempts by free trade proponents to reduce the debate to a choice between "free trade" and "no trade," "this agreement" or "no agreement." We can do better. We can achieve our economic objectives and moral responsibilities through responsible trade. And we can and should go back to the drawing board and fix CAFTA if we want to protect workers and the environment and give the people of the DR–CAFTA countries the chance for a better future. I urge my colleagues to vote no on CAFTA so that we can renegotiate this flawed trade agreement.

Mr. RAMSTAD. Mr. Speaker, I rise in strong support of the U.S.-Central American Free Trade Agreement

For me, free trade has always been about jobs and economic opportunity. But this agreement is about much more than that. It's also about increasing democracy in a region whose stability is fragile but moving in the right direction. It's about improving the environment. And it's about stemming illegal immigration.

The economic benefits of CAFTA are undeniable. CAFTA countries comprise the tenth largest market for U.S. goods, and the rapid growth of U.S. exports to CAFTA countries suggests this market could grow even more with the lowering of trade barriers.

My home State of Minnesota exported $12.7 billion in goods worldwide last year and ranks seventh in State agriculture exporters. Between 2000 and 2004, Minnesota manufacturers' exports to Central America increased by 83 percent, which clearly demonstrates Central America's viability as an emerging market for U.S. exports. And the elimination of protectionist tariffs in Central American countries will provide further increases in export opportunities for Minnesota farmers, manufacturers and service providers.

Passage of this agreement is so important to the U.S. economy because under the Caribbean Basin Initiative, over 80 percent of Central American imports already receive duty-free treatment. And if you separate the agriculture sector, CAFTA countries receive duty-free treatment on 99 percent of imports, 99 percent. It's time for our farmers and manufacturers to get fair treatment by allowing our exports to have duty-free access to their market.

CAFTA's passage is also necessary to advance overall trade liberalization. CAFTA's failure could cause a significant setback to other bilateral agreements in the works and also to the WTO-wide Doha Round negotiations.

The U.S. must remain competitive in the global economy, especially with the emergence of major exporters like China. Lowering trade barriers with developing countries in our hemisphere helps our overall competitiveness against China by increasing competition in growth sectors that China would otherwise dominate—like textiles, apparel and light manufacturing.

So the economic argument is rock solid, but CAFTA's passage goes beyond economic considerations. It will also help promote democracy, decrease illegal immigration and increase environmental standards.

For decades during the cold war, the U.S. spent significant resources fighting the spread of Communist and tyrannical dictatorships in Central America. Fortunately, Daniel Ortega's Sandinistas and the other leftist insurgencies which tore Central American countries apart have since been defeated and replaced by fledgling democracies. But now another destabilizing leader—Venezuela's Hugo Chavez—threatens peace and prosperity in the region.

Just last week, Chavez was reportedly revving up his military—warning them to be prepared for the imminent invasion by the U.S. And not surprisingly, Chavez is also the most vociferous opponent of CAFTA in the region.

Make no mistake, Hugo Chavez is licking his chops at the prospect of CAFTA's failure—waiting to exploit our missed opportunity and trap these nascent democracies under his thumb. These Central American countries lie on the precipice of economic stability and democratic government, and they deserve a chance to develop the same freedoms we have here.

Mr. Speaker, in addition to the economic and political benefits, CAFTA's passage will also improve environmental standards in Central America and decrease the flow of illegal immigrants from the region.

Study after study has shown that as economies improve, so do environmental standards. Once people get beyond the basic needs of food and shelter for their families, they can focus on the greater goods of clean air, clean water and conservation. Trade is not a zero-sum game. The elimination of tariffs helps increase exports and grow economies, and as the economies of Central America grow, so will their environmental quality.

Similarly, illegal immigration stems from the human desire to improve one's economic condition. As a member of the Immigration Reform Caucus, I believe we have a long way to go to improve our border security and stop the flow of illegal immigration. An improving economy in Central America will help achieve this goal, as the increase in job opportunities in the region will encourage more people to remain in their native countries.

The empirical data supports the agreement. Trade liberalization has always had the empirical data on its side. The immediate tariff reductions found in CAFTA expand market access for U.S. farmers, manufacturers and service providers and continue our country down the path of even greater market access worldwide. It will also significantly improve standards of living in Central America.

Congress must now have the resolve to do what is right and pass CAFTA. The future of our economy and the political stability of our region depend on it.

Ms. LEE. Mr. Speaker, I join my colleagues from both sides of the aisle in strong opposition to CAFTA.

Mr. Speaker, this trade agreement is a complete failure on all levels. The defeat of CAFTA is the only option.

Mr. Speaker, what we need is not just free trade, but fair trade.

What we need is a trade agreement that supports domestic manufacturers, while promoting labor standards overseas.

What we need is a trade agreement that protects our environment and stops corporations from trampling local governments.

And most importantly, what we need is a trade agreement that doesn't turn back the clock and deny access to lifesaving medicine to people suffering from diseases like HIV/AIDS.

Generic competition has reduced the cost of medicine and made access to treatment a possibility in developing countries, but DR–CAFTA puts profits over people and sacrifices access to medication to drug industry greed.

Experts estimate that in some DR–CAFTA countries, drug costs could increase as much as 800 times.

People will be dying in order to promote the profits of the pharmaceutical industry. It is morally outrageous, and it sets a horrible precedent for future trade agreements.

DR–CAFTA is an absolute failure on every count. We have all learned from 10 years of failed NAFTA policies, and we cannot and we must not repeat those mistakes.

The administration needs to go back to the table and develop a trade agreement that reduces our trade deficit, upholds labor and environmental standards and protects the access to lifesaving medicines for those who need them most.

This bill must be defeated. I urge a "no" vote.

Mr. MEEHAN. Mr. Speaker, I have long believed that as a matter of principle we should try to take down barriers that divide economies and people. Under the right conditions, trade between countries can create American jobs and raise standards of living both at home and abroad. But globalization is a developing issue and our policies need to reflect developments in our economy and the economies of our trading partners.

When seeking new markets for our products and services, we need to ensure that we are competing on a level playing field. We must work to ensure that our trade agreements are not only free, but also fair.

Tonight I will cast my vote against the Central American Free Trade Agreement because it is not free and fair trade.

When this Administration cuts the job retraining and education assistance necessary for our workers to compete in the global economy, we should reject trade agreements like CAFTA that fail to protect workers on both sides of the agreement.

The United States has a half-trillion dollar trade deficit. American businesses are choosing not to invest at home and our economy is no longer attracting private foreign capital.

The minimum wage is at its lowest level in 50 years, and nearly 7.5 million Americans are unemployed. The Republican Congress has enacted legislation that actually creates incentives for companies to move jobs overseas.

The CAFTA agreement President Bush has submitted to Congress would open U.S. markets to products from Latin American countries with poverty-level wage scales and poor environmental conditions. In return, we get access to six countries whose combined economic output is smaller than that of the city of Boston. Under this agreement, hard-working Americans will be forced to compete with nations that don't enforce international human rights standards in wage and hour rules and child labor laws.

Rather than foster sustained economic growth, CAFTA would freeze Central America's substandard labor laws in place. CAFTA is as bad a deal for Central American workers as it is for workers in the United States.

Time and time again, the Bush Administration has failed to take the necessary steps to help American workers succeed in the changing global economy. When the Senate Finance Committee made a bipartisan recommendation to include aid for displaced American workers in CAFTA, the Bush Administration simply ignored the request.

This indifference to the needs and concerns of the people most likely to be hurt by this agreement is typical of the Bush Administration's handling of economic policy. Instead of strengthening job training programs, the Administration has cut funding for these programs by over $750 million over the last five years. Instead of strengthening education, the Administration has cut these programs by over $500 million. Instead of addressing the health care crisis in this country, the Administration has brought us legislation to protect the profits of HMOs and insurance companies.

I urge my colleagues to join me in voting to send the Central American Free Trade Agreement back to the White House with a clear message that we will not approve this agreement unless it reflects our priorities and values.

Mrs. BIGGERT. Mr. Speaker, I rise to urge my colleagues to cast their votes in support of DR–CAFTA for three very compelling reasons:

First and foremost, the agreement will help our manufacturers, workers and farmers. Let's face it—the U.S. is the most open market in the world. Right now, about 80 percent of the goods made in DR–CAFTA countries enter the U.S. with no duties whatsoever. In contrast, our $1.6 billion in exports face about $1 billion in tariffs and additional non-tariff barriers. That's not fair. DR–CAFTA will change that.

Second, it bolsters our national security as it helps strengthen relationships with six very important new governments in our own backyard. If we turn our backs on the fledgling democracies of the DR–CAFTA nations, we risk a return to the instability, leftist insurgencies, and Marxist leadership of the 1980's. Our worldwide anti-terrorist efforts could all be for naught if we drive our friends in Central America back into the arms of leaders like Venezuela's Hugo Chavez and Cuba's Fidel Castro.

And last, DR–CAFTA is the right thing to do. Those who wish to help the anti-poor efforts in these six nations, or stem the flow of illegal immigration to the U.S., or reverse China's dominance in textiles and apparel, should vote for this agreement. It is expected to create 300,000 jobs in these industries in the DR–CAFTA nations, while creating new demand for U.S.-sourced inputs—not raw materials from China. Upon enactment, more than 90 percent of all apparel made in the region will be sewn from fabric and yarn made in the U.S.

I urge my colleagues to support the agreement.

Mr. SPRATT. Mr. Speaker, there are various good reasons to vote against CAFTA, but the first is enough and it's basic: this is not a good deal.

The U.S. is running unprecedented trade deficits—$618 billion last year, $195 billion this year in the first quarter alone. And the deficit worsens every year, weakening our economy and our independence. Virtually every trade deal the U.S. has made has resulted in far more imports than exports. Yet we keep creating free trade zones in the blind faith that the market will optimize the outcome.

Central American countries are part of the Carribean Basin and already enjoy wide-open access to our markets by virtue of tariff Item 807, the Generalized System of Preferences, the Carribean Basin Trade Partnership Agreement, and the Uruguay Round of GATT, which has removed all quotas on textile/apparel imports. Far from being disadvantaged, these countries enjoy preferential access now.

In fact, the Caribbean Basin countries as a group already export more to the U.S. than Mexico and import less. The CBI countries shipped $2.6 billion in apparel exports to the U.S. versus $1.6 billion in apparel shipments from Mexico. During the most recent quarter, CBI countries imported $655 million in fabric from the U.S. Mexico imported $809 million. Overall, in 2004 our textile/apparel trade deficit with Mexico was $3.765 versus $5.669 with CBI countries.

CAFTA purports to be based on a rule of origin adopted from NAFTA. NAFTA provides that for textile and apparel goods to move freely among Mexico, Canada, and the U.S., they must be made from the yarn stage forward in these three countries. CAFTA follows the same rule, but carves out so many exceptions that the exceptions swallow the rule.

Here are some of the exceptions to the rule of origin that CAFTA allows for textiles and apparel:

Only the component that gives the garment its essential character is subject to the rule of origin. Non-essential components are excepted.

Textile or apparel goods that contain fabric or yarn deemed "in short supply" in the U.S. are treated as originating in CAFTA, regardless of origin. This opens the door to more Chinese components entering the U.S. duty-free.

Denim, wool, cotton, and man-made fiber woven products from Mexico and Canada, are permitted under the rule of "cumulation." Cumulation allows countries that have free trade agreements with us to supply component parts to CAFTA countries without affecting duty-free treatment. This opens the sale of U.S. yarn and fabric to competition and increases the likelihood that transshipped textiles from China will enter the U.S. duty free.

For the first 10 years, CAFTA grants Tariff Preference Levels (TPL) to Nicaragua, for up to 100 million square meter equivalents of out-of-region cotton or man-made fiber garments. These goods come into the U.S. at nominal duties. This exception represents ⅔ of Nicaragua's current capacity and opens another back door to Chinese imports.

The origin of collars, cuffs, and linings is not considered when determining the origin of the apparel goods. This allows the use of Chinese collars, cuffs and linings.

CAFTA allows Central American countries to use components from anywhere—including China—to make pajamas, bras, and boxers and import them duty-free. The import of these goods from China has been found disruptive to our markets. So, they are subject to "restraints" under a special "safeguard" agreement with China. By allowing duty-free access to the U.S. for these goods, CAFTA allows China a route around the "safeguard" restraints.

Here's another oddity about CAFTA. CAFTA benefits are retroactive to January 1, 2004. Manufacturers will receive duty rebates if CAFTA is ratified. Under the Caribbean Basin Trade Partnership Act, garments made in the region from U.S. yarns and fabrics already receive duty-free treatment. The only manufacturers who will benefit from retroactivity are the ones who want to use non-U.S. fabric as part of the single transformation, TPL, or cumulation loopholes. Retroactivity is essentially an invitation from the U.S. government to manufacturers to start using non-U.S. fabrics immediately.

The U.S. has been unable to make labor and environmental standards a condition of free trade for GATT/WTO members, though they should be. Otherwise, free trade becomes a race to the bottom. Our goal should not be just to expand markets, but to raise living standards. All CAFTA says is that a country must enforce its own laws. CAFTA sanctions the status quo, doing nothing for labor or environmental laws.

All in all, CAFTA strikes a poor bargain. China is now making trade deals world-wide, using as leverage the largest emerging market in the world. The U.S. still has the largest existing market in the world. Surely in exchange for access to our markets, we can cut a better deal than CAFTA—better for our workers and theirs.

Mr. MEEK of Florida. Mr. Speaker, I am a strong supporter of trade. Since I came to Congress, I have voted for free trade agreements with Australia, Chile, Morocco, and Singapore.

There has been a lot of exaggeration about the benefits and the problems that would be attributable to DR–CAFTA, but I look at this agreement in a larger context.

First, I believe that the Bush Administration has never done enough to provide Florida businesses with the government services they need to expand, develop new markets, and operate efficiently, especially with regard to Miami International Airport, which is the single largest employer in Miami-Dade County.

Second, we know the state of Florida lost 35,000 jobs after the passage of NAFTA. While some Florida businesses will benefit from DR–CAFTA, I don't believe the gain in new business will be as pronounced as proponents have claimed, and I am deeply concerned about the impact on some industries, like sugar.

Third, I believe that it is unjust to include the Dominican Republic in this trade agreement while excluding Haiti. The Administration had the opportunity to promote stability, job growth and democratic government in Haiti last year with the HERO bill, but the President was never fully committed to the legislation and the opportunity was lost.

I think it is disingenuous of the President to now claim that the passage of DR–CAFTA is essential for the growth of democracy in the hemisphere when he passed up the opportunity to help Haiti with both of these trade bills.

Mr. VAN HOLLEN. Mr. Speaker, today, after much deliberation, I decided to cast my vote against the Central American Free Trade Agreement. After careful review, I have concluded that the benefits of CAFTA are likely to flow to a few powerful economic special interests at the expense of working men and women in the United States and Central America. It is my hope that a 'no vote' will encourage the President to go back and re-negotiate the labor and environmental provisions of CAFTA so that everyone, not just a few special interests, will experience the rewards of free trade.

The Bush Administration offered as one of its reasons for negotiating this agreement that the growing economic prosperity in Central America as a result of CAFTA would pull Central Americans up from poverty to become enthusiastic consumers of American goods. But by not sufficiently addressing the issue of weak labor protections throughout Central America, the Bush Administration neglected an important tool that could help make this dream a reality.

According to the Administration, CAFTA adequately addressed labor concerns by requiring that each country enforce its own labor laws. Ordinarily, I would not object to this. Similar language is included in some of the other FTAs I have supported in the past. But what is troubling about CAFTA is that, while Central American countries may indeed have worker protections on the books, they have a dismal record of enforcing them. This became clear to me while researching the human rights records of CAFTA countries.

I was disheartened to learn that while the constitutions of each CAFTA country provides for rights of workers, bureaucratic impediments, ineffective legal systems and insufficient resources have precipitated a culture of neglect that has left workers vulnerable to exploitation by employers.

In Guatemala, the law prohibits retribution for forming or participating in trade unions. But, enforcement of these provisions is weak. Employers often circumvent the Labor Code or simply ignore judicial pronouncements altogether.

In El Salvador, there have been repeated complaints that the government prevents workers from exercising their constitutionally recognized right of association by employing excessive judicial formalities and denying unions legal standing.

In Honduras, the Labor Code expressly prohibits retribution by employers for trade union activity and blacklisting—but such violations continue.

The Administration's response to objections about the dismal enforcement records of Central American governments is that CAFTA contains penalties to discourage such activities. While CAFTA does contain provisions crafted to encourage enforcement of labor rights, these provisions fall short of the strength needed to reverse years of indifference and systematic neglect.

CAFTA's enforcement mechanism centers on a strategy of financial penalties. Each time a party is found guilty of violating a worker's rights, that country is assessed a fine. This approach has been employed in earlier agreements with few objections. But in CAFTA, such an approach is problematic.

My principal concern is that only the U.S. has the standing to bring a case against a CAFTA country. NGOs and other international institutions, who are often the most knowledgeable about the labor conditions in these countries, are forbidden from seeking redress on behalf of workers—which means that only the U.S. government will be able to take issue with labor violations under CAFTA. Given our poor history of forcing compliance with labor laws among our trading partners, I am not convinced that this approach will adequately protect Central American workers.

Equally troubling is the requirement that countries found to be in violation pay the fine back to themselves instead of to the United States. This hardly seems like a penalty at all.

Unfortunately, CAFTA would turn the labor conditions in some Central American countries from bad to worse. The Caribbean Basin Initiative, which currently governs U.S. trade relations with Central America provides for periodic opportunities to reconsider and re-negotiate its provisions—including its labor provisions. That creates a mechanism where, over time, we can press for improved labor conditions. But the labor provisions in CAFTA would preempt the CBI process. Once passed, CAFTA can only be changed if each individual country agrees to the change.

Over the years, unions have helped bring scores of Americans into the middle class. Unions helped shield workers from retribution as they sought a fair wage and better benefits for themselves and their families. Given the increased opportunity for trade that CAFTA will bring about, Central American workers deserve the chance to enjoy some of the benefits.

The debate on CAFTA has been long and spirited. Along the way, critics have had time to clearly annunciate their objections. The Bush Administration heard and responded to concerns about textiles and even re-opened negotiations on the issue. Why can't the same be done for labor rights?

Mr. President, many of the flaws in the agreement with respect to labor rights also apply to its environmental provisions. The enforcement mechanisms are weak.

I have therefore concluded that CAFTA is a missed opportunity. Without adequate mechanisms to enforce labor and environmental standards it will trigger a race to the bottom—a race for certain special economic interests to exploit lax labor and environmental protections. The result will be substantial benefits for a few at the expense of many. We can do better. We must do better.

Mr. President, Americans and Central Americans deserve a chance to have their concerns about this agreement addressed—please renegotiate CAFTA.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in strong opposition to H.R. 3045, the Central American Free Trade Agreement (CAFTA). I am a supporter of trade when it is used to help lift developing countries out of poverty and when it provides jobs with fair wages and protections. However, as negotiated, the CAFTA fails on both counts.

On May 15, 2003, I joined colleagues of the Congressional Hispanic Caucus in sending a letter to U.S. Trade Representative Robert Zoellick regarding concerns we had about the direction the Administration was taking during its negotiations of the Central American Free Trade Agreement. As a signatory to that letter, I urged Ambassador Zoellick to negotiate to strengthen the enforcement of internationally recognized labor rights, such as freedom of association, the right to organize, and to bargain collectively. I regret that U.S. negotiators ignored this critical request and finalized the CAFTA without strong and clear language that would hold the CAFTA countries accountable to such internationally recognized core labor rights.

There are many other concerns I have with the trade agreement that is before us. For example, I am troubled by the fact that the CAFTA does not adhere to the provisions of the 2002 Trade Promotion Authority, which requires that new U.S. trade agreements not provide greater legal rights to foreign investors than to U.S. investors. Under CAFTA, foreign investors have the right to challenge U.S. laws and regulations if they believe the law negatively impacts their ability to conduct trade. As a result, a foreign investor can seek financial compensation from the U.S. by going through an international arbitration panel. Congress was clear in its opposition to this continued foreign investor overreach of power, and it is disturbing that the Administration has not done a better job of protecting U.S. interests.

In addition, I oppose the provisions of this agreement which would impede access to safe and affordable prescription drugs for patients throughout Central America and the Dominican Republic. Specifically, CAFTA would block governments from approving the sale of generic drugs for at least five years after a new drug is introduced in each market, even if the drug's patent has already expired. The agreement would also block the approval of generics unless drug regulators can prove that the drug's patent has expired. These obligations create additional burdens on CAFTA countries that need to focus their limited resources on monitoring the safety and efficacy of their pharmaceutical products. Furthermore, it is unconscionable that we would place the financial interest of large multicultural drug companies above the health needs of families in developing countries.

In conclusion, I continue to express my support for a U.S. Central American Free Trade Agreement that would protect U.S. interests and create economic opportunities for workers, businesses, and farmers here and in Central America. Such an agreement would help break the cycle of poverty in Central America and serve as a model for hemispheric trade. Unfortunately, the agreement your office has negotiated falls far short of meeting these goals.

Mr. SHAYS. Mr. Speaker, I rise in strong support of the Dominican Republic-Central

American Free Trade Agreement. There are a whole host of reasons to support this legislation.

CAFTA will benefit both the U.S. economy and the economies of the Central American nations. Opponents of CAFTA would have us believe the North American Free Trade Agreement moved all our jobs to Mexico and seriously harmed the American economy. Contrary to their assertion, our economy's strength is due in no small part to the advancement of free trade.

Expanding trade is critical to strengthening our economy. This is especially true in Connecticut where our businesses exported $8.3 billion in 2002, up $1.1 billion since 1999. In fact, export-supported jobs accounted for an estimated 7.5 percent of the state's total private-sector employment.

Many of my friends in the labor and environmental communities have expressed concern that signing this agreement will be bad for their interests. I strongly believe by integrating ourselves with these countries, we give ourselves greater leverage to work on enforcing labor standards and environmental safeguards. Only through isolation do we risk letting these countries slip down the very path these groups are concerned about.

Furthermore, I believe the best way the United States can facilitate social and economic reforms in other countries is through an open dialogue and greater trade. Free trade leads to a richer and more educated populace, which leads to the expansion of democracy and a desire to be accepted as a full member in the world community.

Leaders like Venezuela's Hugo Chavez are advancing an anti-American, anti-Western agenda in our hemisphere. It amazes me we would turn our back on leaders who are standing up and asking to be more closely linked with the United States.

CAFTA is good for our economy and our workers, it's good for the economies of these countries and their workers, and it's good for the stability of our continent by promoting democratic governments. I urge this legislation's passage.

Mr. FILNER. Mr. Speaker, the Republic Leadership has insisted on bringing the proposed Central American Free Trade Agreement (CAFTA) before the House tonight. CAFTA tacitly endorses labor and environmental conditions in Central America that would be illegal in the U.S.

CAFTA allows goods produced under these conditions to unfairly compete with the Imperial County sugar growers, of my district. If we pass this agreement, American farmers and ranchers that comply with U.S. environmental and labor standards will be at a grave disadvantage in the global economy.

My district which encompasses the border of California and Mexico, has felt the negative impact from the failure of the North America Free Trade Agreement (NAFTA). My district has seen NAFTA's promises broken, translating free trade into poverty; increasing social inequality; and creating severe environmental degradation.

The current CAFTA proposal would expand on NAFTA's failures, and send the wrong message: labor and environmental standards are not as important as producing cheap goods under horrible labor conditions.

At the minimum CAFTA should call for basic labor standards including child labor protections, and environmental standards. Make no mistake about it, CAFTA is not about national security, it's about the exploitation of cheap labor!

Mr. HOLT. Mr. Speaker, I rise today to oppose approval of the U.S.-Dominican Republic-Central American Free Trade Agreement (DR–CAFTA).

On the floor today we are considering a far reaching and important trade agreement with our Central American neighbors, and yet we will only spend two hours debating DR–CAFTA. I am disappointed that more time was not provided to debate this highly controversial legislation. We will have spent more time this week naming various post offices than seriously debating this trade agreement. This is simply wrong. When the House considered the North American Free Trade (NAFTA), a full eight hours of debate was allowed. This is how the House should consider such agreements, with meaningful and extended debate.

International trade is not just inevitable, it is a good thing. But lowering the cost of goods and increasing their availably is not the single goal of trade. Trade done right helps lift the global standard of living and works to protect the irreplaceable environment we inherited. Trade is about values. Trade agreements are not just about goods and commodities; they are also about what constitutes acceptable behavior in environmental matters, worker's rights, intellectual property, and so forth. We should make sure we export the goods we produce and not the workers who produce them. Unfortunately, the DR–CAFTA before us today fails these basic tests. The DR–CAFTA does not contain the values we would require in America and that we must help spread in Central America. Even the United States Conference of Catholic Bishops has come out in opposition to DR–CAFTA because of its effect on the poor and most vulnerable in Central America.

Each new trade agreement entered into by the U.S. should be very closely scrutinized. Each ought to include the strongest enforceable worker rights, human rights, and environmental safeguards attainable, like those included in the U.S.–Jordan agreement of 2000. Each should also include enforceable rules to protect intellectual property rights and guarantee access for U.S.-based corporations to foreign markets. This can be achieved in trade agreements if we enter negotiations with clear principles.

I voted against the Chile and Singapore trade agreements, for example, because the inadequate labor and environmental provisions included in them, in my estimation, failed to meet the negotiating objectives that Congress carefully spelled out in the 2002 law extending fast-track negotiating authority to the President. They did not provide, for example, that trade dispute settlement mechanisms within those free trade agreements afford equivalent treatment to trade-related labor and environmental protection as intellectual property rights and capital subsidies, and the impending DR–CAFTA fails in this regard, too. The agreement between the U.S. and Jordan, on the other hand, is a fine example that good agreements are achievable.

I am deeply troubled by the DR–CAFTA before us today. The DR–CAFTA does not contain strong, enforceable provisions to protect internationally-recognized worker rights. Nor does it have any provisions for environmental safeguards. Such provisions are critical because they both preserve existing labor laws and environmental standards in the affected countries, and because they ensure that American companies will be competing on a more level playing field with our Central American neighbors. Without such provisions, U.S. companies and employees are forced to compete with countries that have inadequate wage, working conditions, or environmental protections. The people of all countries lose in such a "race to the bottom."

Mr. Speaker, I am going to vote no on DR–CAFTA tonight, and I urge my colleagues to do the same.

Mr. KIND. Mr. Speaker, as our nation leads the world into the 21st century, we should not shy away from opportunities to guide and expand global trade. Lowering tariffs and advancing economic engagement among nations not only helps the American economy, it also can provide real opportunity to those in the developing world who are working to eradicate poverty, build their nations and bring prosperity to their people.

It is critical that we build a bipartisan consensus around the importance of trade, which, unfortunately, does not currently exist. Such a consensus requires that trade agreements be balanced and fair for American workers and companies as well as for the nations with which we seek to engage. It also requires that domestic priorities be put in place to assist Americans in transitioning to the global economy.

While I have supported previous free trade agreements, it is with regret that I oppose H.R. 3045, legislation implementing the Central American Free Trade Agreement (CAFTA) between the United States, the Dominican Republic and five Central American nations: Costa Rica, Honduras, Nicaragua, El Salvador and Guatemala. DR–CAFTA does not build the bipartisan consensus we must achieve to succeed in the emerging global economy.

When increasing opportunities through trade, we must be sure to do more to empower the American workforce through a comprehensive and upgraded education and worker training policy. The single most important factor in determining America's success in the 21st Century will be maintaining our innovation and creativity.

Over the last few years, the world has become a smaller and more integrated place with technology, which levels the playing field like never before. Greater competition and collaboration exist now between countries, companies, and individuals. Meeting this challenge requires a new set of big ideas. Instead of this Administration being so eager to dismantle the new deal, it should be working with Congress to offer the American people a new "New Deal."

This new "New Deal" should provide working families with the skills to compete successfully in the 21st Century economy. We must renew our commitment to worker training programs, an education investment that emphasizes math, science and engineering, research funding in science and medicine, and a comprehensive broad-band strategy for all America.

Unfortunately, DR–CAFTA fails on a number of fronts. While the Administration has aggressively negotiated intellectual property and investor rights provisions in the agreement, it has simply not taken the same approach to protect workers' rights abroad or address the needs of working families here at home.

DR–CAFTA does not require nations to bring their laws into compliance with the International Labor Organization (ILO) core labor standards, even though the ILO and U.S. State Department have documented numerous areas where the CAFTA countries' laws fail to comply with even the most basic international norms. Further, the agreement lacks critical dispute settlement and enforcement mechanisms for worker rights provisions beyond a normal fine for countries that fail to enforce their own current labor laws. Even this minimal standard is flawed, as DR–CAFTA does not require countries to maintain their current labor laws.

In addition to the inadequate labor provisions in the trade agreement, the Administration has done nothing to prepare hard-working American families for the consequences of increased trade. Rather, the Administration and Congressional Leadership have provided irresponsible tax cuts benefiting the wealthiest one percent of Americans at the expense of investing in education, skills training, and research and development.

Mr. Speaker, economics and trade need not be a zero-sum game; it can be a win-win for everyone involved as long as people have the tools to succeed. I cannot in good faith support an incomplete trade and economic policy that leaves Americans less able to be creative and innovative.

Mr. KILPATRICK of Michigan. Mr. Speaker, I rise in opposition to H.R 3045, the Central American Free Trade Agreement (CAFTA). My opposition is based on my conclusion that CAFTA is another chapter in trade legislation that will spur job losses, depress American wages, eviscerate laborer's rights, emasculate the environment, and contribute to our nation's deficit.

Recent statistics from the Labor Department indicate that America has lost more than 2.5 million manufacturing jobs since the passage of NAFTA. In my home state of Michigan, we have experienced a net job loss of over 200,000 manufacturing jobs due to exports. Throughout the U.S., American workers suffer with anxiety about the elimination of their jobs each time we pass another free trade agreement. They know that factories are being relocated to foreign countries where they will be immune from paying U.S. taxes, and will be able to pay workers a fraction of U.S. hourly wages that range from $14 to almost $18. Each time we pass another trade agreement, their worst fears are realized.

According to the United Nations International Labor Organization (ILO), the average hourly wage earner in Nicaragua makes 95 cents; $1 in Guatemala, and $1.25 in El Salvador. Such minuscule wages pose a tremendous incentive to Asian and U.S. manufacturers to build factories and strategic alliances in Central America. The same factories that will be created in Central America will be able to avoid strong environmental laws that exist in the U.S., thereby contributing to environmental degradation throughout Central America.

If Americans have any concerns about the prospects posed by CAFTA, we need only look at the explosion of our deficit after the passage of NAFTA. Our trade deficit with Mexico mushroomed to $15 billion from a figure of $3 billion, resulting in a loss of 200,000 high wage U.S. jobs.

I am a very concerned that worker protection provisions throughout Central America will be weakened if CAFTA is passed. The legislation omits an important protection that was included in NAFTA—that labor enforcement proceedings not be unnecessarily complicated. I reject the hypocrisy of a trade agreement that would sanction placing the welfare of low wage earners in jeopardy. In my state of Michigan, we have strong worker protections in place. I cannot in good conscience support a measure that would pose potential harm to workers throughout countries in Central America.

Finally, supporters of CAFTA state that its passage will facilitate the elimination of tariffs and quotas and will ultimately result in increased trade and long-term growth. In reality, consumers and laborers in Central America will not be able to afford American manufactured goods. They will, however, be able to manufacture goods in Central America that will be sold in America with a profit margin that could not be realized if the same item were manufactured domestically.

Mr. Speaker, I rise in strong opposition to HR 3045, the Central American Free Trade Agreement (CAFTA). Passage of this bill will accelerate job losses, contribute to our deficit, circumvent labor rights and contribute to global environmental degradation. My constituents have overwhelmingly expressed their concerns and opposition to HR 3045. I urge my colleagues in the House to defeat this measure and stand up for fair and free trade.

Mr. SALAZAR. Mr. Speaker, I came to Congress to defend the values of rural Colorado; our farming lifestyle, our ranching communities, our jobs. DR–CAFTA, the Dominican Republic-Central America Free Trade Agreement goes against those values, posing a threat to the very backbone of our economy and our lifestyle.

Trade has always been a way for cultures to exchange not only goods, but also ideas and good will. I support trade with our neighbors; it is what we should be doing to help promote democracy and economic prosperity. But just because we have a trade agreement before us does not mean it is the right agreement.

DR–CAFTA is an attempt to liberalize trade between the United States and six Latin American countries. The Administration negotiated with other foreign leaders in 2004 and today the House of Representatives will vote whether to approve the agreement. Due to Fast Track Authority, however, Congress will not have an opportunity to amend the agreement—it will merely have an up-or-down vote regardless of any concerns that may be voiced. DR–CAFTA has divided many agricultural groups among the states as well as other industries, business groups and human rights organizations.

Over the last several months, I have met with a variety of groups from Colorado and around the nation about DR–CAFTA and I am sad to report there is no consensus about how this agreement will affect our nation's economy.

The promise of new markets for agricultural exports has prompted many groups to throw their weight behind DR–CAFTA, but a deeper examination of the supposed benefits vs. the actual consequences of DR–CAFTA's enactment warrants hesitation.

Our beef industry is strong and fiercely protected in our state. According to the proponents of the deal, DR–CAFTA will open up new markets and opportunities for the U.S. beef industry. But our local ranchers and beef producers will not benefit from the agreement—DR–CAFTA will only allow duty-free access for prime and choice cuts of U.S. beef, which makes little sense when 40 percent of the people in DR–CAFTA nations make $2 a day or less.

Meanwhile, DR–CAFTA is silent on the issue of imports meeting our rigorous food safety and sanitary standards, creating a challenge to the safety of our food supply.

The Colorado Farm Bureau has publicly expressed its opposition to this agreement because of the potential adverse effects it would have on agricultural sectors. In particular, the Colorado sugar industry could be devastated by increased imports of sugar from the Dominican Republic. According to estimates, the effect of lower sugar prices after increased imports could be nearly $180 million. This means the loss of nearly 150,000 sugar-industry jobs. A report prepared by the United States International Trade Commission estimates job loss in the sugar industry will be 38 times higher than the next most harmed sector.

Not only would DR–CAFTA threaten the livelihoods of thousands of US. sugar farmers and workers, but it would cost taxpayers millions of dollars. Another government report reveals information condemning DR–CAFTA as a burden on taxpayers. According to the Congressional Budget Office, the influx of sugar from Central American countries would push prices down so low that our own sugar farmers would be forced to forfeit government loans on their crops. These forfeitures would cost taxpayers about $50 million annually through 2015. When added to a trade deficit that has ballooned to $617 billion, claims of economic gain are hard to believe.

The trade commission study states DR–CAFTA will actually accelerate the pace at which jobs are outsourced overseas. The North America Free Trade Agreement certainly hasn't set a good precedent, with estimates of nearly 900,000 jobs lost.

In the wake of NAFTA, Trade Adjustment Assistance programs were designed to assist those who lose their jobs as a result of companies moving out of the United States. More than a decade after NAFTA, the programs receive only one-quarter of the needed funding. Despite progress made in recent years to improve the Trade Adjustment Assistance program, budget cuts have left many workers who qualify for TAA benefits without access to this program when they need it most. Workers in Grand Junction were displaced this year when their jobs were outsourced overseas; I would hate to see other communities have to deal with this problem.

How will the TAA programs keep up with DR–CAFTA's fast-paced outsourcing? And why spend millions of dollars to fix the effects of a flawed trade agreement, instead of renegotiating the entire agreement? Proponents of DR–CAFTA can't seem to defend the agreement on its own merits.

Since the solid economic reasoning isn't there, curbing illegal immigration has become the new purpose of DR–CAFTA, another argument that doesn't have the backing of facts or figures. In the wake of NAFTA, 1.3 million farmers in small to medium-size operations were forced off their land because they were unable to compete with the multinational producers. For those concerned about "broken borders," think of this: The employed farmers and agriculture workers of 10 years ago have become the undocumented immigrants of today. I fear DR–CAFTA will create a new wave of illegal immigration from Latin America.

I will close as I began by reiterating my feelings about free trade. I support trade as part of a long-term strategy to grow our economy and support democracy. Economic ties with other nations help the American economy and national security. But trade agreements should provide real gains for U.S. workers and businesses. In any agreement, we must be vigilant about protecting our economic security. DR–CAFTA is a flawed agreement that needs to be renegotiated to address the concerns of our agricultural sector and the concerns of illegal immigration. Safeguards to protect American jobs and rural values must be strengthened before moving ahead with free trade in Latin America.

Mr. SKELTON. Mr. Speaker, over the past several weeks, I have closely studied the proposed free trade pact between the United States and Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic, commonly referred to as CAFTA.

After careful consideration, research, and meetings with national security experts and representatives of Missouri agriculture, labor, and business, I have decided to vote in favor of CAFTA. While this legislation is far from perfect—no trade pact ever is—my support comes down to two issues.

First, CAFTA is a national security issue. As the ranking Democrat on the House Armed Services Committee, I have the opportunity to consider not only the military component of national security, but other elements as well. Our security depends upon the success and the competitiveness of the U.S. economy. We must exert leadership, especially in our own hemisphere.

Just 20 years ago, civil wars, communist insurgencies, and military dictatorships oppressed and destabilized much of Central America. Because conditions in Central America are critical to our national security, the United States has actively supported these nations during the transition from insurgency and military rule to democracy. However, these new democratic governments cannot be taken for granted. Threats to their existence remain, notably from countries in South America that are suffering the effects of civil war, narcotics trafficking, and communist inspired agitation. Turning our backs on a region only recently freed from the grasp of dictatorship would diminish our international credibility and would send the wrong message to the world at a time when our troops are fighting in Afghanistan and Iraq to build stable, democratically-elected governments.

As former President Jimmy Carter said, "For the first time ever, we have a chance to reinforce democracies in the region. This is the moment to move forward and to help those leaders who want to modernize and humanize their countries."

Second, the market access provided by CAFTA will benefit American agriculture, which is of primary importance to those of us who care about the future of rural America and want to promote a strong rural economy. Currently, 99 percent of, agricultural products from CAFTA countries enter the United States duty free, while U.S. farm exports face significant barriers in these markets. Many of these commodities are produced in Missouri, where agricultural exports totaled $1.24 billion in 2003 and account for one-fourth of farm cash receipts.

Under CAFTA, U.S. farm products—like pork, poultry, soybeans, corn, and beef—will receive preferential access to Central American markets, giving Missouri's agricultural exports a significant economic advantage over agricultural exports from our competitors in South America, Europe, and Canada. It is projected the CAFTA could increase agricultural exports in the Show-Me State by $33 million annually once the agreement is fully implemented in 2024.

Again, no trade deal is perfect. Clearly, some improvements could be made in the bill, especially on the labor protection side. But, as I studied CAFTA and heard from national security, agriculture, labor, and business leaders, I became convinced that this trade agreement is critical to U.S. national security and to rural America.

JUNE 8, 2005.

Hon. BILL THOMAS,
Rayburn House Office Building,
Washington, DC.

TO REPRESENTATIVE BILL THOMAS: As you prepare for your initial consideration of the Central American Free Trade Agreement (CAFTA) with the nations of Central America and the Dominican Republic, I want to express my strong support for this progressive move. From a trade perspective, this will help both the United States and Central America.

Some 80 percent of Central America's exports to the U.S. are already duty free, so they will be opening their markets to U.S. exports more than we will for their remaining products. Independent studies indicate that U.S. incomes will rise by over $15 billion and those in Central America by some $5 billion. New jobs will be created in Central America, and labor standards are likely to improve as a result of CAFTA.

Some improvements could be made in the trade bill, particularly on the labor protection side, but, more importantly, our own national security and hemispheric influence will be enhanced with improved stability, democracy, and development in our poor, fragile neighbors in Central America and the Caribbean. During my presidency and now at The Carter Center, I have been dedicated to the promotion of democracy and stability in the region. From the negotiation of the Panama Canal Treaties and the championing of human rights at a time when the region suffered under military dictatorships to the monitoring of a number of free elections in the region, Central America has been a major focus of my attention.

There now are democratically elected governments in each of the countries covered by CAFTA. In negotiating this agreement, the presidents of each of the six nations had to contend with their own companies that fear competition with U.S. firms. They have put their credibility on the line, not only with this trade agreement but more broadly by promoting market reforms that have been urged for decades by U.S. presidents of both parties. If the U.S. Congress were to turn its back on CAFTA it would undercut these fragile democracies, compel them to retreat to protectionism, and make it harder for them to cooperate with the U.S.

For the first time ever, we have a clause to reinforce democracies in the region. This is the moment to move forward and to help those leaders that want to modernize and humanize their countries. Moreover, strong economics in the region are the best antidote to illegal immigration from the region.

I appreciate your consideration of my views and hope they will be helpful in your important deliberations.

Sincerely,

JIMMY CARTER.

Mr. BURTON of Indiana. Mr. Speaker, the debate over the potential costs and benefits of the proposed Dominican Republic-Central American Free Trade Agreement, CAFTA, has been contentious; and at times it has been difficult to separate fact from fiction and the myths from reality. In fact, I don't think I have ever seen as many wild and unsubstantiated allegations thrown around about a bill as I have seen during the debate over CAFTA. I rise tonight though because one myth perpetuated by opponents of CAFTA has caused me great deal of concern; namely the myth that CAFTA will restrict American consumers' access to the wide range of vitamin and mineral supplements of varying potencies that are legally sold in the United States. Then there are the related myths that CAFTA will limit the amount and type of information on the labels of dietary supplements sold in the United States or even require that dietary supplements be sold as drugs.

I, along with millions of Americans, firmly believe that dietary supplements have been shown through research and historical use to be of immeasurable benefit to human health. As a regular consumer, I know firsthand the health benefits of using dietary supplements on a daily basis. Whether taking a multi-vitamin, herbal product, or specialty supplement, I know that people can and do live healthier lives and save money in long-term health costs by supplementing their diets.

Approximately 10 years ago, seeing a need for the Federal Government to address the American consumer's growing interest in dietary products and public safety, Congress overwhelmingly passed the Dietary Supplement Health and Education Act, DSHEA, to make certain that all dietary health products sold in the United States are held to the highest and safest quality standards.

This legislation ensures the safety of dietary supplements by requiring manufacturers to follow standards called "Good Manufacturing Practices," or GMPs. Essentially, all ingredients in supplements sold in the United States must be previously approved by the FDA and listed on the bottle label, and distributors must follow strict guidelines on any claims that are made in regard to a particular product—to provide consumers with the most accurate information on supplements. Additionally, if at any time the FDA decides that a particular product or dietary ingredient is detrimental to human health; it reserves the right to have those items removed from the marketplace.

This legislation provides the current framework for how the Federal government ensures the safety and efficacy of dietary supplements sold in the United States, and there is no provision in CAFTA that requires the United States to change DSHEA in any way.

Nevertheless, I was so concerned about this issue that I asked the U.S. Trade Representative's, USTR, Office to clear up any misunderstanding about CAFTA and DSHEA. I would like to have the text of the USTR's fact sheet on CAFTA and Dietary Supplements placed into the CONGRESSIONAL RECORD following my statement.

CAFTA AND DIETARY SUPPLEMENTS

The CAFTA-DR will not limit consumer access to dietary supplements in any way, nor will it change the way the federal government or U.S. states regulate dietary supplements.

Chapter Six of the CAFTA-DR (Sanitary and Phytosanitary Measures—SPS), which some have claimed could limit access by American consumers to dietary supplements, does not create *any* substantive rights or obligations. It merely:

Says the seven governments do not intend the CAFTA-DR to change their existing SPS rights and obligations under the WTO.

Note: WTO rules, in effect since 1995, have had absolutely no impact on the regulation or availability of dietary supplements in the United States.

Establishes an inter-governmental committee to discuss SPS issues of mutual interest.

The SPS committee will not seek to harmonize national SPS regulations governing dietary supplements. In fact, Chapter Six does not require, recommend, or even mention harmonization.

The committee will simply work to assist the seven governments in carrying out their obligations under the WTO SPS Agreement.

Contrary to assertions some have made, the CAFTA-DR will not require the United States to:

Apply the recently adopted Codex Alimentarius Guidelines for Vitamin and Mineral Supplements. In fact, the agreement imposes no obligations regarding Codex standards or guidelines.

Change the Dietary Supplement Health and Education Act of 1994 (DSHEA), which regulates dietary supplements in the United States.

The Codex Guidelines provide voluntary guidance to governments relating to the composition of vitamin and mineral supplements and criteria for establishing maximum amounts of vitamins and minerals per daily portion of supplement consumed.

The Guidelines do not establish upper limits for vitamins and minerals in supplements.

Nothing in the WTO SPS Agreement will require the United States to adopt the Codex Guidelines.

Mr. FEENEY. Mr. Speaker, I rise today in support of the Central American Free Trade Agreement, but I do so some reservation. While CAFTA should provide economic benefits to most industries in Florida, it does create some difficulties for our State's sugar farmers. I am disappointed that tonight's vote will have a negative impact on an important agricultural industry in our State, but along with this vote comes the broad economic benefits of free trade.

I have made a difficult decision tonight to support an agreement that will negatively impact some farmers in my State because of my belief in the principles of free trade. So it would be irresponsible of me not to make several points perfectly clear to my colleagues from other areas of the Nation, particularly the Midwest, whose farmers receive billions of dollars in farm program subsidies each year.

Unlike most commodity programs, the U.S. sugar program is designed to operate at no cost to the taxpayer. Unlike other crops, our Nation does not produce too much sugar, in fact we are the fourth largest importer in the world. We don't have to prop up sugar farmers by finding ways to get excess sugar out of the country, and we don't have to write billions of dollars of government checks to sugar farmers to allow them to stay in business.

I want to be sure that my colleagues understand that they may be called on to make an equally hard choice in the near future. Some corn groups have been especially critical of their fellow farmers who produce sugar cane and sugar beets. According to the President's budget, corn farmers will receive almost $9 billion in government support for the 2004 crop alone. If sugar farmers received billions of dollars in government subsidies, they might produce a surplus like corn and be less concerned about increased imports.

I don't raise this issue in an effort to attack other Members' constituent industries; rather, like many of my colleagues, I am very concerned about Federal Government spending and the deficit. I just ask that those who are so quick to dismiss the concerns of my State's farmers be willing to take the same position of responsibility when you are called on to cut spending to your farmers. There has been a great deal of scrutiny of the sugar program in recent months. It is time we applied that scrutiny to other, high cost, farm programs as well, and all do our part to cut government spending.

Mr. STUPAK. Mr. Speaker, the late Pope John Paul said, "If globalization is ruled merely by the laws of the market applied to suit the powerful, the consequences cannot be but negative."

I agree with the late Pope John Paul. Trade is more than just economics. It's about peoples' lives and livelihoods. Our economic policies should create the rising tide that lifts all boats. Each decision we make must take into account the welfare and dignity of all people, but especially the poor and vulnerable who struggle daily to support themselves and their families.

When CAFTA is viewed through this moral framework, it is clear the agreement does not pass muster. That is why Pax Christi, Catholics for Faithful Citizenship and 34 other organizations (attached) of faith oppose CAFTA. If this agreement is enacted, the poor will get poorer and the rich will get richer.

The consequences of CAFTA will be felt by people throughout the Northern hemisphere—from the Michigan sugarbeet farmer trying to put food on the table for his family to the poor Dominican laborer in need of basic medicines.

The developing countries affected by CAFTA have an enormous need for better access to medication. Despite these compelling health needs, CAFTA would undermine their access to affordable medicine and potentially give billions of dollars worth of patent protections to drug companies.

Closer to home, the sugarbeet farmers in Michigan will be forced off their farms as the price of sugar plummets. Hourly workers at sugar refineries will find their jobs outsourced to other countries. These workers' and farmers' livelihoods will be ruined. We're not talking about big Agri-business here—we are talking about small farmers who will no longer be able to support themselves. We're talking about small businesses owners laying off their workforces.

I ask the Bush Administration and the Republican Leadership, "If enacted, can you imagine what kind of damage CAFTA would inflict on Michigan's sugar industry, which ranks fourth in the country?"

With a state sugar beet economy that spans 2,000 farms, employs thousands of people, and totals over $300 million annually, it doesn't take a genius to predict that flooding our market with sugar imports will strike a blow that may be unrecoverable.

The National Farmers Union, the National Family Farm Coalition, the Institute on Agriculture and Trade Policy, Michigan Sugar Company, and the Monitor Sugar Company—they understand the impact it will have on the sugar industry. Why doesn't the House Leadership pushing this bill get it? Or maybe they just don't care.

This bill is bad for sugar beet growers and bad for Michigan.

As Pope John Paul said, let's not strengthen the powerful at the expense of the less fortunate. That is what CAFTA will do—advance the financial interests of large multinational companies at the expense of the common good.

I cannot support an agreement that fails to protect the livelihood of so many families, in Michigan, the United States, and abroad. That is why I will vote "no" on CAFTA.

Interfaith Working Group on Trade and Investment member organizations have mission workers and partner institutions in Central America who believe that DR-CAFTA will harm their families and communities. IWG members on record as opposing CAFTA include:

American Friends Service Committee, Center of Concern, Church of the Brethren Witness/Washington Office, Church World Service, Conference of Major Superiors of Men Religious, Columban Mission Center, Columban Office: Justice, Peace and Integrity of Creation, Congregation Justice Committee: Sisters of Holy Cross, Notre Dame, IN, Congregation of St. Joseph, Cleveland, Ohio, Office of Governmental Affairs (Evangelical Lutheran Church of America), Franciscan Sisters of Allegheny, New York, Holy Cross Institute Office, Institute Justice Team: Sisters of Mercy of the Americas, International Association of the Presentations, Leadership Conference of Women

Religious, Lutheran World Relief, Maryknoll Office of Global Concerns.

Mennonite Central Committee: Washington Office, Medical Mission Sisters Alliance for Justice, Missionary Oblates: Justice, Peace and Integrity of Creation, National Council of Churches USA, NETWORK: A National Catholic Social Justice Lobby, Presbyterian Church (USA Washington Office), Religious Task Force on Central America and Mexico, SHARE Foundation, Sisters of Charity of St. Augustine: Social Concerns Committee, Sisters of Charity of Cincinnati, Sisters of Humility of Mary, Sisters of Notre Dame, Notre Dame, Indiana, Sisters of Notre Dame, Justice and Peace Office, United Church of Christ Justice and Witness Ministries, United Methodist Church: General Board of Church and Society, Unitarian Universalist Association of Congregations, Witness for Peace.

Mr BACA. Mr. Speaker, I rise in oposition to this bill.

I urge all of my colleagues to join me in standing up for America and our working families by rejecting CAFTA.

CAFTA is a bad deal: bad for workers and businesses in my district, bad for America, and bad for workers in Central America.

CAFTA would cause more job losses, more poverty and more hardship for workers both here at home and in Central America, while expanding the gap between rich and poor.

We all should have learned from the mistakes of NAFTA, which was passed 12 years ago and has hurt American workers.

Let's all keep in mind the saying, "Fool me once, shame on you. Fool me twice, shame on me."

After NAFTA, there should be no CAFTA.

When NAFTA was passed, many believed it would lead to higher wages and economic development in the U.S., Mexico and Canada and less illegal immigration.

Those hopes turned out to be false: Instead of helping American workers, NAFTA took away jobs. Instead of helping American businesses, many were forced to close down or move out of the country.

As we work hard to strengthen the American economy, we cannot afford a bad trade bill that is unfair to American workers.

CAFTA does not hold companies in other countries to the same standards Workers in those countries do not have the same rights or protections. They do not have a voice and do not have safety standards.

Central American workers will be exploited. They will be expected to work like elephants and if they are not producing enough to satisfy their bosses, their jobs will be eliminated and replacements brought in.

We must not help or reward companies that prefer to exploit Central American workers in sweatshops instead of creating jobs in the U.S., hiring American workers and increasing wages.

It seems every day we read in the papers about another factory closing down. Since President Bush took office, 2.5 million manufacturing jobs have been lost. At least 750,000 American jobs have been lost directly due to NAFTA. And they are not coming back.

My constituents know about the impact of offshoring. We remember when Kaiser Steel closed its factory in Fontana, California, resulting in devastating job losses that hurt hundreds of workers, their families and their neighborhoods.

I am especially concerned about the harmful effect that CAFTA would have on Hispanic communities in the U.S. because we have seen that almost half (47 percent) of the American workers who lost jobs due to NAFTA were Latinos.

In addition to protecting American jobs, I want to protect our homeland security and I am concerned that CAFTA would make us less secure. Our ports and borders are already vulnerable. Many shipments of cargo enter our country without inspection. Increasing shipments of goods from Central America could pose additional threats to our security.

I am disappointed that the Administration did not work closely with my colleagues in the Congressional Hispanic Caucus to propose an agreement that protects American workers and businesses.

Instead, the Administration is proposing an unacceptable trade deal that I cannot support.

Ms. DEGETTE. Mr. Speaker, having voted in favor of every free trade agreement considered during my tenure in Congress, I have been and continue to be an avid supporter of free trade. However, I cannot, in good faith, vote for the Central American Free Trade Agreement (CAFTA) as it stands today. Instead of helping to improve labor and environmental standards and increase the enforcement of those standards in Central America, CAFTA is a rubber stamp of the status-quo. CAFTA fails to strengthen existing labor and environmental laws and deliberately excludes meaningful penalties for Central American governments that fail to enforce such laws. What is worse, CAFTA removes the current ability of the United States to withdraw trade benefits when countries in the region refuse to improve labor and environmental standards. By removing this important—and proven—oversight mechanism, CAFTA could perversely weaken the few protections that exist for workers and the environment in Central America today.

CAFTA also includes an investment provision similar to North America Free Trade Agreement's (NAFTA) Chapter 11, which puts profits of multinational firms before the public safety and public health of citizens in the United States and in Central American countries. With CAFTA in its current form, the Administration makes its priorities clear: corporate need and greed above all else.

At the same time it leaves workers behind in Central America, CAFTA fails to help workers here at home. When drafting CAFTA, the Bush Administration refused to expand Trade Adjustment Assistance (TAA) to service workers who stand to lose from CAFTA, and similarly, it did not increase the amount of assistance for those workers who are currently eligible under the TAA program. More generally, this Administration repeatedly refuses to fund education and training programs that would help to ensure the future competitiveness of the American people.

It is unfortunate that I, along with my other like-minded Democrats who support free trade, do not have the opportunity to vote on a free and fair trade agreement with Central America. I believe that free, fair trade can be a powerful means to improve living standards abroad and to broaden economic opportunities for people here at home. Unfortunately, the Bush Administration negotiated this agreement behind closed doors without soliciting the bipartisan input of Congress. While the Administration has had numerous opportunities to make simple, but important changes to CAFTA, it has consistently refused, and instead, has insisted on supporting the deeply flawed agreement we have before us today—an agreement that I oppose in its current form.

Mr. LANGEVIN. Mr. Speaker, today I rise in strong opposition to H.R. 3045, to implement the Dominican Republic-Central America-United States Free Trade Agreement. While I favor expanding trade and eliminating restrictive tariffs and barriers, the DR–CAFTA agreement does not create a fair playing field for United States companies and workers to compete. I urge my colleagues to join me in rejecting H.R. 3045 and tell the Administration to renegotiate a more responsible trade agreement. We can do better.

For the DR–CAFTA countries, the agreement would permanently expand preferential market access for most goods. For us, DR–CAFTA would phase out duties on manufactured and agricultural goods over 10 to 20 years. The countries included in this trade agreement, the Dominican Republic, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, are of extreme strategic importance to us. We must not neglect our neighbors to the south, and improving economic ties to these countries should be a top priority. However, the DR–CAFTA agreement before us today is just as likely to hurt workers in these countries as it is to help them.

While a properly written agreement could mutually benefit companies and workers in all of the countries involved, this agreement avoids specific language to improve working conditions abroad. H.R. 3045 does not contain strong environmental or labor enforcement, which are the keys to fair trade. The agreement requires the DR–CAFTA countries to enforce their own laws, but it does not demand compliance with the International Labor Organization's core labor standards. Central America has among the worst working conditions in the world. In Nicaragua, for instance, more than 40 percent of the population lives on less than $1 per day, so the agreement could have vastly improved their living conditions. Instead, DR–CAFTA will likely continue the status quo of cheap labor and weak worker protections.

Likewise, DR–CAFTA does not require countries to meet any minimum standards on the environment or public health. DR–CAFTA countries have no restrictions on air or water quality, which creates unhealthy living conditions and damages the environment. If a country does not meet its own environmental laws, it could be fined up to $15 million, a stark contrast to intellectual property violations, which have unlimited fines under the agreement. On a level playing field, American workers can compete and win, but it is unfair for our companies to compete against a DR–CAFTA country that employs minors earning pennies per hour without the same air and water quality guidelines under which American companies operate.

In 2004, Rhode Island exported approximately $30 million to these countries, or 2 percent of the state's worldwide exports. This agreement is important to several companies in my district, but we must go back to the drawing board to ensure American companies and American jobs are not left behind. I urge my colleagues to join me in opposing H.R. 3045 and encouraging the Administration to renegotiate a more equitable agreement.

Mr. STARK. Mr. Speaker, I rise today in strong opposition to H.R. 3045, the implementing legislation for the U.S.-Central America-Dominican Republic Free Trade Agreement (CAFTA). When big business calls, Republicans always answer, and today we vote on a gift to big business paid for by American and Central American workers.

The signatory countries inked this agreement 14 months ago. CAFTA is so unpopular that the Republicans were unwilling to bring it up for a vote before the 2004 elections. Now we're voting at the final hour with supporters relying on promised favors and twisted arms for victory. This is not the example we should be setting for growing democracies in Central America and around the world.

Beyond the example we set globally, this agreement does not include basic labor, environmental and public health standards.

Instead of forcing countries to meet basic environmental standards, the agreement allows them to enforce their own substandard environmental laws. If you have ever wanted to see the pristine beauty of the Costa Rican rain forest or Lake Atitlan in Guatemala you might want to book your tickets before the "benefits" of CAFTA begin to destroy these natural wonders.

"Enforce your own laws" must be the favorite new saying in the Bush Administration because CAFTA applies this meaningless standard to labor rights as well. It would have been simple to require all CAFTA signatories to codify the International Labor Organization's core labor standards. But the Bush Administration doesn't care about workers rights as long as American companies have a cheap Central American labor pool to draw from. When Central American workers don't have the right to organize, or even the right to a safe workplace, at least the Bush Administration can take solace in the fact that they have sent them low-paying jobs that used to belong to hard-working Americans.

There are other egregious provisions in CAFTA, some written for Republican benefactors like the pharmaceutical industry. At the behest of PhRMA—the Pharmaceutical Research and Manufacturers Association—the Bush Administration negotiated a sweet deal for brand name drugs that will limit CAFTA countries' access to affordable generic alternatives.

The pharmaceutical industry will solely benefit from a provision to extend its monopolies to Central America. If this agreement is approved, the most profitable industry on the planet will get an additional five years to exploit the sick to maximize profits. This provision will raise the price of drugs for CAFTA-country residents and could limit their ability to provide more affordable generic drugs during public health emergencies.

In countries where people make two dollars a day, it is abhorrent to eliminate cheaper generics from the market and force workers to pay for expensive, brand name drugs.

Instead of voting on CAFTA today, we should be telling the Bush Administration to renegotiate. This is a bad agreement for America and for Central America. I urge all my colleagues to ignore the Majority's empty promises and arm-twisting and vote against this reprehensible free trade agreement.

Mr. DINGELL. Mr. Speaker, I rise in vigorous opposition to this so-called "free trade" agreement. It is a bad agreement- bad for US workers, bad for Central American workers, bad for small farmers, bad for the environment, and bad for our economy.

The proponents of this deal point not to facts, but to predictions. They talk about projected growth and theorize that our Central American neighbors will enjoy increased living standards and a better future.

We don't have to consult a crystal ball to see what effect CAFTA will have on the lives of American and Central American citizens. We have an example before us, it is called NAFTA. CAFTA is a junior version of NAFTA; it is quite literally the "Son of NAFTA".

Ask the people of Michigan, Ohio, North Carolina, Pennsylvania, Indiana, Oklahoma, or any other State that saw factories shuttered if they have benefited from NAFTA.

Ask the people of Mexico who have dirtier air, dirtier water, little collective bargaining rights, and are now watching their new factories close and move across the Pacific if they have benefited from NAFTA.

If you can look at the results of NAFTA and think our quality of life has improved; if you think there are more and better jobs post-NAFTA than before; if you think Mexico is on the verge of joining the ranks of the G–8, then CAFTA is the trade agreement for you.

Evaluate carefully the claims which will be made about CAFTA. For example, we have heard that CAFTA will open important markets for U.S. goods. Sound familiar? As we learned from NAFTA, if labor standards are not improved as part of these Agreements, few workers in these markets will be able to afford our goods.

We make cars and trucks in my home State of Michigan. American auto manufacturers are currently putting over $1,400 of health care costs into each American-made car. Yet the average Nicaraguan worker earns only about $2,300 a year. Yes, that's for an entire year.

While the rising health care burden on American manufacturing is an important issue for another day, it illustrates the absurdity of the claims that new markets will be flooded with American products. How many cars or computers can we reasonably expect to sell in these new markets?

Instead of raising the living standards of people in Central America, CAFTA will accelerate a race to the bottom. Instead of creating new, high value jobs in the United States, CAFTA will only replace good jobs with unemployment checks.

I urge all my colleagues not only to read the details of this deal, but also to look around. Look at the closed factories, talk to unemployed manufacturing workers, and remember the promise of NAFTA.

Mr. Speaker, in closing, I can think of no better distillation of my vote against CAFTA than the old saying, "Fool me once, shame on you. Fool me twice, shame on me." I urge my colleagues not to be fooled again.

Mr. LARSON of Connecticut. Mr. Speaker, I rise in unfortunate opposition to this DR–CAFTA agreement. represents a real missed opportunity for this Congress and this Administration to engage in a real meaningful negotiation to improve trade relations between the United States, the Central American countries, and the Dominican Republic. Unfortunately, this agreement represents a step backward from over 20 years worth of U.S. laws and enforcement efforts.

The pact falls short of the standards that any trade agreement America signs onto should meet: the broad fulfillment of America's economic interests, the opening of fair markets for America's goods and services and the reversal of America's ever-growing trade deficit. Whoever the winners, they're not the American or the Central American worker. I support free—and fair—trade, but that isn't what CAFTA will accomplish.

At a Chamber of Commerce meeting in my district, I was struck by the fact that many small manufacturers were outraged at the lack of focus by the Administration in protecting their industry and their jobs. In fact, had I closed my eyes I would have thought I was at an A.F.L.–C.I.O. rally. In a moment of candor, one of the manufacturers said, when large companies started downsizing their labor force and outsourcing their work to us we were silent, we couldn't conceive that it was only a matter of time before we too would be outsourced. When will the government do something about this race to the bottom?

That's how my district sees this, and I share their view. Unfortunately, this is a missed opportunity, an opportunity where frankly CAFTA countries told us they were more than willing to accept stronger provisions if they had only been asked to. Violations of international labor standards should not be held to a different standard than other violations on matters like intellectual property.

Supporters of CAFTA also point to the fact that labor standards and working conditions will be monitored by agencies like the International Labor Organization, part of the United Nations which established international labor standards and which verifies that these standards are met. I guess now with this trade agreement the Administration is running out of American Jobs to outsource and has moved on to official U.S. Government functions. Since when are we are going to allow the United Nations to determine whether or not other countries are in compliance with our treaties?

In the typical "bait and switch" tactics of the Republican majority, what they are not telling you here is that just a few weeks ago, they approved an $82 billion funding cut Proposed by President Bush to the principal agency that supports foreign labor standards technical assistance, virtually assuring that no oversight or enforcement will ever actually take place.

Jobs are now America's fastest-growing export. We should be exporting our values and market goods not our jobs. As the world's richest nation, we have a moral obligation to lift the standard of living of the world's poor. It is double-speak for the President to say he wants to promote democracy to the south of our borders but pushes a trade agreement that consigns subsistence workers to economic bondage and forces American businesses to compete on an uneven playing field.

This is the wrong trade agreement for the United States and for Central America. I urge my colleagues to vote no and send this treaty back to President Bush to be renegotiated.

Mr. EVERETT. Mr. Speaker, I rise today in support of H.R. 3045, the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act. Passage of this important legislation will give Alabama exporters greater access to Central American markets and bolster American security.

When I co-chaired the Republican anti-NAFTA task force in 1993 we were determined to defeat NAFTA, but we failed by a few votes. I remain convinced that NAFTA has been bad for my district and increased the Nation's trade deficit with Mexico. While CAFTA and NAFTA sound alike, the two trade agreements have substantial differences that cannot be overlooked. NAFTA exported thousands of jobs to Mexico, while dramatically increasing the flood of Mexican made products into the U.S. market. CAFTA, meanwhile, gives U.S. goods the same market access to Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua as those countries already enjoy here, thereby leveling the playing field for American exporters.

Ratifying CAFTA actually benefits the United States significantly more than it does Central America since those nations already have 90 percent duty-free access to our markets. CAFTA simply gives American companies and workers equal access to Central America. As such, Alabama agriculture and other industry will benefit from the ability to export more goods duty-free, resulting in lower prices and increased consumption in this area. Alabama ranks eighth among all U.S. states in exports to Central America and that is expected to grow with CAFTA's passage.

However, I did not give my support to this agreement without carefully considering several issues. First, I remain concerned about saving thousands of remaining textile jobs in Alabama and protecting agriculture and other industries in my district. Secondly, I have serious concerns over the return of leftist insurgencies in the struggling democratic countries that are a part of CAFTA and the harm that would do to our national security. Finally, I also have concerns about the threat of illegal immigration.

Most of the Alabama textile plants that survived the effects of NAFTA did so by establishing relationships with Central American partners who assemble Alabama-made components. This delicate balance would be upset if this relationship were not allowed to continue; ultimately forcing the remaining U.S. textile industry to Asia. CAFTA strengthens this beneficial arrangement by making these current trading arrangements permanent.

While I have consistently supported tougher immigration laws, the Congress has resisted approving some of these measures. Also, the Administration has not been as helpful as I would like in trying to solve the border security problem.

I am convinced that should CAFTA fail the illegal immigration flow into America would increase. Venezuelan president Hugo Chavez is using his country's vast oil money to create anti-American and anti-democratic upheaval in the countries affected by CAFTA. Should CAFTA fail and Chavez is successful in bringing down these fragile governments, thousands more would flood our borders seeking to escape new leftist regimes. Such an unstable situation would increase many times over our worry of terrorists crossing into the United States.

In summary, passage of CAFTA will provide a tremendous economic boost to our critical industrial base, support fledgling democracies in a crucial part of the world, and help stem the tide of illegal immigration into the U.S.

I urge all of my colleagues to support this measure.

Mrs. TAUSCHER. Mr. Speaker, I rise today to voice my strong opposition to the Dominican Republic-Central American Free Trade Agreement and intend to vote it against.

I am proud to be a pro-trade Democrat in Congress and am proud of my record—having supported every free trade agreement since I took office in 1997.

I voted in favor of granting the President Trade Promotion Authority in 2002 and voted against withdrawing from the World Trade Organization in 2000 and again earlier this year.

I am a longtime member, and the current chair of the New Democrat Coalition, a group of members who often support free trade. We see our role as a group of pro-business, pro-defense, and pro-trade leaning members who seek ways to open foreign markets to American goods and services. I .also co-chair the Friends of New Zealand Caucus in the House, and hope we may soon see a free trade agreement with New Zealand.

Mr. Speaker, I believe that free trade, when organized properly, benefits our economy. It can only help to improve our relations with the other countries involved.

In the case of CAFTA, I want to see our Nation maintain close ties with our neighbors in Central America. Our economic security and our National security depend on cooperative relationships with our friends and allies.

However, in pursuing free trade, we must also consider the impact and direct effects the agreements will have on workers—both here and abroad.

And CAFTA fails to provide adequate protection.

It simply does not do enough to invest in basic job training and education for Americans—specifically those Americans who lose their jobs due to trade.

The current budget for Trade Adjustment Assistance is insufficient: the President's 2005 request was $300 million less than Congress authorized for FY 2004, despite the obvious needs for job training and retraining. What's worse, Mr. Speaker, is that CAFTA does not provide any TAA funds for service workers, who comprise 80 percent of today's American workforce and produce three-quarters of our products. When job training programs go under funded, American workers are at risk.

Furthermore, CAFTA is the first FTA negotiated by the United States with developing countries, some of which have weak labor laws and a history of suppressing the rights of their workers.

We need to do all in our power to ensure that this agreement helps these countries raise their working standards. Unfortunately, the labor chapter requires that each country simply enforce its existing laws. It does nothing to require the DR-CAFTA countries improve their laws to reflect fairness to working people. There are also no safeguards in the agreement to prevent countries to explicitly weakening their labor laws. This "enforce your own laws" standard is a giant step backwards. Under our current trade policy, the Caribbean Basin Initiative allows us to withdraw trade benefits from countries who violate the labor standards of the agreements they have signed. If CAFTA goes into effect, those remedies are wiped out and simply replaced with the "enforce your own laws" standard.

This labor agreement is simply unacceptable.

And finally Mr. Speaker, I feel compelled to say a word about the legislative process here in Congress. I would be remiss if I did not do so.

This Administration has made a habit of regularly excluding Democrats from the table during the negotiation and drafting of all major legislation. We saw this with the energy bill, the Medicare prescription drug bill, and again with CAFTA. We were not consulted at all on this FTA.

We all have valid ideas and concerns worthy of discussion regarding improving international market economies and they need to be fully and fairly debated. That did not happen with CAFTA. We were not engaged. I thought that at some point in the process members of the New Democrat Coalition would be consulted, as we generally support free trade. However, I was wrong. There was no outreach from House leaders or from the President to us.

One would think that after the passage of Trade Promotion Authority in 2002—by a 3 vote margin—a clear signal was sent to the Administration that passing free trade agreements will not be easy. Everyone ought to be at the table. Instead of heeding past warnings, they have continued to make a habit of regularly excluding Democrats. CAFTA has been no exception.

As a result of poor negotiations with the Democrats and a lack of steady involvement by the President with members of his own party, on the day of the CAFTA vote, President Bush made an eleventh hour trip to Congress to twist arms in hopes of squeaking out the minimum number of votes needed to pass this agreement.

Mr. Speaker, trade should not be a Republican or Democrat issue. It is an American issue. Passing trade agreements by one or two votes, in the dead of night when both the American and Central American people are sleeping, is not the way to have a responsible trade policy.

Both the people of Central America and workers here in the United States deserve better.

Mr. WAXMAN. Mr. Speaker, It is with great disappointment that I rise in opposition to CAFTA. I support free trade. Trade agreements are an important tool to strengthen ties with strategic partners, expand opportunities for American industry, and improve the standard of living. Unfortunately, I believe that this agreement will do more harm than good.

Among my chief concerns, the agreement perpetuates weak and unenforced labor and environmental standards. The failure to raise these standards will hurt Central Americans and create unfair competition for American workers.

CAFTA would also allow foreign companies to bypass the U.S. court system and challenge Federal, State and local laws and regulations through a veiled and unaccountable trade tribunal.

But, today I would like to focus my remarks on a major issue that unfortunately has gotten relatively little attention in this debate, which is that CAFTA will seriously impede access to essential medicine in poor developing countries.

In June, the minority staff on the Government Reform Committee released a report entitled "Trade Agreements and Access to Medications Under the Bush Administration." The complete report is available at *www.democrats.reform.house.gov* and I would ask unanimous consent that the Executive Summary be printed in the CONGRESSIONAL RECORD.

The alarming conclusion the report reached is that under CAFTA, patients in poor countries will often have to wait longer than those in the United States to gain access to generic drugs.

Specifically, CAFTA would block governments from approving the sale of generic drugs for at least five years after a new drug is introduced, even if the drug's patent has already expired. The agreement would also inhibit generic competition with patent extensions and other measures that will make it harder for drug regulators to approve generic drugs.

The impact will be devastating in the developing world where large poor and uninsured populations cannot afford brand name drugs. For many patients suffering from diseases like AIDS, tuberculosis, heart disease and cancer, waiting five years to afford new cures will mean the difference between life and death.

In reality, the pharmaceutical companies actually stand to gain little from these protections in a region of the world that barely represents one half of one percent of the global drug market. But the companies view this trade agreement as a cookie cutter model for USTR to negotiate with all countries regardless of the consequences.

The Bush Administration has boldly advanced the pharmaceutical agenda, claiming that the provisions are merely an extension of a U.S. law known as Hatch-Waxman. As an author of that legislation, I could not disagree more.

Hatch-Waxman was a carefully crafted measure that reflects both the need to promote innovation and the need to facilitate generic competition. In contrast, CAFTA does not establish a proper balance between the interests of the drug companies and consumers, between intellectual property rights and the human rights of patients.

It is reckless and dangerous to force our partners in the developing world to trade away their timely access to inexpensive, lifesaving medications.

It is irresponsible for the United States to undermine its commitment to the 2001 Doha Declaration, which expressly called for trade rules to respect public health needs.

It is wrong for CAFTA to advance the financial interests of large multinational drug companies at the expense of the developing world's ability to address public health problems.

If we defeat CAFTA today, we can put pressure on the Bush Administration to change course. Then we can vote on an agreement that is both ethically and economically sound.

EXECUTIVE SUMMARY

In 2001, 142 countries, including the United States, adopted "the Doha Declaration," an international agreement that trade obligations should be interpreted and implemented in ways that protect public health and access to essential medications. In August 2002, the U.S. Congress passed the Trade Promotion Authority Act, which directs adherence to the Doha Declaration in U.S. trade negotiations.

Since the adoption of the Doha Declaration and the passage of the Trade Promotion Authority Act, the Bush Administration has signed and Congress has ratified bilateral free trade agreements with three developing countries: Chile, Singapore, and Morocco. The Administration has signed one regional free trade agreement, commonly referred to as CAFTA, with five Central American nations and the Dominican Republic, and a bilateral agreement with Bahrain. Six more free trade agreements with 13 developing countries have been initiated, including a proposed agreement with four Andean nations. Negotiations have also continued on the Free Trade Agreement of the Americas (FTAA).

At the request of Rep. Henry A. Waxman, this report examines whether the Administration is complying with the Doha Declaration in its pursuit of these trade agreements. The report finds that contrary to the Doha Declaration, U.S. trade negotiators have repeatedly used the trade agreements to restrict the ability of developing nations to acquire medicines at affordable prices. In effect, the President's trade representatives have elevated the protection of pharmaceutical patents above the pressing health needs of developing countries.

Specifically, the report finds that the agreements:

Delay approval of generic drugs. CAFTA and the other four signed trade agreements, as well as the Andean proposal and FTAA draft, contain provisions that block the approval of inexpensive generic drugs until the more expensive brand-name drug has received at least five years of market exclusivity in the developing nation. Under the agreements, the developing nations will often have to wait longer than the United States to gain access to low-cost versions of essential medications.

Require patent extensions. CAFTA and the other four signed trade agreements, as well as the Andean proposal, require the developing nations to grant patent extensions to the manufacturers of brand-name drugs to account for delays in the regulatory approval process in the developing nation. These provisions can extend the term of patents in the developing nations beyond their duration in the United States.

Link drug approval to patent status. CAFTA and the other four signed trade agreements, as well as the Andean proposal and the FTAA draft, require drug regulatory authorities in the developing nations to adjudicate patents despite their lack of expertise in the area of patent enforcement, placing an additional constraint on the approval and availability of low-cost generics.

Restrict compulsory licensing. The Singapore agreement, the Andean proposal, and the FTAA draft limit the circumstances under which developing nations can issue compulsory licenses authorizing generic manufacturers to produce low-cost versions of patented drugs.

Prohibit parallel importation. The trade agreements with Morocco and Singapore, as well as the Andean proposal and the FTAA draft, prevent the developing nations from importing patented drugs from abroad at the lowest available price.

Expand patent protections. The Andean proposal has a provision that would require the Andean nations to issue patents for diagnostic, therapeutic, and surgical methods that are currently exempted from patentability.

Taken together, these trade provisions will significantly impede the ability of developing countries to obtain access to inexpensive, lifesaving medications. Contrary to the principles of the Doha Declaration, these provisions in the trade agreements advance the financial interests of large multinational drug companies at the expense of the developing world's ability to address public health problems.

Ms. HARMAN. Mr. Speaker, Congress debated the North American Free Trade Agreement in 1993, I wrote an op-ed titled "Not This Treaty, Not Now," arguing that NAFTA's time had not come, that the U.S. and Canada should require Mexico to meet certain preconditions before agreeing to the trade deal. Over the objections of those who argued NAFTA should be used to leverage reforms in Mexico, it passed without enforceable provisions to protect labor rights or the environment. Supporters of the agreement insisted NAFTA would create millions of good jobs, help stem illegal immigration and raise living standards "from the Yukon to the Yucatan."

A decade later, NAFTA's promise is largely unrealized. Environmental conditions in Mexico have worsened, real wages have stagnated, the income disparity between the U.S. and Mexico has widened, and illegal immigration shows no signs of slowing. Clearly, NAFTA is not all that advocates claimed.

The broken promises of NAFTA should serve as a warning, and cast doubt on similar claims that the recently negotiated Central American Free Trade Agreement (CAFTA) will do what NAFTA has not.

Our Central American neighbors have made real economic and political progress in recent years, and the U.S. should work to re-enforce that progress. But as with NAFTA, CAFTA brings together countries with greatly varying labor and environmental standards and enforcement methods. This disparity necessitates strong and enforceable provisions to protect workers and the environment. As did NAFTA, CAFTA comes up short.

CAFTA's penalties for failing to enforce labor and environmental laws provide no real deterrent against future abuses; it offers no incentives to improve standards over time. In fact, CAFTA weakens labor protections by removing an existing oversight mechanism available under our current system of trade preferences for the region.

CAFTA also incorporates NAFTA's troubling Chapter 11 provisions, which effectively give foreign investors the right to challenge U.S. health, safety and environmental laws. California has been at the forefront of efforts to protect its communities from air and water pollution, yet CAFTA gives foreign investors the right to challenge our state law if it affects their commercial interests.

Free and fair trade can lift living standards both at home and abroad, encourage technological innovation, create jobs and empower individuals. But each agreement must be considered on its merits. Bilateral agreements with Chile, Singapore, Jordan, and Australia; normal trade relations with China; and renewal of "fast track" approval were issues I supported.

But trade is not fair if desperate people are forced to work in hazardous conditions or communities are forced to bear the costs of environmental degradation. In the context of lax enforcement of labor and environmental regulations, free trade can provide perverse incentives to impose the costs of production onto workers, communities and the environment. Such incentives serve neither the economic interests of the U.S. nor our trading partners.

Mr. Speaker, with respect to CAFTA, I echo my refrain from 10 years ago: "Not this treaty, and not now."

Mr. HASTERT. Mr. Speaker, the agreement we have before us is critical to America's economic future. You see, America's economic stability is directly linked to our ability to maintain a robust trading relationship with the rest of the world.

Right now, the CAFTA region is the second largest U.S. export market in Latin America. Eighty percent of goods from that region already enter the U.S. duty-free.

But currently, U.S. products don't enjoy the same benefits. American exporters of everything from cars, vegetables, fruits, grain and wood products all face average tariffs of 10 to 30 percent.

In my home State of Illinois, some farmers are paying tariffs on farm goods that are as high as 16 percent. These high tariffs prevent farmers from competing in the growing markets of Central America and the Dominican Republic.

Last year, export shipments from Illinois to the CAFTA region totaled $211 million dollars. That's the 16th largest in the U.S.

Passing CAFTA will allow exporters in Illinois and the rest of the country to enjoy the same benefits that our Central American partners already have. And that means more U.S. products can enter and be sold in Central America.

This agreement is a win-win situation for American farmers, businesses and consumers. No matter how you look at it, business activity will increase. And we all know, when businesses do well, jobs are created. In fact, it is estimated that one out of every five factory jobs in the U.S. depends on trade.

There is another component to CAFTA that is also important to address.

This agreement will help solidify democracy and economic reform in Central America. Here is what we know. Trade creates jobs and lifts people out of poverty. And when that happens, societies stabilize and grow. And there is nothing like a stable society to fight terrorism and strengthen democracy, freedom and rule of law.

Finally, Hispanics are now the largest minority group in the United States. For the millions of Hispanic Americans with families still living in Central America, this agreement creates a mutually beneficial economic relationship that strengthens our ties and our friendship.

Put simply, this trade agreement is about fairness. Fairness for American workers and fairness for American exporters. Our businesses and workers deserve a competitive trading environment on a level playing field.

This is important legislation. It will expand economic opportunity in the United States, and it will promote freedom and democracy in Central America. I urge the House to do the right thing and pass this legislation.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today to encourage my colleagues to vote against the Central American Free Trade Agreement (CAFTA). I would like to be clear that I support increasing fair and free trade with our allies in Central America, and I appreciate the steps these nations have taken to improve business relations with the United States, especially among small businesses in my home State of Rhode Island. Fair trade between our nations could also help to bridge the relationship of our governments, leading to more stability in the region. There are several sociological and economic benefits that could be achieved through fair trade; unfortunately, those who drafted CAFTA did not aim to use this agreement as a vehicle for change, but rather chose to honor special interests before addressing the needs of the families and children living in those nations that will be most affected.

At a time when our Nation is preparing to pass sweeping trade legislation, the Administration has not only cut corners within the agreement, but also within the Federal agencies we rely on to regulate our global policies. I think this fact is best illustrated by the President's funding priorities in this year's budget. He requested, and his party's leader's agreed, to cut the International Labor budget by 86 percent. This funding helps to save children from spending their childhoods working in factories with deplorable conditions. I find it hard to believe that we can stand here and pass such a sweeping trade agreement as we continue to obliterate our ability to protect the children and low-wage employees that will be most affected.

Don't be fooled by those who tell you that there are protections for labor in this bill. The fact remains that this agreement simply permits Central American nations to "enforce their own laws." Should they change their laws, or weaken them in any way, the United States will have no recourse to protest this change. In fact, two CAFTA nations have already weakened or proposed weakening their basic labor laws since the signing of this agreement.

My colleagues from across the aisle talk about providing increased funding for labor protection and enforcement. But that's all it is—talk. There is absolutely nothing written in this agreement that requires the Congress to put money behind their promises, and after passing a budget with an 86 percent cut to the program that stops child labor, I am not confident that this funding will be present in the next budget handed down from the White House. Let us use our trade policies to help the world's most vulnerable populations, and take advantage of the great power of our nation to lift individuals out of poverty, not perpetuate the status quo.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today In opposition to H.R. 3045, and In opposition to the unfair trade policies and burdensome costs to Americans that this agreement represents.

The Central American Free Trade Agreement, CAFTA, which binds together the trade policy and economic future of the U.S., Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras and Nicaragua, was negotiated over an 18-month period. As globalization takes hold in the world and our Nation becomes further integrated economically with others, it is vital that we only enter into a trade agreement that will protect U.S. workers, consumers, and businesses, and that economic development, the proliferation of democracy, environmental protection and, most importantly, the rule of law is honored in the agreement.

Unfortunately, CAFTA does not meet these standards, and instead, includes provisions that will cause considerable distress and harm to U.S. workers and businesses. It lacks a sincere commitment to protecting American jobs. It lacks strong environmental protection provisions. It lacks strong public health provisions. It lacks worker protection provisions. It lacks consumer protection. One of the most egregious portions of CAFTA would allow drug patents to be extended beyond normal limits, thus denying CAFTA nations the opportunity to introduce and offer generic drugs to its citizens, the majority of whom are poor and cannot afford the skyrocketing costs of prescription drugs. Perhaps most importantly, CAFTA lacks that comprehensive policy that should be an overarching feature of any multinational trade agreement—the ability to proactively engage and integrate the domestic business and labor policies of each nation to ensure that each realizes new, improved standards of living, economic standing, and commitments to democracy.

I will vote against CAFTA because I do not believe it will achieve these goals. And I am not alone. In my state of New Mexico, numerous labor and business organizations have voiced opposition to this trade agreement. Since the President signed CAFTA nearly 1 year ago, my constituents have continuously expressed to me their concerns of what CAFTA will mean for them and their families. And they continue, in greater and greater volume, to voice those concerns to me as we have begun debate on H.R. 3045 here in the House.

U.S. trade policy must be fair trade policy, and CAFTA is not. I believe we have squandered an opportunity to enact positive trade policy, and I believe enacting CAFTA will cost our American businesses and families. I oppose this legislation and urge my colleagues to do so as well.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise in strong support of H.R. 3045, the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act.

I'm an unapologetic avid free-trader. I believe we are in the midst of a globalization revolution. I believe the United States has an enormous role to play in that revolution.

We are the nation that benefits most from global economic integration, so it is our job to make sure globalization is sustainable. That it creates more winners than losers, in as many places as possible, on as many days as possible.

But Mr. Speaker, we need to understand that CAFTA is more than just a trade pact. It's a signal of U.S. commitment to democracy and prosperity for our neighbors. And it's the best immigration, anti-gang, and anti-drug policy at our disposal.

I recently returned from leading a congressional delegation to El Salvador, Venezuela, and Colombia. The trip left me more convinced than ever that a large part of the answer to so many questions confronting the D.C. region and the entire United States is, quite simply, free trade.

Want to fight the ever-more-violent MS–13 gang activity originating in El Salvador but prospering in Northern Virginia? Pass CAFTA.

Want to begin to ebb the growing flow of illegal immigrants from Central America? Pass CAFTA.

Want to curb the still-steady stream of illegal drugs to American streets? Pass CAFTA.

Want to help make sure Al-Qaeda and other foreign terrorist groups don't easily utilize the southern border to enter the United States and do us harm? Pass CAFTA.

The reality is, CAFTA has profound implications for not only U.S. economic interests, but geo-political and homeland security concerns as well. My fear is that we are now so focused on promoting freedom and democracy in Iraq that we risk missing a critical and timely opportunity to further those causes in our own backyard—all because of some misguided but politically compelling opposition rhetoric.

Take the so-called "labor concerns," for example. I discussed this with Salvadoran President Tony Saca, and he chuckled at the illogical nature of the criticism. "We have a profound respect for unions," he said. "But if we don't have more jobs, we won't have more unions. Because I haven't seen any jobless unions."

Saca knows what opponents won't admit: the economic benefits arising from CAFTA would significantly increase wealth in El Salvador—wealth that will allow Saca to enforce existing, and even implement new, labor environmental safeguards.

Each of the CAFTA nations is unique, but they share traits, including an urgent need for investment and jobs. Do we really think there is no connection between a lack of economic opportunity in Central America and illegal immigration to the U.S.? Or no connection between rising gang activity and poverty, underemployment, and broken homes? Our own neighborhoods are not insulated from the lack of economic opportunity abroad.

Our best immigration policy is one that strengthens economies south of our border.

For U.S. economic interests, the gains are equally clear: U.S. exports to the six nations total about $15 billion a year; that would increase by $4 billion in the pact's first year, resulting in a net gain of about 25,000 U.S. jobs.

And, having seen firsthand the growing hostility toward America in Venezuela under Hugo Chavez, I can only conclude that American national security interests are also at stake with CAFTA. While the collective attention of our Nation has been primarily focused on Iraq, a string of troubling events has been unraveling in South America.

Economic collapse in Argentina. Growing instability and leftist populism in Bolivia and Ecuador. Chavez consolidating power in oil-rich Venezuela, and extending his anti-US influence into the Caribbean and across the Andes. Brazil signing huge economic deals with China.

Meanwhile, the six CAFTA countries comprise some of our most reliable, steadfast allies anywhere. El Salvador, to this day, maintains hundreds of troops in Iraq in support of the U.S.-led mission.

Some say CAFTA is a move to ship U.S. jobs to Central America; in actuality, it offers a path toward importing apparel and other goods from Central American allies instead of China.

The CAFTA countries are dominated not by Chavez-like dictatorships with a "democratic" face, but by 21st century leaders who realize that when people are given a larger economic role in their community, they in turn demand a greater role in how that community is governed.

But this rising democratic tide could be easily turned back unless Central Americans see—and see soon—that democracy delivers more than promises. The best way to make promises a reality for all is to open our doors to trade.

It may also be the best way to fight some of our biggest societal problems here at home.

Ms. CORRINE BROWN of Florida. Mr. Speaker, here we go again. With the economy in shambles, we are here today discussing free trade in the form of CAFTA. My colleagues, if passed, this free trade bill would be a net loss for American workers, for the environment, and for the local workers in Central America as well. So you may ask Who wins if CAFTA passes? Simple enough. As has too often been the case with this administration, the folks at the country clubs would win. Yes, the same people who benefit from the Bush administration's tax cut plans for the wealthy, the very same people who have been benefiting since President Bush took office back in 2000, all at the expense of our Nation's working people!

CAFTA does not care whether or not you use child labor or forced labor. It does not care whether multinational companies pollute our planet's water and poison our air. This is a treaty that clearly says we do not care how safe the products are that we import, no this trade agreement, just like NAFTA and free trade policies in general, serves just one purpose: To make the richer even richer, while keeping our Nation's workforce at the bottom of the barrel.

Even under the Clinton administration, we were promised more jobs, yet what happened? Millions and millions of American workers found themselves out of work! Workers' lives have been ruined, their families have been torn and uprooted, and in fact, entire agricultural industries like the tomato industry in Florida have suffered. In fact, for the past decade, Florida vegetable growers, especially tomato and bell pepper farmers, have been nearly put out of business! My State's citrus crop, which is often considered the jewel of Florida's agriculture production, is facing greater and greater pressure from Mexico every day. Indeed, if this trade agreement passes, it could easily drive this important industry right out of business.

I yield back the balance of my time and encourage everyone in this building to cast a vote against this bill, and to vote in favor of America's workers, in favor of our farmers, in favor of the environment, and in favor of what's right for our Nation.

Mrs. TAUSCHER. Mr. Speaker, I rise today to voice my strong opposition to the Dominican Republic-Central America Free Trade Agreement and intend to vote against it.

I am proud to be a pro-trade Democrat in Congress and am proud of my record—having supported every free trade agreement since I took office in 1997.

I voted in favor of granting the President Trade Promotion Authority in 2002 and voted against withdrawing from the World Trade Organization in 2000 and again earlier this year.

I am a longtime member, and the current chair of the New Democrat Coalition, a group of members who often support free trade. We see our role as a group of pro-business, pro-defense, and pro-trade leaning members who seek ways to open foreign markets to American goods and services. I also co-chair the Friends of New Zealand Caucus in the House, and hope we may soon see a free trade agreement with New Zealand.

Mr. Speaker, I believe that free trade, when organized properly, benefits our economy. It can only help to improve our relations with the other countries involved.

In the case of CAFTA, I want to see our Nation maintain close ties with our neighbors in Central America. Our economic security and our national security depend on cooperative relationships with our friends and allies.

However, in pursuing free trade, we must also consider the impact and direct effects the agreements will have on workers—both here and abroad.

And CAFTA fails to provide adequate protection.

It simply does not do enough to invest in basic job training and education for Americans—specifically those Americans who lose their jobs due to trade.

The current budget for Trade Adjustment Assistance is insufficient: the President's 2005 request was $300 million less than Congress authorized for FY 2004, despite the obvious needs for job training and retraining. What's worse, Mr. Speaker, is that CAFTA does not provide any TAA funds for service workers, who comprise 80 percent of today's American workforce and produce three-quarters of our products. When job training programs go under funded, American workers are at risk.

Furthermore, CAFTA is the first FTA negotiated by the United States with developing countries, some of which have weak labor laws and a history of suppressing the rights of their workers.

We need to do all in our power to ensure that this agreement helps these countries raise their working standards. Unfortunately, the labor chapter requires that each country simply enforce its existing laws. It does nothing to require the DR–CAFTA countries improve their laws to reflect fairness to working people. There are also no safeguards in the agreement to prevent countries from explicitly weakening their labor laws. This "enforce your own laws" standard is a giant step backwards. Under our current trade policy, the Caribbean Basin Initiative allows us to withdraw trade benefits from countries who violate the labor standards of the agreements they have signed. If CAFTA goes into effect, those remedies are wiped out and simply replaced with the "enforce your own laws" standard.

This labor agreement is simply unacceptable.

And finally Mr. Speaker, I feel compelled to say a word about the legislative process here in Congress. I would be remiss if I did not do so.

This Administration has made a habit of regularly excluding Democrats from the table during the negotiation and drafting of all major legislation. We saw this with the energy bill, the Medicare prescription drug bill, and again with CAFTA. We were not consulted at all on this FTA.

We all have valid ideas and concerns worthy of discussion regarding improving international market economies and they need to be fully and fairly debated. That did not happen with CAFTA. We were not engaged. I thought that at some point in the process members of the New Democrat Coalition would be consulted, as we generally support free trade. However, I was wrong. There was no outreach from House leaders or from the President to us.

One would think that after the passage of Trade Promotion Authority in 2002—by a 3-vote margin—a clear signal was sent to the Administration that passing free trade agreements will not be easy. Everyone ought to be at the table. Instead of heeding past warnings, they have continued to make a habit of regularly excluding Democrats. CAFTA has been no exception.

As a result of poor negotiations with the Democrats and a lack of steady involvement by the President with members of his own party, on the day of the CAFTA vote, President Bush made an eleventh hour trip to Congress to twist arms in hopes of squeaking out the minimum number of votes needed to pass this agreement.

Mr. Speaker, trade should not be a Republican or Democrat issue. It is an American issue. Passing trade agreements by one or two votes, in the dead of night when both the American and Central American people are sleeping, is not the way to have a responsible trade policy.

Both the people of Central America and workers here in the United States deserve better.

Ms. BALDWIN. Mr. Speaker, today I voted against the Dominican Republic-Central America Free Trade Agreement. As negotiated by the Bush Administration, it fails the fundamental tests that our trade agreements should meet.

First, our trade agreements must be structured to raise labor standards, not put downward pressures on the rights and protections of American workers. All workers—in the U.S., the Dominican Republic and Central America—deserve fair wages, safe workplaces, and reasonable working conditions.

Second, all citizens—in the U.S., the Dominican Republic and Central America—deserve clean air and clean water. Polluting factories that poison our environment should not be located in San Salvador or San Jose, any more than they should be in Baraboo or Beloit, or Waunakee or Wisconsin Dells.

The United States should be a leader in the world in raising standards for everyone. DR–CAFTA was an opportunity to enshrine these fundamental protections in a model trade agreement that could have served as a template for raising working standards, wages, safety and environmental protections around the world. Instead, it is an opportunity squandered.

Unfortunately, even more than an opportunity squandered, it threatens to undermine those very protections that American workers and their families have every right to expect. We need a truly fair trade deal. DR–CAFTA isn't fair, and it isn't a deal.

Ms. DELAURO. Mr. Speaker, today Congress draws a line in the sand and says it has had enough of trade agreements that are unfair to America and harmful to our reputation across the world. Today we say enough with agreements that let our competitors reverse engineer our products, manipulate their currency and steal our intellectual property. Enough with agreements that ship good paying American jobs to regions of the world where wages are but a fraction of ours—where environmental and labor standards put already vulnerable families here and abroad at greater risk.

It has been said that this debate is about globalization. But by rejecting CAFTA, we do not reject globalization, Mr. Speaker. Rather, we set a new path for America—one that embraces globalization's capacity to raise living standards here and across the world, to strike at the heart of poverty, and expand markets that will serve as the foundation of the 21st Century economy.

Those are America's values, Mr. Speaker, and they ought to be central to this bill. But if these last four years have taught us anything, it is that we do not spread our values by denying our trade partners' citizens the right to affordable generic drugs for diseases like HIV and malaria—this pact prevents developing countries from accessing lower priced generic drugs by granting drug companies new and extended patent protection and additional shelter from price competition. We do not spread American values by exploiting cheap labor, deepening income inequality in the developing world. Indeed, CAFTA's single enforceable workers' rights provision requires only that countries enforce their own labor laws—laws that fail to meet international standards.

Yet globalization marches on, and America stands idly by, missing one opportunity after another to shape globalization's rules to our benefit and the world's. Already 55,500 workers from my state's once-thriving manufacturing base have been left behind, their jobs shipped overseas. 2.8 million more have been sent abroad nationally, decimating our industrial capacity and leaving us with a $617 billion trade deficit. No one expects this pact to bring these jobs back—the combined purchasing power of the CAFTA is no more than that of my hometown of New Haven, Connecticut. But by including loopholes like one which could allow massive quantities of Chinese yarn, fabric and other products to displace U.S. products, it is hard to imagine this deal will make American companies and workers as competitive in this century's global marketplace as they were in the last. And that must be our goal.

This is a moment for unity, Mr. Speaker. By rejecting CAFTA, the Congress can say with one voice that how America responds to globalization is too important for the partisanship and divisiveness that have brought us to this point. Only then can we send negotiators back to the table with a clear mission and singular moral purpose. That is what this debate is about, and that is why I urge my colleagues to reject this bill.

Mr. CARDOZA. Mr. Speaker, I strongly oppose CAFTA, because I believe it is a bad deal for rural and agricultural communities like those in my 18th district of California.

There is no indication that U.S. agriculture will benefit from a poorly negotiated deal that—without adequate safeguards—opens trade with a region that has little capacity to purchase our goods.

This administration's lax enforcement of trade agreements makes CAFTA's prospects even bleaker.

Currently, our agricultural trade deficit with the six countries covered by CAFTA totals 765 million dollars.

If we assume that the projections for CAFTA are as far off the mark as the projected gains turned out to be for NAFTA, this deficit is likely to grow even higher.

By passing this deeply flawed agreement, we would do two things: Reward these Central American countries for their poor records on labor rights—and add to our ballooning agricultural trade deficit with that region.

Like my Democratic colleagues, I believe in fair trade, not flawed trade.

I believe in trade deals that protect American farmers and ranchers and raise living standards in our partner countries. CAFTA fails to meet these basic standards, and I urge my colleagues to oppose it.

Mr. MOORE of Kansas. Mr. Speaker, DR–CAFTA is good for our country, and good for Kansas. The market access provisions of the agreement will remove remaining trade barriers in the region that raise the cost of Kansas exports, and will keep Kansas exporters competitive internationally. According to the Department of Commerce's International Trade Administration, exports of manufactured and non-manufactured products from Kansas to the Central American region totaled $23 million in 2004. That figure will grow after the signatories to the agreement implement DR–CAFTA. For manufactured goods, duties on 80 percent of U.S. exports to the Central American region will be eliminated immediately, with the remaining duties phased out over a period of up to 10 years. Manufactured goods accounted for 89 percent of Kansas' exports in goods to the DR–CAFTA countries last year, and Kansas will continue to benefit under the market access provisions of DR–CAFTA.

Additionally, DR–CAFTA will open markets for American agricultural goods. For agricultural products, duties on over 50 percent of

U.S. exports would be eliminated immediately upon implementation of DR–CAFTA, with the rest phased out over a period of up to 20 years. Together, the DR–CAFTA countries are Kansas' 11th largest market for crop exports. This agreement will benefit Kansas farmers.

As a transportation hub, the Kansas City metro area, which is ideally situated on the banks of the Missouri and Kansas Rivers and home to hundreds of miles of commercial rail lines and highways, will play a critical role in moving Kansas exports to market.

Finally, trade liberalization benefits American consumers. Greater movements of goods and services between the United States and other nations increases competition and applies downward pressure on prices, which will help keep inflation at historically low levels. Though the importance of international trade on subduing inflation should not be overstated, neither should it be dismissed. Increased competition, together with a reduction in production costs, can reduce the prices for consumer goods and services in our country.

The global integration of markets for goods and services, referred to as "globalization," is a fact of modem life. As we enter the twenty-first century, the pace of globalization is accelerating. The United States has been a global leader in international trade for decades. And our country is well positioned to shape the direction of globalization if we continue to engage with the rest of the world.

In theory, international trade can raise standards of living and efficiently allocate resources between nations. In reality, the potential benefits and drawbacks of trade are usually addressed within the language of trade agreements. Each trade agreement that the United States considers entering into with our trading partners needs to be examined carefully on the merits of the agreement. While I have concerns with DR–CAFTA, I believe the potential benefits of the agreement outweigh its potential deficiencies. For that reason, I plan to vote in favor of DR–CAFTA.

Mr. Speaker, twenty years ago several of the DR–CAFTA countries, each of which has its own unique history and culture, were mired in civil war and suffering from deplorable human rights abuses. The region has come a long way over the last two decades, but there is more work to be done. By passing DR–CAFTA, we have an opportunity to help the region in its progress toward greater freedom and economic prosperity. As former President Jimmy Carter wrote in expressing his strong support for DR–CAFTA: "For the first time ever, we have a chance to reinforce democracies in the region. This is the moment to move forward and to help those leaders that want to modernize and humanize their countries. Moreover, strong economies in the region are the best antidote to illegal immigration from the region."

DR–CAFTA has the potential to create jobs in the region, raise standards of living for the citizens in the DR–CAFTA countries, and further stabilize what has been an unstable region. Defeat of this trade agreement will have devastating consequences for the region, which will likely lose textile and apparel jobs to countries with lower wages and weaker worker protections. Turning our backs on the DR–CAFTA countries is counterproductive, both for the Central American region and for America, while engagement holds the promise of future benefits in our hemisphere.

While DR–CAFTA will bring tangible benefits to both the United States and the Central American region, there are chapters in the agreement that could have been improved as this process unfolded. I am disappointed that there was not more consultation with Congress as the administration negotiated the agreement. Members of both parties have concerns regarding DR–CAFTA's labor provisions. Although the agreement subjects failure to enforce labor laws to binding dispute settlement, which could lead to fines or sanctions, greater protections of workers' rights should have been made subject to binding dispute settlement.

In addition, while Congress will provide $20 million in funding for capacity building efforts in the DR–CAFTA countries to help those nations implement and enforce the provisions of the agreement, $20 million is not enough. More funding will be needed in future years to help the DR–CAFTA countries enforce the laws that protect workers, including children, from potentially dangerous work conditions.

I am also disappointed that the agreement does not confront the reality of globalization's negative consequences here at home. Trade agreements need to do more to help workers transition from jobs in distressed industries to new jobs in areas that stand to benefit from our modern economy. I would like to see greater efforts to retrain displaced workers. I look forward to working with the administration to help American workers remain competitive and employed well into the twenty-first century.

Mr. Speaker, globalization is a fact of life in our country and the rest of the world in 2005. It is part of a broad, long trend toward global economic integration. The United States should embrace its historic role as a global leader in international trade and seek to shape the path of a trend that will continue to unfold ready or not. The United States has the strongest economy and the best workforce in the world. We are well positioned to succeed throughout the twenty-first century. DR–CAFTA is not a perfect trade agreement. But it is a step in the right direction for the future of our country.

Mr. SCHIFF. Mr. Speaker, I rise today in opposition to the Central American Free Trade Agreement and encourage my colleagues to join me in opposing its ratification. Trade agreements of this magnitude must not be entered into lightly, and their impact must be investigated thoroughly.

I have studied this issue in great detail, Mr. Speaker. Over the last several months, I have heard from a great number of my constituents; some support the agreement and believe that it will have significant economic and social benefits for the United States, others oppose this agreement because they are concerned that the environmental and labor costs are too great.

I oppose the ratification of CAFTA because it does not adequately protect American interests, ensure that our trading partners will protect our shared environment, provide protection for the rights of workers, or join us in our fight to ensure intellectual property protections.

Mr. Speaker, a globalized economy in which goods and services move with relative ease across national borders is a fact of life in the 21st Century. As New York Times columnist Thomas Friedman has said, "Globalization is not a phenomenon. It is not just some passing trend. Today it is an overarching international system shaping the domestic politics and foreign relations of virtually every country, and we need to understand it as such."

I support trade that is free and fair. And in fact, I have supported each of the individual trade agreements that have come before me. However, to be free and fair a trading regime must ensure that American workers are not competing with nations whose labor and environmental standards guarantee that we cannot compete, and where the intellectual capital of our people is stolen at will. And we must have an Administration that is willing to use all the force of its office to enforce the standards which are set. The dynamism of the American economy, the quality and dedication of American workers, and the constant renewal of American society through immigration have left us in a unique position to thrive in this new economic world. The challenges for the United States are how to draft good trade agreements, enforce their terms, prepare our work force to deal with globalization, and ensure that our workers have the opportunity to fairly compete.

Regrettably, I lack confidence in the Bush administration's willingness to fight for a level playing field on behalf of American workers. For this reason and because I believe that Congress should play a role in shaping trade agreements, I opposed passage of "Trade Promotion Authority" in 2002. I do not believe that we should be forced to accept a flawed deal, or reject a good deal that has some shortcomings. Nor can we accept half-hearted efforts to enforce labor, environmental or intellectual property provisions—or, as is too often the case, no effort at all.

Mr. Speaker, one area of particular concern to my constituents is the lack of adequate protection for American intellectual property. One of our greatest exports is in the area of creative content and intellectual property. In fact, this has been the only area in which we have had a positive balance of trade with every nation on earth; China is now the only exception. This incredible creative reservoir is derived from the hard work of song writers, technicians, artists, programmers, software makers, musicians, filmmakers and scores of others who make their living from the lawful sale of these items. It is critical that these resources are protected, and the Administration has not adequately sought to put in place or enforce the protections necessary to shield America's creators from intellectual property theft.

I have reviewed the CAFTA agreement that was signed on May 28, 2004, and I have listened to concerns over labor, environmental, and intellectual property issues that have been expressed by my constituents and others. I have also listened to those, including former President Jimmy Carter, who support the agreement, and argue that it will create jobs here and expand democracy and opportunity for our Central American neighbors. Ultimately, however, I am not convinced that CAFTA is a mutually beneficial agreement that protects our hemisphere's workers, environment, and intellectual property, and particularly so when the Administration has such a lackluster record on enforcement.

I ask my colleagues to join me today in opposing the Central American Free Trade Agreement. Mr. Speaker, it is possible to work with our Central American neighbors to develop stronger trade ties, collectively protect workers and our environment, spur economic development throughout the trade cooperative, and enter into an agreement that benefits all interested parties. Unfortunately, CAFTA falls short in all of these areas.

Mr. DAVIS of Tennessee. Mr. Speaker, I am a Conservative Democrat representing a rural area of Tennessee, and I rise today in opposition to the Dominican Republic-Central America Free Trade Agreement.

Mr. Speaker, I will support any trade agreement that results in American job growth and allows our manufacturers and farmers to export their products to new, fair, and competitive markets in other countries. In fact, I have supported previous trade agreements with Chile, Singapore, Australia, and Morocco. But my constituents and I are fearful of this particular agreement.

Our fear is that the only export we will see in this country because of CAFTA is American jobs. This fear is based on our real life experience with a similar agreement that sounds much like this one. That agreement, of course, was NAFTA. My congressional district has been devastated by the loss of jobs since NAFTA's passage.

You know, I've been told a lot of different things by a lot of different folks about why I should support this agreement. One argument was that supporting CAFTA is the Christian thing to do. Well, I am a devout Christian, and I for one do not think exploiting cheap labor for corporate profits is particularly Christian. So, I have a message for corporate America: the real Christian thing for you to do is provide wages to your new Central American employees that are equivalent to wages of the employees in my district who will lose their jobs as a result of this Central American Free Trade Agreement.

I strongly urge all my colleagues who truly care about the American working man and woman to reject this trade agreement, and let's work on creating new jobs in this country instead of outsourcing the ones we currently have.

Mr. AL GREEN of Texas. Mr. Speaker, today, Congress debated and passed H.R. 3045, the Dominican Republic-Central America Free Trade Agreement (DR–CAFTA). I voted in opposition to the trade agreement because of my concerns regarding the full ramifications of its passage and because I am a proponent of trade policies that enhance the welfare of participating countries. Any free trade agreement entered into by the United States should be fair. CAFTA, however, is neither free nor fair. CAFTA will cost American jobs, is unfair to American workers and exploits cheap foreign labor.

As we consider future trade agreements, I believe it is particularly relevant that we learn the lessons from NAFTA. We have learned that the promises of U.S. economic prosperity, curbed undocumented immigration, robust markets and massive job creation went unfulfilled. I fear that NAFTA is a precursor for what can be expected under CAFTA.

NAFTA promised millions of new jobs and a trade surplus for the United States that was never realized. Instead the U.S. has lost over one million lobs to Mexico and Canada. More specifically, the rise in the U.S. trade deficit with Canada and Mexico through 2004 has caused the displacement of production that supported over one million U.S. jobs since NAFTA was signed in 1993. Jobs have been displaced in most states and many industries in the United States. In my home state of Texas alone, more than 170,000 manufacturing jobs have been lost. The loss of these jobs has contributed significantly to the expanding burdens of unemployed workers in our state.

Why do these trade agreements cost us American jobs? Free trade agreements can create an environment that encourages corporations to relocate and take American jobs with them. By making it easier for the Central American countries to export certain products and because they have cheaper labor and weaker labor rights protections, CAFTA would encourage U.S. businesses to relocate. Though supporters tout Central America as a market for U.S. goods, it is not. CAFTA amounts to nothing more than an outsourcing agreement.

Adding insult to injury, Trade Adjustment Assistance (TAA) programs designed to help those who lose their jobs due to trade agreements remain underfunded and ineffective. Congress has not provided adequate funding for this program to meet the needs of thousands upon thousands of workers who have been displaced by trade. You cannot have trade agreements like NAFTA and CAFTA that displace American workers and yet do not provide them with any assistance when they need it.

Not only is CAFTA wrong for the U.S. economy and American workers, its exploitation of cheap foreign labor is morally deficient. CAFTA disbands internationally accepted labor standards and provides no repercussions or penalties for those that violate workers rights. In fact, CAFTA does not require nations to bring their laws into compliance with International Labor Organization (ILO) core labor standards, even though the ILO and U.S. State Department have documented numerous areas where the CAFTA countries' laws fail to comply with even the most basic international norms. This trade agreement merely encourages nations to enforce their own labor laws, no matter how weak those laws may be.

I strongly believe that workers' rights are human rights. They are critical to improving living standards and quality of life both here and abroad. Unfortunately, CAFTA will demand an honest days work without guaranteeing an honest days pay. If we were serious about helping workers in CAFTA countries, we would have gone back to the drawing board, negotiated a better deal for American workers and improved CAFTA nations' labor standards.

Mr. HULSHOF. Mr. Speaker, I rise today in support of the Dominican Republic-Central American Free Trade Agreement, DR–CAFTA, as it will level the playing field for American manufacturers and farmers. The six DR–CAFTA countries, which include the Dominican Republic, Costa Rica, Guatemala, El Salvador, Nicaragua and Honduras, have had preferential access to U.S. markets for approximately 20 years as a result of the Caribbean Basin Initiative, CBI, and the Generalized System of Preferences, GSP, program. Consequently, DR–CAFTA countries have enjoyed a "one-way street" of market access where by 80 percent of goods and almost 99 percent of agricultural products enter duty free. Conversely, American exporters have faced tariffs on almost all of the goods exported to the region.

It is vital to my home State of Missouri that we continue to expand and open new markets for American farm products. In 2003, 25 percent of Missouri's $5 billion farm cash receipts were attributable to foreign trade. Half of all soybeans and 1 in 5 rows of corn grown in Missouri are destined for foreign markets. Absent DR–CAFTA, American farm exports will continue being subject to tariffs ranging from 35 percent to 60 percent. This puts our farmers and ranchers at a significant competitive disadvantage with our international competitors in these growing markets. It would be foolish to turn our backs on an agreement that removes these sort of punitive barriers to our products. If we pass DR–CAFTA, we will open the doors to six countries where the potential U.S. gain for all agricultural exports is expected to reach $1.5 billion. Put another way, this would mean a near doubling of the U.S. agricultural sales to the region when compared to 2003 levels.

It is for this reason that DR–CAFTA enjoys the strong support of the American Farm Bureau Federation, the American Soybean Association, the National Corn Growers Association, the National Pork Producers Council, the National Cattlemen's Beef Association, the USA Rice Federation, the National Association of Wheat Growers and the National Milk Producers Federation, just to name a few. To borrow from Farm Bureau, a vote for DR–CAFTA is a vote for agriculture.

There are many critics who erroneously believe that by ratifying DR–CAFTA, the United States is relinquishing our national sovereignty and opening our borders to floods of immigrants. On the contrary, nothing in the DR–CAFTA will preempt the Constitution, current U.S. laws and our sovereignty. Should a contradiction arise between the terms of DR–CAFTA and U.S. law, the U.S. will maintain its right to change domestic laws as it sees fit.

Moreover, enactment of DR–CAFTA will have no effect on current immigration laws. Congress will maintain its role in crafting U.S. immigration policy. And in fact, DR–CAFTA will help reduce illegal immigration. As the economic opportunities that accompany free market reforms take a stronger hold in Central America, residents of these nations will have a stake in their future and a strong fiscal incentive to remain in their native country.

DR–CAFTA is in our national security interests. Our foreign policy must promote stability and prosperity in Central America. As we saw in the 1980's, instability can give nations who do not share our interests an opportunity to expand their influence in our hemisphere. To promote stability, we should reward democracies that respect human rights and encourage free market economic principles. DR–CAFTA is consistent with this goal. As these evolving democracies continue to grow, we will see their economic viability strengthened, thereby creating jobs and reducing poverty.

Some have expressed concern that DR–CAFTA will weaken labor laws, leaving workers in this region without basic protections. This is simply not true. The International Labor Organization (ILO) has reviewed the labor laws and practices of the six DR–CAFTA countries and found them largely in compliance with the ILO's eight core conventions. With the exception of El Salvador—which has ratified six—every other nation covered by DR–CAFTA has enacted the eight core conventions. In fact, if you look at the labor provisions of other recently enacted free trade agreements, such as the Jordan and Morocco agreements, you will find that the DR–CAFTA labor provisions are more stringent and ensure greater protections for workers.

Over 95 percent of the world's consumers live outside our borders, and it is in our best interests to pursue a policy that opens these markets to American products. If we fail, we forfeit these markets—both from an economic and national security standpoint—to our international competitors in Asia and Europe.

DR–CAFTA will level the playing field for American farmers and manufacturers and help address an important national security goal. This is a win-win situation. I urge my colleagues to join me in supporting this vital agreement.

Ms. MILLENDER-McDONALD. Mr. Speaker, I am deeply disappointed that this House approved the Dominican Republic-Central America-United States Free Trade Agreement today. As I listened to my colleagues who voted for this bill, I could not help but wonder if we were voting on the same piece of legislation.

Contrary to what many of my colleagues have said, the CAFTA will not help American workers and will not save American jobs. Also, our exports to DR–CAFTA countries are already at full capacity for what those countries can consume. Therefore, talk of spurring U.S. exports to the region is empty rhetoric designed to deceive the uninformed person. Instead, DR–CAFTA will increase off-shore production and services and will continue to cause a decline in the standard of living among the American working class.

Under this Agreement, our Central American neighbors will have restricted access to generic pharmaceuticals. This will increase drug prices, including lifesaving HIV/AIDS drugs and medicines putting their health and lives at risk. Surely, Mr. Speaker, you have heard the anguish of Americans who cannot afford basic prescription drugs in this prosperous land of ours. Can you imagine what it will be like for our neighbors who subsist on wages of less than $2 per day to pay for higher drug prices? Where is the humanity in this?

Our Central American neighbors are poor—forty percent of them earn less than $2 per day. The vast majority of them are forced to work under harsh labor conditions. Many women suffer from sexual harassment and discrimination at the work place. Employment places lack basic hygienic facilities, especially for women. In fact, it is fair to say that the Agreement lacks meaningful incentives for employers to uphold, enforce or comply even with current labor standards.

Let us not fool ourselves—this Agreement will not lift our neighbors out of poverty, will not improve their working conditions, and will not help the ordinary worker, whether in Central America or here at home. Instead, this Agreement will displace family farmers, harm small business and force these workers into lower paying jobs.

I wish I could have voted for the DR–CAFTA because I believe trade is a way to lift people out of poverty. But it must be fair trade that also respects labor standards, the environment and allows human dignity. Fair trade must be fair for both America's families and families of other countries with fair living wages while protecting the environment.

Yes, Mr. Speaker, I am deeply disappointed that this was not and balanced trade agreement. I hope that Americans will take a good look at where our country is headed. I feel for my countrymen and I feel for the people of the DR–CAFTA region.

Mr. DICKS. Mr. Speaker, as a general principle, removing trade barriers and creating new opportunities for the export of American manufactured goods and services in today's global economy should be one of the highest priorities for those of us involved in setting national policy.

Economically, politically and strategically, our nation is better and stronger when there is a free flow of commerce, accompanied by the free exchange of ideas and information between the United States and the major economies of the world. Of course we benefit from the growth of potential markets for U.S. goods, but there is also an enormous mutual benefit when the people of other nations are exposed to the shining example of our democratic system of governance and the merits of a free market economy. Just look at the nations who trade freely and compare them—and the conditions their people endure—with the nations whose economies are essentially closed to external commerce such as North Korea. Just last week in this Chamber during the Joint Session of Congress we witnessed a major address by the Prime Minister of India, a nation whose relatively swift progression to an open economy has lifted millions of people in India out of poverty as they have become a major trading partner of the United States. Not only are we selling more and more U.S. goods to India today, but because of our enhanced economic influence in this area of South Asia, the strategic interests of the United States have been strengthened at a critical time in this region.

We have before us in the House today an opportunity to take another major step forward in promoting free trade and democracy: the U.S.-Dominican Republic-Central America Free Trade Agreement (DR–CAFTA). It represents an opportunity to expand our trading relationships, to promote the spread of democracy and to reinforce the stability of the entire Central American region. In reviewing the specific provisions of this trade agreement, as well as the promise of expanding democratic influences in the region, my colleagues and I must consider what is best for our constituents, for American workers, and for workers and their families in the Central American nations affected by this agreement. I know there is opposition here in the House to this agreement, much of it from members of my own party. I respectfully disagree with them because I see the enormous positive mutual benefits of this agreement, and because I am convinced that rejecting DR–CAFTA would hurt our nation and our workers, as well as the people in these Central American nations. And I am convinced that rejecting DR–CAFTA will leave our hemisphere less secure.

Certainly for my constituents and my home state of Washington, this agreement will mean more and better paying jobs. Washington continues to be the most trade-dependent State per capita in the country, with more than one in four jobs dependent on trade. And CAFTA markets are becoming more important to producers in my State. Since 2000, trade with these countries has grown more than 250 percent, with Washington State exports exceeding $110 million last year. Reducing tariff barriers in these countries will significantly boost the attractiveness of Washington State exports to these countries, which includes high tech products, machinery, agriculture, and paper products.

But the benefits of DR–CAFTA do not accrue solely to the workers in my State. There will be positive benefits for working people all across America. While these six nations alone—Costa Rica, El Salvador, Nicaragua, Honduras, Guatemala and the Dominican Republic—may not be huge markets, the DR–CAFTA countries make up America's 12th-largest export market worldwide, importing about $15 billion in U.S. goods and services last year. Together, these countries represent a larger U.S. export market than Russia, India and Indonesia combined. Because of the Caribbean Basin Initiative, these nations already have preferential treatment in our markets; it is time for us to gain the same benefits in their markets. According to an analysis conducted by the Progressive Policy Institute, textile firms, high-tech companies, and many service industries stand to gain immediate benefits from the approval of the agreement.

The benefits for workers from these Central American countries will be more pronounced. Competition from Chinese and Indian garment manufacturers is already intense and is growing. There are provinces in China and India that have greater populations than all six CAFTA nations combined. Currently, the temporary duty-free treatment CAFTA nations enjoy under CBI—nations that use U.S. textiles in their garment production—is keeping these Central American countries competitive. Without CAFTA, this treatment will expire, likely devastating the garment industry in Central America, potentially throwing half a million people out of work. With CAFTA, exports of garments from Central America, using American-made materials, is expected to increase, building jobs on both sides.

The economic arguments for the agreement are strong. But in my opinion, CAFTA is more critical for promoting regional stability. Over the last 20 years, these nations have struggled out of chaos and civil war to establish fragile democracies, developing critical institutions designed to safeguard freedom and to promote the rule of law. But the ultimate success of these governments is predicated upon economic security. I believe that CAFTA will help to do just that, spurring U.S. investment and promoting the growth of a middle class in each of these nations.

The failure of CAFTA would mean just the opposite, in my judgment. Competition—particularly from China and other Asian nations—is fierce and growing. Without CAFTA, the largest manufacturing sector in Central America may fail, leading to a significant rise in unemployment, economic stagnation, and potentially civil unrest. It is certainly in our nation's best strategic interests to assure that this does not happen. With greater economic stability promoted through increased trade and investment, I believe that the nascent institutions of democracy in these nations will thrive and flourish. I am not alone in believing that freer trade will help the workers in Central America. Former President Jimmy Carter and former Costa Rican President Oscar Arias—whose dedication to the people of Central America and to alleviating the plight of the poor is unquestioned—strongly support the agreement. In the words of President Arias, "CAFTA would allow Central America to thrive by exporting goods through trade rather than exporting people through migration. Opportunities would open for consumers to acquire better and cheaper goods; for small and medium businesses to expand and diversify; for more private investment, access to new technologies and educational opportunities; for a qualitative and quantitative improvement in the job market; and for higher economic growth, government revenue and increased social spending."

I also understand the concerns of those of my colleagues here in the House who have joined together with our friends in organized labor in opposition to this agreement. I share their mistrust and disdain for the domestic labor policies implemented by the administration that negotiated this agreement. In the end, however, I believe that our shared cause will be furthered, not hindered, by the labor provisions of this agreement.

The editorial board of The News Tribune in Tacoma, the largest newspaper in my congressional district, summarized the view I have held in a recent editorial in support of the agreement. The editorial said: "CAFTA is probably the single best thing this country could do for those workers (in Central America). If markets were to expand for Central American goods, Central American labor would be worth more, paid more and treated better. Workers would gain more leverage and find it easier to unionize. . . ."

Mr. Speaker, I believe that this agreement is good for the country, good for the state of Washington, good for workers in all the participating countries, and good for the security of the Western Hemisphere. I intend to support the agreement. I would like to thank the gentleman again for yielding to me.

The SPEAKER pro tempore (Mr. LAHOOD). All time for debate has expired.

Pursuant to House Resolution 386, the bill is considered read, and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. RANGEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on H.R. 3045 will be followed by a 5-minute vote on suspending the rules on H. Res. 308.

The vote was taken by electronic device, and there were—ayes 217, noes 215, not voting 2, as follows:

[Roll No. 443]

AYES—217

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Carter
Castle
Chabot
Chocola
Cole (OK)
Conaway
Cooper
Cox
Crenshaw
Cuellar
Culberson
Cunningham
Davis (KY)
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goodlatte
Granger
Graves
Green (WI)
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hulshof
Hyde
Inglis (SC)
Issa
Istook
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Manzullo
Marchant
Matheson
McCaul (TX)
McCrery
McKeon
McMorris
Meeks (NY)
Mica
Miller (FL)
Miller, Gary
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Nunes
Nussle
Ortiz
Osborne
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Skelton
Smith (TX)
Snyder
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tanner
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Towns
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—215

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Coble
Conyers
Costa
Costello
Cramer
Crowley
Cubin
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Foxx
Frank (MA)
Garrett (NJ)
Gonzalez
Goode
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hunter
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jindal
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Mack
Maloney
Markey
Marshall
Matsui
McCarthy
McCollum (MN)
McCotter
McDermott
McGovern
McHenry
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (WI)
Murtha
Nadler
Napolitano
Neal (MA)
Ney
Norwood
Oberstar
Obey
Olver
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rehberg
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Simmons
Simpson
Slaughter
Smith (NJ)
Smith (WA)
Solis
Spratt
Stark
Strickland
Stupak
Tancredo
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—2

Davis, Jo Ann
Taylor (NC)

☐ 0003

Mr. HAYES changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

SUPPORTING GOALS OF NATIONAL MARINA DAY AND URGING MARINAS CONTINUE PROVIDING ENVIRONMENTALLY FRIENDLY GATEWAYS TO BOATING

The SPEAKER pro tempore (Mr. LAHOOD). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 308.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and agree to the resolution, H. Res. 308, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 385, nays 0, not voting 48, as follows:

[Roll No. 444]

YEAS—385

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goodlatte
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Higgins
Hinchey
Hobson
Hoekstra
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—48

Baker
Bass
Blunt
Boucher
Brady (TX)
Buyer
Carson
Clay
Cramer
Cubin
Cunningham
Davis, Jo Ann
Dicks
Dingell
Edwards
Garrett (NJ)
Goode
Gordon
Grijalva
Gutknecht
Hefley
Hinojosa
Holden
Istook
Jefferson
Jenkins
Markey
McHugh
Meeks (NY)
Miller, Gary
Murtha
Norwood
Otter
Oxley
Reyes
Salazar
Simpson
Skelton
Stark
Stearns
Tancredo
Taylor (NC)
Thornberry
Towns
Velázquez
Whitfield
Wilson (SC)
Young (FL)

□ 0011

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3045.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Florida?

There was no objection.

GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3283.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2361, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. DREIER (during consideration of H.R. 3045), from the Committee on Rules, submitted a privileged report (Rept. No. 109–198) on the resolution (H. Res. 392) waiving points of order against the conference report to accompany the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. DREIER (during consideration of H.R. 3045), from the Committee on Rules, submitted a privileged report (Rept. No. 109–199) on the resolution (H. Res. 393) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 6, ENERGY POLICY ACT OF 2005

Mr. DREIER (during consideration of H.R. 3045), from the Committee on Rules, submitted a privileged report (Rept. No. 109–200) on the resolution (H. Res. 394) waiving points of order against the conference report to accompany the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. DREIER (during consideration of H.R. 3045), from the Committee on Rules, submitted a privileged report (Rept. No. 109-201) on the resolution (H. Res. 394) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2985, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2006

Mr. DREIER (during consideration of H.R. 3045), from the Committee on Rules, submitted a privileged report (Rept. No. 109-202) on the resolution (H. Res. 396) waiving points of order against the conference report to accompany the bill (H.R. 2985) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REAPPOINTMENT AS MEMBER TO NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS

The SPEAKER pro tempore. Pursuant to section 306(k) of the Public Health Service Act (42 U.S.C. 242k), and the order of the House of January 4, 2005, the Chair announces the Speaker's reappointment of the following member on the part of the House to the National Committee on Vital and Health Statistics for a term of 4 years:

Mr. Jeffrey S. Blair, Albuquerque, New Mexico

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 47. An act to provide for the exchange of certain Federal land in the Santa Fe National Forest and certain non-Federal land in the Pecos National Historical Park in the State of New Mexico; to the Committee on Resources.

S. 52. An act to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah; to the Committee on Resources.

S. 54. An act to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, and for other purposes; to the Committee on Resources.

S. 56. An act to establish the Rio Grande Natural Area in the State of Colorado, and for other purposes; to the Committee on Resources.

S. 97. An act to provide for the sale of bentonite in Big Horn County, Wyoming; to the Committee on Resources.

S. 101. An act to convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation; to the Committee on Resources.

S.128. An act to designate certain public land in Humboldt, Del Norte, Mendocino, Lake, and Napa Counties in the State of California as wilderness, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, and for other purposes; to the Committee on Resources.

S.136. An act, to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes; to the Committee on Resources; in addition to the Committee on Education and the Workforce for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S.152. An act to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness, and for other purposes; to the Committee on Resources.

S.153. An act to direct the Secretary of the Interior to conduct a resource study of the Rim of the Valley Corridor in the State of California to evaluate alternatives for protecting the resources of the Corridor, and for other purposes, to the Committee on Resources.

S.176. An act to extend the deadline for commencement of construction of a hydrolectric project in the State of Alaska; to the Committee on Energy and Commerce.

S. 178. An act to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes; to the Committee on Resources.

S. 182. An act to provide for the establishment of the Uintah Research and Curatorial Center for Dinosaur National Monument in the States of Colorado and Utah, and for other purposes; to the Committee on Resources.

S. 203. An act to reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes; to the Committee on Resources.

S. 205. An act to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers; to the Committee on Resources.

S. 207. An act to adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes; to the Committee on Resources.

S. 212. An act to amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes; to the Committee on Resources.

S. 214. An act to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes; to the Committee on Resources.

S. 225. An act to direct the Secretary of Agriculture to undertake a program to reduce the risks from an mitigate the effects of avalanches on recreational users of public land; to the Committee on Resources; in addition to the Committee on Agriculture and to the Committee on Government Reform for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S.229. An act to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project and for other purposes; to the Committee on Resources.

S. 231. An act to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes; to the Committee on Resources.

S. 232. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purposes; to the Committee on Resources.

S. 243. An act to establish a program and criteria for National Heritage Areas in the United States, and for other purposes; to the Committee on Resources.

S. 244. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming; to the Committee on Energy and Commerce.

S. 252. An act to direct the Secretary of the Interior to convey certain land in Washoe County, Nevada, to the Board of Regents of the University and Community College System of Nevada; to the Committee on Resources.

S. 253. An act to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community; to the Committee on Resources.

S. 263. An act to provide for the protection of paleontological resources on Federal lands, and for other purposes, to the Committee on Resources; in addition to the Committee on Agriculture for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. 264. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii; to the Committee on Resources.

S. 276. An act to revise the boundary of the Wind Cave National Park in the State of South Dakota; to the Committee on Resources.

S. 279. An act to amend the Act of June 7, 1924, to provide for the exercise of criminal jurisdiction; to the Committee on Resources.

S. 285. An act to reauthorize the Children's Hospitals Graduate Medical Education Program; to the Committee on Energy and Commerce.

S. 301. An act to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont; to the Committee on Resources.

S. 442. An act to provide for the Secretary of Homeland Security to be included in the line of Presidential succession; to the Committee on the Judiciary.

S. 706. An act to convey all right, title, and interest of the United States in and to the land described in this Act to the Secretary of the Interior for the Prairie Island Indian Community in Minnesota; to the Committee on Transportation and Infrastructure.

S. 1480. An act to establish the treatment of actual rental proceeds from leases of land acquired under an Act providing for loans to Indian tribes and tribal corporation; to the Committee on Resources.

S. 1481. An act to amend the Indian Land Consolidation Act to provide for probate reform; to the Committee on Resources.

S. 1482. An act to amend the Act of August 9, 1955, to provide for binding arbitration for Gila River Indian Community Reservation Contracts; to the Committee on Resources.

S. 1483. An act to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to modify the definition of "Indian student count"; to the Committee on Education and the Workforce.

S. 1484. An act to amend the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990; to the Committee on Resources.

S. 1485. An act to amend the Act of August 9, 1955, to extend the authorization of certain leases; to the Committee on Resources.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 38. An act to designate a portion of the White Salmon River as a component of the National Wild and Scenic River System.

H.R. 481. An act to further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000.

H.R. 541. An act to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries.

H.R. 794. An act to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes.

H.R. 1046. An act to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming.

H.R. 3453. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 544. An act to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely effect patient safety.

ADJOURNMENT

Mr. WALDEN of Oregon. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 15 minutes a.m.), the House adjourned until today, Thursday, July 28, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3306. A letter from the Chief, Regulatory Analysis & Development, APHIS, Department of Agriculture, transmitting the Department's final rule—Tuberculosis in Cattle and Bison; State and Zone Designations; New Mexico [Docket No. 04-068-1] received July 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3307. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3308. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3309. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3310. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Harry D. Raduege, Jr., United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

3311. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Deposit Insurance Coverage; Accounts of Qualified Tuition Savings Programs Under Section 529 of the Internal Revenue Code (RIN: 3064-AC90) received June 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3312. A letter from the Assistant to the Board, Federal Reserve Board, transmitting the System's final rule—Truth in Savings [Regulation DD; Docket No. R-1197] received May 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3313. A letter from the Assistant Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Certain Broker-Dealers Deemed Not To Be Investment Advisors [Release Nos. 34-51523; IA-2376; File No. S7-25-99] (RIN: 3235-AH78) received April 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3314. A letter from the Attorney, Office of Legislation and Regulatory Law, OS, Department of Energy, transmitting the Department's final rule—Policy on Research Misconduct (RIN: 1901-AA89) received July 7, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3315. A letter from the Regulations Coordinator, CMM, Department of Health and Human Services, transmitting the Department's final rule—Amendment to the Interim Final Regulation for Mental Health Parity [CMS-4094-F3] (RIN: 0938-AN22) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3316. A letter from the Assistant Secretary, DIM, Securities and Exchange Commission, transmitting the Commission's final rule—Rulemaking for EDGAR System [Release Nos. 33-8590; 34-52052; 35-28002; 39-2437; IC-26990 File No. S7-16-04] (RIN: 3235-AH79) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3317. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Colombia for defense articles and services (Transmittal No. 05-34), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3318. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense articles or defense services sold commercially to Russia and Kazakhstan (Transmittal No. DDTC 026-05), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3319. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense articles or defense services sold commercially to Luxembourg (Transmittal No. DDTC 011-05), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3320. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2005-29, "Waiver of Restrictions on Providing Funds to the Palestinian Authority," pursuant to Section 552, Section 515, and Section 529 of the FY 2004 Foreign Operations, Export Financing, and Related Programs Appropriations Act; to the Committee on International Relations.

3321. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-134, "Uniform Real Property Electronic Recording Act of 2005," pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

3322. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-133, "Abatement of Nuisance Construction Projects Amendment Act of 2005," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

3323. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-136, "Closing of Patricia Harris Drive, N.E., in Square 4325, S.O. 03-5187, Act of 2005," pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

3324. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-135, "Removal from the Permanent System of Highways, Savannah Street, S.E., and the Dedication of Land for Street Purposes (S.O. 04-8736) Act of 2005," pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

3325. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-139, "Tobacco Settlement Model Amendment Act of 2005," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

3326. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-138, "Utility Taxes Technical Corrections Temporary Act of 2005," pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

3327. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-137, "Qualified Zone Academy Bond Project Forward Commitment Approval Act of 2005," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

3328. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-132, "Nuisance Properties Abatement Reform Amendment Act of 2005," pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

3329. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-131, "Summer Youth Employment Act of 2005," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

3330. A letter from the Senior Procurement Executive, OCAO, General Services Administration, transmitting the Administration's "Major" final rule—Federal Acquisition Circular 2005-04—received June 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3331. A letter from the Federal Liason Officer, PTO, Department of Commerce, transmitting the Department's final rule—Revision of Search and Examination Fees for Patent Cooperation Treaty Applications Entering the National Stage in the United States [Docket No. 2005-P-052] (RIN: 0651-AB64) received June 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3332. A letter from the Chief Counsel, BPD, Department of Treasury, transmitting the Department's final rule—U.S. Treasury Securities: State and Local Government Series—received June 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3333. A letter from the Chief Counsel, BPD, Department of Treasury, transmitting the Department's final rule—Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds—Bidder Definitions [Docket No. BPD GSRS 05-02] received May 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3334. A letter from the Assistant Chief, Regulations and Procedures, ATTTB, Department of Treasury, transmitting the Department's final rule—Liquor Dealers; Recodification of Regulations; Administrative Changes Due to the Homeland Security Act of 2002 (2004R-258T) [T.D. TTB-25] (RIN: 1513-AA19) received April 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3335. A letter from the Assistant Chief, Regulations and Procedures, ATTTB, Department of Treasury, transmitting the Department's final rule—Removal of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, for United States Use in Law Enforcement Activities [T.D. TTB-26] (RIN: 1513-AA99) received April 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3336. A letter from the Asst. Chief, Regulations and Procedures, ATTTB, Department of Treasury, transmitting the Department's final rule—Establishment of the Horse Heaven Hills Viticultural Area (2002R-103P) [T.D. TTB-28; Re: Notice No. 27] (RIN: 1513-AA91) received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3337. A letter from the Asst. Chief, Regulations and Procedures, ATTTB, Department of Treasury, transmitting the Department's final rule—Establishment of the High Valley Viticultural Area (2003R-361P) [T.D. TTB-30; Re: Notice No. 28] (RIN: 1513-AA79) received July 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3338. A letter from the Asst. Chief, Regualtions and Procedures, ATTTB, Department of Treasury, transmitting the Department's final rule—Establishment of Alexandria Lakes Viticultural Area (2002R-152P) [T.D. TTB-29; Re: Notice No. ATF-967] (RIN: 1513-AA45) received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3339. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Allocation of Income and Deductions Among Taxpayers (Rev. Rul. 2005-43) received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3340. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Examination of Returns and Claims for Refund, Credit or Abatement; Determination of Correct Tax Liability (Rev. Proc.) received April 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3341. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2005-38) received June 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3342. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Brownfields Demonstration Program for Qualified Green Building and Sustainable Design Projects [Notice 2005-48] received June 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3343. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Uniform Capitalization of Costs (Rev. Rul. 2005-42) received June 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3344. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Last-In, First-Out Inventories (Rev. Rul. 2005-37) received June 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3345. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Election Out of GST Deemed Allocations [TD 9208] (RIN: 1545-BB54) received June 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3346. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Termination of Tobacco Quotas and Price Support Programs [Notice 2005-51] received June 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3347. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Changes in Accounting Periods and in Methods of Accounting (Rev. Proc. 2005-35) received June 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3348. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Items of General Interest [Announcement 2005-37] received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3349. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Rulings and Determination Letters (Rev. Proc. 2005-40) received June 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3350. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Administrative, Procedural, and Miscellaneus (Notice 2005-52) received June 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3351. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Classification of Certain Foreign Entities [TD 9197] (RIN: 1545-BD78) received April 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3352. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Withholding Exemptions [TD 9196] (RIN: 1545-BE21) received April 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3353. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Rules for Certain Reserves (Rev. Rul. 2005-29) received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3354. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Domestic Abusive Trust Schemes [UIL No: 671. 00-00] received April 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3355. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Media Rights Acquired in Connection with a Sports Franchise [UIL 167.03-03] received June 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3356. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Charitable Contributions of Certain Motor Vehicles, Boats, and Airplanes [Notice 2005-44] received June 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3357. A letter from the SSA Regulations Officer, Social Security Administration, transmitting the Administration's final rule—Extension of the Expiration Date for Several Body System Listings [Regulation No. 4] (RIN: 0960-AG27) received June 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3358. A letter from the SSA Regulations Officer, Social Security Administration, transmitting the Administration's final rule—Revised Medical Criteria for Evaluating Genitourinary Impairments [Regulation No. 4] (RIN: 0960-AF30) received July 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3359. A letter from the Secretary, Department of Agriculture, transmitting a legislative proposal entitled, "To provide for greater efficiency in the management and realignment of administrative sites on the National Forest System"; jointly to the Committees on Agriculture and Resources.

3360. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification that implemenation of the FY 2005 International Military Education and Training (IMET) program requires revision to the level justified in the FY 2005 Congressional Budget Justification for Foreign Operations in Iraq, pursuant to 108-447, section 515; jointly to the Committees on International Relations and Armed Services.

3361. A letter from the Acting General Counsel, Department of Commerce, transmitting a draft bill entitled, "Marine Mammal Protection Act Amendments of 2005"; jointly to the Committees on Resources, the Judiciary, and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BARTON: Committee of Conference. Conference report on H.R. 6. A bill to ensure jobs for our future with secure, affordable, and reliable energy (Rept. 109-190). Ordered to be printed.

Mr. BARTON: Committee on Energy and Commerce. H.R. 1132. A bill to provide for the establishment of a controlled substance monitoring program in each State; with an amendment (Rept. 109-191). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARTON: Committee on Energy and Commerce. H.R. 3204. A bill to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools; with an amendment (Rept. 109–192). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. House Concurrent Resolution 208. Resolution recognizing the 50th anniversary of Rosa Louise Parks' refusal to give up her seat on the bus and the subsequent desegregation of American society (Rept. 109-193). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. House Resolution 336. Resolution requesting that the President focus appropriate attention on neighborhood crime prevention and community policing, and coordinate certain Federal efforts to participate in "National Night Out", which occurs the first Tuesday of August each year, including by supporting local efforts and community watch groups and by supporting local officials, to promote community safety and help provide homeland security (Rept. 109–194). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. House Concurrent Resolution 216. Resolution expressing the sense of the Congress that, as Congress observes the 40th anniversary of the Voting Rights Act of 1965 and encourages all Americans to do the same, it will advance the legacy of the Voting Rights Act of 1965 by ensuring the continued effectiveness of the Act to protect the voting rights of all Americans (Rept. 109-195). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. House Resolution 378. Resolution recognizing and honoring the 15th anniversary of the signing of the Americans with Disabilities Act of 1990 (Rept. 109–196 Pt. 1). Ordered to be printed.

Mr. BARTON: Committee on Energy and Commerce. H.R. 3205. A bill to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety, and for other purposes; with an amendment (Rept. 109–197). Referred to the Committee of the Whole House on the State of the Union.

Mr. BISHOP of Utah: Committee on Rules. House Resolution 392. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–198). Referred to the House Calendar.

Mrs. CAPITO: Committee on Rules. House Resolution 393. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 109–199). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 394. Resolution waiving points of order against consideration of the conference report to accompany the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy (Rept. 109–200). Referred to the House Calendar.

Mr. PUTNAM: Committee on Rules. House Resolution 395. Resolution providing for consideration of motions to suspend the rules (Rept. 109–201). Referred to the House Calendar.

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 396. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2985) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109-202). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committees on Education and the Workforce, Energy and Commerce and Transportation and Infrastructure discharged from further consideration. House Resolution 378 referred to the House Calendar and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. MALONEY (for herself, Mr. SANDERS, Mr. FRANK of Massachusetts, and Ms. LEE):

H.R. 3449. A bill to extend the protections of the Truth in Lending Act to overdraft protection programs and services provided by depository institutions, to require customer consent before a depository institution may initiate overdraft protection services and fees, to enhance the information made available to consumers relating to overdraft protection services and fees, to prohibit systematic manipulation in the posting of checks and other debits to a depository account for the purpose of generating overdraft protection fees, and for other purposes;to the Committee on Financial Services.

By Mr. KENNEDY of Rhode Island (for himself, Mr. PAYNE, Mr. FRANK of Massachusetts, Mr. SERRANO, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. GRIJALVA, Mr. MCDERMOTT, Ms. SCHAKOWSKY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SABO, Mr. DAVIS of Illinois, Ms. JACKSON-LEE of Texas, Mr. LANGEVIN, Ms. WATSON, Mr. LYNCH, and Ms. KILPATRICK of Michigan):

H.R. 3450. A bill to adjust the immigration status of certain Liberian nationals who were provided refuge in the United States; to the Committee on the Judiciary.

By Ms. HART:

H.R. 3451. A bill to amend the Internal Revenue Code of 1986 to provide for the use of redevelopment bonds for environmental remediation; to the Committee on Ways and Means.

By Mr. TURNER (for himself, Mr. OXLEY, Mr. NEY, Mr. HOBSON, Mr. BOEHNER, Mrs. JONES of Ohio, Mr. KUCINICH, and Mr. BROWN of Ohio):

H.R. 3452. A bill to amend the Internal Revenue Code of 1986 to treat regional income tax collection agencies as States for purposes of confidentiality and disclosure requirements relating to tax returns and return information; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 3453. A bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means, Resources, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 3454. A bill to amend title XIX of the Social Security Act to require Medicaid coverage of disabled children, and individuals who became disabled as children, without regard to income or assets; to the Committee on Energy and Commerce.

By Mr. ANDREWS:

H.R. 3455. A bill to amend the Real Estate Settlement Procedures Act of 1974 to provide for homeowners to recover treble damages from mortgage escrow servicers for failures by such servicers to make timely payments from escrow accounts for homeowners insurance, taxes, or other charges, and for other purposes; to the Committee on Financial Services.

By Mr. ANDREWS:

H.R. 3456. A bill to amend title 28, United States Code, to provide for individuals serving as Federal jurors to continue to receive their normal average wage or salary during such service; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 3457. A bill to amend title 38, United States Code, to provide for World War II veterans to be in the same priority category for health care services from the Department of Veterans Affairs as World War I veterans; to the Committee on Veterans' Affairs.

By Mr. ANDREWS (for himself and Mr. FOLEY):

H.R. 3458. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income of individual taxpayers discharges of indebtedness attributable to certain forgiven residential mortgage obligations; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 3459. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 3460. A bill to amend the Internal Revenue Code of 1986 to allow married individuals who are legally separated and living apart to exclude from gross income the income from United States savings bonds used to pay higher education tuition and fees; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 3461. A bill to amend the Internal Revenue Code of 1986 to exempt from income tax the gain from the sale of a business closely held by an individual who has attained age 62, and for other purposes; to the Committee on Ways and Means.

By Mr. BISHOP of Utah:

H.R. 3462. A bill to provide for the conveyance of the Bureau of Land Management parcels known as the White Acre and Gambel Oak properties and related real property to Park City, Utah, and for other purposes; to the Committee on Resources.

By Mr. BISHOP of Utah (for himself, Mr. CANNON, Mr. CULBERSON, Mr. OTTER, Mr. HERGER, Mr. GIBBONS, and Mr. WALDEN of Oregon):

H.R. 3463. A bill to authorize Western States to make selections of public land within their borders in lieu of receiving five per centum of the proceeds of the sale of public land lying within said States as provided by their respective Enabling Acts; to the Committee on Resources.

By Mr. BISHOP of Utah (for himself, Mr. HERGER, and Mr. CANNON):

H.R. 3464. A bill to authorize the Secretary of the Interior to make payments to Western States for education improvement; to the Committee on Resources, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLUNT (for himself and Mr. HOYER):

H.R. 3465. A bill to amend title 49, United States Code, to increase penalties for pilots who violate flight restrictions established for the National capital region airspace; to the Committee on Transportation and Infrastructure.

By Mr. BOSWELL:

H.R. 3466. A bill to authorize the Speaker of the House of Representatives and the President Pro Tempore of the Senate to make appropriate arrangements for the presentation, on behalf of Congress, of gold medals to the Meskwaki Code Talkers in recognition of their contributions to the Nation during World War II, and for other purposes; to the Committee on Financial Services.

By Mr. CASE:

H.R. 3467. A bill to amend the adjusted gross income limitation on participation in conservation programs administered by the Department of Agriculture to exempt producers operating in the State of Hawaii; to the Committee on Agriculture.

By Mr. CASE:

H.R. 3468. A bill to recognize the unique ecosystems of the Hawaiian islands and the threat to these ecosystems posed by non-native plants, animals, and plant and animal diseases, to require the Secretary of Agriculture and the Secretary of the Interior to expand Federal efforts to prevent the introduction in Hawaii of non-native plants, animals, and plant and animal diseases, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CASE:

H.R. 3469. A bill to prohibit the import, export, and take of certain coral reef species, and for other purposes; to the Committee on Resources, and in addition to the Committees on Ways and Means, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DAVIS of Illinois (for himself and Ms. JACKSON-LEE of Texas):

H.R. 3470. A bill to strengthen the accountability of the child welfare system in its mandate to ensure the safety, permanence, and well-being of children who are victims of abuse and neglect; to the Committee on Ways and Means.

By Mr. DAVIS of Illinois (for himself and Ms. JACKSON-LEE of Texas):

H.R. 3471. A bill to help children make the transition from foster care to self-sufficiency by addressing weaknesses in the implementation of the John H. Chafee Foster Care Independence Program; to the Committee on Ways and Means.

By Mr. EMANUEL (for himself, Mr. EDWARDS, Mr. RANGEL, Mr. PALLONE, Mr. MCGOVERN, Ms. DELAURO, Mr. DAVIS of Illinois, and Ms. WASSERMAN SCHULTZ):

H.R. 3472. A bill to amend title 10, United States Code, to enhance the protection of members of the Armed Forces and their spouses from unscrupulous financial services sales practices through increased consumer education, and for other purposes; to the Committee on Armed Services.

By Mr. ENGLISH of Pennsylvania:

H.R. 3473. A bill to amend the Occupational Safety and Health Act of 1970 to apply to Federal and State government employers; to the Committee on Education and the Workforce, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GUTIERREZ (for himself and Ms. CORRINE BROWN of Florida):

H.R. 3474. A bill to amend title 38, United States Code, to repeal the provision of law requiring termination of the Advisory Committee on Minority Veterans as of December 31, 2009; to the Committee on Veterans' Affairs.

By Mr. HONDA:

H.R. 3475. A bill to require the prompt review by the Secretary of the Interior of Petition No. 120 for Federal recognition of the Amah Mutsun of Mission San Juan Bautista as an Indian tribe, and for other purposes; to the Committee on Resources.

By Mr. HOYER:

H.R. 3476. A bill to grant a Federal charter to Korean War Veterans Association, Incorporated; to the Committee on the Judiciary.

By Mr. JINDAL:

H.R. 3477. A bill to direct the Secretary of Homeland Security to develop a plan for establishing consolidated and co-located regional offices for the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security.

By Mr. JONES of North Carolina:

H.R. 3478. A bill to amend the Internal Revenue Code of 1986 to permit military death gratuities to be contributed to certain tax-favored accounts; to the Committee on Ways and Means.

By Mr. MATHESON (for himself, Mr. MENENDEZ, Mr. MCINTYRE, and Mr. DAVIS of Tennessee):

H.R. 3479. A bill to protect children from Internet pornography and support law enforcement and other efforts to combat Internet and pornography-related crimes against children; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, the Judiciary, Education and the Workforce, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MICHAUD:

H.R. 3480. A bill to direct the President to withdraw from the Dominican Republic-Central America-United States Free Trade Agreement; to the Committee on Ways and Means.

By Mr. REYNOLDS (for himself, Mr. HIGGINS, and Ms. SLAUGHTER):

H.R. 3481. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to include certain former nuclear weapons program workers in the Special Exposure Cohort under the energy employees occupational illness compensation program; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ROYBAL-ALLARD:

H.R. 3482. A bill to amend the Fair Labor Standards Act of 1938 to increase penalties for violations of child labor laws, and for other purposes; to the Committee on Education and the Workforce.

By Mr. RYUN of Kansas:

H.R. 3483. A bill to suspend temporarily the duty on certain footwear; to the Committee on Ways and Means.

By Mr. RYUN of Kansas:

H.R. 3484. A bill to suspend temporarily the duty on certain athletic footwear; to the Committee on Ways and Means.

By Mr. RYUN of Kansas:

H.R. 3485. A bill to suspend temporarily the duty on certain work footwear; to the Committee on Ways and Means.

By Mr. RYUN of Kansas:

H.R. 3486. A bill to suspend temporarily the duty on certain footwear for men; to the Committee on Ways and Means.

By Mr. RYUN of Kansas:

H.R. 3487. A bill to suspend temporarily the duty on certain rubber or plastic footwear; to the Committee on Ways and Means.

By Mr. RYUN of Kansas:

H.R. 3488. A bill to suspend temporarily the duty on certain work footwear; to the Committee on Ways and Means.

By Mr. RYUN of Kansas:

H.R. 3489. A bill to suspend temporarily the duty on certain athletic footwear; to the Committee on Ways and Means.

By Mr. RYUN of Kansas:

H.R. 3490. A bill to suspend temporarily the duty on certain rubber or plastic footwear; to the Committee on Ways and Means.

By Mr. RYUN of Kansas:

H.R. 3491. A bill to suspend temporarily the duty on certain leather footwear; to the Committee on Ways and Means.

By Mr. SANDERS (for himself, Mr. FRANK of Massachusetts, Mrs. MCCARTHY, and Ms. LEE):

H.R. 3492. A bill to amend the Truth in Lending Act to protect consumers from unfair practices of credit card issuers, and for other purposes; to the Committee on Financial Services.

By Mr. SPRATT (for himself, Mr. BROWN of South Carolina, Mr. INGLIS of South Carolina, Mr. BARRETT of South Carolina, Mr. WILSON of South Carolina, and Mr. CLYBURN):

H.R. 3493. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating the site of the Battle of Camden in South Carolina, as a unit of the National Park System, and for other purposes; to the Committee on Resources.

By Mr. ANDREWS:

H. Con. Res. 219. Concurrent resolution expressing the sense of Congress regarding enhanced security for Taiwan; to the Committee on International Relations.

By Mr. DOOLITTLE:

H. Con. Res. 220. Concurrent resolution expressing the sense of the Congress on the fourth anniversary of the terrorist attacks launched against the United States on September 11, 2001; to the Committee on Government Reform, and in addition to the Committees on Transportation and Infrastructure, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODE (for himself, Mr. JONES of North Carolina, Mr. KING of Iowa, Mr. ROHRABACHER, Mr. TANCREDO, and Mr. CULBERSON):

H. Con. Res. 221. Concurrent resolution expressing the sense of the Congress that the President should immediately and unequivocally call for the enforcement of existing immigration laws in order to reduce the threat of a terrorist attack and to reduce the massive influx of illegal aliens into the United States; to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LATHAM:

H. Con. Res. 222. Concurrent resolution supporting the goals and ideals of National Pregnancy and Infant Loss Remembrance Day; to the Committee on Government Reform.

By Mrs. LOWEY:

H. Con. Res. 223. Concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of Helen Hayes; to the Committee on Government Reform.

By Mr. HASTINGS of Washington:

H. Res. 391. A resolution that there is hereby established a Task Force on Ocean Policy; to the Committee on Rules.

By Mrs. DAVIS of California (for herself and Mr. FORBES):

H. Res. 397. A resolution congratulating the Navy basketball team for winning the 2005 Armed Forces Basketball Championship; to the Committee on Armed Services.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

66. The SPEAKER presented a memorial of the General Assembly of the State of Tennessee, relative to Senate Joint Resolution No. 277 urging the Congress of the United States to stop cuts in agriculture-related programs and initiatives in the Fiscal Year 2006 federal budget; to the Committee on Agriculture.

67. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution 7 memorializing the Congress of the United States to take appropriate action so that funding to the Joint Manufacturing Center in Lima, Ohio, is not reduced through the Base Realignment and Closure process; to the Committee on Armed Services.

68. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 11 memorializing the Congress of the United States to take appropriate action so that Wright-Patterson Air Force Base is excluded from the list of base closure for the Base Realignment and Closure process; to the Committee on Armed Services.

69. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 12 memorializing the Congress of the United States to take appropriate action so that the NASA John H. Glenn Research Center and the Defense Finance Accounting Services Center in Cleveland are excluded from the list of base closure for the Base Realignment and Closure process; to the Committee on Armed Services.

70. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 13 memorializing the Congress of the United States to take appropriate action so that the Youngstown Joint Air Reserve Station in Vienna Township, Ohio, is excluded from the list of base closures for the Base Realignment and Closure process; to the Committee on Armed Services.

71. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 90 memorializing the Congress of the United States to inquire into the status of and pursue the expeditious resolution of the third nomination for the Medal of Honor of U.S. Army Colonel David H. Hackworth; to the Committee on Armed Services.

72. Also, a memorial of the General Assembly of the State of Ohio, relative to Seante Concurrent Resolution No. 10 memorializing the Congress of the United States to take appropriate action so that the 178th Fighter Wing, Ohio Air National Guard at the Springfield-Beckley Municipal Airport in Springfield, Ohio, is excluded from the list of base closures for the Base Realignment and Closure process; to the Committee on Armed Services.

73. Also, a memorial of the General Assembly the State of Ohio, relative to Senate Concurrent Resolution No. 9 memorializing the Congress of the United States to take appropriate action so that the 179th Airlift Wing, Ohio Air National Guard, at the Mansfield Lahm Airport is excluded from the list of base closures for the Base Realignment and Closure process; to the Committee on Armed Services.

74. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 457 urging the Congress of the United States to consider the importance of this installation in this time of war on terrorism and the vital need to protect our Nation; to the Committee on Armed Services.

75. Also, a memorial of the Legislature of the State of Maine, relative to House Joint Resolution No. 904 memorializing the Congress of the United States to continue its support and advocacy for the Portsmouth Naval Shipyard in Kittery, Maine; to the Committee on Armed Services.

76. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 10 memorializing the Congress of the United States to take appropriate action so that the 178th Fighter Wing, Ohio Air National Guard at the Springfield-Beckley Municipal Airport in Springfield, Ohio, is excluded from the list of base closures for the Base Realignment and Closure process; to the Committee on Armed Services.

77. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 9 memorializing the Congress of the United States to take appropriate action so that the 179th Airlift Wing, Ohio Air National Guard, at the Mansfield Lahm Airport is excluded from the list of base closures for the Base Realignment and Closure process; to the Committee on Armed Services.

78. Also, a memorial of the General Assembly of the State of Tennessee, relative to House Joint Resolution 146 memorializing the Congress of the United States to enact legislation to posthumously award First Lieutenant Garlin Murl Conner, United States Army, a much deserved Medal of Honor; to the Committee on Armed Services.

79. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 3 urging the President of the United States and the Congress of the United States to support federal policies designed to eliminate homelessness in the United States; to the Committee on Financial Services.

80. Also, a memorial of the House of Representatives of the State of Hawaii, relative to House Resolution No. 77 urging the United States Congress not to cut federal community development block grant funding as proposed by the administration in the 2006 fiscal year federal budget and to support its restoration into the Department of Housing and Urban Development budget at its current funding level of $4,700,000,000; to the Committee on Financial Services.

81. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 245 requesting the Congress of the United States to amend the No Child Left Behind Act of 2001 according to the recommendations of the final report of the National Conference of State Legislatures' Task Force on No Child Left Behind; to the Committee on Education and the Workforce.

82. Also, a memorial of the Senate of the State of Illinois, relative to Senate Resolution No. 148 urging the Congress of the United States to amend the federal Older Americans Act to include older family caregivers of adult children with developmental disabilities as an eligible population to be served by the National Family Caregiver

Supoprt Program; to the Committee on Education and the Workforce.

83. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 245 memorializing the Congress of the United States to amend the No Child Left Behind Act of 2001 according to the recommendations of the final report of the National Conference of State Legislatures' Task Force on No Child Left Behind; to the Committee on Education and the Workforce.

84. Also, a memorial of the Senate of the State of Ohio, relative to Senate Resolution No. 35 memorializing the Congress of the United States to amend the Energy Policy Act of 1992 to specify that an electric-hybrid vehicle must receive credit as being an alternative fueled vehicle for purposes of the requirement that 75% of new light duty motor vehicles acquired annually for state government fleets be alternative fueled vehicles; to the Committee on Energy and Commerce.

85. Also, a memorial of the Legislature of the State of New Hampshire, relative to Senate Concurrent Resolution No. 4 supporting federal funding for Lyme disease research; to the Committee on Energy and Commerce.

86. Also, a memorial of the Legislature of the State of Nebraska, relative to Legislative Resolution No. 9 urging the Congress of the United States to amend the Social Security Act by deleting May 14, 1993, as the deadline for approval by states of long-term care partnership plans; to the Committee on Energy and Commerce.

87. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 30 memorializing the Congress of the United States to enact legislation allowing the Department of Commerce to help shield children by establishing and requiring the .XXX domain name for adult-only web sites; to the Committee on Energy and Commerce.

88. Also, a memorial of the Legislature of the State of Maine, relative to Joint Resolution memorializing the Congress of the United States and the United States Environemntal Protection Agency to control mercury as a hazardous air pollutant; to the Committee on Energy and Commerce.

89. Also, a memorial of the House of Representatives of the State of Ohio, relative to House Resolution No. 21 urging the Congress of the United States to enact the Clear Skies Act of 2005; to the Committee on Energy and Commerce.

90. Also, a memorial of the House of Representatives of the State of Oregon, relative to House Memorial 1 urging the Congress of the United States to provide for a domestic energy policy that ensures an affordable supply of natural gas and that embraces a concerted national effort to promote greater energy efficiency, increased energy conservation and environmentally responsible natural gas production; to the Committee on Energy and Commerce.

91. Also, a memorial of the House of Representatives of the State of Rhode Island, relative to House Resolution 05R122(05-H6245) memorializing the Congress of the United States to provide for a domestic energy policy that ensures an affordable supply of natural gas and embraces a concerted national effort to promote greater energy efficiency and environmentally responsible natural gas production; to the Committee on Energy and Commerce.

92. Also, a memorial of the Legislature of the State of Maine, relative to a Joint Resolution memorializing the Congress of the United States to provide a domestic natural gas policy; to the Committee on Energy and Commerce.

93. Also, a memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to House Resolution commending the Rebublic of China, Taiwan, on its contributions to promote world health; to the Committee on International Relations.

94. Also, a memorial of the House of Representatives of the State of Hawaii, relative to House Resolution No. 141 urging the Federal Government to provide medical care and compensation to nuclear victims in the Republic of the Marshall Islands; to the Committee on International Relations.

95. Also, a memorial of the Legislature of the State of Arizona, relative to House Concurrent Memorial 2009 urging the Congress of the United States to send federal funds directly to the Arizona Legislature for appropriation and oversight; to the Committee on Government Reform.

96. Also, a memorial of the Legislature of the State of Oregon, relative to House Joint Memorial No. 1 urging the Congress of the United States to pass legislation that will reauthorize and extend the Secure Rural Schools and Community Self-Determination Act of 2000 for an additional 10-year period through federal fiscal year 2016, and that the Act be continued in its present form and be funded through a mandatory continuing appropriation; to the Committee on Resources.

97. Also, a memorial of the Legislature of the State of Nevada, relative to Senate Joint Resolution NO. 12 urging the President of the United States to direct the Secretary of the Interior to provide full funding for the Clark County Sport Shooting Park; to the Committee on Resources.

98. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 204 memorializing the Congress of the United States to enable to receive its appropriate share of revenue received from oil and gas activity on the Outer Continental Shelf; to the Committee on Resources.

99. Also, a memorial of the Legislature of the State of Washington, relative to Senate Joint Memorial No. 8000 memorializing the President of the United States and the Congress of the United States to support the establishment of the Ice Age Floods National Geologic Trail; to the Committee on Resources.

100. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 56, supporting passage of the Native Hawaiian Government Reorganization Act (The "AKAKA Bill"); to the Committee on Resources.

101. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 78 urging the President of the United States and the Congress of the United States to make the Republic of Poland eligible for the United States Department of State's Visa Waiver Program; to the Committee on the Judiciary.

102. Also, a memorial of the Legislature of the State of Nebraska, relative to Legislative Resolution No. 230 urging the President of the United States and the Congress of the United States to make the Republic of Poland eligible for the United States Department of State's Visa Waiver Program; to the Committee on the Judiciary.

103. Also, a memorial of the House of Representatives of the State of Louisiana, relative to House Resolution No. 116 memorializing the Congress of the United States to enable Louisiana to receive its appropriate share of revenue received from oil and gas activity on the Outer Continental Shelf; to the Committee on the Judiciary.

104. Also, a memorial of the Legislature of the State of Maine, relative to a Joint Resolution memorializing the President and Congress of the United States not to require a passport to cross the Canadian border; to the Committee on the Judiciary.

105. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 117 memorializing the Congress of the United States to take such actions as are necessary to amend the United States Code to authorize state governors to proclaim that the United States flag shall be flown at half-staff upon the death of a member of the United States armed forces from their respective states who died on active duty; to the Committee on the Judiciary.

106. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 66 memorializing the Congress of the United States to permit public access to the West Pearl River Navigational Canal located in the parishes of St. Tammany and Washington and to extend the date scheduled for closure until such time that an alternate long-term solution can be determined; to the Committee on Transportation and Infrastructure.

107. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 12 memorializing the Congress of the United States to provide the necessary funding to restore Calcasieu Ship Channel in southwest Louisiana to its authorized dimensions in order that the economic, safety, and security concerns may be adequately addressed; to the Committee on Transportation and Infrastructure.

108. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 31 memorializing the Congress of the United States to enact highway reathorization legislation with a level of funding that closes the gap between federal fuel tax dollars paid by Michigan motorists and dollars received to address Michigan's transportation needs; to the Committee on Transportation and Infrastructure.

109. Also, a memorial of the Senate of the State of Iowa, relative to Senate Resolution No. 58 declaring support for Amtrak; to the Committee on Transportation and Infrastructure.

110. Also, a memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to House Resolution memorializing the Congress of the United States to enact legislation that would fully fund the Department of Veterans Affairs health care system; to the Committee on Veterans' Affairs.

111. Also, a memorial of the Legislature of the State of Maine, relative to Joint Resolution memorializing the President of the United States and the Congress of the United States in support of the Togus Veterans Affairs Medical Center; to the Committee on Veterans' Affairs.

112. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 249 urging Congress to support legislation conferring veterans' benefits on Filipino World War II veterans; to the Committee on Veterans' Affairs.

113. Also, a memorial of the Legislature of the State of Maine, relative to a Joint Resolution memorializing the President of the United States and the Congress of the United States to continue stipends at current levels

for veterans in veterans' nursing homes; to the Committee on Veterans' Affairs.

114. Also, a memorial of the Legislature of the State of Arizona, relative to Senate Concurrent Resolution No. 1003 urging the Congress of the United States to enact legislation to achieve social security reform; to the Committee on Ways and Means.

115. Also, a memorial of the Legislature of the State of Hawaii, relative to Senate Concurrent Resolution No. 76 urging the Congress of the United States to reject proposed changes to the social security system; to the Committee on Ways and Means.

116. Also, a memorial of the Legislature of the State of Arizona, relative to House Concurrent Memorial 2006 urging the Congress of the United States to ensure that the United States does not enter into the Free Trade Area of the Americas; to the Committee on Ways and Means.

117. Also, a memorial of the House of Representatives of the State of Hawaii, relative to House Resolution No. 100 urging President George W. Bush to reconsider his plan to privatize social security; to the Committee on Ways and Means.

118. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 94 memorializing the Congress of the United States of America to take such actions as are necessary to work to abolish the federal estate tax permanently; to the Committee on Ways and Means.

119. Also, a memorial of the Legislature of the State of Montana, relative to Senate Joint Resolution No. 17 urging the Congress of the United States to support the renewable energy production incentive program and production tax credit program; jointly to the Committees on Energy and Commerce and Ways and Means.

120. Also, a memorial of the Senate of the Commonwealth of Massachusetts, relative to Senate Resolution memorializing the Congress of the United States to establish an annual observance of "Liberty Day"; to the Committee on Government Reform.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. FRANK of Massachusetts:

H.R. 3494. A bill for the relief of Veronica Mitina Haskins; to the Committee on the Judiciary.

By Mr. NORWOOD:

H.R. 3495. A bill for the relief of Thomas W. Sikes and Wellington Trade, Inc., doing business as Containerhouse; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. Pickering, Mr. Kirk, Mr. Mack, Miss McMorris, and Mr. Bradley of New Hampshire.

H.R. 14: Mr. Conaway.

H.R. 19: Mr. Alexander.

H.R. 128: Ms. Linda T. Sánchez of California and Ms. Schwartz of Pennsylvania.

H.R. 188: Ms. Eddie Bernice Johnson of Texas and Mr. Payne.

H.R. 269: Mr. Schwarz of Michigan and Mr. Payne.

H.R. 282: Mr. Neugebauer.

H.R. 303: Mr. Weiner.

H.R. 323: Mr. Kuhl of New York.

H.R. 376: Ms. Millender-McDonald.

H.R. 425: Ms. Eshoo.

H.R. 517: Mr. Cardoza, Mrs. Emerson, Ms. Foxx, Mr. Honda, and Mr. Bishop of Utah.

H.R. 588: Mr. Burton of Indiana.

H.R. 602: Mr. Higgins.

H.R. 615: Mr. Lantos and Mr. Grijalva.

H.R. 759: Ms. Harman.

H.R. 772: Mr. McCaul of Texas and Ms. McCollum of Minnesota.

H.R. 808: Mr. Kanjorski.

H.R. 809: Mr. Conaway.

H.R. 819: Mr. Rahall.

H.R. 859: Mr. Gerlach.

H.R. 896: Mr. Wexler and Mr. George Miller of California.

H.R. 949: Mr. Owens and Mr. Wolf.

H.R. 998: Mr. Schwarz of Michigan.

H.R. 1020: Mr. Murtha and Mr. Platts.

H.R. 1029: Mr. Schiff.

H.R. 1059: Ms. Wasserman Schultz, Ms. Corrine Brown of Florida, and Mr. Carnahan.

H.R. 1120: Mr. Simpson, Mr. Green of Wisconsin, and Mrs. Tauscher.

H.R. 1141: Mr. Bishop of Georgia and Mr. Wilson of South Carolina.

H.R. 1156: Mr. Wu.

H.R. 1259: Ms. DeLauro and Mr. Wexler.

H.R. 1272: Mr. Levin and Mr. McNulty.

H.R. 1273: Mr. Chabot.

H.R. 1288: Mr. Moran of Kansas and Mr. Taylor of North Carolina.

H.R. 1366: Mr. Gene Green of Texas.

H.R. 1399: Mr. Ryan of Ohio and Mr. Olver.

H.R. 1402: Mr. Andrews, Mr. Cooper, Mr. Dicks, Mr. Filner, Mr. Hastings of Florida, Mr. Honda, Ms. Eddie Bernice Johnson of Texas, Mr. Kanjorski, Mr. Langevin, Mr. Larson of Connecticut, Mr. Levin, Mr. Lynch, Mrs. Maloney, Ms. Matsui, Mrs. McCarthy, Mr. Meehan, Mr. Meeks of New York, Ms. Millender-McDonald, Mr. Mollohan, Mr. Moran of Virginia, Mr. Murtha, Mr. Nadler, Mr. Oberstar, Ms. Pelosi, Mr. Rangel, Mr. Spratt, Mr. Stark, Mr. Strickland, Mr. Stupak, Mr. Towns, Mr. Wu, and Mr. Wynn.

H.R. 1409: Mr. Hunter.

H.R. 1425: Mr. Wexler.

H.R. 1426: Mr. Wu.

H.R. 1471: Mr. Souder and Ms. Velázquez.

H.R. 1474: Mr. Grijalva.

H.R. 1517: Mr. Leach.

H.R. 1548: Mr. Wamp.

H.R. 1554: Ms. Linda T. Sánchez of California.

H.R. 1558: Mr. Thompson of California and Mr. Rangel.

H.R. 1588: Mr. Holt.

H.R. 1615: Mr. Evans, Ms. Baldwin, Mrs. Davis of California, Mr. Nadler, and Mr. McNulty.

H.R. 1687: Mrs. Napolitano.

H.R. 1704: Mr. Pence.

H.R. 1736: Mr. Davis of Alabama.

H.R. 1957: Mr. Mack.

H.R. 2014: Mr. Cuellar.

H.R. 2048: Mr. Stark and Ms. Bordallo.

H.R. 2062: Mr. Pitts, Ms. Schwartz of Pennsylvania, Mr. Murtha, Ms. Hart, and Mr. Doyle.

H.R. 2076: Mr. Michaud.

H.R. 2106: Mr. Ford.

H.R. 2121: Mr. Gerlach, Mr. Fitzpatrick of Pennsylvania, Mr. Boehner, and Mr. Tanner.

H.R. 2328: Mr. Mack.

H.R. 2330: Mr. LaHood and Mr. Cuellar.

H.R. 2356: Mr. Udall of New Mexico, Mr. Boucher, Mr. Larsen of Washington, Mr. Coble, Mr. DeFazio, Mr. Tiberi, Mr. Etheridge, Mr. Cleaver, Mr. Ross, Mr. Ruppersberger, Mrs. Drake, Mr. Porter, Mr. Goodlatte, Mrs. Capps, Ms. Baldwin, Mr. Calvert, Mr. Pascrell, Mr. Schwarz of Michigan, and Mr. Conaway.

H.R. 2498: Mr. Fortenberry, Mr. Green of Wisconsin, and Mr. Berry.

H.R. 2534: Mrs. Drake.

H.R. 2569: Mr. Case.

H.R. 2682: Mr. Goodlatte, Ms. Hart, and Mr. Paul.

H.R. 2746: Mr. Reyes, Mr. Markey, Mr. Doggett, and Mr. Cummings.

H.R. 2780: Ms. Wasserman Schultz, Mr. Murtha, Mr. Weldon of Pennsylvania, Mr. Van Hollen, and Mr. Davis of Alabama.

H.R. 2793: Mr. Leach, Mr. Petri, and Ms. Baldwin.

H.R. 2803: Mr. Davis of Alabama and Mr. Ferguson.

H.R. 2939: Mr. Simmons.

H.R. 2963: Mr. Smith of Washington, Ms. Linda T. Sánchez of California, and Mr. Filner.

H.R. 2989: Ms. Bean.

H.R. 2992: Mr. Weiner, Mr. Owens, and Ms. Carson.

H.R. 3034: Mr. McGovern, Mr. Kucinich, Ms. Schakowsky, Mr. Waxman, Ms. Wasserman Schultz, and Mr. Pickering.

H.R. 3098: Mr. Culberson, Mr. Reyes, Mr. Sherman, Mr. Rush, Mr. Israel, Mr. Gonzalez, Mr. Emanuel, Mr. Schiff, Mr. Lewis of California, and Mr. Doyle.

H.R. 3111: Mr. Alexander.

H.R. 3132: Mr. Smith of New Jersey, Mr. Cannon, Mr. Kline, Mr. Cantor, Mr. Alexander, Mr. Ross, Mr. King of New York, and Mr. King of Iowa.

H.R. 3135: Mr. Al Green of Texas, Mr. Barrett of South Carolina, Mr. Kolbe, and Mr. Moran of Kansas.

H.R. 3137: Mr. Calvert, Mr. Burgess, Mr. Baker, Mr. Doolittle, Mr. Istook, Mr. Bartlett of Maryland, Mr. Cramer, and Mr. Wamp.

H.R. 3146: Mr. Rahall, Mr. Bishop of Georgia, Mr. Weller, Mr. Boehlert, Mr. Neal of Massachusetts, Mrs. Drake, and Mrs. Myrick.

H.R. 3166: Mr. Pallone.

H.R. 3184: Mr. Schiff and Mr. Crowley.

H.R. 3188: Mr. Peterson of Minnesota, Mr. Rothman, and Ms. Velázquez.

H.R. 3195: Mr. Conyers, Mr. Taylor of Mississippi, Mr. Faleomavaega, Ms. DeLauro, and Mr. Lantos.

H.R. 3268: Mr. Miller of Florida, Mr. Kolbe, and Mr. Hunter.

H.R. 3301: Mr. Cantor, Mr. Nussle, Mr. Souder, and Mr. Emanuel.

H.R. 3306: Mr. Obey and Ms. Jackson-Lee of Texas.

H.R. 3333: Mr. Burgess.

H.R. 3352: Mr. Melancon, Mr. Chandler, Mr. Israel, Mr. Ross, Mr. Cardoza, Mr. Pomeroy, Mr. Berry, Mr. Case, Mr. Boswell, Mr. Cooper, Ms. Herseth, Mr. Boyd, Mr. Thompson of California, Mr. Schiff, Mr. Boren, Mr. Holden, Mr. Reyes, Mr. Baca, Mrs. Napolitano, Mr. Barrow, Mr. Cramer, Mr. Davis of Tennessee, Mr. Michaud, Mr. Moore of Kansas, Mr. Peterson of Minnesota, Mr. Tanner, Mr. Taylor of Mississippi, and Mr. Cuellar.

H.R. 3358: Ms. Harris, Mr. Johnson of Illinois, Mr. Shimkus, and Mr. Faleomavaega.

H.R. 3359: Mr. Nadler, Mr. Case, and Ms. DeGette.

H.R. 3361: Mr. Schwarz of Michigan and Mr. Neal of Massachusetts.

H.R. 3385: Ms. Eshoo.

H.R. 3401: Mr. Brown of South Carolina.

H.R. 3402: Mr. Bachus.

H.R. 3405: Mr. Walden of Oregon, Mr. Manzullo, Mr. Boozman, and Mr. Bartlett of Maryland.

H.R. 3417: Mr. Souder and Mr. Sanders.

H.R. 3438: Mr. Ruppersberger.

H.R. 3442: Ms. Eshoo.

H.J. Res. 55: Mr. Stark, Mr. Conyers, Ms. McKinney, and Ms. Kaptur.

H.J. Res. 61: Mr. Wilson of South Carolina, Mr. Souder, Mr. Goode, Mr. Akin, Mr. Ryun of Kansas, Mr. Shadegg, Mrs. Myrick, Mr. Pitts, Mr. Culberson, Mr. McCaul of Texas, Mr. Mario Diaz-Balart of Florida, Mr. Brady of Texas, Mr. Hensarling, Mrs. Musgrave, Mr. Barrett of South Carolina, Mr. Weldon of Florida, Mr. Chocola, Mr. Ryan of Wisconsin, Ms. Hart, Mr. Sam Johnson of Texas, Mr. Herger, Mr. Doolittle, Mr. King of Iowa, Mr. Simpson, Mr. Inglis of South Carolina, Mr. Fortenberry, Mr. Jindal, Mrs. Blackburn, Mr. Wicker, Mr. Price of Georgia, and Mr. Wamp.

H. Con. Res. 197: Mr. Crowley.

H. Con. Res. 210: Mr. Jindal, Mr. King of New York, Ms. Woolsey, Mr. Gene Green of Texas, Ms. Ros-Lehtinen, Ms. Harris, Ms. Solis, Mr. Neugebauer, Mr. McCaul of Texas, Mr. Bonner, and Mr. Payne.

H. Res. 132: Mr. Fattah.

H. Res. 223: Mr. DeLay.

H. Res. 246: Mr. Levin.

H. Res. 261: Mr. Reyes, Mr. Coble, and Mr. Sessions.

H. Res. 286: Mr. Wexler.

H. Res. 325: Mr. Sweeney, Mr. Lynch, Mr. Payne, Ms. DeLauro, Ms. Linda T. Sánchez of California, and Mr. Schwarz of Michigan.

H. Res. 338: Mr. Sanders.

H. Res. 353: Mr. Moran of Virginia.

H. Res. 358: Mr. Holden.

H. Res. 360: Ms. Ros-Lehtinen and Mr. Souder.

H. Res. 367: Mr. Waxman, Mrs. Maloney, and Mr. Simmons.

H. Res. 371: Mr. Miller of Florida.

H. Res. 375: Mr. Wu, Mr. Brown of Ohio, Mr. Towns, and Mr. Crowley.

H. Res. 381: Mr. Boren and Mr. Waxman.

H. Res. 383: Mrs. Biggert and Ms. Pryce of Ohio.

H. Res. 384: Mr. Meehan.

H. Res. 388: Mr. Meek of Florida.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2567: Mr. George Miller of California.

H.R. 3304: Mr. Gerlach.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

23. The SPEAKER presented a petition of the Miami-Dade County Board of County Commissioners, Florida, relative to Resolution No. R-764-05, urging the Congress of the United States to support $385 Million in funding for Hopwa Program for FY 2006; to the Committee on Financial Services.

24. Also, a petition of the Marinette County Board of Supervisors, Wisconsin, relative to Resolution No. 191, petitioning the Congress of the United States to restore the PILT funding level to no less than the FY 2005 plus the additional amount of the national increase in inflation; to the Committee on Resources.

25. Also, a petition of the City Commission of the City of Weston, Florida, relative to Resolution No. 2005-53, urging the Congress of the United States to revise the policies of the Federal Emergency Management Agency; to the Committee on Transportation and Infrastructure.

26. Also, a petition of the Board of Chosen Freeholders, County of Passaic, New Jersey, relative to Resolution No. R-05-229, urging the Congress of the United States to support the Passaic River Restoration Initiative; to the Committee on Transportation and Infrastructure.

27. Also, a petition of Mr. James N. Thivierge, a citizen of Amesbury, Massachusetts, relative to the Social Security Trust Fund and the rising cost of Medicare; jointly to the Committees on Ways and Means and Energy and Commerce.

SENATE—*Wednesday, July 27, 2005*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, You have challenged us to become like children in order to enter Your kingdom. Today give us a child's trust, that we may find joy in Your guidance. Give us a child's wonder, that we may never take for granted the Earth's beauty and the sky's glory. Give us a child's love, that we may find our greatest joy in being close to You. Give us a child's humility, that we will trust Your wisdom to order our steps.

Guide our Senators and those who support them through the challenges of this day. As they look to You for wisdom, supply their needs according to Your infinite riches.

We pray in Your righteous Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT—MOTION TO PROCEED

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 397, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 397) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

The PRESIDENT pro tempore. Under the previous order, the time from 10 to 2 p.m. shall be equally divided, with the majority in control of the first hour and the Democrats in control of the second hour, rotating in that fashion until 2 p.m.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we are returning to the motion to proceed to the Protection of Lawful Commerce in Arms Act, otherwise known as the gun manufacturers liability legislation. Yesterday we invoked cloture on the motion to proceed. We now have an order to begin the bill at 2 p.m. today. The debate will be equally divided until 2 o'clock today. I understand a rollcall vote will not be necessary, and we will have a voice vote at 2 p.m. and then be on the bill.

Senators can expect a cloture vote on the underlying bill to occur on Friday, unless we change that time by consent. As I stated repeatedly over the last several days, we are going to have a very busy session as we address a range of issues, including energy and highways and the Interior funding bill, the gun manufacturers liability bill, veterans funding, nominations, and other issues.

Just a quick update on several of these. In terms of the Energy bill, after 5 years of hard work, the energy conferees are now done. I expect that that legislation will be filed shortly. This is a major accomplishment that will cause serious and dramatic changes in how we produce, deliver, and consume energy. We simply would not be at this point without the hard work, the perseverance, and the patience of Senator DOMENICI and his partner, Senator BINGAMAN, as well as Congressman BARTON. We will pass that conference report this week. Our country will be all the better for it.

I was talking to the Secretary of Energy earlier this morning. We were discussing the absolute importance of passing this bill to establish a framework of policy from this legislative body. He again referred to the great good this bill will do.

On highways, it has taken this Congress 3 tough years of work to come to this point, but with just a little more work, we will have a bill that the President will sign. Our conferees are working and should complete the writing of it today. I spent time with several of the conferees yesterday and with the Speaker, as we coordinate completion of this highway bill.

The good news for the American people is, as they see what is sometimes confusing on the floor of the Senate as these bills come in, this particular highway bill will make our streets and our highways safer. It will make our economy more productive. It will create many new jobs.

I mentioned veterans funding. Yesterday, the House and Senate majority agreed to ensure that $1.5 billion of needed funding will be given to the Department of Veterans Affairs this fiscal year. Veterans can be assured that their health care will remain funded. I know it is confusing what you hear on the floor, but that action is being taken.

I mentioned Interior funding. Yesterday both Houses agreed to fund many of the programs that affect many of our public lands held in trust for Americans throughout the country. We intend to complete action on this conference report this week as well.

Late last night, the conferees completed work on the Legislative Branch appropriations bill, and we will be attempting to clear that legislation as well this week.

I mentioned all these to give my colleagues an update because there is so much activity going on right now, in addition to the very important legislation that is on the floor.

After several months of aggressive work, we can now look back and say that we have brought the Cabinet full strength for the President's second term in effect. We have accomplished very important class action legislation, after years and years and years of delay. We finished bankruptcy reform, which we have worked on in the Congress, both Houses, since the late 1990s. We completed writing one of the fastest budgets in congressional history with the goal, which we are accomplishing, of pushing down the deficit, keeping our economy growing, and creating jobs, funding our efforts to confront the terrorist challenge overseas, confirming, after what was tough for us all, many of the judicial nominees that have been held up for years. All of that is what we have done.

Now we have the opportunity over the next 3 to 4 days of completing action on the very necessary, very important bills which I have mentioned—bills that will make a real difference in the everyday lives of Americans. We are talking about funding for health care, veterans, highways, and energy. We are demonstrating governing with meaningful solutions to everyday problems of Americans.

These bills will affect people's lives directly, will create opportunities for new jobs, help people to fulfill the American dreams they might have, as well as address critical national needs. By the time we get to the recess—I mention that because we have a long recess. A recess is the time that we can use to go back and be with our constituencies. We do have a long recess in August. I say that to preface how important it is that we complete all of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

our work this week. The American people expect us to complete action on the items I have mentioned. There is a tendency to think the recess is going to start maybe a day early. It certainly looks like, because we are going to be so busy, that we will be working through Friday of this week. I will be in constant consultation with the Democratic leader. We will have the opportunity to talk several times throughout the day.

At this point, we cannot rule out a Saturday session, if it is absolutely necessary. I think we can finish our work earlier, but we simply can't rule out a Saturday session at this point.

I do ask for Members to keep their schedules flexible until we get through this legislative calendar. We will in a bipartisan way have a lot to be proud of once we leave for our August recess.

HEALTH CARE

Mr. President, most of what I have said has to do with accomplishments, challenges, and schedule. I want to turn to an issue that I care passionately about, an issue that most, if not all Americans, care about, and that is health care.

As I travel around the country, in part because I am a physician but in larger part because of the reality of the problem, the cost of health care, as well as the safety and quality of health care, is among the first and foremost issues on the minds of the American people. They want us to lower the cost. You do that by improving quality and getting rid of waste, and we are doing just that.

I am pleased to report that after years of challenging work, difficult work, and a lot of negotiation among ourselves on both sides of the aisle, the House is expected to join the Senate in passing a bill called the Patient Safety and Quality Improvement Act. I am hopeful they will pass that bill today. We passed it not too long ago. I mention it because it focuses on getting waste out of the system, and it does so by putting the emphasis on patients.

A patient-centered system is what I strongly believe we need to move to in the future. This does just that. Patient safety is something that concerns me. We have an obligation, as physicians, as nurses, as the health care sector, but also as a public policy body, to make sure that patient safety is maximized. People say: Of course, you do. But if you look back at the Institute of Medicine's report not too long ago that really started a lot of this debate, they estimated that up to 98,000 deaths are caused each year by medical errors. That would make medical errors, that are occurring every day in hospitals and clinics, and even at home when people are taking medicines, the eighth leading cause of death each year. That is more than car accidents, HIV/AIDS, or breast cancer. People dispute the number. Is it 98,000? Is it 125,000? Is it 75,000? The exact number doesn't matter. The fact that there are thousands and thousands of needless deaths being caused is inexcusable. This body has acted. The House will act. And I am hopeful the President will be able to sign that important legislation in the next several days.

What is so obvious to me as a physician, having spent 20 years in the medical arena, every day in the healing profession, is that the tragedy of all these deaths is compounded by the fact that these deaths and the many errors that result in prolonged hospitalization, more misery, greater cost, can be prevented, can absolutely be prevented. Simple reporting procedures, sharing of information, improved technology, a systems approach—all can reduce these preventable errors, and thereby improve hundreds of thousands of lives and actually save tens of thousands of lives.

So people ask, What is the problem? The fear of litigation has kept many health care providers—doctors, nurses, and lab technicians in the hospitals—from sharing information if a mistake is inadvertently made. Everybody makes mistakes, but if you have a mistake that is made, you need to be able to share it with people so you can develop a system to keep it from happening in the future. We all do that in our everyday lives.

For example, in hospitals, there is a tendency not to do that because if you share your mistake, there is a predatory trial lawyer who will swoop in and find that error and take you to court and destroy you and the system. It is human nature to say, if that is the case, Yes, I made a mistake, I will improve, but I am not going to share it because it will destroy my future. People are afraid of sharing their internal data, such as their collection of reporting of infections that could have been prevented with preventable techniques or a medical error that might expose them to a ruinous lawsuit. That drives the reporting of these medical errors underground.

The bill will change all of that, and it will lift this threat of litigation and allow health care providers, doctors, nurses, and other health care professionals to share information and to develop effective solutions and to develop effective systems whereby those mistakes will never occur again. That is the way this patient safety bill will improve lives but also save lives of tens of thousands of people.

This type of nonpunitive reporting isn't new. I began flying small planes fairly young, when I was a teenager. Over the years, I have watched how self-reporting in that field has revolutionized safety in general aviation, private aviation, and in the airline industry as well. In 1975, I had been flying for about 7 years. I remember it because it was a big deal at the time. Similar to what we are doing now with the patient safety bill, the FAA established a system called the Aviation Safety Reporting System. It encouraged everyone in the aviation system—mechanics, pilots, air traffic controllers, flight attendants, and the general public—to voluntarily report—I remember the blue cards you reported on—potential or actual safety problems, and you could do so without fear of recrimination.

That is why this voluntary aspect is so important. Because that information in the aviation field was shared internally and with others, accidents went down and overall safety went up dramatically. Everyone improved. Quality improved and safety improved by learning from others.

The patients safety bill that is before the House of Representatives today—the same bill that passed in this body last Thursday—promises exactly the same kind of benefits, in parallel, that were passed in 1975, and this is 2005, 30 years later than it should have been. Under the provisions of this act, hospitals and physicians and other health professionals will be able to share this information about their practices with independent PSOs, or patient safety organizations, without the fear of lawsuits, and this transparency will improve quality.

America has the absolute best health care in the world. I have seen it by doing heart transplants, using the best of lasers to resect tumors out of the trachea or windpipe, and with developing ventricular assist devices. I was in Tanzania some weeks ago working at a small clinic out in the bush, and when you look back at America, we have the most advanced health care in the world, with new treatments and techniques, improving millions of lives every day.

Through this bill, we are putting that same sort of American ingenuity to work in improving patient safety in hospitals and clinics and thus getting rid of waste and improving the overall quality of care. This bill is a major step forward to making health care safer and less costly, driving up the quality, driving down costs, and getting out the waste.

I can tell you, this is the first major health bill in this Congress. But I hope in the very near future we will pass other important legislation we are working on in a similarly bipartisan way—namely, information technology to have privacy-protected, electronic medical records available to everybody who wants it. It is a bipartisan effort. We have come a long way, and I am hopeful that we can do that in the near future.

We are establishing interoperability standards—working with the private sector to establish interoperability standards which will allow the 6,000 hospitals and 900,000 physicians out there to be able to communicate in a seamless way, with privacy-protected information. Again, it is another bill that would get rid of waste, drive down the cost of health care, and improve quality.

I am excited about these health initiatives. I thank my colleagues who have specifically been involved in this bill, including Chairman MIKE ENZI, Senator JUDD GREGG, Senator JIM JEFFORDS, who has been at it as long as anybody—this particular bill on patient safety—and, of course, Senator TED KENNEDY. On the House side, Chairman JOE BARTON and ranking member JOHN DINGELL have done a tremendous job as well shepherding through, the Patient Safety and Quality Improvement Act. We are saving lives and moving American medicine forward.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I understand that the Republican side has from 10 until 11, is that correct, under the unanimous consent agreement?

The PRESIDENT pro tempore. That is correct. The first hour is under the control of the majority, the second hour is under the control of the minority, and it reverts back to the majority and then the minority.

Mr. CRAIG. Mr. President, I send to the desk a list of 61 cosponsors of S. 397, the Protection of Lawful Commerce in Arms Act that is currently pending before the Senate, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COSPONSORS, BY DATE

Sen. Baucus, Max [D-MT]—2/16/2005*, Sen. Bunning, Jim [R-KY]—2/16/2005*, Sen. Chambliss, Saxby [R-GA]—2/16/2005*, Sen. Collins, Susan M. [R-ME]—2/16/2005*, Sen. Craig, Larry [R-ID], Sen. Crapo, Mike [R-ID]—2/16/2005*, Sen. Ensign, John [R-NV]—2/16/2005*, Sen. Hutchison, Kay Bailey [R-TX]—2/16/2005*, Sen. Isakson, Johnny [R-GA]—2/16/2005*, Sen. Kyl, Jon [R-AZ]—2/16/2005*, Sen. Murkowski, Lisa [R-AK]—2/16/2005*, Sen. Santorum, Rick [R-PA]—2/16/2005*, Sen. Snowe, Olympia J. [R-ME]—2/16/2005*, Sen. Thomas, Craig [R-WY]—2/16/2005*, Sen. Sununu, John E. [R-NH]—2/16/2005*, Sen. Vitter, David [R-LA]—2/17/2005, Sen. DeMint, Jim [R-SC]—3/1/2005.

Sen. Dorgan, Byron L. [D-ND]—3/1/2005, Sen. Gregg, Judd [R-NH]—3/1/2005, Sen. Hatch, Orrin G. [R-UT]—3/1/2005, Sen. Frist, William H. [R-TN]—3/3/2005, Sen. Graham, Lindsey [R-SC]—3/4/2005, Sen. Cochran, Thad [R-MS]—3/9/2005, Sen. Shelby, Richard C. [R-AL]—3/9/2005, Sen. Burr, Richard [R-NC]—3/10/2005, Sen. Specter, Arlen [R-PA]—3/14/2005, Sen. Pryor, Mark L. [D-AR]—3/16/2005, Sen. Roberts, Pat [R-KS]—3/17/2005, Sen. Bennett, Robert F. [R-UT]—4/12/2005, Sen. McCain, John [R-AZ]—7/21/2005, Sen. Byrd, Robert C. [D-WV]—7/25/2005, Sen. Alexander, Lamar [R-TN]1—2/16/2005*, Sen. Burns, Conrad R. [R-MT]—2/16/2005*, Sen. Coburn, Tom [R-OK]—2/16/2005*.

Sen. Cornyn, John [R-TX]—2/16/2005*, Sen. Domenici, Pete V. [R-NM]—2/16/2005*, Sen. Enzi, Michael B. [R-WY]—2/16/2005*, Sen. Inhofe, James M. [R-OK]—2/16/2005*, Sen. Johnson, Tim [D-SD]—2/16/2005*, Sen. Lincoln, Blanche L. [D-AR]—2/16/2005*, Sen. Nelson, E. Benjamin [D-NE]—2/16/2005*, Sen. Sessions, Jeff [R-AL]—2/16/2005*, Sen. Stevens, Ted [R-AK]—2/16/2005*, Sen. Thune, John [R-SD]—2/16/2005*, Sen. Allen, George [R-VA]—2/17/2005, Sen. Landrieu, Mary L. [D-LA]—2/17/2005, Sen. Dole, Elizabeth [R-NC]—3/1/2005, Sen. Grassley, Chuck [R-IA]—3/1/2005, Sen. Hagel, Chuck [R-NE]—3/1/2005.

Sen. Lott, Trent [R-MS]—3/2/2005, Sen. Talent, Jim [R-MO]—3/3/2005, Sen. Allard, Wayne [R-CO]—3/7/2005, Sen. Martinez, Mel [R-FL]—3/9/2005, Sen. Brownback, Sam [R-KS]—3/10/2005, Sen. Bond, Christopher S. [R-MO]—3/14/2005, Sen. McConnell, Mitch [R-KY]—3/15/2005, Sen. Coleman, Norm [R-MN]—3/16/2005, Sen. Voinovich, George V. [R-OH]—4/12/2005, Sen. Smith, Gordon H. [R-OR]—4/27/2005, Sen. Salazar, Ken [D-CO]—7/21/2005, Sen. Rockefeller, John D. [D-WV]—7/26/2005.

Mr. CRAIG. Mr. President, the reason I sent that list of cosponsors to the desk is to demonstrate to all of our colleagues that 61 Senators—60 plus myself—are now in support of the legislation that is pending before the Senate that we will move to active consideration of this afternoon at 2 o'clock. I think it demonstrates to all of us the broad, bipartisan support this legislation has and a clear recognition that the time for S. 397 has arrived.

This legislation prohibits one narrow category of lawsuits: suits against the firearms industry for damages resulting from the criminal or unlawful misuse of a firearm or ammunition by a third party.

It is very important for everybody to understand that it is that and nothing more. These predatory lawsuits are aimed at bankrupting the firearms industry. The courts of our Nation are supposed to be a forum for resolving controversies between citizens and providing relief where it is warranted, not a mechanism for achieving political ends that are rejected by the people's representatives, the Congress of the United States.

Time and time again down through history, that rejection has occurred on this floor and the floor of the other body.

Interest groups, knowing that clear well, have now chosen the court route to attempt to destroy this very valuable industry in our country.

Over two dozen suits have been filed on a variety of theories, but all seek the same goal of forcing law-abiding businesses selling a legal product to pay for damages from the criminal misuse of that product. I must say, if the trial bar wins here, the next step could be another industry and another product.

While half of these lawsuits have already been fully and finally dismissed, other cases are still on appeal and pending. Hundreds of millions of dollars are still being spent. The bill would require the dismissal of existing suits, as well as future suits that fit this very narrow category of description. It is not a gun industry immunity bill because it does not protect firearms or ammunition manufacturers, sellers, or trade associations from any other lawsuits based on their own negligence or criminal conduct.

This bill gives specific examples of lawsuits not prohibited—product liability, negligence or negligent entrustment, breach of contract, lawsuits based on violations of States and Federal law. And yet, we already heard the arguments on the floor yesterday, and I am quite confident we will hear them again and tomorrow, that this is a sweeping approach toward creating immunity for the firearms industry.

I repeat for those who question it, read the bill and read it thoroughly. It is not a long bill. It is very clear and very specific.

The trend of abusive litigation targeting the firearms industry not only defies common sense and concepts of fundamental fairness, but it would do nothing to curb criminal gun violence. Furthermore, it threatens a domestic industry that is critical to our national defense, jeopardizes hundreds of thousands of good-paying jobs, and puts at risk access Americans have to a legal product used for hundreds of years across this Nation for lawful purposes, such as recreation and self-defense.

Thirty-three States enacted similar gun lawsuit bans or civil liability protection. In other words, already 33 States, because of our silence, have felt it necessary to speak up to protect law-abiding citizens from this misuse of our courts.

Yesterday, opponents repeatedly charged that negligent businesses and people would be let off the hook by this bill. It was even stated that this bill would bar virtually all negligence and product liability cases in States and Federal courts. I repeat, nothing can be further from the truth. For those who come to this floor to make that charge, my challenge to them is to read the bill. Obviously they have not. They are simply following the script of the anti-gun community of this Nation. That is not fair to Senators on this floor to be allowed to believe what this legislation simply does not do nor does it say.

The bill affirmatively allows lawsuits brought against the gun industry when they have been negligent. The bill affirmatively allows product liability action. Any manufacturer, distributor, or dealer who knowingly violates any State or Federal law can be held civilly liable under the bill. This bill does not shut the courthouse door.

Under S. 397, plaintiffs will have the opportunity to argue that their case falls under the exception, such as violations of Federal and State law, negligent entrustment, knowingly transferring to a dangerous person. That is what that all means, that you have knowingly sold a firearm to a person who cannot legally have it or who you have reason to believe could use it for a purpose other than intended. That all comes under the current definition of Federal law.

Breach of contract or the warranty or the manufacture or sale of a defective product—these are all well-accepted legal principles, and they are protected by this bill. Current cases where a manufacturer, distributor, or dealer knowingly violates a State or Federal law will not be thrown out.

Opponents have complained about the Senate considering this bill at the same time and even have impugned the motives of the Senators who support it. The votes yesterday speak for themselves. Sixty-six Senators said it is time we got this bill before the Senate, and that is where we are today. When a supermajority of the Senate speaks, there is no question that the Senate moves, as it should, in that direction. The Senate could not muster the votes needed to invoke cloture on the Defense authorization bill which would have moved us to a final vote on that measure possibly by tonight. But the Senate, as I have said, by a wide margin spoke yesterday to the importance of dealing with this issue. Sixty-six Senators said let's deal with it now, and I have just sent to the desk 61 signatures of the cosponsors of this bill that demonstrate broad bipartisan support.

I think it is appropriate to consider all of this in the context of the Defense authorization bill because the reckless lawsuits we are seeking to stop are aimed at businesses that supply our soldiers, our sailors, and our airmen with their firepower. Stop and think about it. Would there ever be a day when all of our military would be armed with weapons manufactured in a foreign nation? There are many in this country, in driving or attempting to drive our firearm manufacturers from this country, who would have it that way.

Clearly, it is within the appropriate context as we deal with Defense authorization that we ought to be talking about the credibility and the assurance we are able to sustain the firearm manufacturing industry in this country. In fact, the United States is the only major world power that does not have a firearm factory of its own. That is something that simply ought not be tolerated. Thirty-eight of our colleagues of both parties signed on to a letter to Majority Leader FRIST making this very point: the importance of protecting America's small firearms industries against reckless lawsuits.

I would read from that letter, but I see that my colleague from Oklahoma is now on the floor wishing to discuss this legislation.

Mr. President, I yield the floor in recognition of Senator COBURN.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Oklahoma.

Mr. COBURN. Mr. President, first, I thank the Senator from Idaho for his unwavering faithfulness to the Constitution and upholding his oath as a Senator, as a Member of this body.

The Bill of Rights is important to us, and I rise today in support of that Bill of Rights and, in particular, the second amendment. Not only do I believe the right to bear arms is guaranteed by the U.S. Constitution, I exercise that right personally as a gun owner. I stand on behalf of the people of Oklahoma who adamantly believe in the second amendment and the right to carry arms and against the attack on that right by the frivolous lawsuits that have come about of late.

We have seen many attempts to curtail the second amendment. Nearly a decade ago anti-gun activists tried to limit the right of law-abiding citizens under the banner of "terrorism" legislation by slipping in anti-gun provisions.

In another line of attack, the anti-gun lobby responded to decreasing enthusiasm for limiting handguns by promoting a new form of gun control—a cosmetic ban on guns labeled with the inflammatory title "assault weapons." While that ban expired in 2004, we will likely see Members of this body attempt to add a renewal and expansion of that ban on this bill today.

Now anti-gun activists have found another way to constrict the right to bear arms and attack the Bill of Rights and attack the Constitution, and that is through frivolous litigation. They have not succeeded in jailing thousands of law-abiding Americans for having guns, or making the registration and purchase process so onerous that nobody bothers to buy a gun. They have failed to get their cosmetic weapons ban renewed. So now they must attack the arms industry financially through lawsuits—frivolous lawsuits, I might say.

This is why we are here today—to put a stop to the unmeritorious litigation that threatens to bankrupt a vital industry in this country.

As an important aside, I strongly believe it is important that we not write legislation that provides immunity for an industry that knowingly harms consumers.

It is also important that those who commit crimes, with or without the use of firearms, should be punished for their actions. I have always been a strong supporter of tough crime legislation. However, make no mistake, the lawsuits that will be prohibited under this legislation are intended to drive the gun industry out of business. With no gun industry, there is no second amendment right because there is no supply.

These lawsuits against gun manufacturers and sellers are not directed at perpetrators of crime. Instead, they are part of a stealth effort to limit gun ownership, and I oppose any such effort adamantly.

Anti-gun activists have failed to advance their agenda at the ballot box. They failed to advance their agenda in the legislatures. Therefore, they are hoping these cases will be brought before sympathetic activist judges—activist judges—who will determine by judicial fiat that the arms industry is responsible for the action of third parties.

Additionally, trial lawyers are working hand in glove with the anti-gun activists because they see the next litigation cash cow, the next cause of action that will create a fortune for them in legal fees.

As a result of some of the efforts of the anti-gun activists and some trial lawyers, the gun manufacturing and sales industry face huge costs that arise from simply defending unjustified lawsuits, not to mention the potential of runaway verdicts. This small industry has already experienced over $200 million in such charges. Even one large verdict could bankrupt an entire industry.

Since 1988, individuals and municipalities have filed dozens of novel lawsuits against members of the firearms industry. These suits are not intended to create a solution. They are intended to drive the gun industry out of business by holding manufacturers and dealers liable for the intentional and criminal act of third parties over whom they have absolutely no control.

In testimony before a House subcommittee in 2005, the general counsel of the National Shooting Sports Foundation, Inc., said:

> I believe a conservative estimate of the total, industry-wide cost of defending ourselves to date now exceeds $200 million.

What does that produce in our country other than waste and abnormal enrichment of the legal system?

This is a huge sum for a small industry such as the gun industry. The firearms industry taken together would not equal the value of a Fortune 500 company.

The danger that these lawsuits could destroy the gun industry is especially threatening because our national security and our civil liberties are at stake.

First, the gun industry manufactures firearms for America's military forces and law enforcement agencies, the 9, the 11. Due in part to Federal purchasing rules these guns are made in the U.S. by American workers. Successful lawsuits could leave the U.S. at the mercy of small foreign suppliers.

Second, by restricting the gun industry's ability to make and sell guns and ammunition, the lawsuits threaten the ability of Americans to exercise their second amendment right to bear arms.

Finally, if the firearms industry must continue to spend millions of dollars on litigation or eventually goes bankrupt, thousands of people will lose their jobs. Secondary suppliers to gunmakers will also have suffered and will continue to suffer.

This is why it is not surprising that the labor unions, representing workers at major firearms plants, such as the International Association of Machinists and Aerospace Workers in East Alton, IL, support this bill. This union's business representatives stated that the jobs of their 2,850 union members "would disappear if trial lawyers and opportunistic politicians get their way."

The economic impact of this problem may be felt in other ways. In my home State of Oklahoma, hunting and fishing creates an enormous economic impact. It is tremendously positive. Hunters bring in retail sales of over $292 million per year; 6,755 jobs in Oklahoma are dependent on hunting; $137,122,000 in salaries and wages in Oklahoma alone; and $22 million in State sales tax per year. The financial insolvency of gun manufacturers and sellers would have a devastating effect on my State and many other States similar to Oklahoma.

Insurance rates for firearm manufacturers have skyrocketed since these suits began, and some manufacturers are already being denied insurance and seeing their policies canceled, leaving them unprotected and vulnerable to bankruptcy.

That is the ultimate goal of these suits—bankruptcy and the elimination of this arms industry. Because of that, 33 State legislatures have acted to block similar lawsuits, either by limiting the power of localities to file suit or by amending State product liability laws. However, it only takes one lawsuit in one State to bankrupt the entire industry, making all of those State laws inconsequential. That is why it is essential that we pass Federal legislation.

Additionally, plaintiffs in these suits demand enormous monetary damages and a broad variety of injunctive relief relating to the design, the manufacture, the distribution, the marketing, and the sale of firearms.

Some of their demands: One-gun-a-month purchase restrictions not required by State laws; requiring manufacturers and distributors to participate in a court-ordered study of lawful demand for firearms and to cease sales in excess of lawful demand; prohibition on sales to dealers who are not stocking dealers with at least $250,000 of inventory—in other words, we are going to regulate how much you have to have in inventory before you can be a gun seller; a permanent injunction requiring the addition of a safety feature for handguns that will prevent their discharge by "those who steal handguns"; and a prohibition on the sales of guns near Chicago that by their design are unreasonably attractive to criminals.

These lawsuits are frivolous. Anti-gun activists want to blame violent acts of third parties on manufacturers of guns for simply manufacturing guns and sellers of guns for simply selling them. This doesn't make any sense. This would be the equivalent of holding a car dealer responsible for a person who intentionally runs down a pedestrian simply because the car that was sold by the dealer was used by a third party to commit negligent homicide.

Guns, like many other things, can be dangerous in the wrong hands. The manufacturer or seller of a gun who is not negligent and obeys all applicable laws should not be held accountable for the unforeseeable actions of a third party. This is a country based on personal accountability, and when we start muddying that aspect of our law and culture we will see all sorts of unintended consequences.

Most of the victims of gun injuries I have seen in the emergency room as a practicing physician were people who were intentionally shot by other people. The gun was the mechanism that was used, but it was the individual who carried out that act. The gun was a tool. Should we ban all tools that are capable of committing homicide or committing injury? These people were not injured by defective guns or defective ammunition. The individuals who shot these patients deserve aggressive prosecution, not the industry that made the guns or the legal sellers of the guns. Even when I treated individuals who injured themselves with guns, these tragedies were accidents. It was not part of a quality or product defect. It was an act of stupidity on the part of people. Part of our freedom comes with the ability to make wise choices. If we limit our ability to make choices, then we limit our freedom.

These lawsuits are part of an anti-gun activist effort to make an end run around the legislative system. We have seen that in multiple areas in our country. When you can't pass it in the legislature, you get an activist judge to get done what you wanted to do in the first place, even though a majority of Americans and a majority of legislatures don't want it. But one judge decides for the rest of us.

We are coming up on a judicial nomination for the Supreme Court. One of the questions that has to be asked is what is the proposal. What is the role in terms of judges making law rather than interpreting law? It will be a key question.

So far judges have not been convinced by their arguments. Here are a few examples. The Louisiana Supreme Court struck down the right of New Orleans to bring a suit in the face of a State law forbidding it, in an opinion stating clearly:

> This lawsuit constitutes an indirect attempt to regulate the lawful design, manufacture, marketing and sale of firearms.

Judge Berle M. Schiller of the U.S. District Court for the Eastern District of Pennsylvania struck the nail on the head when dismissing all of Philadelphia's allegations, stating that "the city's action seeks to control the gun industry by litigation, an end the city could not accomplish by passing such an ordinance."

The Delaware Superior Court adeptly stated that "the Court sees no duty on the manufacturer's part that goes beyond their duties with respect to design and manufacture. The Court cannot imagine that a weapon can be designed that operates for law-abiding people but not for criminals."

A word of caution. Most new tort ideas took a while to work. All it would take is one multimillion-dollar lawsuit to severely damage this industry. This bill is limited in scope. It protects only licensed and law-abiding firearms and ammunition manufacturers and sellers from lawsuits that seek to hold manufacturers and sellers responsible for the crime that third party criminals commit with their nondefective products.

Manufacturers and sellers are still responsible for their own negligent or criminal conduct and must operate entirely within the Federal and State laws.

Firearms and ammunition manufacturers or sellers may be held liable for negligent entrustment or negligence per se; violation of a State or Federal statute applicable to the sale or marketing of the product where the violation was the proximate cause of the harm for which relief is sought; breach of contract or warranty; and product defect. They still are responsible for all that through this bill. It takes none of that away. It holds personal accountability solid and steadfast. It does not infringe on it. Claimants may still go to court to argue that their claims fall under one of the exceptions.

In my opinion, gun manufacturers and sellers are already policed enough, too much, through hundreds of pages of statutes, hundreds of pages of regulations. To name a few sources of regulations of guns and ammunition: the Internal Revenue Code, including the National Firearms Act postal regulations restricting shipping of handguns; Federal explosive law; regulations for gunpowder and ammunition manufacture; the Arms Export Control Act; the Commerce Department export regulations; the Department of Transportation regulations on ammunition explosives and hazardous material transport.

In addition to keeping explicit records that can be inspected by BATF, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, licensed dealers have to conduct a Federal criminal background check on their retail sales either directly by the FBI through its national instant criminal background check or through State systems that also use the NICS system. All retail gun buyers are screened to the best of the Government's ability.

Additionally, the industry has voluntary programs to promote safe gun storage and to help dealers avoid sales to potential illegal traffickers.

Manufacturers also have a time-honored tradition of acting responsibly to make recalls or make repairs as they become aware of product defects.

In the past, Congress has found it necessary to protect other classes; for example, the light aircraft industry. JIM INHOFE, a Senator from Oklahoma, moved that through the House and ultimately through the Senate, an industry that was killed, literally destroyed by frivolous lawsuits. Community health centers, same thing; the aviation industry; the medical implant makers; Amtrak—we have created a special exception for Amtrak—the computer industry members who are affected by Y2K. We took the nonsense out of the courts and put it where it belongs, into statutes with common sense that requires personal accountability and responsibility.

Furthermore, Congress may enact litigation reform when lawsuits are affecting interstate commerce. In many of these lawsuits cities and individuals are trying to use the State court to restrict the conduct of the firearms industry nationally, often contrary to state policies expressed through their own legislatures.

A single verdict in favor of an anti-gun plaintiff could bankrupt or regulate an entire segment of the economy—and of America's national defense. It could be out of business, but most importantly, my right, Oklahomans' right, all of America's right to a guarantee of the second amendment to the Bill of Rights secured for them in their ability to own and use firearms responsibly.

This bill will protect our national security. It will protect our constitutional rights. It will protect an industry responsibly, and it will protect thousands of jobs. It also will ensure that people who have suffered a real injury from a real cause of action can be heard and taken seriously while law-abiding manufacturers and dealers of firearms may continue to serve the law-abiding citizens exercising their constitutionally guaranteed second amendment rights.

Mr. President, I thank you, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I just came from our Republican Senate cloakroom doing an interview on this important piece of legislation, and I thought that in the course of that interview there was an interesting comment made by the person on the other end of the line: Why are you doing this now? And I thought it would be important for me to put it in the appropriate context because there is a tremendous number of important issues before the U.S. Congress at this time that the American people are highly concerned about because we are headed toward the end of the week. As the leader said a few moments ago, we are headed toward the August recess, which means Congress, in its traditional way, will take the month of August off for personal time and family vacation as do many Americans, and we reconvene after Labor Day.

So why now are you addressing the Protection of Lawful Commerce in Arms Act, S. 397? It was stated in the context that the Senate really can only chew gum or dribble a ball, but it can't do both. What I think is important for those who might be listening to understand is that we can chew gum and dribble a ball at the same time, and probably keep multiple balls in the air. That is exactly what the leader is doing at this moment.

Last night, I signed, and I think the Presiding Officer signed, a document that we are very proud of that has been 6 years in coming to the desk of the President of the United States, and now comes to this President because of his very clear urging, and that is the national energy policy.

Yes, the Congress of the United States has completed its work on a national energy policy, and we believe we can take up the conference report now on the floor of the Senate during the remainder of the week before we recess, and we hope that all of our colleagues would let us step back for a moment from this legislation to do so before we move to final passage.

It is very possible that we could also do the transportation conference report. We have extended the legal authority under the Transportation Act 11 times while the Senate and the House did its work, and I hope we would not extend it anymore. So, clearly, there are multiple things we can do, and I trust we will do, before we adjourn for the August recess. But I think the Presiding Officer and I would agree that when our President came to town, now, nearly 6 years ago—and I remember President George W. Bush elect in the leader's office saying: While I spent a good deal of the campaign time talking about education and a variety of other issues, I am here now to talk about national energy. And the first thing I am going to do as a President-elect and a sworn-in President is to name a task force headed by the Vice President to recommend to the Congress the development of a national comprehensive energy policy.

He did, but we did not. He pushed, but we could not produce. He continued to push, and now we have produced, and finally we have a comprehensive energy policy before us. So I would say to those listening and to all of our colleagues, I hope we can dribble a ball and chew gum at the same time and get all of this work done before the August recess. If reasonable heads prevail, we should get it all done by late Friday night. But the leader also said we do have Saturday, and we will get our work done. By early afternoon today, we will be on S. 397, the Protection of Lawful Commerce in Firearms Act.

What I would like to do at this time is read a letter that we sent to Majority Leader FRIST that we think sets into the right context exactly why we are here today and tomorrow debating this important legislation.

The letter goes something like this: Dear Majority Leader FRIST—and this was sent on July 12, signed by a great many Senators, Democrats, and Republicans alike, MAX BAUCUS, who is my cosponsor of this legislation, and I, along with a good many others. We said:

> In the early days of World War II, President Franklin Roosevelt foresaw that America "must be the great arsenal of democracy." Americans rose to that challenge, producing unprecedented quantities of arms, not only for U.S. forces but also for our allies around the world.
>
> That tradition continues during today, during our Global War on Terror. In 2004–2005, the United States—the only major world power without a government firearms factory of its own—

I said, in earlier statements this morning, we are the only major world power where the Government does not own a firearms factory. They are all owned by private citizens—

> has contracted to buy over 200,000 rifles, pistols, machine guns, and other small arms for our soldiers, sailors, airmen and Marines. In addition, the U.S. Army alone uses about 2 billion rounds of ammunition each year—about half of it made by private industry. Those guns and ammunition are made in the U.S. and provide good jobs for hardworking Americans.

Those gun manufacturing facilities and ammunition facilities are spread across the United States.

> Unfortunately, our military suppliers are in danger. Anti-gun activists have taken to the courts to promote their agenda of more restrictive gun control. The very same companies that arm our men and women on the front line against terrorism have been sued all over the country, where plaintiffs blame them for the acts of criminals.
>
> These lawsuits defy all the rules of traditional tort law. While many have been rejected in the court—

And that is many of the lawsuits, some 24-plus filed, about half of them now rejected—

> even one verdict for plaintiffs would risk irreparable harm to a vital defense industry.
>
> These are some of the reasons I have cosponsored S. 397, the Protection of Lawful Commerce in Arms Act. This bill would protect America's small arms industry against these lawsuits, while allowing legitimate, recognized types of suits against companies that make defective products, or against gun dealers who break the law.

I was very clear earlier today that S. 397 sets that out in clear fashion.

The letter goes on to say:

> We urge you to help safeguard our "great arsenal of democracy" by bringing S. 397 to the Senate floor before the August recess, and working to pass it without any amendments that would jeopardize its speedy enactment into law.

That is why we are here today, because a substantial majority of the Senate has urged our leader to bring this important legislation to the floor. We have asked the Senate to be flexible, as is typical in the Senate. While we have legislation on the floor and conference reports on major bills pending, we wanted to come forward to be able to set aside the legislation and to deal with those, and I trust we will, at least three: conference report on energy, the national energy policy, a conference report on transportation, and a conference report on the Interior appropriations bill, which has some critical veterans money in it that I and others have worked for over the last good number of weeks, and we hope all of that can be effectively accomplished before we complete our work by late Friday night or Saturday.

I think that with full cooperation from all of our colleagues, we can get all of this legislation done in a timely amount of time.

Another question was asked of me a few moments ago by the person I did the interview with, who said, well, these are very big companies that make a lot of money and are you not protecting them a great deal?

Let me put that into the right context. I am not going to name names, but I will say that I know of at least three firearms companies that have around $100 million worth of sales a year apiece, not collectively but apiece.

They were comparing it in this interview with the tobacco industry. I said, Well, gee, I know of those companies alone, they were selling $1.1 billion, $1.2 billion, some of them $2 billion industries in their collective value. So we are talking apples and oranges, an industry that is very limited in its capability that is now being sucked to death by the trial bar and these frivolous lawsuits to the tune of hundreds of thousands, if not millions, of dollars a year, in necessary legal defenses.

So that is why we have been very specific in the law. It is not the gun industry immunity bill. It is important that we say that and say it again because it does not protect firearms or ammunitions manufacturers, sellers or trade associations from any lawsuits based on their own negligence or criminal conduct. The bill gives specific examples of lawsuits not prohibited. Let me repeat, not prohibited:

Product liability, in other words, a gun that is defective, that misfires, that does damage to the operator of it, those definitions are clearly spelled out within the law. Negligence or negligent entrustment, breach of contract, lawsuits based on a violation of State and Federal law, it is very straightforward, and we think it is very clear.

The trend of abusive litigation targeting the firearms industry not only defies common sense and concepts of fundamental fairness, but it would do nothing to curb criminal violence, and we know that.

Furthermore, it threatens the domestic industry that I think is critical, as I have mentioned earlier, to the national defense of this country.

It would be a tragedy, and I do not know of a soldier serving today or one who has served that would want to serve with a firearm at his or her side being made by a foreign manufacturer. It does not make sense whatsoever. Yet that is the end product of the effort that is under way today, to simply put firearms manufacturers out of business. If they can be pushed overseas, then other forms of law can be used to block access to firearms or access to the importation of firearms from foreign countries. The argument would be foreign nations are attempting to flood the American consumer with a foreign product. I have heard the argument on the floor by those who have attempted to ban certain types of importation over the years.

It is an argument well spelled out and well used by many. Faulty as it may be, it is an argument that oftentimes resonates to the American consumer. But when the American consumer finds out that they have been denied access to a quality U.S. product or that product does not exist, then the argument turns around.

That is why we are on the floor today. That is why we are dealing with this important legislation. It is my understanding that we have arrived at a unanimous consent agreement that brings us on to the bill by 2 this afternoon. I hope at that time many of my colleagues who are cosponsors would join with me so that we can move this legislation expeditiously through the Senate. I know there are several amendments that will probably be brought to the floor, most of them destructive to the intent of the bill, marginalizing it at best. As a result, I urge all of my colleagues to stay with us on the construct of S. 397, to be able to pass it from the Senate as clean as possible, hopefully, very clean, so the House can act on it immediately and move it to our President's desk.

That is the intent. As we move through S. 397 over the course of today and tomorrow, I trust we will also be able to deal with the conference reports I have mentioned that I think are extremely important for this country and for all of us to have prior to the August recess.

I see no other of my colleagues on the floor wishing to speak at this moment and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAHAM). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I take a moment to explain the effect of our proceeding to this gun bill. We are putting aside an important debate on national security and the needs of our troops in a time of war. Last Friday I listed a number of the amendments that still were pending that would affect the National Guard and our Reserve troops and also provide additional kinds of protections for the service men and women. The decision by the Republican leadership was that we had spent enough time on the legislation, even though we chose to spend 2 weeks earlier in the year on the credit card industry and on bankruptcy and a similar amount of time on the class action legislation which benefited special interest groups. The credit card industry will profit about $6 billion more this year than last year because of the actions taken. We also spent time on the special interest legislation dealing with class actions. We spent the time on that, but we are not on the Defense authorization bill.

We had an important amendment on the whole policy of the administration in developing new nuclear weapons which has profound implications in terms of the issues of nuclear proliferation and nuclear safety. We looked forward to having an opportunity to debate that issue. That was put aside by the Republican leadership because they were concerned about a provision that had been introduced to the Defense authorization bill last Thursday. Senator LEVIN, Senator REED, Senator ROCKEFELLER, and I introduced an amendment to create an independent commission to examine the administration's policy surrounding the detention and interrogation of detainees as an amendment to the Defense authorization bill.

The response of the White House was instant and negative. The President announced he would veto the Defense authorization bill, all $442 billion of it.

if it included any provisions to restrict the Pentagon's treatment of detainees or creating a commission to investigate detainee operations. No other response could have demonstrated so clearly the urgent need to establish a commission than that this imperial White House considers itself immune from restraints by Congress on its powers no matter what the Constitution says.

It is appalling that the administration is so afraid of the truth that they are even willing to veto the Defense bill which includes billions of dollars for our troops, pay raises for our troops, and funds for armored humvees to protect our troops in Iraq. But the administration was prepared to veto that legislation because of this amendment that had been offered by Senator LEVIN, Senator REED, Senator ROCKEFELLER, and myself.

Now the Senate Republican leaders have pulled the Defense bill from the floor. It is interesting that Republican leaders hatched this plan after Vice President CHENEY visited with Senate Republicans last week. He told them the White House does not want votes on amendments to require an inquiry into their detention policies and practices. The White House has not only threatened to veto a national defense bill to avoid accountability, but is preventing us from voting on the issue. It is already obvious that the administration's detention and interrogation policy failed to respect the longstanding rules that have guided our policy in the past, rejecting the collective wisdom of our career military and State Department officials. In today's newspapers we see the result of this action once again with the use of dogs against detainees.

We need to return to our core values of openness and accountability. The facts we know so far about torture and other abuses, about indefinite detention, have already become recruiting tools for terrorists. But if we act now to uphold our principles, we can end the outrage, we can end the coverups, and hold officials accountable at the highest levels. We need to disavow the abuses and harsh techniques. We need to ensure our actions do not become an excuse for our enemies to torture American troops when they are captured in the future or to attack innocent Americans in any part of the world.

The reports of abuse also undermine our own security efforts at home. The vast majority of Muslim Americans and Arab Americans are willing to help identify potential terrorists, help prevent charitable donations from being misused, and act as eyes and ears of a community uniquely capable of identifying potential threats. When the reports of abuses go unanswered, they undermine the community's willingness to provide that assistance. It is impossible for many Muslim Americans and Arab Americans to be persuaded to help against such threats if they feel their own religious beliefs have been targeted.

The reality is our safety and security depend on accountability. It is not enough to pretend that problem does not exist, but that is how the President has responded to the flow of reports about abuses. Contrary to the protests of the administration, we do not have the answers we need. So far, we have had 12 separate so-called investigations of allegations, but not a single report has adequately examined the role that civilian authorities have played in crafting the policies that led to our missteps. Twelve investigations and counting, and the coverup continues.

The administration and its proxies in the coverup have vilified anyone who calls for a full inquiry into the policies. They even stooped to claiming a request for full accounting is somehow a smear against our troops. The real smear is that the administration continues to prosecute only a few low-level offenders without holding accountable the higher-ups who laid the groundwork for all the abuses. The real disservice to our troops and to our country is done by those who leave those at the bottom of the chain of command holding the bag while officials at the top are promoted and rewarded.

We need a commission independent of political influence to find the relevant facts, not just the facts that suit the partisan needs of the administration. We need an investigation of the country's so-called rendition policy which sends detainees to other countries where torture is well known. We need answers about the administration's reaction to FBI complaints about abuse. We need a thorough assessment of the legal regime that is currently in effect.

With its willingness to conceal the truth, the administration will never tell the American people about this practice of rendition on its own. We need an independent commission to examine our policies and practices and make appropriate recommendations. The American people deserve to understand the choices made by this President and to evaluate them.

In sum, our interrogation and detention policies need much more thorough review. In avoiding accountability, the administration has made it clear it won't accept responsibility for giving our Nation the clear answers it deserves. As Benjamin Franklin said, half a truth is often a great lie. Until now we have been fed half truths and coverups by the administration.

With the recent veto threat, the White House has declared war on any full and honest accounting of responsibility. The safety of our troops and our citizens depends on finding out the whole truth and acting on it. An independent commission of respected professionals with backgrounds in law and military policy and international relations is the only way we can learn the truth about what has happened so we can end the suppression and establish a policy for the future that is worthy of our Nation and worthy of our respect of all nations.

Administration secrecy doesn't stop with their interrogation policy. This administration has a systematic disregard for oversight and openness. Government is intended to be "of the people, by the people, and for the people." Democracy requires informed citizens, and to be informed, citizens need to have information about the government. Congress and the executive branch are supposed to be open and accountable, so the American people know what is being done in their name. But under the Bush administration, openness and accountability have been replaced by secrecy and evasion of responsibility. They abuse their power, conceal their actions from the American people, and refuse to hold officials accountable.

No one disputes the necessity of classifying information critical to protecting our national security—military operations, weapon designs, intelligence sources, and similar information. But in the post-9/11 world, the administration is making secrecy the norm and openness the exception. It has used the tragedy of 9/11 to classify unprecedented amounts of information. Material off-limits to the public has become so extensive that no other conclusion is possible. The Bush administration has a pervasive strategy to limit access to information in order to avoid independent evaluation of its actions by Americans whose job it is to observe and critique their government. When even Congressmen, journalists, and public interest groups complain about limits on access to information, we know the difficulties faced by ordinary Americans seeking information from their government.

At a hearing last August in the House Subcommittee on National Security, the Director of the Government's Information Security Oversight Office, J. William Leonard, testified that "it is no secret that the government classifies too much information. Too much classification unnecessarily impedes effective information sharing."

The Deputy Under Secretary of Defense for Counterintelligence and Security, Carol A. Haave, said that as much as half of all classified information doesn't need to be classified.

Last year, a record 15.6 million documents were classified by the Bush administration at a cost of $7.2 billion, many under newly invented categories with fewer requirements for classification.

The administration argues that all this secrecy is necessary to win the war on terrorism. But the 9/11 Commission Report said that too much government secrecy had hurt U.S. intelligence capability even before 9/11. "Secrecy stifles oversight, accountability, and information sharing," says the report. They know from their own experience.

In July 2003, the 9/11 Commission's cochairmen, Thomas Kean and Lee Hamilton, complained publicly that the administration was failing to provide requested information.

In October 2003, the Commission had no choice, after repeated requests, but to subpoena records from the FAA.

In November 2003, after multiple requests, the Commission again had to subpoena information, this time from the Department of Defense.

For the rest of that fall and spring, the administration repeatedly tried to deny access to presidential documents important to the Commission's investigation, until public outcry grew loud enough to convince the administration otherwise.

Key members of the administration balked at testifying, until public opinion again swayed their stance.

And then, in an ironic twist, 28 pages of the 9/11 Commission Report itself was classified. So, is all this secrecy really about protecting us from the terrorists? Or is it just to avoid accountability?

This administration, once in office, wasted no time challenging those who would hold them accountable. In May 2001, Vice President CHENEY's energy task force issued its report recommending more oil and gas drilling to solve our energy problems. In light of his former employment at Halliburton, the recommendation was hardly astonishing. What was astonishing was the Vice President's refusal to identify the people and groups who helped write the policy. In June 2001, the GAO, the nonpartisan, investigative arm of Congress, requested information on the energy task force, following reports that campaign contributors had special access while the public was shut out. GAO's request was simple. It asked, "Who serves on this task force; what information is being presented to the task force and by whom is it being given; and the costs involved in the gathering of the facts." Considering that the task force wrote the nation's energy policy, it was not an unreasonable request.

The administration refused to comply, even though GAO's request was not out of the ordinary. President Clinton's task forces on health care and on China trade relations were both investigated by GAO. The Clinton administration turned over detailed information on the participants and proceedings of the task forces.

But the Bush administration argued that GAO did not have the authority to conduct the investigation. For the first time in its 80-year history, GAO was forced to file suit against an administration to obtain requested information. But the court sided with the administration in Walker v. Cheney, and GAO's investigative oversight authority was effectively reduced. Independent oversight is critically important when one party controls both Congress and the White House, and GAO is critical to that oversight.

On October 12, 2001, John Ashcroft wrote a memo outlining the Justice Department's views on Freedom of Information Act requests. The memo set the tone for an administration hostile to such requests. It discouraged executive branch agencies from responding to Freedom of Information Act requests, even when the agencies had the option to respond. He basically reversed the longstanding policy of prior administrations.

The Clinton administration policy, set forth by Attorney General Janet Reno, was that if a document could be released without harm, an agency should do so, even if there were technical grounds for withholding it. They knew that government openness was essential to an informed public.

When the Bush administration came to office, Attorney General Ashcroft disagreed—he wrote that if there is any technical ground for withholding a document under the Freedom of Information Act, an agency should withhold it. The Clinton policy had been "release if at all possible." The Bush policy was "keep secret if at all possible."

Why should the public know what the administration is doing? Why release documents that might be embarrassing to the White House or its friends in business?

Some organizations claim, based on their experience, that this obsession with secrecy goes even farther, and that executive branch agencies are being told to withhold information until it is subpoenaed. Sean Moulton, a senior policy analyst at OMB Watch, argued that "if there are documents the government doesn't want to release but doesn't have any legal basis for withholding, unless you're willing to go to court, you're not getting those documents."

Since the tragedy of September 11, this administration has effectively shut down inquiry after inquiry:

In November 2001, energy companies were planning a natural gas pipeline through the Blue Ridge Mountains of Virginia. Local citizens, led by former U.S. Army Ranger Joseph McCormick, asked the Federal Energy Regulatory Commission for a map of the planned pipeline. These citizens weren't being nosy—they wanted to know if a large new pipeline for natural gas would be going through their backyards. FERC denied the citizens' request in the name of national security, even though this type of information had been public before 9/11. Clearly, national security concerns are legitimate. But without knowledge of the pipeline's location, how could these citizens defend their property? Joseph McCormick put it bluntly: "There certainly is a balance," he said. "It's about people's right to use the information of an open society to protect their rights."

In the fall of 2002, the chemical compound perchlorate was found in the water supply of Aberdeen, Maryland—near the Army's famous Aberdeen Proving Ground. Perchlorate is a main ingredient of rocket fuel. It also stunts the metabolism and brain growth of newborns. A group of citizens organized, and worked with the Army to protect their drinking water from further contamination. But a few months later, the Army began censoring maps and information that would help determine which areas were contaminated, supposedly in the interest of national security—if citizens could find out where the water was contaminated, then terrorists could find it too. The head of the citizens' group was a 20-year army veteran. His water well was only a mile and a half away from the proving ground. "It's an abuse of power," he said. "The government has to be transparent."

Even Members of Congress have had to subpoena information in order to do their work. Last October, Congressmen CHRISTOPHER SHAYS and HENRY WAXMAN, the chairman and ranking Democrat on the House Government Reform Subcommittee on National Security, Emerging Threats and International Relations, asked for an audit of the Development Fund for Iraq. The copy they received had over 400 items blacked out. They had so much difficulty obtaining an unredacted report from the Defense Department that they had to prepare a subpoena. Once they finally received an unredacted copy, guess what had been blacked out? More than $218 million in charges from Halliburton. So far, no one has been held accountable.

It has now been 744 days without a White House investigation into the CIA leak case. It took 85 days for the administration even to require its staff to turn over evidence relating to the leak. Senate Republicans held 20 hearings on accusations against President Clinton and the Whitewater case, but they have held zero hearings on the leak of the covert identity of CIA agent Valerie Plame. So far, no one has been held accountable.

Last week, the Defense Department refused to cooperate with a federal judge's order to release secret photographs and videotapes of prisoner abuse at Abu Ghraib. The ACLU had sued to obtain release of 87 photographs and 4 videotapes, but the administration filed sealed documents resisting the order. They are so obsessed with secrecy that they even make secret arguments to keep their secrets. So far, no one has been held accountable.

Also last week, the administration submitted an initial report on progress in training Iraqi security forces. It has been more than 2 years since the fall of Baghdad, and a reliable assessment of our progress in training those forces was long overdue. The key questions that the American people want to know are how many Iraqi security forces are capable of fighting on their own and what our military requirements will be the months ahead. But the answers remain classified. The American people deserve to know the facts about our policy. They want to know how long it will take to fully train the Iraqis and when our military mission will be completed. They can deal with the truth, and they deserve it.

No one wants to do anything that would help the insurgents. But the administration must do a better job of responding to the legitimate concerns of the American people. The administration still isn't willing to be candid. It needs to find a way to shed some of the secrecy and answer these questions in good faith for the American people. The silence is deafening.

There is also a pattern of withholding information from members of Congress on the administration's nominations. In 2003, Miguel Estrada was nominated for a Federal judgeship. We requested legal memoranda he wrote as Assistant Solicitor General, and we were repeatedly denied. In 2004, Alberto Gonzales was nominated to be Attorney General. We requested various memoranda he authorized on administration torture policy, and we were repeatedly denied. Earlier this year, John Bolton was nominated to be Ambassador to the United Nations. We requested documents to determine if he acted appropriately in his previous job, and we have been repeatedly denied.

Instead of coming clean and providing the information to the Congress, we have been stonewalled. Our questions have gone unanswered. And now, the President appears to be poised to abuse his power further, rub salt in the wound, and send John Bolton to the United Nations anyway with a recess appointment of dubious constitutionality.

Now John Roberts has been nominated to a lifetime seat on the Supreme Court. We hope this nomination will not be another occasion for administration secrecy, but press accounts suggest otherwise. Even before we asked for any documents, the administration announced it will not release many of the memoranda written by John Roberts. The White House spokesman says they will claim attorney-client privilege, but many of the memos vital to our consideration of Judge Roberts for the Supreme Court were written while he worked as a top political and policy official in the Solicitor General's office. That office works for all the American people—not just the President. Attorney-client privilege clearly has never been a bar to providing the Senate with what it needs to process a nomination.

As we all know, no one is simply entitled to serve on the Supreme Court of the United States. One has to earn that right. And one earns that right by getting the support of the American people, reflected in the vote here in the United States Senate. And that is what the confirmation process is all about. We know that the administration is familiar with and aware of Judge Roberts' positions on various issues. They have had a year to study it and had their associates talk with him and with those who worked with him. The real question is: Shouldn't the American people have the opportunity to get the same kind of information so that they can form their own impression and so that the Senate can make a balanced, informed judgment and see whether or not the balance in the Supreme Court will be furthered? That is the issue and it appears that the administration is continuing to withhold important information that would permit the Congress the ability to do so.

Yes, the administration has consistently used the horror of 9/11 and its disdain of congressional oversight to get its way and avoid accountability. It consistently uses this secrecy to roll back the rights of average Americans. But even its best spin doctors can't conceal some of the administration's most flagrant abuses of power.

Last August, the New York Times reported that "health rules, environmental regulations, energy initiatives, worker-safety standards and product-safety disclosure policies have been modified in ways that often please business and industry leaders while dismaying interest groups representing consumers, workers, drivers, medical patients, the elderly and many others." Often, this has been done in silence and near secrecy.

In 2000, Congress responded to the disclosure of defects in Firestone tires, which may have been responsible for as many as 270 deaths, by passing legislation which would make information on auto safety and related defects readily available. But in July 2003, the National Highway Traffic Safety Administration decided that reports of defects would cause "substantial competitive harm" to the auto industry, and exempted warranty claims and consumer complaints from the Freedom of Information Act. Clearly, that was another abuse of power that protects big business while putting the American public at greater risk.

In 2003, the administration knowingly withheld cost estimates of its Medicare prescription drug bill—one of the most important pieces of legislation that year. The estimates showed costs over $100 billion more than the administration claimed, but the information was withheld because of fears that the actual numbers would persuade Members of Congress to vote no. Administration officials threatened to fire Chief Actuary Richard Foster "so fast his head would spin," if he informed Congress of the real cost estimate. I wrote a letter to the administration on this subject, but they never responded to my questions.

In 2003, the Food and Drug Administration kept secret a report that children on antidepressants were twice as likely to be involved in suicide-related behavior. The FDA also prevented the author of the study—their expert on the issue—from presenting his findings to an FDA advisory committee. Dr. Joseph Glenmullen, a Harvard psychiatrist, said "Evidence that they're suppressing a report like this is an outrage, given the public health and safety issues at stake . . . For the FDA to issue an ambiguous warning when they had unambiguous data like this is an outrage."

In November 2003, the White House told the Appropriations Committees in both Houses of Congress that it would only respond to requests for information if they were signed by the committee chairman. In a time of one-party rule, this tactic made congressional oversight almost completely impossible.

In April 2004, the ranking member of the Environment and Public Works Committee, Senator JEFFORDS, was forced to place holds on several EPA nominees after the administration refused to respond to twelve outstanding information requests, including information on air pollution.

In August 2004, under pressure from the Department of Homeland Security, the FCC decided to make telephone service outage reports confidential, and exempt them from Freedom of Information Act requests. The FCC argued it was because companies could use competitors' service outages in ad campaigns. You may not be able to make informed decisions on your phone company, but at least the company will be protected from nasty advertising.

Last month, we discovered that the administration had blocked studies criticizing the Central American Free Trade Agreement—after it had already paid for them. In 2002, the Department of Labor hired the International Labor Rights Fund to back up its argument that Central American countries had improved on labor issues. The contractor found the opposite, and posted its results on its Web site in March 2004. The Labor Department ordered its removal from the website, banned its release, and barred the contractor's employees from discussing the report. The Department of Labor denied a Congressman's request for the report under the Freedom of Information Act. These are the American people's tax dollars. But when the administration didn't like an answer, it abused its power to avoid accountability—at their expense.

Yesterday, the Wall Street Journal disclosed yet another list of abuses in Iraq reconstruction. Ten billion dollars of no-bid contracts were awarded; $89 million was doled out without contracts at all; $9 billion is unaccounted for, and may have been embezzled. An official fired for incompetence was still giving out millions of dollars in aid, weeks after his termination. A contractor was paid twice for the same job. A third of all U.S. vehicles that Halliburton was paid to manage are missing. It is a staggering display of incompetence and cover-up, so that no one will be held accountable.

Americans deserve better. They deserve the information necessary to become informed, effective citizens. We as lawmakers are better able to represent our constituents when we have access to the critical information held by the executive branch. We must never forget who we work for—the American people. Congress is a coequal branch of government, and we have a duty to hold the administration accountable for its actions.

Mr. President, on the matter we have before the Senate at the present time, here we go again on the issue of legal immunity for the gun industry. Without shame, the Republican leadership has brought back this special interest, anti-law enforcement bill that strips away the rights of victims to go to court.

Why the urgency to take up this bill now? This is a critical moment in this country's future. Surely, the Republican leadership can take some time to address other priorities before attempting to give a free pass to the gun industry. Why aren't we completing our work on the Defense authorization bill? That is what was before the Senate. Why have we displaced a full and fair debate on the issue of the Defense authorization bill—which has so many provisions in there concerning our fighting men and women in Iraq and about the National Guard and defense—in order to consider special interest legislation?

That is what is before the Senate, and that is what we are considering at the present time, as a result of the Republican leadership. Surely, the Congress can do more for our citizens than rush to pass unprecedented special interest legislation. We can and should be acting to meet our real challenges.

Last year, the Federal Government recalled a water pistol, the Super Soaker, just a few days before the assault weapons ban expired. America does more to regulate the safety of toy guns than real guns, and it is a national disgrace. The gun industry has worked hard to avoid Federal consumer safety regulation. Where are our priorities? Where is the logic in passing a bill that makes it harder to sue for harm caused by real guns than harm caused by a plastic toy gun?

The industry has conspicuously failed to use technology to make guns safer. It has attempted to insulate itself from its distributors and dealers, once guns leave the factory. Under this bill, it will not even matter if the guns are stolen by factory employees and snuck out of the factory in the middle of the night.

The overwhelming majority of Americans believe gun dealers and gun manufacturers should be held accountable for their irresponsible conduct, similar to everyone else.

Cities, counties, and States incur billions of dollars in costs each year as a result of gun violence. Studies estimate that the public cost of firearm-related injuries is over $1 million for each shooting victim. Yet this bill would take a fierce toll and dismiss even pending cases where communities are trying to get relief.

This bill would bar the legal rights of hard-working law enforcement officers, such as Ken McGuire and David Lemongello. These two police officers from Orange, NJ, were seriously wounded in a shootout with a burglary suspect. The gun used by the suspect was one of 12 guns sold by a West Virginia pawnshop to an obvious straw purchaser for an illegal gun trafficker. Fortunately for the officers, this bill did not become law last year, and their case was able to proceed.

Recently, David Lemongello was able to obtain a $1 million settlement. Significantly, the settlement required the dealer and other area pawnshops to adopt safer practices. These reforms go beyond the requirements of current law and are not imposed by any manufacturers or distributors. This is not about money. This is about public safety, and I commend these brave officers for their courageous battle to change the system.

It is clear what will happen if Congress gives the gun industry this unprecedented legal immunity, on top of its existing exemption from Federal consumer safety regulations. Guns will be more dangerous. Gun dealers will be more irresponsible. More guns will be available to terrorists and criminals. There will be more shootings and more dead children.

The Nation's response to this death toll has been unacceptable. Yet, year after year, little changes in our approach to regulating guns. How can we justify this neglect? How can we continue to ignore the vast discrepancy in gun deaths in the United States compared to other nations? How can we possibly justify this effort to give the gun industry even greater protection for irresponsible behavior?

Mr. President, this bill is nothing short of Congress aiding and abetting the provision of guns to criminals. It takes the gun industry off the hook when their guns are sold to the wrong people who are out to hurt us. Under this administration, we have seen the budget cuts to the Bureau of Alcohol, Tobacco and Firearms, so our law enforcement do not have the resources they need to keep guns out of criminal hands. That is why these citizen lawsuits are so important. If the police cannot do their job, then citizens should be able to do it. But this legislation will throw the citizens out of court. It is wrong.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I come to the floor to speak in opposition to the motion to proceed on the gun liability bill.

Before I begin, I want to say I find it incongruous that we had the Defense Authorization bill up, an important bill—we were about to consider some amendments affecting enemy combatants and detainees, I think very important amendments, by Senator McCAIN, Senator WARNER, and Senator GRAHAM. The bill was up for an unprecedented short time, and had to have cloture, according to the Republican side. Well, some of us wanted to hear what Senators McCAIN, WARNER, and GRAHAM had to say. So, we voted against cloture. Then, the leader took down the bill, and now we are on a bill for a real special interest in this country, the National Rifle Association.

Mr. President, I have carefully reviewed this bill, and in my assessment is it is mistitled. The Protection of Lawful Commerce in Arms Act has nothing to do with protecting lawful commerce; rather, it protects one segment of industry against the lawful interests of our States in remedying and deterring negligent conduct.

The bill pretends to be part of the long-ranging and important debate about gun regulation. Its proponents argue that lawsuits need to be stopped in order to defend their view of the second amendment. But that is pretense. This bill is a simple giveaway to one industry—the gun lobby. It is a special-interest windfall.

I, for one, do not believe we should be giving the gun industry sweeping and unprecedented protection from the type of lawsuits that are available to every individual involving every other industry anywhere in America.

We have to recognize that guns in America are responsible for the deaths of 30,000 Americans a year. If we remove this one avenue for enforcing responsibility, individuals will have no recourse. Gun owners and gun victims alike will be left virtually powerless against an industry that is already immune from so many other consumer protections. So we find ourselves today on the cusp of yet another NRA victory.

Simply put, we are considering legislation that would ensure that it is not in the financial interests of gun manufacturers or sellers to take reasonable care in administering their business. We are removing the incentives of the tort system to encourage responsible behavior. No longer will those incentives to responsible behavior be present.

Let me be clear, if this bill is approved, it will not be a victory for law-abiding gun owners who might someday benefit from the ability to sue a manufacturer or dealer for their negligent conduct. No, this will be a victory for those who have turned the NRA into a political powerhouse, unconcerned with the rights of a majority of Americans who want prudent controls over firearms and who want to maintain their basic legal right in our civil law system.

Now, I do not support meritless lawsuits against the gun industry. I do not think anybody does. It is my belief gun manufacturers and dealers should be held accountable for irresponsible marketing and distribution practices, as anyone else would be, particularly when these practices may cause guns to fall into the hands of criminals, juveniles or mentally ill people.

This legislation has one simple purpose: to prevent lawsuits from those harmed by gun violence as a result of the wrongful conduct of others. These include lawsuits filed by cities and counties responding to crimes often committed using guns that flood the illegal market, with the full knowledge of the distributors that the legal market could not possibly be absorbing so many of these weapons—that is why so many mayors have written strongly against this legislation—and lawsuits filed by organizations on behalf of their members and victims of violent crimes and their families who are injured or killed as a result of gun violence facilitated by the negligence of gun manufacturers or sellers.

This issue is not an abstract one. The bill is going to hurt real people—victims not only of criminal misuse by a well-designed firearm, but victims of guns that have been marketed in ways which, quite frankly, should be illegal.

Essentially, this bill prohibits any civil liability lawsuit from being filed against the gun industry for damages resulting from the criminal or unlawful misuse of a gun by a third party, with a number of narrow exceptions.

In doing so, the bill effectively rewrites traditional principles of liability law which generally hold that persons and companies may be liable for their negligence, even if others are liable as well. This bill would essentially give the gun industry blanket immunity from civil liability cases of this type, an immunity no other industry in America has today. This is truly a remarkable aspect of the legislation. It is a radical approach to our Nation's laws and the principles of federalism.

The bill does allow certain cases to move forward, as its supporters have pointed out, but these cases can proceed only on the narrowest of circumstances. Countless experts have now said that this bill would stop virtually all of the suits against gun dealers and manufacturers filed to date which are based on distribution practice, many of which are vital to changing industry practice and compensating victims who have been horribly injured through the clear negligence or even borderline criminal conduct of some gun dealers and manufacturers.

With any other business or product, in every other industry, a seller or manufacturer can be liable if that seller or manufacturer is negligent, but not here. Since money, rather than life or liberty, is at stake in a civil case, the standard of proof is lower. There need not be a criminal violation to recover damages. In the overwhelming majority of civil cases, there is no criminal violation. But here, contrary to general negligence law covering almost every other product, the bill allows negligent gun dealers and manufacturers to get off the hook unless they violated a criminal law. This is dreadful. It is despicable. This bill would create a special area of law for gun manufacturers and says that unless they violate a law, they can be careless in how they stock, secure, and sell dangerous weapons.

The judge in Washington State, presiding over the case brought by the DC area sniper victims—the case where a sniper lay in the trunk of a car with a hole punched through the trunk, went to different gasoline stations, schools, parks, and stores, and simply fired at people, indiscriminately killing them—has ruled twice that the dealer of the weapon used in the shooting, Bull's Eye Shooters Supply, and its manufacturer, Bushmaster Firearms, may be liable in negligence for enabling the snipers to obtain their weapon. But even with the new modifications of this bill, the sniper victims' cases will likely be thrown out of court under this legislation. So guess whose side this Senate is coming down on. Not the side of the victims of the DC sniper but the side of Bull's Eye Shooters Supply and the manufacturer, Bushmaster Firearms.

Let's make that clear. This is the most notorious sniper case in America. There is negligence on the part of the gun dealer who sold that gun. He didn't report it until very late. He allowed the snipers to get the gun. Now we are passing a law to prevent the victims from suing under civil liability. Nowhere else in the law does this concept exist in this form. It is a special carve-out for the DC sniper gun manufacturer and gun seller.

In another case, a Massachusetts court has ruled that gun manufacturer Kahr Arms may be liable for negligently hiring drug-addicted criminals and enabling them to stroll out the plant door with unmarked guns to be sold to criminals. But with these proposed changes, the case against Kahr Arms would be dismissed. A case would be dismissed where a gun manufacturer negligently hired drug-addicted criminals and let them go out the plant door with unmarked guns to be sold to criminals. That is what this does.

This conduct, though outrageous, violated no law—negligent, yes; criminal, no. Contrary to current law which allows judges and juries to apportion blame and damages, this bill would bar any damages against a manufacturer if another party was liable due to a criminal act.

Why should firearms get special treatment? In our society, we hold manufacturers liable for the damage their negligence causes. We do this across the board for every industry, such as the automobile industry if they build a faulty gas tank or if they are negligent putting it together. Lawsuits filed against the gun industry provide a way for those harmed to seek justice from the damages and destruction caused by firearms. Just as important, they create incentives to reform practices proven to be dangerous. I will bet Kahr Arms will make every effort not to hire drug addicts to sell guns to criminals. If that case is dismissed, they can hire them. They can sell to criminals. That is not going to make a difference.

When this bill was introduced in the last Congress and again in this Congress, its supporters spoke about the need to protect the industry from frivolous lawsuits and the need to protect the industry from the potential loss of jobs brought on by future lawsuits. These claims are unfounded. This bill is simply the latest attempt of the gun lobby to evade industry accountability. The suits against the gun industry come in varying forms, but they all have one goal in common—forcing the firearms industry to become more responsible. What is wrong with that? Under the principles of common law, all individuals and industries have a duty to act responsibly. What is special about the gun industry that they should be exempt from this most basic of civil responsibilities? Answer: Nothing. This is an industry that is less accountable under law than any other in America right now. The only avenue of accountability left is the courtroom. This bill attempts to slam the courtroom door in the face of those who would hold the industry responsible for its negligent actions.

We ought to hold the industry responsible for taking the proper precautions to ensure law-abiding citizens are able to obtain the guns they choose while criminals and other prohibited individuals are not.

Let me read from a letter that was sent by more than 50 full professors from law schools all across this Nation, from the University of Michigan School of Law, UCLA Law School, the University of Oregon School of Law, Indiana University School of Law, Harvard Law School, Syracuse University College of Law, Brooklyn Law School, Georgetown University Law Center, Lewis and Clark Law School, Roger Williams University School of Law, Northwestern School of Law, University of Chicago Law School, William Mitchell College of Law, University of Colorado School of Law, Duke Law School, Albany Law School, University of California Hastings College of Law, Houston Law Center, Widener University School of Law, Rutgers, Tulane, Boston, Albany, Temple University Beasley School of Law, Case Western Reserve University School of Law, Cornell Law School, Salmon P. Chase College of Law, Northern Kentucky University, NYU School of Law, The George Washington University Law School, Boston College Law School, Tulane University Law School, Columbia Law School, New York Law School, University of Alabama School of Law, Emory University School of Law, University of California Boalt School of Law, and on and on.

Let me tell you what they say. I will read parts of it. They have reviewed this bill, S. 397.

> No other industry enjoys or has ever enjoyed such a blanket freedom from responsibility for the foreseeable and preventable consequences of negligent conduct.
>
> S. 397 . . . would abrogate this firmly established principle of tort law. Under this bill, the firearms industry would be the one and only business in which actors would be free utterly to disregard the risk, no matter how high or foreseeable, that their conduct might be creating or exacerbating a potentially preventable risk of third party misconduct. Gun and ammunition makers, distributors, importers, and sellers would, unlike any other business or individual, be free to take no precautions against even the most foreseeable and easily preventable harms resulting from the illegal actions of third parties. And they could engage in this negligent conduct persistently, even with the specific intent of profiting from the sales of guns that are foreseeably headed to criminal hands.

They could engage in the conduct in an unlimited way and profit from the sales of guns that are foreseeably headed for criminal hands.

> Under this bill, a firearms dealer, distributor, or manufacturer could park an unguarded open pickup truck full of loaded assault weapons on a city street corner, leave it there for a week, and yet be free from any negligence liability if and when the guns were stolen and used to do harm.

Mr. President, this is what we are doing. This isn't just my view, this is the view of more than 50 professors of law at major law schools all across the Nation. We are facilitating criminal conduct by providing this protection against liability.

It goes on to say:

> A firearms dealer, in most states, could sell 100 guns to the same individual every day, even after the dealer is informed that these guns are being used in crime—even, say, by the same violent street gang.

That is a direct quote. So you are facilitating a situation where somebody could sell a hundred guns a day to a street gang and have no liability for that action. That is what I think is really despicable—all because of the power of one lobby.

Again, it goes on to say:

> It might appear from the face of the bill that S. 397 and H.R. 800 would leave open the possibility of tort liability for truly egregious misconduct, by virtue of several exceptions set forth in Section 4(5)(I). Those exceptions, however, are in fact quite narrow and would give those in the firearm industry little incentive to attend to the risks of foreseeable third party misconduct.
>
> One exception, for example, would purport to permit certain actions for "negligent entrustment." The bill goes on, however, to define "negligent entrustment" extremely narrowly.
>
> The exception applies only to sellers, for example, and would not apply to distributors or manufacturers, no matter how egregious their conduct.

So when somebody comes to the floor and argues this bill provide for negligent entrustment, don't believe it. It is so limited that it doesn't cover the whole field of those who handle firearms.

And then it goes on to say:

> Even as the sellers, the exception would apply only where the particular person to whom a seller supplies a firearm is one whom the seller knows or ought to know will use it to cause harm. The "negligent entrustment" exception would, therefore, not permit any action based on reckless distribution practices, negligent sales to gun traffickers who supply criminals—

That is the pickup that is parked on the street corner containing loaded assault weapons and sold to anybody who comes by.

> The negligent entrustment exception would, therefore, not permit any action based on reckless distribution practices, negligent sales to gun traffickers who supply criminals, careless handling of firearms, lack of security, or any of a myriad of potentially negligent acts.
>
> Another exception would leave open the possibility of liability for certain statutory violations, variously defined, including those described under the heading of negligence per se. Statutory violations, however, represent just a narrow special case of negligence liability. No jurisdiction attempts to legislate standards of care as to every detail of life, even in a regulated industry; and there is no need. Why is there no need? Because general principles of tort law make clear that the mere absence of a specific statutory prohibition is not carte blanche for unreasonable or dangerous behavior. S. 397 and H.R. 800 would turn this traditional framework on its head, and free those in the firearms industry to behave as carelessly as they would like, so long as the conduct has not been specifically prohibited. If there is no statute against leaving an open truckload of assault weapons on a street corner, or against selling hundreds of guns to the same individual, under this bill there could be no tort liability.

That is what this bill is opening up.

> Again, this represents a radical departure from traditional tort principles.

Again, this isn't just me saying this; this is more than 50 law professors from almost 50 different law schools.

> As currently drafted, this bill would not simply protect against the expansion of tort liability, as has been suggested, but would in fact dramatically limit the application of longstanding and otherwise universally applicable tort principles. It provides to firearm makers and distributors a literally unprecedented form of tort immunity not enjoyed, or even dreamed of, by any other industry.

Mr. President, I know the motion to proceed will pass. I also know that what is being engaged upon is the most stringent test of germaneness I have ever seen take place in this body to prevent amendments from being offered once cloture is invoked, which is going to happen. This Senate is going to do the people it represents an enormous harm. They are going to protect the most powerful lobby in the United States and open millions of Americans to egregious injury from negligent practices by distributors and sellers of firearms in this country.

That is not what we were elected to do. No one in this body was elected to be the Senator from the National Rifle Association. Although they have a point of view, and although this point of view is popular in many places, the question is, do we still protect the public welfare?

I say to you we do not protect the public welfare, as more than 50 professors of law have pointed out.

Additionally, I will put into the RECORD a letter of opposition from law enforcement. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JULY 26, 2005.

U.S. CONGRESS,
U.S. SENATE,
Washington, DC.

DEAR SENATOR: As active and retired law enforcement officers, we are writing to urge your strong opposition to any legislation granting the gun industry special legal immunity. S. 397 would strip away the legal rights of gun violence victims, including law enforcement officers and their families, to seek redress against irresponsible gun dealers and manufacturers.

The impact of this bill on the law enforcement community is well illustrated by the lawsuit brought by former Orange, New Jersey police officers Ken McGuire and David Lemongello. On January 12, 2001, McGuire and Lemongello were shot in the line of duty with a trafficked gun negligently sold by a West Virginia dealer. The dealer had sold the gun, along with 11 other handguns, in a cash sale to a straw buyer for a gun trafficker. In June 2004, the officers obtained a $1 million settlement from the dealer. The dealer, as well as two other area pawnshops, also have implemented safer practices to prevent sales to traffickers, including a new policy of ending large-volume sales of handguns. These reforms go beyond the requirements of current law and are not imposed by any manufacturers or distributors.

If immunity for the gun industry had been enacted, the officers' case would have been thrown out of court and justice would have been denied. Police officers like Ken McGuire and Dave Lemongello put their lives on the line every day to protect the public. Instead of honoring them for their service, legislation granting immunity to the gun industry would deprive them of their basic rights as American citizens to prove their case in a court of law. We stand with officers McGuire and Lemongello in urging you to oppose such legislation.

Sincerely,

International Brotherhood of Police Officers (AFL–CIO Police union); Major Cities Chiefs Association (Represents our nation's largest police departments); National Black Police Association (Nationwide organization with more than 35,000 members); Hispanic American Police Command Officers Association (Serving command level staff and federal agents); National Latino Peace Officers Association; The Police Foundation (A private, nonprofit research institution); Michigan Association of Chiefs of Police; Rhode Island State Association of Chiefs of Police; Maine Chiefs of Police Association.

Departments listed for identification purposes only:

Sergeant Moises Agosto, Pompton Lakes Police Dept. (NJ); Sheriff Drew Alexander, Summit County Sheriff's Office (OH); Sheriff Thomas L. Altiere, Trumbull County Sheriff's Office (OH); Director Anthony F. Ambrose III, Newark Police Dept. (NJ); Chief Jon J. Arcaro, Conneaut Police Dept. (OH); Officer Robert C. Arnold, Rutherford Police Dept. (NJ); Chief Ron Atstupenas, Blackstone Police Dept. (MA); Sheriff Kevin A. Beck, Williams County Sheriff's Office (OH); Detective Sean Burke, Lawrence Police Dept. (MA); Chief William Bratton, Los Angeles Police Dept. (CA); Special Agent (Ret) Ronald J. Brogan, Drug Enforcement Agency; Chief Thomas V. Brownell, Amsterdam Police Dept. (NY).

Chief (Ret) John H. Cease, Wilmington Police Dept. (NC); Chief Michael Chitwood, Portland Police Dept. (ME); Chief William Citty, Oklahoma Police Dept. (OK); Chief Kenneth V. Collins, Maplewood Police Dept. (MN); President Lynn N. Cripps, Iowa State Police Association, Marshalltown Police Dept. (IA); Chief Daniel G. Davidson, New Franklin Police Dept. (OH); Asst. Director Jim Deal, U.S. Dept. of Homeland Security, Reno/Lake Tahoe Airport (NV); Chief Gregory A. Duber, Bedford Police Dept. (OH); Captain George Egbert, Rutherford Police Dept. (NJ); Sterling Epps, President, Association of Former Customs Agents, Northwest Chapter (WA); Chief Dean Esserman, Providence Police Dept. (RI).

Officer Daniel Fagan, Boston Police Patrolman's Assoc., Boston Police Dept (MA); Captain Mark Folsom, Kansas City Police Dept. MO); Chief Charles J. Glorioso, Trinidad Police Dept. (CO); Superintendent Jerry G. Gregory (ret), Radnor Township Police Dept. (PA); Chief Jack F. Harris, Phoenix Police Dept. (AZ); Chief (Ret.) Thomas K. Hayselden, Shawnee Police Dept. (KS); Terry G. Hillard, Retired Superintendent, Chicago Police Dept. (IL); Steven Higgins, Director (Ret.) ATF; Officer Rick L. Host, Sec/Treasurer, Iowa State Police Assoc., Des Moines Police Dept. (IA); Officer David Hummer, Ft. Worth Police Officers Association, Ft Worth Police Dept. (TX); Officer H. Husberg, Ft. Worth Police Officers Association, Ft Worth Police Dept. (TX); Chief Ken James, Emeryville Police Dept. (CA).

Chief Calvin Johnson, Dumfries Police Dept. (VA); Chief Gil Kerlikowske, Seattle Police Dept. (WA); Deputy Chief Jeffrey A. Kumorek, Gary Police Dept. (IN); Detective John Kotnour, Overland Park Police Dept. (KS); Detective Curt Lavarello, Sarasota County Sheriffs Office (FL); Chief Michael T. Lazor, Willowick Police Dept. (OH); Sheriff Simon L. Leis, Jr., Hamilton County Sheriffs Dept. (OH); Sheriff Ralph Lopez, Bexar County Sheriff (TX); Chief Cory Lyman, Ketchum Police Dept. (ID); Chief David A. Maine, Euclid Police Dept. (OH); Chief J. Thomas Manger, Montgomery County Police Dept. (MD); Chief Burnham E. Matthews, Alameda Police Dept. (CA); Chief Michael T. Matulavich, Akron Police Dept. (OH).

Chief Randall C. McCoy, Ravenna Police Dept. (OH); Sergeant Michael McGuire, Essex County Sheriff's Dept. (NJ); Chief William P. McManus, Minneapolis Police Dept. (MN); Chief Roy Meisner, Berkley Police Dept. (CA); Sheriff Al Myers, Delaware County Sheriff's Office (OH); Chief Albert Najera, Sacramento Police Dept. (CA); Detective Michael Palladino, Executive Vice President, National Association of Police Organizations, President, Detectives' Endowment Association of New York City; Chief Mark S. Paresi, North Las Vegas Police Dept. (NY); President Thomas R. Percich, St. Louis Police Leadership Organization, St. Louis Police Dept. (MO); Sheriff Charles C. Plummer, Alameda County Sheriffs Department (CA).

Chief Edward Reines, Yavapat-Prescott Tribal Police Dept. (AZ); Chief Cel Rivera, Lorain Police Dept. (OH); Officer Kevin J. Scanell, Rutherford Police Dept. (NJ); Robert M. Schwartz, Executive Director, Maine Police Dept. (ME); Chief Ronald C. Sloan, Arvada Police Dept. (CO); Chief William Taylor, Rice University Police Dept. (TX); Asst. Chief Lee Roy Villareal, Bexar County Sheriffs Dept (TX); Chief (Ret) Joseph J. Vince, Jr., Crime Gun Analysis Branch, ATF (VA); Chief Garnett F. Watson Jr., Gary Police Dept. (IN); Hubert Williams, President, The Police Foundation (DC); President Greg Wurm, St. Louis Police Leadership Organization, St. Louis Police Dept. (MO).

Mrs. FEINSTEIN. This letter of opposition details the case that Senator KENNEDY mentioned, involving two law enforcement officers from Orange, NJ, and points out that that case would have been thrown out of court. It is signed by numerous chiefs of police and major law enforcement entities.

The American Bar Association states in their letter of opposition:

> S. 397 would preempt State substantive legal standards for most negligence and product liability actions for this one industry, abrogating State law in cases in which the defendant is a gun manufacturer, gun seller, or gun trade association, and would insulate this new class of protected defendants from almost all ordinary civil liability actions.

It goes on to say:

> There is no evidence that Federal legislation is needed or justified. There is no hearing record in Congress or other evidence to contradict the fact that the State courts are handling their responsibilities competently in this area of the law.

So all those people who believe in States rights are taking States rights away for the National Rifle Association.

The American Bar Association also says:

> There is no data of any kind to support claims made by the industry that it is incurring extraordinary costs due to litigation, that it faces a significant number of suits, or that current State law is in any way inadequate. The Senate has not examined the underlying claims of the industry about State tort cases, choosing not to hold a single hearing on S. 397 or its predecessor bills in the two previous Congresses.

That is amazing to me. It continues:

> Proponents of this legislation cannot, in fact, point to a single court decision, final judgment, or award that has been paid out that supports their claims of a crisis. All evidence points to the conclusion that State legislatures and State courts have been and are actively exercising their responsibilities in this area of law with little apparent difficulty.

This letter goes on and again concludes this is going to be the only industry in the United States with this kind of immunity. There is no crisis that merits this. There is no hearing record that documents the need. This really worries me.

Maybe I am biased because I have been a mayor, because I have seen what happens on the streets. I have seen how guns are misused. I have seen the threats that criminals with a firearm can be. I have watched, over the years, as firearms have grown much more sophisticated. Their killing power is greatly enhanced. The copycat, or the civilian version, of the 16—the .50 caliber weapon now that is out there—can send a bullet as large as my hand from Arlington Cemetery into the Capitol. Don't you think how those weapons are sold and distributed should prevent negligence? I do.

I guess in all my years in this body I have never been more disillusioned about how we proceed or why we proceed. We have the PATRIOT Act that is ready to come to the floor, and we are doing this. We have an asbestos bill that is ready to come to the floor, and we are doing this. I am ranking on Military Construction appropriations. We have passed out a military construction bill with $70 billion in it for veterans benefits, and we are doing this. There are a number of other appropriations bills that are ready for floor action. The conference on the Energy bill just concluded, and we are doing this. The Calendar of Business contains 100 items ready for Senate floor action, and we are doing this. There is no hearing record for the previous two Congresses. More than 50 law professors point out this is a giveaway to one special industry that no other industry enjoys in the United States of America, and 30,000 people a year are killed with firearms in this country. I find it extraordinarily disillusioning.

I know we are going to lose on the motion to proceed. The latest is that we are not even going to have a vote. It will be voice-voted because it is so ironclad that this bill is going to swim through. And then we will watch them try to stop us from putting any amendments on the bill. It is a sad day in the Senate. It is a regretful day. It is an extraordinarily disillusioning day.

I thank the Chair and yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, it is my understanding that the majority has control of this next hour under the agreement.

The PRESIDING OFFICER. That is correct.

Mr. GRAHAM. At this time, I will yield to Senator CORNYN 15 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized.

NOMINATION OF JUDGE JOHN ROBERTS

Mr. CORNYN. Mr. President, I would like to take a few minutes to comment on the nomination of Judge John Roberts to serve on the U.S. Supreme Court. In particular, I would like to provide some context in a brief response to some statements that have been made by our colleague on the other side of the aisle, the senior Senator from New York.

My colleague has repeatedly stated his intention to ask Judge Roberts during the confirmation proceedings dozens of questions about his positions on particular constitutional rights, as well as his views of particular cases that have been decided by the U.S. Supreme Court.

He provided Judge Roberts a copy of these questions last week when the two of them met and has stated that he will take "responsibility to make sure that those questions are answered."

Any of our colleagues can, of course, ask whatever questions they want, but the notion that Judge Roberts puts his confirmation at risk if he does not answer the questions on the list from the Senator from New York is contrary to the traditional practice of this body. Nearly every single one of the questions on that list involves an issue that is likely to come before the Supreme Court during Justice Roberts's tenure. Every single Justice confirmed in recent memory has declined to answer questions of the sort contained on that list.

As Justice Ginsburg has noted:

> In accord with longstanding norm, every member of the current Supreme Court declined to furnish such information to the Senate.

Every member of the Court has declined to answer such questions because it has long been understood that forcing nominees to take sides on issues while under oath compromises their ability to rule impartially in cases presenting those issues once they sit on the Court.

Judges are supposed to decide cases after hearing the evidence presented by the parties involved and the arguments presented by their lawyers. They are supposed to keep an open and impartial mind.

As Justice Ginsburg has also noted, "the line each [Justice] drew in response to preconfirmation questioning is . . . crucial to the health of the Federal judiciary."

Judges in our system are like umpires in a baseball game. They are not supposed to take sides before the game has begun. Judges are not, for example, supposed to pledge to the Senate that they will be "on the side of labor" or "on the side of corporations" once confirmed to the bench. We should not demand of judges that they are biased on behalf of a particular party before they have even gotten to the bench and heard the facts and the arguments of counsel.

The only side that a judge should be on is on the side of the law. Indeed, that is the oath that each of them take when they are sworn into office. Sometimes corporations should win in court, and sometimes they should lose. Sometimes labor should win in court, and sometimes labor should lose. But it depends on the facts of the case and on the law that applies to those facts. Any judge worth their salt would decline to make a commitment ahead of time about how that hypothetical controversy would come out, not knowing what those facts are or how the question would be presented.

The Senator from New York has said that his questions do not threaten Judge Roberts's impartiality because he is not asking about specific cases that are already pending before the Supreme Court. He acknowledges that asking questions about those cases—in other words, cases that are actually pending—would be inappropriate. But I would ask my colleague to review, as I have, the Supreme Court's pending cases for the session set to begin in October because it clearly shows that this proposed list of questions would force Judge Roberts to prejudge the very pending cases that the Senator has said should be off limits.

Take, for example, the question of whether Judge Roberts "believes Roe v. Wade was correctly decided." That is one of the Senator's questions. The Senator has said specifically that this is a "question that should be answered."

Demanding that Judge Roberts answer questions about Roe v. Wade will undoubtedly force him to prejudge a case that is currently pending on the Court's docket. On November 30, the Supreme Court will hear arguments in Ayotte v. Planned Parenthood, a case involving the constitutionality of a New Hampshire law requiring a minor to notify her parents before having an abortion.

It is nearly certain that some party in that litigation, perhaps even an amicus party, will ask the Court to revisit or overturn Roe v. Wade because one party does so in nearly every abortion case that reaches the U.S. Supreme Court.

Thus, whether Roe v. Wade should be overturned is not only an issue likely to come before the Court during Judge Roberts's tenure, it is already before the Court.

Accordingly, demanding an answer to a question about Roe v. Wade will force Judge Roberts to prejudge at least one of the issues in the Ayotte case, and, no doubt, many others while he is on the bench.

Perhaps an even better example is the Senator's question about whether "the Americans with Disabilities Act requires State buildings to be accessible to the disabled . . . or [whether] sovereign immunity exempts the States?" Again, on November 9, the Supreme Court is scheduled to hear a case called Goodman v. Georgia, a case involving a suit by a disabled prisoner against the State of Georgia. The only question in that case is whether the Americans with Disabilities Act can force States to make prisons accessible to the disabled. Again, this is precisely the question that the Senator warned Judge Roberts that he would not have to answer but which, in fact, he is now being asked to answer.

It is clear then that the questions proposed by the Senator from New York will force Judge Roberts to prejudge pending cases. This is something that surely all of us can agree is inappropriate. Thus, surely all of us can agree in this Chamber that Judge Roberts should be permitted to decline to answer at least some of the questions that the Senator from New York has said he will ask him and others like those questions.

But once it is acknowledged that Judge Roberts should be permitted to decline to answer the questions involving issues already pending before the Supreme Court, it becomes clear that Judge Roberts should be permitted to decline the rest of the questions propounded by the Senator as well.

There are literally hundreds of cases at this very moment in lower Federal courts raising virtually all of the questions posed by the Senator from New York. Judge Roberts should not be forced to guess which one of them will or will not one day make their way to the High Court. This is why the Canons of Judicial Ethics counsel judges against answering questions about issues that are not only already before the Court, but also those that are likely to come before the Court.

Any case pending in the lower courts meets this definition because it could be and, indeed, many will be appealed to the U.S. Supreme Court.

Indeed, the danger of demanding that Judge Roberts answer such questions, even though some may not now be pending before the Court, is clear from an event involving one of the sitting Justices, Justice Scalia.

Two years ago, after delivering a speech, Justice Scalia was asked whether he thought the phrase "under God"—that is the reference in the Pledge of Allegiance—was constitutional. There was not at that time any case involving that question before the Court, so Justice Scalia answered the question. But there was, as it turns out, a case involving that precise question pending before a lower Federal court and, as we all know, that case eventually made its way to the Supreme Court. As we also know, Justice Scalia was then forced to recuse himself from hearing that case because the rules of ethics prevent judges from publicly commenting on pending or impending cases.

We should not force Judge Roberts to choose between confirmation and recusal. If Judge Roberts is forced to recuse himself in all of the cases, all of the issues on the Senator's list, then the Supreme Court will be left shorthanded for much of his tenure.

The Senator from New York says that his list includes some of the most important questions of the day, and that may well be true. But surely we want all nine Justices on the Supreme Court to answer those important questions in those cases as they are presented.

Judge Roberts should be permitted to do what we have always permitted nominees to do, and that is to decline to answer questions that might call into question his impartiality at a later date. We have always respected the right of nominees to decline to answer questions that make them feel as though their ability to do their job would be compromised. That is in the interest of a value that we all hold dear, and that is the independence of the judiciary.

I hope and expect that we will not break that longstanding tradition with Judge Roberts.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MURKOWSKI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Madam President, the current Congress has taken a stand against frivolous lawsuits, and we have done so in a number of ways as we paint a portrait of the fact that frivolous lawsuits today are not in the interest of the American people. We addressed it in class action reform. We addressed it to a degree with bankruptcy reform, returning to personal responsibility. We will do it with asbestos reform, an issue that has for the last 10, 15, 20 years unfairly resulted in the trial lawyers doing very well, but the patient with cancer, mesothelioma, not being compensated, the victims not being compensated. We will be addressing medical liability at some point in time, hopefully in this Congress, and then gun liability, the Protection of Lawful Commerce in Arms Act, which is being addressed today and tomorrow and possibly the next day.

This bill is directed at the frivolous lawsuits that today are aimed at gun manufacturers and people who are selling firearms. The bill places responsibility on the criminal for the unlawful use of guns, and that is where that responsibility belongs.

Many people believe that the whole gun manufacturing industry is a hugely profitable industry, and that is wrong. It is not. The gun industry is relatively modest. In 1999, the most recent year I have seen, there was an industry total profit of about $200 million. If we put all the manufacturers of firearms together, they would not even make the Fortune 500 list.

More important than size is the hardworking people who are manufacturing guns. I have had the opportunity, as many of our colleagues have, to go to these wonderful facilities with hardworking Americans, typically in rural communities, who are manufacturing and putting together these guns.

The firearm maker I visited was in a rural area with not that many employees. They were putting together shotguns which many of us use to hunt over the course of the year. Right now my favorite avocation is taking my sons hunting on the weekend, to be together and share fellowship.

I mention that because when one tours these gun manufacturing facilities, they realize that frivolous lawsuits drive people out of the business, which is a loss of jobs. Those jobs happen to be predominantly in rural communities. Anti-gun crusaders say that the firearm business, which today is one of the most regulated industries in America, should be responsible for the criminal acts of others. They believe it is OK to use lawsuits to circumvent the democratic process and legislate actually from the bench, and they say so themselves.

If we turn to the trial attorneys and look at the quotations, one trial attorney claims that what has happened is that the legislatures have failed. Lawyers are taking up the slack, said the trial attorney. Another anti-gun trial lawyer says that trial lawyers are "the new arm of government," replacing the legislative branch "that's not working anymore." These trial lawyers apparently believe they are above the voters, that they are above the legislative process. I do not agree, most Americans do not agree, and thus, we have the bill today.

Most Americans think there is too much litigation and not too little litigation in this country. Legislatures in 33 States have passed laws to preempt frivolous gun lawsuits. They recognize that our Constitution protects the right to keep and bear arms. In fact, 53 percent of American households today own a gun. Still, the anti-gun crusaders, aided and abetted by powerful trial lawyers, charge ahead. They know that all it takes is one successful lawsuit to drive a manufacturer out of business. As one chapter of the United Steelworkers of America points out, "we are just one defeat away from bankruptcy."

Since 1997, more than 30 cities and counties have sued firearms companies in an attempt to force them to change the way they make and sell guns. Firearm manufacturers have already spent more than $200 million in legal fees to defend themselves. Meanwhile, most of these cases have been dismissed. The Supreme Court of New York says:

> [The] courts are the least suited, least equipped, and thus the least appropriate branch of government to regulate and micromanage the manufacturing, marketing, distribution and sale of handguns.

The Florida Third District Court of Appeals agrees, adding:

> The power to legislate belongs not to the judicial branch of government but to the legislative branch.

Some cases, however, are still pending and are slated to go forward. Thus, it is critical that we act now, that we pass this legislation now.

In California, former Governor Gray Davis signed legislation explicitly authorizing lawsuits against gunmakers. Because the firearms business is relatively small, just one big verdict—

maybe not even big—a substantial verdict could bankrupt the entire industry. In California, that is a real possibility. If the gun industry is forced into bankruptcy, the right to keep and bear arms will be a right in name only. Even if some gunmakers are able to hold on, the prices for firearms, whether it is the shotgun one buys to go hunting with or whatever the firearm might be, will go sky-high.

There is another important issue, which is little recognized, and it has been mentioned on the Senate floor, but I wanted to mention it again because I am sure others will come forward because the problem is so real, it is so apparent, and that is that America relies on private gun manufacturers to equip our soldiers and our law enforcement officers with the arms they need to protect us or to fight for our freedom. The guns our police officers and soldiers carry are made in the United States by hard-working Americans.

The main manufacturer of guns in my home State, just as one example, supplies important small arms to the military. So far, this middle Tennessee company has not been sued. In fact, Tennessee passed some liability protections back in 1999. But if they are sued and put out of business, the military would lose a critically important supplier, and 70 Tennesseans for this one small company, one small employer, would lose their jobs.

We all agree that guns need to be kept out of the hands of criminals, and that is why we have innumerable, countless laws and regulations to stop illegal gun sales. But we also cannot let frivolous lawsuits strip our police officers and our soldiers of the guns they need to protect us. We cannot allow unfair litigation to cripple our national security.

Our sympathies always first and foremost go to crime victims and families, and no one in any way deserves to be harmed by a criminal wielding any kind of a weapon, be it a gun or a knife or anything else. But we have to place the blame where it belongs, not on the people working in that factory I visited that makes these firearms. We need to place it at the feet of the violent criminals themselves, those who commit the crimes and threaten our communities. They are the ones responsible, and they are the ones who should be held accountable. Blaming gun manufacturers misses the real problem. It punishes law-abiding owners and undermines our constitutionally protected rights. Even if litigation managed to bankrupt law-abiding gun manufacturers, it is not going to stop the criminals from getting guns elsewhere.

So I urge my colleagues to help stop frivolous gun litigation. We can accomplish that by allowing this legislation first to come to the floor and then passing this legislation. A vote for reform is a vote for security, and a vote for reform is a vote for common sense.

The PRESIDING OFFICER. The majority whip.

FOLLOWING THE GINSBURG STANDARD

Mr. McCONNELL. Madam President, I rise to speak on the nomination of Judge John Roberts to be the next Justice of the Supreme Court of the United States. As we are beginning to learn, the President has selected one of the foremost legal minds of his generation. Many of my colleagues have already spoken Judge Roberts' praises on this floor, and I agree with all of them. Judge Roberts possesses a keen intellect, an open mind, very importantly, a judicious temperament, and a sterling reputation for integrity. He will faithfully apply the Constitution, not legislate from the bench. He should be confirmed in time for the Court to operate at full strength by October 3.

Looking to recent history, and looking more specifically to the most recent Supreme Court nominations of Justices Ruth Bader Ginsburg and Stephen Breyer, I would think that I should not have cause to worry how this nominee will be treated. Then, as now, the President's party controlled the Senate. Then, as now, the President nominated a jurist whose credentials could not be questioned. The only difference is that the occupant of the White House then was a Democrat, and the current President is a Republican.

But that one simple fact may make all the difference to some of my friends on the other side of the aisle.

In recent weeks I have begun to worry that some of my Democratic friends have forgotten the standard to which the Senate held Justices Breyer and Ginsburg when they were nominees. Judge Roberts deserves the same standard, no more or no less, than the nominees of President Clinton. But I fear that "the Ginsburg-Breyer standard"—which I will call the "Ginsburg standard" for short—is giving way to a double standard. I would like to remind my colleagues of recent history, so we may draw some lessons from the confirmation processes of Justices Breyer and Ginsburg.

Both Ruth Bader Ginsburg and Stephen Breyer came to the Senate with a distinguished record and a deserved reputation for a fine legal mind. But Justice Ginsburg also came with a long record of liberal advocacy and thought-provoking, to put it mildly, statements. Yet the Senate handled her nomination in a manner that brought credit to the institution. It followed a respectful process. Indeed, it can be said that "respect"—both for the President and his nominee—was a hallmark of her nomination, and the nomination of Stephen Breyer.

In the Ginsburg nomination, the Senate recognized that most judicial nominees, including Justice Ginsburg, have at one point been private practitioners of the law. The Senate recognized that it is unfair to attribute to lawyers the actions of their clients. Lawyers are zealous advocates for their clients. Lawyers speak for their clients, not themselves.

After all, if a lawyer defends a client accused of stealing a chicken, it does not then follow that the lawyer is a chicken thief. Again, if a lawyer defends a client accused of stealing a chicken, it does not then follow that the lawyer is a chicken thief. By following this standard, the Senate did not hold against Justice Ginsburg the policy positions of her most famous client, the American Civil Liberties Union.

As we know, the ACLU takes consistently liberal positions on high-profile issues, positions that many Americans strongly disagree with. I respect that. I do not often agree with the ACLU, but its members believe strongly, and they fight for their beliefs. There is certainly nothing but admiration we can have for that.

During Justice Ginsburg's tenure as a general counsel and a member of its board, the ACLU, for example, opposed restrictions on pornography. Yet even though her client had adopted controversial policy positions, the Senate did not attribute them to Justice Ginsburg, let alone disqualify her from service on the Supreme Court because of them.

In addition, this country values a healthy "market-place of ideas." So, the Senate did not block Justice Ginsburg's nomination because she made controversial and thought-provoking statements in her private capacity as a legal thinker. Those thoughts ranged from suggesting a constitutional right to prostitution, to proposing abolishing "Mother's Day" and "Father's Day" in favor of a unisex "Parent's Day." Why did we not hold those views against her? Because by a 96–3 margin, we decided she had the integrity to apply the law fairly to each case, despite some rather, to put it mildly, provocative personal views that had been expressed over the years in her writing.

With both the Ginsburg and Breyer nominations, the Senate also continued its long-standing practice of respecting a nominee's right not to disclose personal views or to answer questions that could prejudge cases or issues. Senators may ask a nominee whatever questions they want. But the nominee also has the right not to comment on matters the nominee feels could compromise their judicial independence.

For example, during his Supreme Court confirmation hearing in 1967, Thurgood Marshall, before the Senate Judiciary Committee, declined to answer a question regarding the Fifth Amendment. He explained,

> I do not think you want me to be in a position of giving you a statement on the Fifth

> Amendment and then, if I am confirmed, sit on the Court and when a Fifth Amendment case comes up, I will have to disqualify myself.

Justice O'Connor, whom our Democratic colleagues have been citing so glowingly in the last few weeks, also demurred regarding questions she thought would compromise her independence. One of those questions asked her view of a case that had already been decided, Roe v. Wade; and in explaining her position, she said:

> I feel it is improper for me to endorse or criticize a decision which may well come back before the Court in one form or another and indeed appears to be coming back with some regularity in a variety of contexts. I do not think we have seen the end of that issue or that holding and that is the concern I have about expressing an endorsement or criticism of that holding."

The Senate continued this practice with the Breyer and Ginsburg nominations. It did not require them to state their private views, or to prejudge matters before they had read one word of a brief or heard one word of oral argument.

Justice Breyer explained why he had to be careful about pre-committing to matters:

> I do not want to predict or to commit myself on an open issue that I feel is going to come up in the Court. . . . There are two real reasons. The first real reason is how often it is when we express ourselves casually or express ourselves without thorough briefing and thorough thought about a matter that I or some other judge might make a mistake. . . . The other reason, which is equally important, is . . . it is so important that the clients and the lawyers understand that judges are really open-minded.

The Senate respected Justice Breyer's concerns about prejudging and confirmed him by an overwhelming 87–9 margin. This respect extended to cases that had already been decided. For example, our late colleague, Senator Thurmond, asked Justice Breyer about Roe v. Wade, a case that had been decided 21 years earlier. Like Justice O'Connor, Justice Breyer declined to comment, stating:

> The questions that you are putting to me are matters of how that basic right applies, where it applies, under what circumstances. And I do not think I should go into those for the reason that those are likely to be the subject of litigation in front of the Court.

Senator Thurmond respected Justice Breyer's position, and did not hold against Justice Breyer his decision not to answer that question. Other Senators did the same on a host of issues.

Justice Breyer also declined to give his personal views. He explained, "The reason that I hesitate to say what I think as a person as opposed to a judge is because down that road are a whole host of subjective beliefs, many of which I would try to abstract from." As result, he declined to give his personal views on whether the death penalty was cruel and unusual, what the scope of the exclusionary rule should be and whether he supported tort reform.

Justice Ginsburg also invoked her prerogative not to answer questions that could compromise her independence, and both sides of the aisle respected her decision. Indeed, Senator BIDEN, who was then chairman, encouraged her not to answer questions that would preview her position on a legal issue. He told her:

> I will have statements that I made during the process read back to me. But I do think it is appropriate to point out, Judge, that you not only have a right to choose what you will answer and not answer, but in my view you should not answer a question of what your view will be on an issue that clearly is going to come before the Court in 50 different forms, probably, over your tenure on the Court.

Justice Ginsburg's effort to remain unbiased—like Justices O'Connor and Breyer—included not commenting on cases that had already been decided. For example, Justice Ginsburg was asked how she would have ruled in Rust v. Sullivan, an abortion case that had already been decided. She declined to answer, explaining her position with a metaphor of the slippery slope:

> I sense that I am in the position of a skier at the top of that hill, because you are asking me how I would have voted in Rust v. Sullivan. Another member of this committee would like to know how I might vote in that case or another one. I have resisted descending that slope, because once you ask me about this case, then you will ask me about another case that is over and done, and another case. . . . If I address the question here, if I tell this legislative chamber what my vote will be, then my position as a judge could be compromised.

Indeed, Justice Ginsburg declined to comment 55 times on a variety of legal questions. That is 55 times. These included: If the second amendment guarantees an individual right to bear arms; If the death penalty is cruel and unusual punishment under the eighth amendment; If school vouchers for children are constitutional under the Establishment Clause; If the Supreme Court had interpreted too narrowly the Voting Rights Act; If the first amendment was intended to erect a wall of separation between church and state; and If the Federal Government may prohibit abortion clinics from using Federal funds to advocate performing abortions.

That is a lot of "ifs" she declined to answer and yet was confirmed overwhelmingly.

Both Justices Ginsburg and Breyer were reported out of the committee promptly; Republicans did not try to delay the committee vote. Nor did Republicans try to deny these nominees the courtesy of an up-or-down vote on the Senate floor.

As I mentioned, Justice Ginsburg was confirmed 96–3 after 2 days of debate. Justice Breyer was confirmed 87–9 after only a single day of debate. By giving these nominees up-or-down votes, the Senate continued the practice it had followed with even contested Supreme Court nominees, like Robert Bork and Clarence Thomas. The average time for Senate consideration of the Ginsburg and Breyer nominations was 58 days. For Justice Ginsburg's nomination, the entire process lasted only 42 days from nomination to confirmation.

It troubles us on this side of the aisle, and it should trouble all Americans, when different standards are applied to different people for no valid reason. Unfortunately, this already appears to be happening with respect to the nomination of Judge John Roberts.

Judge Roberts will no doubt be as forthcoming as he properly can be when he testifies. However, as with all nominees, there are some questions that he will not be able to answer. His decision ought to be respected as were the decisions of Justice Ginsburg and Justice Breyer.

But our colleague Senator SCHUMER has declared that for this nomination—forget all the prior nominees—"Every question is a legitimate question, period." And he plans on asking Judge Roberts some 70 questions. These include specific issues that will likely come before the Court. In addition, he wants Judge Roberts to discuss how he would have voted in specific cases, such as New York Times v. Sullivan and United States v. Lopez.

If our friend from New York insists that Judge Roberts answers these types of questions, it will be a radical departure from the practice that the committee followed with Justice O'Connor, Justice Breyer, Justice Ginsburg and other Supreme Court nominees. These nominees were given discretion in not answering questions on issues that might come before the Court. It was agreed that it would be improper for a potential justice to pre-commit on a matter.

We on this side of the aisle are not asking the Senate to change its practices or standards. We are not asking that this President be treated better than his immediate predecessor. We are asking for equal treatment. In short, we are simply asking that the Senate follow the Ginsburg standard, not a double standard.

I am hopeful that the courtesy and respect the Senate showed President Clinton's nominees, and prior Supreme Court nominees, will continue with Judge Roberts. After all, it's only fair.

I yield the floor.

Mr. HATCH. It is my understanding the Senator from South Carolina would like to take 2 minutes. If I can be recognized after that, I would appreciate it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Madam President, I rise to speak in support of S. 397, protecting gun manufacturers from lawsuits that basically would hold the manufacturer liable if someone bought a gun and intentionally committed a crime with it, was irresponsible in its use. I believe everybody should have their day in court for a legitimate grievance. But it is not legitimate, in my opinion, to sue someone who makes a gun lawfully, that is not defective, and that person is held responsible in court because some other person who bought the gun decides to misuse it, to commit a crime with it. That would ruin our economy. It would fundamentally change personal responsibility in America. This bill is a cultural moment in American history.

The second amendment gives us a right to bear arms, but it is not unlimited. We have to be responsible. We have to responsibly use that right. The idea that you could sue someone who is lawfully in business because someone else chooses to do something bad will destroy the way America works. It is a ridiculous concept.

Suing gun manufacturers for defective products is included in this bill. Everyone should stand behind what they make and put in the stream of commerce. That has not changed. The only thing that has changed is we are cutting off a line of legal reasoning that has extended to fast food now: "The reason I have health problems is because you served me food that was bad for me." The bottom line is, if we go down this road, we are going to make America noncompetitive in the 21st century, and we are going to rewrite the way America works—to our detriment.

The rule should be simple. If you make a lawful product and someone chooses to buy it and they decide to misuse it, it is not your fault, it is theirs. You are not going to have your money taken because somebody else messed up. Madam President, $200 million in legal fees have already been incurred by gun manufacturers because of this line of reasoning. You win in America; you still lose.

If you want to make sure our country is secure in the future, let's make sure people can manufacture arms in America and we are not dependent on foreign sources for arms for the public or the military. There is a lot at stake here. I enthusiastically support this limitation on what I think would be not only a frivolous lawsuit, but a dangerous concept that will change America for the worse.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I rise today to express my continued, strong support of S. 397, the gun liability bill.

As I outlined yesterday, this legislation is a necessary and vital response to the growing problem of unfounded lawsuits filed against gun manufacturers and sellers. These suits are being filed in no small part with the intention of trying to drive them out of business.

These lawsuits, citing deceptive marketing or some other pretext, continue to be filed in a number of States, and they continue to be unsound.

These lawsuits claim that sellers give the false impression that gun ownership enhances personal safety or that sellers should know that certain guns will be used illegally. That is pure bunk. Let's look at the truth.

The fact is that none of these lawsuits are aimed at the actual wrongdoer who kills or injures another with a gun—none. Instead, the lawsuits are focused on legitimate, law-abiding businesses.

It is this kind of rampant, race-to-sue mentality, that fuels our tort-happy, litigious culture. It has to stop.

In its Statement of Administration Policy, the White House has urged us to pass a clean bill, in order to ensure enactment of the legislation this year. Amendments that would delay enactment beyond this year are simply unacceptable.

The administration knows what we also know: This is a modest bill to help prevent the gun industry from a tidal wave of baseless lawsuits.

It is also highly relevant, I believe, that the leading suppliers of small arms to our Armed Forces are the same targets of these reckless lawsuits: Beretta, Bushmaster, Remington, Smith & Wesson.

These are the companies we rely on for small arms for the military.

But if the proliferation of lawsuits against them continues, it could jeopardize the supplies we receive and need for our military.

This bill does nothing more than prohibit—with five exceptions—lawsuits against manufacturers or sellers of guns and ammunition for damages "resulting from the criminal or unlawful misuse" of nondefective guns and ammunition.

Let me repeat that: "resulting from the criminal or unlawful misuse" of nondefective guns and ammunition.

This bill is not a license for the gun industry to act irresponsibly. If a manufacturer or seller does not operate entirely within Federal and State law, it is not entitled to the protection of this legislation.

I should also note that this bill carefully preserves the right of individuals to have their day in court with civil liability actions where negligence is truly an issue, or where there were knowing violations of laws on gun sales.

It is also noteworthy that in a recent poll by Moore Information Public Opinion Research, 79 percent of Americans do not believe that firearms manufacturers should be held legally responsible for violence committed by armed criminals.

Seventy-nine percent.

And in this poll, 71 percent of Democrats hold this view. So this should not be a partisan issue.

Let me just read a postcard from one of the thousands of people who have written me in support of this bill from Utah. This Utahn, from the city of Hyde Park, writes:

> Dear Senator Hatch: Please give your full support for S. 397 with no anti-gun amendments. As a business woman I know the strength of America is productive businesses that keep America strong and my fellow citizens employed!

These are the people I represent. I not only represent them, I am proud to be one of them. I am proud to help small businesses. And I am proud to help gun owners.

Let me just say a word about the precedents for this legislation. Congress has the power—and the duty—to prevent activists from abusing the courts to destroy interstate commerce.

We did this in the General Aviation Revitalization Act of 1994 where we protected manufacturers of small planes against personal injury lawsuits. That act superseded State law, as does the gun liability bill.

There are many other precedents for abusive lawsuit protection, including light aircraft manufacturers, food donors, charitable volunteers, medical implant manufacturers and makers of anti-terrorism technology, just to mention a few.

There is simply no reason the gun makers should have to continue to defend these types of meritless lawsuits. We must protect against the potential harm to interstate commerce. The gun industry has already had to bear over $200 million in defense costs thus far.

The bottom line is that this is a reasonable measure to prevent a growing abuse of our civil justice system.

The bill provides carefully tailored protections for legitimate lawsuits, such as those where there are knowing violations of gun sale laws, or those based on traditional grounds including negligent entrustment or breach of contract.

We simply should not force a lawful manufacturer or seller to be responsible for criminal and unlawful misuse of its product by others. We do not hold the manufacturers of matches responsible for arson for this same reason.

Individuals who misuse lawful products should be held responsible, not those who make the lawful products.

In closing, I leave my colleagues with one last thought.

These abusive gun liability actions usurp the authority of the Congress and of State legislators. They are an obvious and desperate attempt to enact restrictions that have been widely rejected.

It is for this reason that many States have enacted statutes to prevent this type of litigation. Congress should do the same.

As with class action lawsuits, the few States that allow jackpot jurisdictions can create a disastrous economic effect across the entire country, and across an entire industry.

We cannot allow this to happen. We must stop these abusive lawsuits.

I urge my colleagues to vote for this important legislation.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. I thank my colleague from Utah for relinquishing the rest of the time, and I join my colleague in strong support of S. 397, the gun liability bill. But I also wanted to address a topic that continues to draw much heat and discussion here on this floor and in the media. In the heat of political rhetoric over Iraq and the administration's prosecution of the global war on terror, much has been lost and not all the facts are being presented in the matter. Unfortunately, some are quick to exploit the situation in Iraq and the global war on terror and, by extension, the brave men and women prosecuting these conflicts as cannon fodder in their attacks on the President from the media and others. These folks hope to undermine the administration's credibility with a keen eye on gaining political advantage. However, in the end, those efforts serve only to undermine the noble efforts of our Armed Forces, the men and women of our intelligence community who take the fight to the enemy every day. Most damning, however, is that we have yet to see those who strongly criticize the President's policies present any comprehensive, workable or viable alternatives.

This kind of politicizing only serves to erode the morale of the men and women in the field who do the heavy lifting. It is nothing short of shameful when these warriors' leaders in Congress bicker about nonsubstantive issues while they in the field are united and committed to the missions of freedom and keeping our country safe. The armed conflicts in which our young men and women sacrifice so much should be the topic of thoughtful debate.

However, there is no place for this kind of posturing in the business of war because it merely emboldens the enemy and belittles the efforts of our troops.

Let's look at the facts. Some argue there is no connection between Iraq and 9/11. Look at the facts. In late 1994 or early 1995, Saddam Hussein met with a senior Iraqi intelligence officer in Khartoum. In March 1998, after bin Laden's public fatwah against the United States, two al-Qaida members reportedly went to Iraq to meet with Iraqi intelligence. In July, an Iraqi delegation traveled to Afghanistan to meet first with the Taliban and then bin Laden. "One reliable source reported bin Laden's having met with Iraqi officials, who 'may have offered him asylum'." These are quotes from the bipartisan 9/11 Commission Report published in July 2004.

I do not think one could argue that these facts are either agenda-driven or biased. These facts demonstrate that prior to the 9/11 attacks, al-Qaida and bin Laden himself maintained contacts with the Iraqi regime and that the Iraqis even offered to harbor bin Laden.

Accordingly, a categorical denial that "Iraq had nothing to do with 9/11" cannot be made responsibly.

Next contention: Iraq had and has nothing to do with the global war on terror. That is flat dead wrong. Hardly anyone can refute the fact that Iraq has become the gathering place for Sunni extremists who wish to wage war against the United States. From their optic, the terrorists have a plethora of targets with the presence of U.S. forces in Iraq. They are also motivated to combat our policy of fostering a pluralistic, open, and democratic government in Iraq. True meaning.

Instead, the terrorists wish to distort Islam's true meaning, wage an unholy war against Iraq's Shi'a, and induce a sectarian civil war during the aftermath of which the terrorists would like to establish a Taliban-like state in Iraq. These same terrorists are also motivated by their desire to evict U.S. forces not only from Iraq but from the Greater Arab Middle East, and they view our mission in Iraq as an act of occupation when it is a battle of liberation. The battle is one of hearts and minds; a battle, however, that the Iraqi people are determined to win, along with our assistance, as demonstrated by the 58-percent voter turnout in January, where they elected a new national government, and also by the continuing willingness of Iraqis—to face the danger of terrorist suicide attacks—to sign up to serve to keep the peace.

But terrorism is not a new phenomenon in Iraq. Chief among the terrorists in Iraq today, Abu Musab al-Zarqawi, was known to have been in Baghdad since at least mid-2002. You might ask, how can a terrorist of Zarqawi's notoriety operate, let alone live, in a Stalinist police state such as that of Saddam's Iraq, without the former regime's knowledge, if not consent. The answer is simple. Saddam knew Zarqawi was there, undoubtedly.

When asked about Iraq's al-Qaida relationship by CNN's Wolf Blitzer, on February 5, 2003, the vice chair of our Senate Intelligence Committee agreed that his presence in Iraq before the war was troubling. He said, "The fact that Zarqawi is very close to bin Laden puts at rest, in fairly dramatic terms, that there is at least substantial connection between Saddam and al-Qaida."

However, long before Zarqawi descended upon Iraq, Abu Nidal, the secular Palestinian terrorist leader and founder of the Abu Nidal organization, lived in Iraq from 1998 until he died in 2002. Over the years, that organization carried out terrorist attacks in 20 countries, killing or injuring almost 900 people, including hijacking of Pan Am flight 373 in Karachi in 1986 and the assassination of a Jordanian diplomat in Lebanon in 1994. Abu Nidal was arguably the world's most ruthless terrorist until the rise of Saddam Hussein. He lived and flourished in Saddam's Iraq for 4 years.

In 1993, the Iraqi Intelligence Service directed and pursued an attempt to assassinate, through the use of a powerful car bomb, former President George Bush and the Emir of Kuwait. Kuwait authorities thwarted the terrorist plot and arrested 16 suspects led by two Iraqi nationals.

Finally, Abdul Rahman Yasin, who was indicted in the United States for mixing the chemicals in the bomb that exploded beneath the World Trade Center in 1993, arrived in Baghdad during July of 1994. Upon his arrival, Yasin traveled freely and received both a house and a monthly stipend from the Iraqi Government during his stay.

Next contention: Iraq did not present a danger to the United States at the time we commenced Operation Iraqi Freedom. Listen to the people who looked at the situation. During a July 28, 2004, Senate Armed Services Committee hearing, the former head of the Iraq survey group who went in and looked at the situation in Iraq after we occupied it, Dr. David Kay, noted, "It was reasonable to conclude that Iraq posed an imminent threat. What we learned during the inspection made Iraq a more dangerous place potentially than in fact we thought it was even before the war." He went on to say, "I think the world is far safer with the disappearance and removal of Saddam Hussein. This may be one of these cases where he was more dangerous than we thought." The head of the Iraqi survey group.

Next contention: Iraq would have supplied WMD to terrorists. During that same hearing Dr. Kay added, "After 1998, Iraq became a regime that was totally corrupt. Individuals were out for their own protection, and in a world where we know others are seeking WMD, the likelihood at some point in the future of a seller and a buyer meeting up would have made Iraq a far more dangerous country than even we anticipated."

The 9/11 Commission during the 1990s found:

> Bin Ladin sought the capability to kill on a mass scale. Bin Ladin's aides received word that a Sudanese military officer who had been a member of the previous government cabinet was offering to sell weapons grade uranium. After a number of contacts were made through intermediaries, the officer set the price at $1.5 million which did not deter Bin Ladin. Al-Qaida representatives asked to inspect the uranium and were shown a cylinder about 3 feet long and one thought he could pronounce it genuine.

Al-Qaida apparently purchased it, and it turned out that it was not a legitimate one.

Given al-Qaida's demonstrated desire to acquire WMD and the Iraqi Government's likelihood of sharing WMD technology or actual devices with anyone for the right price, no one can dispute that the liberation of Iraq from Saddam's dictatorial and corrupt regime was a prudent offensive strike in the war on terror.

Finally, some would argue Iraq is a quagmire and not winnable. But listen to the troops. They say otherwise. These are the boots on the ground, the soldiers, the marines. During a recent trip to Iraq, journalist Michael Graham spoke to more than 100 soldiers, sailors, airmen, and marines, with different ranks and duties, at their forward operating bases, and they overwhelmingly had the same things to say about the war in Iraq. And he went on to say that these 100 American troops made the following points: We believe in the mission. We are making progress. The Iraqis are making progress too. We are going to win.

I believe that says it all. I ask unanimous consent that a copy of his article be printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOND. I believe that article says it all. Michael Graham's sampling of U.S. military personnel was random, varied, not controlled by the Pentagon. The sample may be small, but 100 troops believe in the war in Iraq and that we are going to win.

History teaches us that the first casualty of war is truth. The first casualty of political battles can often be the men and women fighting the real battles while executing our Nation's policies. Let us not debase the memories of those who have laid such a sacrifice on the altar of freedom with meaningless finger-pointing exercises. Let's speak with truth about the issues and facts at hand.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BOND. I thank the Chair, and I yield the floor.

EXHIBIT 1

HANDING OVER THE MIC

TROOPS TALK FROM IRAQ

(By Michael Graham)

I just spent a week in Iraq and Kuwait cultivating a skill that I, as a talk-show host, have found nearly impossible to master: shutting up.

Turns out, it was easier than I thought, at least in Iraq. When you're listening to a 20-year-old kid from Indiana tell how he earned his second Purple Heart, speechlessness is the natural reaction.

I was there as part of the much-maligned "Truth Tour" organized by Move America Forward, a conservative group based in California. According to reports in the mainstream media, I was part of a "propaganda" junket paid for by the Pentagon to buy some desperately needed positive coverage of the unwinnable military quagmire. All I can say is: If this was a junket, it was the worst-run junket in the history of public relations.

My radio station and I had to pay all my expenses, I slept on a bare cot in a tent in the desert, and at some locations the only available "food" (and I use that term under protest) were MREs—which stands for "Meals Ready to Eat . . . assuming you've already eaten both shoes and most of your undergarments."

This alleged "junket" failed in another way, too. The Pentagon didn't control what went out over the airwaves. Then again, neither did I. I left it all up to the soldiers.

I traveled about Iraq from Camp Victory at the Baghdad International Airport to Camp Prosperity on the very edge of the Red Zone, then down the Baghdad Highway to Camp Falcon, and on to the Command Headquarters in the heart of the city and, eventually, to the deserts of Kuwait and Camp Arifjan. And everywhere I went, I flipped on my mic, sat back, and let the troops tell their story.

These soldiers weren't stooges from Public Affairs or handpicked flag wavers foist on me by media handlers. I found some in the mess hall, others working security checkpoints; others sought me out because they have family living in the D.C. area where my radio show is broadcast. The least fortunate were the soldiers in Humvees stuck with "tourist duty," four friendly but serious young men who got stuck with a couple of bonehead radio hosts riding along on patrol.

In all, I spoke to more than 100 soldiers, sailors, airmen, and Marines, with different ranks and different duties at their FOBs (forward operating base), and yet they overwhelmingly had the same things to say about the war in Iraq:

"We believe in the mission."

"We're making progress."

"The Iraqis are making progress, too."

And, perhaps most important of all: "We're going to win."

I expected to hear this sort of positive assessment from General George Casey, commander of operations in Iraq, when I interviewed him at his headquarters deep inside the International Zone. When he pointed out that, one year ago, there was just one standing battalion in the Iraqi army, but there are 107 battalions today, he was doing his job of supporting the war. And I expected it from Lt. General Steve Whitcomb, commanding general of the 3rd Army, as he talked about successfully moving more than one million gallons of fuel across Iraq every day, despite the best efforts of the insurgents.

Generals are supposed to be gung ho. It comes with the pay grade.

But I heard the same, positive assessments from 23-year-old sergeants from New Iberia, La., and from PFCs from Wisconsin and Alabama. I heard it from Lieutenant Li, whose Humvee had been hit by IEDs so many times he'd lost count. I heard it from Airman Truong, who was born in Vietnam and had recently returned to his native country to marry. Two weeks after "I do," Airman Truong was headed back to Kuwait to do his duty for his adopted country.

Again and again, from "white-collar" soldiers working in the relative safety of Camp Victory at the Baghdad airport to the "real" soldiers patrolling Route Irish (a.k.a the "Highway of Death"), I heard that America and their Iraqi-army allies are winning the war against the insurgents. I was told again and again by the soldiers themselves that their (our) cause is just, the strategy is working, and the enemy they fight represents evil itself.

In other words, I heard things seldom heard on CBS or read in the pages of the New York Times.

It was only a week, and I have my obvious Bush-supporting, troop-cheering biases, but how much closer can a reporter get to delivering unspun, bias-free objective reporting than live-mic broadcasting instantly back to the states? No edits or filters or editorial meetings. Just the young men in the hot desert telling what they've seen, what they've heard, and what they now believe based on those experiences.

Isn't it at least significant that not one in 100 thought invading Iraq was a mistake? Was it mere coincidence that a random selection of 100 soldiers all believe their mission is worthwhile? Should we detect the hand of the Vast, Right-Wing Conspiracy in the fact that the vast majority of the troops find the media coverage of the war ignorant, harmful, or both?

I'm proud to say that, for a week, the soldiers had their say. If I were the editor of a major daily newspaper or a national network, I would be concerned that what they said is so contrary to what I am printing or broadcasting.

But the mainstream media don't need to hear from the soldiers. They already know that the war was a terrible mistake, that the world would be safer if we'd left Saddam in power, and that there is no chance for victory in Iraq.

Me, I'm not so smart. I like to let the guys on the ground tell their story. I believe it is completely possible that they know something that I—and the New York Times editorial page—do not.

The PRESIDING OFFICER (Mr. CHAFEE). The next hour is controlled by the minority.

The Senator from Minnesota.

Mr. DAYTON. Mr. President, I am one Member, along with a number of my colleagues, who believes we should be debating not this gun liability bill but the Department of Defense authorization bill for the coming fiscal year. I serve on that committee. It was a good bipartisan effort. I was planning to offer an amendment to add $120 million for childcare and family support for the families of reservists and National Guard men and women who are called to active duty. Others had amendments, including one regarding BRAC, of particular note to me and others in Minnesota affected by that process.

But we are not on that bill. Instead, we are dealing with the most special interest legislation I have encountered in my 4½ years in the Senate. We are going to leave at the end of this week for a month and we have one last window of opportunity to take up what presumably would be the most important measure before the Nation and the Senate. Instead, we get this special interest bill.

We are not on stem cell legislation that would allow us to create a medically and scientifically based framework to protect the sanctity of human life or prohibit cloning, and yet still allow medical research that could save many thousands of lives for years to come. That is not the Republican leadership's top priority.

Nor is the constitutional amendment to prohibit the burning or desecration of the American flag, of which I am a proud cosponsor, brought to the Senate. In my 4½ years in the Senate, not once has the leader brought that measure to the Senate for an up-or-down vote by the Senate. Evidently it won't happen this week, either, because, again, that does not rate as a top priority.

No, according to the Republican leadership, the most important issue facing America and earning the most urgent attention of the Senate is the supposed need to give special immunity from the standards for negligence and product liability that apply to all other businesses and all other products. When this legislation passes, and it will pass with ease, because the NRA, National Rifle Association, has the money and the political clout to get whatever it wants around here, no matter how unnecessary, unfair, or ill advised it is, this bill will soon become the law of the land.

One of its findings is:

> (7) The liability actions commenced or contemplated by the Federal Government, States, municipalities, and private interest groups and others are based on theories without foundation and hundreds of years of common law and jurisprudence of the United States and do not represent a bona fide expansion of the common law. The possible sustaining of these actions by a maverick judicial officer or petit jury would expand civil liability in a manner never contemplated by the framers of the Constitution, by Congress, or by the legislatures of the several States. Such an expansion of liability would constitute a deprivation of rights, privileges and immunities guaranteed to a citizen of the United States under the Fourteenth Amendment to the United States Constitution.

It goes on to say one of the purposes is to preserve a citizen's access to a supply of firearms and ammunition for all lawful purposes, something I certainly support.

It goes on to say the purpose is to protect the right under the first amendment of the Constitution of manufacturers, distributors, dealers, and importers of firearms or ammunition products, and trade associations to speak freely, to assemble peacefully, and to petition the Government for redress of their grievances.

This legislation is supposedly necessary to protect the first amendment rights of people in the lawful business of manufacturing, distributing, or selling firearm and buying the same.

In the manufactured hysteria of this fabricated crisis, the Government or a maverick judicial officer or a petit jury evidently is threatening to violate the first amendment, the second amendment, and the 14th amendment rights of all gun manufacturers, distributors, and dealers in the United States of America. What utter nonsense. But if the National Rifle Association says the sky is green and the grass is blue, the majority of Congress will run for the paint.

I strongly support the second amendment of the U.S. Constitution. I am a gun owner myself and a hunter. This bill does not benefit gun owners or hunters, who are most of the NRA members. They are being used to give special favors and special treatment to someone's special friends and someone's big contributors.

Last year, according to industry data, there were over 1.3 million handguns sold in the United States. That is just handguns. Sales totaled $605 million. The sales of rifles and shotguns last year totaled $1 billion. The number of long guns sold was not available, but simple math puts that number well over 2 million rifles and shotguns sold in the United States last year.

Given that volume of sales and weapons available, can anyone believe any law-abiding American's constitutional right to lawfully purchase and own as many guns as he or she wants is being endangered? What nonsense. Absolute nonsense.

Our major gun manufacturers are certainly not in danger. Smith and Wesson's most recent annual report showed net product sales of $118 million last year, an increase of almost 20 percent over the previous year.

Sturm, Ruger and Company on July 20 of this year reported net sales for the 6 months ended June 30, 2005 as $78.7 million, an 8-percent increase over 2004, and the chief executive stated firearm unit shipments in the second quarter increased 11 percent from the prior year due to strong demand.

This is not an industry being hounded out of business. Would the industry like to rid itself of all lawsuits stemming from products and sales? Of course, and so would every other industry and company in America. I am not here to defend our Nation's litigation practices, which are often excessive and sometimes even extreme, but whatever so-called reforms are made should apply to everyone. Gun manufacturers and dealers are not the only people who make and sell potentially dangerous products or products that can be used illegally and misused. And judges and juries are not indiscriminately finding against gun manufacturers. Most are probably gun owners and hunters as well.

Despite what the NRA pedals to its members to justify its existence and their dues, the second amendment is accepted and respected by the overwhelming majority of Americans and there is no threat to responsible manufacturers, dealers, lawful buyers, or owners of the millions of guns in America. There is no justification for this special legislation and the special treatment it gives to that industry.

Of course, the gun industry is accustomed to getting special treatment from Congress. Firearms and tobacco are the only two consumer products specifically exempt from regulation by the Consumer Products Safety Commission. What an exemption. I have to hand it to the NRA, whether I agree with them or not, they sure know how to operate around here. Many industries and even individual corporations pour a lot more money into lobbying and into political contributions than the NRA and they do not get nearly the special treatment, special favors from Congress the gun lobby does—a complete exemption from consumer product safety laws and regulations, and now almost complete immunity for lawsuits from negligence or product malfunctions. All other businesses and industries in America are in discount coach while the gun lobby has special privileges flying first class on Air America under this Congress and preceding Congresses.

It is because there is that exemption from the consumer product safety laws of this country that some of these lawsuits, not frivolous, but determined by a judge or jury through the process to be legitimate and bona fide, and the resulting civil damages are necessary to move the industry to take some of the safety actions it can technologically and financially certainly afford to make that it probably would not do otherwise.

For example, take Bushmaster. Their dealer lost the sniper's assault rifle along with 238 other guns that were then used by the snipers against the innocent victims in Washington, DC. As a result of its settlement with the victims of those families, they agreed also to inform their dealers of safer sales practices that hopefully will prevent other criminals from obtaining the guns, something that had never been done before.

In June of 2004, two former New Jersey police officers were shot in the line of duty with a trafficked gun negligently sold by a West Virginia dealer. They won a $1 million settlement, and the dealer who sold the gun, along with 11 other handguns in a cash sale to a straw buyer for a gun trafficker—after that lawsuit that dealer, as well as two other area pawnshops, agreed to implement safer practices to prevent sales to traffickers, including a policy of ending large-volume sales of handguns.

In 2004 also, Tennille Jefferson, whose 7-year-old son was unintentionally killed by another child with a trafficked gun, won a settlement from a gun dealer that amounted to $850,000. The handgun was one of many the dealer sold to the trafficker despite clear signs the guns were headed for the underground market. That, too, resulted in changes in policies and sales practices that hopefully will prevent other mothers from suffering that terrible fate of losing a child.

I am not saying every one of those cases filed against the manufacturers or dealers is proper. Again, that is for the process to determine. But there is no evidence, no evidence at all, that there is anything about the nature of these suits, the outcomes of them, the jury awards relative to the damages that have occurred, that indicates this industry is being prejudiced or plagued by those who they contrive to be doing so, to justify this legislation. If we are going to reform the tort system in this country, let's do it openly and aboveboard with all industries, all of American businesses affected equally by those changes. To single out one industry, particularly one that manufacturers products, potentially, as dangerous as guns, is just a terrible day for the Senate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, this is a sad day in the Senate. It is a sad day in two respects. Yesterday, we were debating a bill, the Department of Defense Authorization Act. It is an important bill. It is a $440 billion bill for our American military: our soldiers, sailors, marines, airmen, members of the Coast Guard, Guard and Reserve. We were trying, in that bill, to help our fighting men and women and their families.

We had a long list of amendments that we wanted to consider: extra pay for totally disabled veterans, help for the widows and orphans of combat soldiers who die in the line of duty, fair compensation for Guard and Reserve when they are activated and they are Federal employees, daycare for the families of soldiers who are activated, quality-of-life issues for the men and women in uniform who are fighting for America.

A decision was made by the Republican leadership to leave that bill, leave that issue, to come to this one. What could be more important for us to consider than the safety, the lives, and fortunes of the men and women who serve our country and risk their lives, on military duty, and their families?

Well, in the estimation of the Republican leader, Senator FRIST, there was one issue that was more important than talking about our men and women in uniform. That issue was providing immunity from liability for one industry in America, to say that of all the businesses in America that provide us with goods and services, all of the businesses that are currently held responsible for wrongdoing, we will create one exception. We will say, if the gun industry is guilty of wrongdoing, they cannot be sued. That is right. The firearms industry, which sells millions of firearms each year in the United States, should not be held responsible for their bad conduct and wrongdoing.

It is hard to say those words and not shake your head. If personal responsibility is what it means to be an American and an American business man or woman, why in the world would you exempt one industry and say they are special, they are political royalty, they cannot be held liable for their misconduct? And why did we move to this bill and away from the Department of Defense authorization bill to help our soldiers and their families? The answer is too obvious. It is because of the political clout of the National Rifle Association and the gun lobby. It is the only group I can think of which would just go straightforward with the concept they are more important to the Senate calendar than the fighting men and women who are now risking their lives for our country. They have done it many times.

The NRA runs certain people in this Chamber and on the other side when it comes to the agenda. They decide what will be taken up and what amendments will pass—an extremely powerful group. The NRA succeeded in having the Senate debate guns—and that is a rare debate—but only when it comes to this question of gun immunity.

Isn't it interesting, we want to put an amendment on this bill that says when you sell a firearm you have to check to see if the purchaser is on a watch list of terrorists. Is that unreasonable? If you have computer access through your store—and these stores do—shouldn't you check to see if that person standing across the counter from you is on the watch list for terrorism in America? That concept is rejected by the National Rifle Association. Background checks: extremely limited. Information gathered about criminal people is to be destroyed so quickly that it is of little value to law enforcement.

A March 2005 report from the Government Accountability Office found that between February and June of 2004, people on U.S. lists of suspected terrorists applied 44 times to buy guns. It is not unheard of. It happens in this country. In only nine instances were they turned down. In the months since the study ended, 12 more suspected terrorists had the green light to buy or carry guns.

FBI Director Bob Mueller—whom I respect very much—said he was forming a group to study the problem. Why aren't we talking about this instead of granting immunity for the gun dealer who sells a weapon to someone he should have known could misuse it for a crime or for terrorism? We are shielding them from civil liability for not living up to their responsibility when it comes to the sale of lethal firearms.

Or we could talk about ways to solve the problem in America of guns being trafficked, many crossing State lines, and used in crimes. The ATF says 90 percent of the guns recovered in crimes were used by persons other than the original purchaser, other than "straw men," people who bought them to sell them to criminals. One-third of all crime guns cross State lines.

In my State of Illinois, 47 percent of guns traced to crimes committed in Illinois originated in other States. One State, Mississippi—the little State of Mississippi—is far and away the per capita leader in selling guns exported from their State and used in crime. Do you know why? Because firearms laws are not really strictly enforced in Mississippi, and some other States.

From 2000 to 2002, Department of Justice prosecutors filed three cases in Mississippi for violations of gun trafficking laws. In contrast, 32 cases were filed in Kentucky, 28 in Tennessee. So we have gun dealers in Mississippi selling trunkloads of guns to people who get on the interstate and drive up to Illinois and, perhaps, your State, too, selling them to gun gangs and drug gangs on the streets, and then spreading out these guns to kill innocent people. And the people pushing this bill are arguing that we should not hold those firearms dealers responsible because they did not "know" that a crime was going to be committed.

One hundred "Saturday night specials" to stick in the trunk of your car, junk guns, that you would never use for sports or hunting, and they didn't know? They should have known. That is a standard in law almost everywhere: that you knew or should have known. They are changing the law. They are saying, for firearms dealers, we are not going to hold them to this same standard that we hold every other business in America to when people buy products.

There are lots of other issues we could talk about, the gun show loophole, and others. But I think one of the most important things we could talk about is why this bill is on the floor today. It is not because gun manufacturers and gun dealers are facing bankruptcy and a lot of litigation. I read into the RECORD yesterday—and will not repeat—the major gun manufacturers in this country have no problems in terms of profitability. In fact, one of the leading companies, Smith & Wesson, said:

> In the nine months ended January 31, 2005, [Smith & Wesson] incurred $4,535 in [legal] defense costs, net of amounts received from insurance carriers, relative to product liability and municipal litigation.

Mr. President, $4,500—does that sound like a business crisis that would move a gun immunity bill to the front of the calendar in front of the Department of Defense authorization bill? What it comes down to is this gun lobby has a lot of clout, and they are pushing for this sweeping immunity.

What kind of cases are we talking about? I said to my staff, you can talk about the law. And I could stand here as a person trained in law school and go through the obvious problems with this bill. But I think it is more important to talk about real-life situations. It is more important to give illustrations of why this is such a terrible bill.

Let me tell you about Anthony Oliver. Anthony Oliver was 14 years old. He was shot and killed on July 23 of last year while he was playing video games with his friend who was 13. Anthony's friend, his 13-year-old friend, had just bought a gun on the street for $50. He told the police he bought the gun with his allowance near his home because he was intimidated by a group of kids who jumped his friend and threatened to beat him up. He said he thought the safety was on when he accidentally killed Anthony with one shot to the stomach.

Federal investigators traced the gun. It was a "Saturday night special," one of those cheap guns just used for crime. They traced it to Lou's Jewelry and Pawn store in Upper Darby, PA. From 1996 to the year 2000, this pawnshop in Pennsylvania sold 441 guns traced to crime. It ranks as the No. 1 dealer in Pennsylvania in selling guns to criminals and 43rd in the Nation among all gun dealers.

In 2003, the last year for which we have statistics, Lou's sold 178 guns traced to crime. That year, less than 1 percent of the more than 3,000 dealers in Pennsylvania sold even one gun traced to crime. So you have a handful of dealers, just a small percentage, who are not paying attention or ignoring openly the fact that they are selling guns over and over and over again to gun traffickers and to straw purchasers.

How is that done? Well, the person who has a criminal record and cannot buy a gun brings his girlfriend in, and while he is standing there picking out the guns, the girlfriend is handing over the credit card or the cash to pay for them. They cannot sell to him. He is a criminal. He has a record of felonies, so the girlfriend buys it. So should the gun dealer be aware of that? Why, of course. It is obvious.

Should they be held accountable if they should have known that gun, through that girlfriend, is going straight into the hands of a felon, straight on to the street, killing innocent people? In America, a jury decides that. They will not be able to when this bill is passed. When this bill is passed, those who vote for it have decided they will be the jury forever when it comes to those questions of liability. We are taking that matter out of the hands of American citizens. We are putting it in the hands of a handful of Senators.

The gun that killed Anthony was sold in 2003 by Lou's to a trafficker who had purchased six guns in a very short period. They bought multiple guns, including many "Saturday night specials," which are small, easily concealed, low-quality handguns sought basically by kids, drug gangs, and those who are going to have a fast crime experience on a Saturday night.

The purchase of multiple firearms at once should have been a red flag to Lou, but Lou doesn't pay any attention to that: Give me some cash—I'll give you a gun; no questions asked.

When this bill passes, the family of Anthony Oliver will lose their lawsuit, the lawsuit they brought against Lou's pawnshop that continues to sell these guns used in crime. So what a great piece of news for that family: the tragedy of losing your 14-year-old son to a "Saturday night special" from a pawnshop which specializes in selling guns to gun traffickers and criminals. This is a great bill, isn't it?

Let me tell you about another case. Danny Guzman was a 26-year-old father of two from Worcester, MA, killed by a stray bullet fired outside of a nightclub on Christmas Eve in 1999.

After the shooting, the loaded gun used in the shooting was found behind an apartment building by a 4-year-old child. The gun had no serial number. They determined the gun was one of several stolen from Kahr Arms, a Worcester gun manufacturer, by their own employees, who hired many of these employees and, it turns out, never checked whether they had criminal records.

One of the thieves, Mark Cronin, who worked for this gun manufacturer, had been hired despite his history of crack addiction, theft, alcohol abuse, violence, and assault and battery. They did not check it. The gun manufacturer hired people to make guns and did not do a criminal background check on their employees.

Cronin told an associate that he took guns out of the Kahr company "all the time" and that he could just walk out the door with them. He took the gun that was used to kill Danny right off the assembly line. And he was pretty smart about it. He took it off the assembly line before it was stamped with a serial number. Smart guy. Can't be traced.

The investigation also led to the arrest of another employee, Scott Anderson, who had a criminal history, who pled guilty to stealing guns from the company.

Fifty Kahr firearms disappeared in a 5-year period. The local police captain classified the recordkeeping at that facility as "shoddy," that it was possible to remove weapons without detection because they did not keep their records well.

Danny Guzman's family brought a wrongful death suit in Massachusetts State court against the owner of the gun manufacturing company, saying: You should have kept your records so you could see that guns were being stolen. And you certainly should have done a background check on your employees. Hiring somebody who has such a criminal record to work in a plant that makes guns is clearly a question of negligence.

The trial judge denied the efforts of the company to dismiss the lawsuit, and it is still pending. Do you know what happens to that lawsuit by the family of Danny Guzman against that arms manufacturer if we pass this bill? It is immediately removed. They have no rights in court to pursue that. Why? Why would we say to a person who owns a company that makes guns that you are held to a lesser standard than a person who owns a company that makes toys? That is what it boils down to. You are doing it because the gun lobby insists on it. They want this immunity.

The case that has brought many policemen forward—and I will close with this—involves police officers. The last time we debated this bill, we said: Shouldn't we at least create an exception that if the gun is used to kill a police officer in the line of duty, that we are going to hold a gun dealer responsible if they should have known that? Wouldn't we hold a gun manufacturer responsible if they were involved in supplying guns to Lou's Pawnshop, which ranks one of the highest in the Nation of turning guns over to criminals? So we asked for an exception for law enforcement. It was defeated. All the people here who talk about law and order and how much they love policemen in uniform defending our communities and neighborhoods with their lives voted against them when they had a chance to put that exception in the law.

Let me give you a specific example. On January 12, 2001, police officers in Orange, NJ, were performing undercover surveillance at a gas station that had been robbed repeatedly. Someone acting suspiciously walked up to the gas station and then turned away. When Detective David Lemongello approached the man a few blocks away to question him, he responded by turning and opening fire. Detective Lemongello was hit in the chest and left arm, and the suspect fled. When additional officers, including Kenneth McGuire, found the man hiding beneath some bushes, the man started shooting again. Officer McGuire was hit in the abdomen and right leg. McGuire and two other officers returned fire and killed the man, even though they had been shot. Although Detective Lemongello and Officer McGuire survived, they have suffered serious, debilitating injuries.

The man who shot them was wanted for attempted murder and had been arrested several times. So how did he get a gun? How did this man come into possession of a gun? Gun trafficker James Gray traveled from New Jersey to West Virginia to buy his guns. He and his companion, Tammi Lea Songer, visited Will's Jewelry and Loan, a pawnshop in South Charleston, WV, and Songer acted as a "straw purchaser" by buying the gun for Gray who couldn't purchase it himself because he was a three-time convicted felon and out-of-State resident. The girlfriend bought the gun while he was standing there. Good old Will's Jewelry and Loan took the cash and handed the gun over.

They returned to Will's 17 days later, purchased 12 more guns—see the pattern—which the girlfriend bought and paid for with thousands of dollars in cash. Should the gun dealer have been saying at this point, This looks a little fishy? I think so. Reasonable people would. Gray picked out the guns for the girlfriend to purchase in full view of Will's Jewelry and Loan pawnshop personnel, a clear signal this was a "straw purchase." One of those guns was the gun used to shoot these police officers, McGuire and Lemongello.

Will's personnel had reservations regarding the nature of the transaction but went through with it anyway before contacting the ATF to report their suspicions. The ATF then contacted the girlfriend, Tammi Lea Songer, who agreed to assist them in a sting operation that resulted in the capture of Gray. However, in the time it took the ATF to set up its sting, Gray had already trafficked the gun—sold it on the street—which was used to shoot these police officers.

The police officers and their families are suing the gun dealer, saying: You didn't use good sense and any reasonable standard of conduct in selling to this guy's girlfriend when you should have known something fishy was up. So they have a lawsuit against them and the manufacturer. Do you know what happens to this lawsuit from these policemen if this bill passes? It is over. Not another day in court. No chance for these wounded policemen or their families to recover.

Will's settled, incidentally, with Officers McGuire and Lemongello for a million and agreed to change its practices in terms of underground traffickers. If the current bill passes before this settlement is reached and final, justice will not have been done. The shop would not have agreed to take the steps to make the streets safer.

That is what we are up against—people who want to stand behind and protect gun dealers who are selling guns that they should know are going out on the street to menace and threaten innocent people.

How in the world have we reached this point that we leave the Department of Defense bill to come to this? It is a sad day for the Senate. It is sad to think that one lobby has so much power over the Senate that they can move us away from the men and women in uniform, to whom we have a first responsibility, to protecting gun dealers like Will's pawnshop in Virginia or Lou's in Pennsylvania. What in the world are we doing here? We owe it to the men and women in uniform and the policemen who risk their lives for us to defeat this bill. We owe it to the mothers and fathers who want their kids to come home safe every night and not be menaced by driveby shootings and "Saturday night specials" to defeat this bill. It is time to decide who you are working for in the Senate. Is it the gun lobby or the policemen and families of America?

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I realize we are up against a time limit. I ask unanimous consent that my comments appear as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JOHN ROBERTS

Mr. LEAHY. Mr. President, I wish to take a few moments to bring people up to date on where we are on the John Roberts nomination to the Supreme Court.

It is now a little over a week since President Bush made a dramatic evening announcement of his intention to nominate John Roberts to succeed Justice Sandra Day O'Connor on the U.S. Supreme Court. In the Senate, we haven't received this nomination. It has not come up yet. Nonetheless, we are well on the way to preparation for the Senate's process in considering the nomination.

During the past weeks, some of us have met with Judge Roberts. We have urged him to be forthcoming at his upcoming hearing. The Judiciary Committee has already sent him a questionnaire seeking background information. Most importantly, Chairman SPECTER and I have already begun laying the groundwork for full and fair hearings which we are both committed to holding. I expect that we will soon be able to announce the Judiciary Committee's schedule for those hearings.

Late yesterday, the White House provided some documents from Mr. Roberts' time when he served as special counsel to Attorney General William French Smith during the Reagan administration. None of us had requested these particular documents but, of course, we are always happy to receive anything they want to send. There are at least three categories of documents from Mr. Roberts' years in the executive branch that are relevant to this nomination.

The second group relates to Mr. Roberts' work from 1982 to 1986 as an associate White House counsel under the supervision of White House Counsel Fred Fielding. These are apparently kept in the Reagan Library in California.

Yesterday, in our continuing effort to expedite the process, we sent a letter to the White House asking that the files from those years be made available as quickly as possible, and to help speed it up, we identified by name the files we wished to be priorities. I hope the reported statements by White House officials over the last couple of days indicating they expect it will take 3 or 4 weeks to make these materials available are in error and, instead, they can be made available on a prompt basis, not a delayed basis. Otherwise, it would almost appear—I certainly wouldn't want to suggest the White House would do this—that they are trying to make sure the documents arrive after the hearings and not before them or arrive so close to the time of the hearings, there would be no time to review them. I trust there will be those at the White House who would understand this would be the wrong way to proceed and would actually in the long run end up adding more time to the process.

The third category of files is from Mr. Roberts' work when he was a political appointee in the Justice Department's Office of the Solicitor General. He served as Kenneth Starr's principal deputy during the prior Bush administration. The reason I say these are important, the President said that his work at this time was one of the reasons he selected Judge Roberts as his nominee. Of course, the President has every right to consider whatever reasons for a Supreme Court nominee. Having said that, however, in carrying out our responsibilities, it is appropriate that the Senate also be entitled to the same kind of information that the White House weighed in making its decision about this nomination. In other words, if this work is one of the reasons they say he is qualified to be on the Supreme Court, all the more reason the 100 Members of the Senate should be able to see it and make up our own minds.

Actually, it might be the most informative of the documents we are going to seek. We could get a practical sense of how, when, and why politics and the law intersect for him. I am not expecting to seek production of all the files and the hundreds of matters on which Mr. Roberts worked in those critical years. Nobody is asking for that. Rather, in our effort to cooperate and expedite the process, we are putting together a targeted catalog of documents. I hope we can work with Chairman SPECTER to send a reasonable bipartisan request for a selected group of those files.

In that regard, I ask unanimous consent that a copy of the letter we sent to the White House yesterday be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, July 26, 2005.

Hon. GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are disappointed that the White House appears to have so quickly moved to close off access by the Senate to important and informative documents written by Supreme Court nominee John Roberts while he was at the Department of Justice. According to news reports today, your Administration may be preemptively protecting thousands of documents not even requested yet by the Committee—documents that could very well hold important information necessary to evaluate Judge Roberts' judicial philosophy and legal reasoning.

While many documents are being delivered today from Judge Roberts' work for Attorney General William French Smith at the Reagan Justice Department, it is far too early to determine whether these documents are relevant, adequate, or even helpful. It may be that this group of documents, along with the upcoming hearings, will give us enough information to fulfill our constitutional duty to advise and consent on this nomination. But it would be premature for either the Senate or the White House to make that determination now. Judge Roberts spent some four years working for President George H.W. Bush, and it may very well be that documents from that time will be helpful to the Committee as well.

It is our hope that the confirmation process moves swiftly and smoothly over the coming weeks. We can assure you that no Senator is attempting to unduly delay the proceedings. We intend to work with Chairman Specter if and when further requests for documents or information appear appropriate. But in the meantime, we believe that judgment should be withheld on which and how many documents regarding this nominee might be released to the Senate. The history of past nominations is varied but clear—each confirmation process is different, and the type and number of documents shared between the White House and the Senate has depended on the nature of the debate, the needs of the Committee, and a cooperative negotiation between the Senate and the White House. A blanket statement that entire groups of documents are off limits is both premature and ill advised.

Finally, it is our understanding that many more publicly available documents will soon be sorted and delivered to the Committee. In the interests of speeding up the process, we have attached a list of the document areas within that group we feel would be most helpful to the Committee. To the extent your staff can assist in expediting the delivery of those documents, we would be grateful.

Sincerely,

Patrick Leahy.
Dick Durbin.
Joe Biden.
Edward M. Kennedy.
Charles Schumer.
Dianne Feinstein.
Russell D. Feingold.
Herb Kohl.

PARTICULAR MATTERS OF INTEREST

JGR/Law of War; JGR/Texas Redistricting; JGR/Abortion; JGR/Acid Rain; JGR/Affirmative Action Correspondence; JGR/Appointment Correspondence 1985; JGR/Appointee Memos, Clearance, Announcements, etc.; JGR/Appointments Clause; JGR/Asbestos Legislation; JGR/DC Chadha; JGR/Change in Presidential Term; JGR/Civil Rights Commission; JGR/Comparable Worth; JGR/Conflicts of Interest; JGR/Death Squads Investigation—SSCI; JGR/DOJ Daily Reports; JGR/EECO; and

JGR/Equal Opportunity in Education; JGR/Ethics; JGR/Exclusionary Rule; JGR/First Amendment; JGR/Flag, American; JGR/Independent Counsel; JGR/Iran Emergency; JGR/Jones, Bob—Univ. Decision; JGR/Judges; JGR/Legal Services Corporation; JGR/Pardons; JGR/Political Activity; JGR/Pro Bono; JGR/Reagan—Bush Rallies Guidance; JGR/Recess Appointments; JGR/School Prayer; JGR/Supreme Court; and JGR/War Powers.

Mr. LEAHY. When we review the documents volunteered by the White House, obviously, we are going to be asking, Is this more of the old trick of flooding us with stacks of really unimportant materials in order to divert attention from those that matter the most? I hope the White House will begin to work with us instead of acting unilaterally.

There is one very easy way. They could send up documents that make no sense. They could say, Here is 400 pages of something he had on his desk every day when he was working as a political appointee of the Justice Department, and send us the telephone book. That is 400 pages. It was on his desk. It is not very helpful.

So the bottom line is this: The White House is eager to supply documents it selected and certainly provided with great fanfare, but we have yet to receive the documents we have, in fact, requested. It is an unfortunate pattern we have seen too often. Of course, the White House has available to it all the documents. The President has spoken about the designee's work in the Reagan White House and at the Bush Justice Department. But they have yet to share those materials with the Senate.

Other nominations have run into trouble when this White House has decided to let the Senate see only what the White House wants the Senate to see. If the White House's midnight announcement on Monday that was reportedly embargoed to deny Democratic Senators an opportunity to comment is, contrary to appearances, actually intended to begin a dialog about documents, then I welcome it. Of course, if it is intended to unilaterally preempt a discussion about documents the Senate may need and is entitled to, then this is regrettable.

Past administrations, Republican and Democratic, have been willing cooperatively to work with the Senate to accommodate its requests for documents. There are ample precedents in both parties documenting such cooperation. I believe the Senate is going to need the White House's full cooperation to expedite the scheduling of this process as the President has requested.

Let us be serious. Now that the White House has gotten the stagecraft out of the way, let's go back to working on the substance of the Senate's work on this very important nomination. The President has, rightfully so, announced his choice. Now the Senate must rise to the challenge and do its work. To fulfill our constitutional duties, we need to consider this nomination as thoroughly and carefully as the American people deserve. A Supreme Court Justice is not there to represent either the Republican or Democratic Party; they are there to represent all 280 million Americans. The Senate is supposed to find, Is this the person the American people deserve, all 280 million of them?

That takes time, it takes the cooperation of the nominee, and it takes the cooperation of the administration. It means that Republicans, as well as Democrats, have to take our constitutional obligations on behalf of the American people seriously.

Let us remember this is not to see who scores political points. This is to determine how we protect the rights of all Americans—the ultimate check and balance for all Americans. This is somebody who could well serve until the year 2030 or beyond.

Mr. President, I see the distinguished senior Senator from Rhode Island.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I commend the Senator from Vermont for his eloquent remarks. I will talk about the legislation before us, the gun liability legislation.

The legislation before us cannot be all things. It cannot be an effective barrier against litigation to protect the gun industry and, at the same time, be a way to protect legitimate rights of citizens who have been injured or killed by guns. It is not both; it is one of them. It is carefully, cleverly worded legislation to immunize the entire gun industry from virtually any type of liability.

There are, perhaps, minor exceptions, but the most important, compelling cases we have seen in recent years—the case of the DC snipers, the case of Police Officers Lamongello and McGuire in New Jersey, and the pending case of Kahr Arms in Worcester, MA—would be barred. I don't think that is a mere incidental coincidence. They will be deliberately barred.

Thankfully, the first two cases were settled after the Senate rejected this legislation last year. The families of the victims of the Washington area snipers had their day in court and were able to go forward, and a settlement was reached. Officers Lamongello and McGuire similarly had the opportunity to press their cases, and a settlement was reached, but the Kahr Arms case is still pending in court.

One of the sweeping aspects of this legislation is that it does not merely attempt to set the rules prospectively, as we go forward, to say these cases would not be heard by a court in the U.S.; it literally walks in and tells people who have filed cases—cases that have survived motions for summary judgment, cases which judges, looking at the facts and circumstances and the law, have said at least can go forward to trial and jury—it would take those cases and throw them out of State courts and out of Federal courts if they have been filed.

Let's take a look at the Kahr Arms case. It is the case of Guzman v. Kahr Arms. It was filed under the wife's name—Hernandez, I believe. It involves Danny Guzman and Kahr Arms. A lawsuit was filed by the family of 26-year-old Danny Guzman of Worcester, MA, who was fatally wounded with a 9 mm handgun that was stolen from the Kahr plant by a drug-addicted employee who had a criminal record. The manufacturer, Kahr Arms, operated the factory without basic security measures to protect against theft, such as metal detectors, security mirrors, or security guards. Guns were routinely taken from the factory by felons the company had hired without conducting background checks.

The gun used to kill Danny Guzman was one of several removed by Kahr Arms employees before serial numbers had even been stamped on them, rendering them virtually untraceable. Some point has been made about the fact that it is illegal to erase serial numbers. These people were able to get the weapons before serial numbers were imprinted upon the weapons, so that law would not apply at all. The guns were then resold to criminals in exchange for money and drugs. The loaded gun that killed Mr. Guzman was found by a 4-year-old behind an apartment building near the scene of the shooting. Thank goodness that 4-year-old didn't decide to test the weapon himself or herself.

Had Kahr Arms performed background tests or drug tests on prospective employees, or secured its facility to prevent theft, Danny Guzman might be alive today. A Massachusetts court held that the suit states a valid legal claim for negligence, but this bill would throw the case out of court, denying Danny's family their day in court.

Again, this is the Congress reaching into a State court and telling that judge, we don't care what your law says, we don't care what 200 years of legal precedent in Massachusetts or any other State in the country amounts to. This suit should be stricken, taken out, thrown out.

This legislation is sweeping and it is unprecedented. It deals a serious blow to citizens throughout this country, while enhancing dramatically the legal protections for the gun industry. Now, the bill's proponents repeatedly say you cannot hold someone responsible for the criminal actions of another—as my colleagues have said, the intervening criminal actions of another.

First of all, that is not what this case is about. And, frankly, that is not the law. I am surprised that my colleagues who are attorneys would come down and make such an erroneous statement about the law. A memorandum by a professor at the University of Michigan Law School points out that in the restatement of torts—this is as in all law—this is the basic summary of the status of the law in the U.S. with respect to torts. Section 449:

> If the likelihood that a third person may act in a particular manner is a hazard or one of the hazards which makes the actor negligent, such an act, whether innocent, negligent, intentionally tortious, or criminal, does not prevent the actor from being liable from harm caused thereby.

This is black letter law. There is no special exemption for the criminal act of another if you fail in your duty to the public. And the duty here with respect to Kahr Arms is to secure dangerous weapons and to have employees who are responsible. That is what they are being sued about. They have a duty under the law for the whole community to act in a way that will not unnecessarily cause harm to others. What should be decided in a court is whether they lived up to that duty. If this legislation passes, they will be denied the opportunity to determine whether their duty to the community was upheld.

This is about responsibility for their actions—in this case, the actions of Kahr Arms Company. In the case of gun dealers, it is the requirement and the obligation to take precautions, to use the standard of care a businessperson would use in the conduct of that business—the standard of care any businessperson would use. Certainly, this standard of care should apply to those who manufacture weapons, who sell weapons, and the trade associations associated with them.

The allegation in all these cases is that they failed to do that—not that they were unwitting, incidental victims of a criminal mind, but that they failed in their duty. Bull's Eye Shooter Supply in Washington State, for example, who supplied the Washington snipers with their sniper weapon, could not account for 238 weapons. They had no idea where they were. The evidence was overwhelming that there was no standard of adequate care, no effective controls on inventory. The owner of that gun store claimed a teenager—he didn't realize it at the time—must have walked in and shoplifted an automatic weapon, a 3-foot-long sniper weapon, and carried it away, undetected, during business hours. In fact, this was missing without his knowledge for weeks and months. That is not the standard of care the community should expect from anyone engaged in this type of business. Is that the standard of care? No, it is not the standard we expect. It is particularly not the standard when you are dealing with weapons that can kill people. I would think most Americans on the streets, if you asked them, Would you say gun dealers and manufacturers should be a little more cautious than people who make other items, I think the answer would be, invariably: Yes, of course. These are inherently dangerous products.

So this is not about punishing people for the criminal activities of others. It is about holding individuals and corporations up to the standard of conduct we expect from everybody. There are various examples. Some say, my goodness, if a store sells someone a knife that is then used in a crime, they should not be responsible. Others have talked about car dealers. But if you have the car dealer who leaves the keys in a car, and they have no security, and a teenager gets into that car and harms someone, certainly I think the parents of that individual harmed or that individual themselves could go to court and say this dealer didn't meet the rational standard of care of those in the automobile industry. They have to secure the car and provide security. They cannot make them so easily available that a young person would take the car and get into an accident. That applies to automobile dealers.

But if this legislation passes, common sense doesn't apply to the gun industry in this country. In fact, this is a license for irresponsibility we are considering today. Whatever precautions they are taking today, because they might anticipate this type of danger and anticipate, perhaps, litigation, there is no incentive after today to take those rudimentary precautions. There will be a race to the bottom, to the worst standards of the industry, to the worst operations of the worst operators.

With this bill, we are saying, in addition to your Federal firearms license, you get another license; you can be irresponsible. That is not to suggest all dealers and manufacturers are irresponsible. But some are. Those very few have landed in court—very few.

We talk about junk lawsuits. It is not a junk lawsuit when your husband has been shot by a sniper while sitting in a bus waiting to go to work, to drive his bus, to service this community, to pick people up and get them to work. I don't think the family of Conrad Johnson volunteered to be part of a social experiment. I think any suggestion to that effect is offensive. They have been harmed grievously. A wife lost her husband. Children have lost their father. The livelihood of this family is in question. They seek redress, as anybody would. That is not a junk lawsuit.

On the contrary, these families have been harmed, in part, because of the negligence of someone, and that someone should pay. The suggestion that this legislation is in response to some avalanche of lawsuits that is devastating the firearms industry is without foundation. The industry is so stressed that they have managed to raise, preemptively, $100 million to protect themselves—not just in terms of going to court and paying claims, but also in terms of controlling documents and communications between themselves and their attorneys, so they can claim the benefits of the law, attorney-client privilege, at the same time they are trying to take away the benefits of the law from average citizens who have been harmed by guns. That is a stunning hypocrisy.

This is not an industry that seems to be without resources. As my colleagues have said, and as I have said, in some of these annual reports to the SEC, companies have said there were adverse effects because of these suits, but "don't worry, stockholders, we are not losing any money." One company reported out-of-pocket costs of $4,500 in a period of less than a year for this type of litigation—$4,500. For that, we are here on this floor to take away rights of Americans they have enjoyed for over 200 years to go to court, to allege they have been harmed by a negligent industry, and let a jury of their peers decide it.

We are not facing a situation where we would be without gun manufacturers because of these lawsuits. It is outlandish to suggest our national security is being jeopardized because we cannot find people in the United States who produce firearms, and that American companies cannot stand up to this torrent of lawsuits. And the suggestion that we have to turn to firearms suppliers for our military is rather odd. Indeed, today, many, if not most, of the suppliers for national defense are the subsidiaries of foreign companies. Browning, Winchester, and Fabrique Nationale, which supplies M-16A4 assault rifles and the M-249G squad automatic weapons are subsidiaries of Herstal, a Belgian firm. The Pentagon contracted with H&K, a German firm, to help develop the next generation of weapons.

Clearly, the Pentagon doesn't believe American manufacturers are so distressed that they have to go overseas. They are going overseas because they are looking for what they consider to be the best product and best design. They are dealing with subsidiaries of foreign companies. The suggestion, of course, that these suits are driving America and the Pentagon away from acquiring American-made weapons is ludicrous.

It is not about preserving our defense. It has nothing to do with our defense. The Pentagon is making decisions to buy foreign weapons because they believe they are better weapons. This is about protecting one industry from the legal responsibility to exercise caution, a responsibility every individual must exercise. All industries must do that or, indeed, the vast majority.

This is not about protecting the integrity of the courts. What does it say to the integrity of the courts of West Virginia when a judge found that a suit brought by two brave New Jersey police officers should proceed, when we say: No, you are wrong, throw that case out. What will it say to Massachusetts courts if we pass this legislation when that case against Kahr Arms is thrown out the door? It will say we are meddling in the affairs of the courts in an unprecedented fashion. Thankfully, Officers Lemongello and McGuire were able to settle their legitimate case, but there are cases pending, and those cases have to be dealt with.

I urge my colleagues to reject this gun industry immunity bill.

I want to make one other point before I yield the floor. Much has been made of a letter from the Beretta Company about the danger of an avalanche of lawsuits. If you look closely, what has happened is the District of Columbia, their duly constituted legislative body, passed a strict liability bill. The courts have upheld that. They say it is appropriate. That is the American system, legislators pass bills. That is what we are trying to do today. That is a strict liability bill, and that may raise concerns with the gun industry. This bill goes way beyond strict liability. It says simple negligence is out the door, and to conflate those two arguments does a great disservice to the accuracy of the truth of this debate.

Mr. President, I believe my time has expired. I yield the floor.

Mr. CRAIG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that we stay on the Defense bill and that upon completion of that bill, we go to the gun liability legislation.

Mr. FRIST. Reserving the right to object, Mr. President, reflecting on yesterday, if we had invoked cloture yesterday, we would have been able to complete the Department of Defense authorization bill. We were unable to invoke cloture. I made it clear at that time at some point we would return to the Department of Defense authorization bill, a very important bill.

At the same time, we have about five pieces of legislation we have to address over the next 72 hours. We need to move on, as we will shortly do.

Also, the chairman and ranking member will have the opportunity over the next few days and weeks to take these more than 200 amendments, look at those amendments and see how many are absolutely necessary, based on their judgment, and then we can come back and address the issue of defense.

Finally, I ask that the Democratic leader consider my request from yesterday so that at any time determined by the majority leader, in consultation with the Democratic leader, then the Senate resume consideration of the Defense authorization bill.

Mr. REID. Mr. President, if the Senator will withhold for one second. There is now before the Senate a request to stay on the Defense bill and finish the gun bill when the Defense bill is finished. It is my understanding the distinguished majority leader has asked to modify that request so that he would be able to call up the Defense bill at any time he wishes; is that the way I understand the request as modified?

Mr. FRIST. Mr. President, I will phrase it that at any time determined by the majority leader, after consultation with the Democratic leader, the Senate will resume consideration of the Defense authorization bill.

Mr. REID. Mr. President, I understand that. I am disappointed we are not going to the Defense bill. My statement has been spread on the RECORD consistently and repeatedly, so there is no need for me to give that speech again.

Mr. KENNEDY. Reserving the right to object, can the leader give us some indication as to when we will go on the Defense authorization bill, as one who has an amendment and is glad to participate?

Mr. FRIST. Mr. President, I am happy to say, that is why I specifically stated in my unanimous consent request "in consultation with the Democratic leader." Until we get through the highway bill, the Energy bill, Interior appropriations, Legislative Branch appropriations, and gun liability, it is going to be hard for me to predict exactly when—plus we have a 5-week recess between now and then.

The whole purpose of my unanimous consent request is I stay in touch through consultation with the Democratic leader to find the appropriate time.

Mr. KENNEDY. Mr. President, I will not object. My feeling is, I regretted the fact we got off the Defense bill—particularly because of its importance to our national security—to go on to this gun liability bill. I am not going to object to the leader coming back. As one who has an amendment—I know many of our colleagues were eager to focus on those amendments. We will expect to hear from our leader as to when the leader will do that.

Further reserving the right to object, is it the intention of the leader to permit amendments to the gun liability bill so we will, now that we are on that legislation, at least be able to talk about and offer amendments on the gun liability legislation?

Mr. FRIST. Mr. President, it is our intention—and I will be offering an amendment shortly—but we will be in discussions with the leadership and the ranking member and chairman discussing amendments and allowing them to be offered accordingly in the judgment of the chairman and ranking member and the leadership.

Mr. KENNEDY. Mr. President, I am not going to object to the other, but that sounds to me as if—having been around and familiar with the rules of the Senate—they can effectively let what amendments come up that are agreeable to the floor managers and deny other Members the opportunity to offer amendments. I think the Senate rules provide, when we are dealing with cloture, to be able to offer amendments that are relevant to the underlying bill. I don't understand why we are not going to be permitted the different options. I am not going to object to the leader being able to go to Defense authorization when he wants to, but it does seem to me we are facing a stacked deck here and denying Members under the Senate rules the opportunity which the rules provide for. It would be simple to say we are going to run consideration of the gun liability according to the Senate rules. That would be the answer most of us would have hoped. I guess there is a different plan ahead for the Senate, but we all want to be fully aware of what that means. That means some Members will be able to get their amendments in and others will not.

Mr. REID. If I can say one thing, I think it was an oversight on the part of the majority leader, but one of the issues we have to deal with before we leave is Native Hawaiians also.

Mr. FRIST. Mr. President, that is correct, and I was thinking the exact same thing when I was talking, and Department of Defense as well. We have a whole range of issues. The Democratic leader knows I am in constant discussion with him as to how we are going to get the business done, and the fact we did not get cloture yesterday on the Department of Defense bill, we are moving ahead in an orderly fashion, hopefully in a civil way, working with the other side, through the managers on the Democratic side and Republican side, with the leadership in order to complete the business this week.

Mr. President, I guess we have a modified unanimous consent request that at any time determined by the majority leader, after consultation with the Democratic leader, the Senate resume consideration of the Defense authorization bill; is that correct?

The PRESIDING OFFICER. That is correct. Is there objection to the request as modified? Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the Senate will proceed to a vote on the motion to proceed to the consideration of S. 397.

The question is on agreeing to the motion.

The motion was agreed to.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

The PRESIDING OFFICER. The Senate will now proceed to the consideration of S. 397, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 397) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

The PRESIDING OFFICER. The majority leader.

CLOTURE MOTION

Mr. FRIST. Mr. President, yesterday, as everyone knows, we invoked cloture on the motion to proceed to this underlying legislation with a vote of 66 to 32. Although we are now proceeding to the substance of the bill, it has been made clear that the bill will be subjected to a filibuster. While we respect a Senator's right to debate this liability, it is apparent that a cloture vote will be needed to ultimately bring this very bipartisan bill to a final vote. For that reason, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close, debate on the motion to proceed to Calendar No. 15, S. 397: A bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

Bill Frist, George Allen, Larry E. Craig, Craig Thomas, Michael B. Enzi, Jeff Sessions, Kit Bond, Lamar Alexander, Mitch McConnell, Sam Brownback, Tom Coburn, Richard Burr, John McCain, Richard Shelby, Saxby Chambliss, John Ensign, Chuck Hagel.

Mr. FRIST. Mr. President, this vote can technically ripen as early as 1 a.m., not tomorrow but the next day, Friday morning. I am not certain at this point if we will vote then or later that morning. I will continue and want to continue to consult with my colleagues on the schedule.

As we just discussed on the Senate floor, we have a lot of business to accomplish over the next several days. We have the energy conference report, the highway conference report, the Interior bill, the veterans health money attached, a number of nominations. Therefore, I hope that when cloture is invoked, we can find a way to bring this bill to a final vote so that we can expedite some of these other very important issues.

AMENDMENT NO. 1605

Having said that, I now send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. CRAIG, proposes an amendment numbered 1605.

Mr. FRIST. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the exceptions)

On page 10, line 5, strike "or" and all that follows through line 16 and insert the following:

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

Mr. FRIST. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1606 TO AMENDMENT NO. 1605

Mr. FRIST. I now send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 1606 to amendment No. 1605.

Mr. FRIST. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will read the amendment.

The legislative clerk read as follows:

(Purpose: To make clear that the bill does not apply to actions commenced by the Attorney General to enforce the Gun Control Act and National Firearms Act)

At the end, insert the following:

(vi) an action or proceeding commenced by the Attorney General to enforce the provisions of chapter 44 of title 18, United States Code, or chapter 53 of the Internal Revenue Code of 1986.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the actions that have just taken place have put us on S. 397, the Protection of Lawful Commerce in Arms Act. Earlier this morning, I submitted for the RECORD some now 67 cosponsors, which demonstrates that this bill is clearly very bipartisan legislation, supported by a Republican and Democrat majority in the Senate.

The actions the leader has just taken to file cloture would allow the cloture motion to ripen by as early as 1 a.m. Friday morning. Amendments have just been filed by the leader, and we will begin the process of debate on this important legislation.

With that in mind, if this bill and this debate seem familiar to any of us, it should, because the Senate debated a very similar measure a little over a year ago. At that time, we had a full debate over a number of days. It is worth noting that the Senate defeated every amendment addressing the actual substance of the bill. However, opponents succeeded in attaching a couple of unrelated poison-pill amendments that ultimately caused the bill to fail.

The need for this legislation is very real. Over the course of yesterday and today, some of us have expressed what we believe is the urgency of this legislation. The Protection of Lawful Commerce in Arms Act would stop junk lawsuits that attempt to pin the blame and the cost of criminal behavior on businesspeople who are following the law and selling a legal product. In fact, the one consumer product where access is protected by nothing less than our Constitution itself is our firearms, and that is exactly what is at stake today: the right of law-abiding American consumers, American citizens, to have access to a robust and productive marketplace in the effective manufacturing and sale of firearms.

This bill responds to a series of lawsuits filed primarily by municipalities to shift the financial burden for criminal violence onto the law-abiding business community. These suits are based on a variety of legal theories. We heard some of them expressed by opposition to this bill earlier in the day seeking to hold gun manufacturers and sellers liable for the cost of injuries caused by people over whom they have no control—criminals who choose to use firearms illegally.

This is a bipartisan bill, as I mentioned. Let me acknowledge my primary Democrat sponsor, Senator MAX BAUCUS of Montana, and thank him for his work on this initiative. Senator BAUCUS and I introduced this bill in February, and more than half of the Senate, both Republicans and Democrats, have now joined us since it was formally introduced in its final form.

Earlier in the day, I inserted into the RECORD all of those who are now cosponsors. This range of cosponsorship reflects extraordinary, widespread support that crosses party and demographic lines and covers the spectrum of political ideologies represented in the Senate. It demonstrates a strong commitment by a majority of this body to take a stand against a trend toward predatory litigation that impugns the integrity of our courts, threatens a domestic industry that is critical to our national defense, jeopardizes hundreds of thousands of good-paying jobs of hard-working men and women across America, and puts at risk the access Americans have to a legal product used for hundreds of years across the Nation for lawful purposes such as recreation and, most important, self-defense.

I have used the term "junk lawsuits," and I wish to make very clear to everyone listening to this debate that I do not mean any disrespect in any way whatsoever to the victims of gun violence who might be involved in these actions. Although their names are sometimes used in these lawsuits, they are not the people who came up with the notion of going after the industry instead of going after the criminals responsible for the injuries or the loss of life of their loved ones. That notion originated with bureaucrats, anti-gun advocates and the lawyers who work with them.

Victims, including their families and communities, deserve our support and compassion, not to mention our insistence on an aggressive law enforcement effort that puts punishment where it ought to be rendered—to the criminal.

In the nearly 6 years of the Bush administration, death by guns and crime in which guns were used in the commission of that crime have plummeted. Why? Because this Justice Department has gone after the criminal and not the law-abiding citizen.

It is the criminal who acts illegally. It is the criminal who ought to be prosecuted. But somehow, some who are involved in this movement have a tremendously distorted idea that the person who produces a legal product and sells that legal product somehow is responsible because they just should have known that product might fall into the hands of a criminal and might cost someone their life.

If those laws need to be toughened or if law enforcement efforts need to be improved, then the proper source of help is legislators and governments to ensure the tightening of the laws and not the courts and certainly not law-abiding businesses or workers who had nothing to do with those who were victimized by the criminal element of this country.

No. These junk lawsuits do not target the responsible party in those terrible crimes. This is predatory legislation, looking for a convenient deep pocket to pay for somebody else's criminal behavior, and by every definition it therefore deserves to be called a junk lawsuit. If one wants to stand on the floor and defend that kind of action in the courts of America, so be it. I believe in the democratic process. But Americans get it, they clearly understand it, and so do Senators, and that is why now 67 Senators support this legislation. These are junk lawsuits because they are driven for political motives to hobble or bankrupt the gun industry as a way of controlling guns.

For decades, anti-gunners have come to the Senate floor or the House with one scheme or one idea after another, and the American people, based on what they believe strongly to be their constitutional rights, have rejected this. Now the anti-gun community attempts once again to come through the back door of the Congress by going in through the front door of the courthouse. It simply has not worked, and it will not work.

But there is another motive in mind. By definition, the legislation we are considering today aims to stop lawsuits that are trying to force the gun industry to pay for the crimes of people over whom they have no control.

I used an analogy last year. I will use it again today. It is like saying to GM, General Motors, or any car manufacturer that because somebody buys their car and gets drunk and gets in that car and kills someone out on the road, gee whiz, they should have known that a drunk would drive that car, and therefore they should never have produced it, and therefore they are liable. For years, I have always understood that there are some in our society who say no one is responsible for their action, no one should be held responsible for their action, and that is an underlying core of the debate we are talking about or the issue we are talking about today.

Let me stop a minute and make sure everyone understands the limited nature of the bill. Some will argue it differently, but I would argue those who argue it differently are trying to expand the definition of what we believe to be very clear within the legislation. What this bill does not do is as important as what it does do. This is not a gun industry immunity bill. I think I have already heard that said since the clock tolled 12 noon. This bill does not create a legal shield for anybody who manufactures or sells a firearm. It does not protect members of the gun industry from every lawsuit or legal action that could be filed against them. It does not prevent them from being sued for their own misconduct.

This bill only stops one extremely narrow category of lawsuits, lawsuits that attempt to force the gun industry to pay for the crimes of third parties over whom they have no control. We have tried to make that limitation as clear as we possibly can and in several ways. For instance, section 2(b) of the bill says its No. 1 purpose is:

> to prohibit causes of action against manufacturers, distributors, dealers and importers of firearms or ammunition products and their trade associations for the harm solely caused by the criminal or unlawful use or misuse of firearms products or ammunition products by others when the product functions as designed and intended.

We have also tried to make the bill's narrow purpose clear by defining the kind of lawsuit that is prohibited. Section 5 defines the one and only kind of action prohibited by this bill as follows:

> [A] . . . civil action or proceeding or an administrative proceeding brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, or penalties, or other relief resulting from the criminal or unlawful misuse of a qualified product by the person or a third party. . . .

We have also tried to make the narrow scope of the bill clear by listing specific kinds of lawsuits that are not prohibited. Section 5 says they include actions for harm resulting from defects in the firearm itself when used as intended—in other words, a faulty product—that is, product liability suits; actions based on negligence or negligent entrustment; or breach of contract.

Furthermore, if someone has been convicted under title 18, section 924(h) of the U.S. Code or comparable State law—in plain English, that means someone who has been convicted of transferring a firearm knowing that the gun will be used in the commission of a crime of violence or drug trafficking—that individual is not shielded from civil lawsuits by anybody harmed by that firearm transfer.

I am not quite sure how much more clearly we can make the law.

Finally, this bill does not protect any member of the gun industry from lawsuits for harm resulting from any illegal actions they have committed. Let me repeat it. If a gun dealer or manufacturer violates the law, this bill is not going to protect them from a lawsuit brought against them for harm resulting from that misconduct. Section 5 further explains that this includes, but is not limited to, the situation in which these parties falsify the firearms records they are required to keep under Federal or State law or knowingly fail to make appropriate entries into those records or if they worked with others in making false statements about the lawfulness of the selling of firearms.

You will hear arguments on the floor about certain gun dealers and that we are now holding them harmless, even though on the surface of the argument it appears they violated the law. Let me again say, as I said, if in any way they violate State or Federal law or alter or fail to keep records that are appropriate as it relates to their inventories, they are in violation of law. This bill does not shield them, as some would argue. Quite the contrary. If they have violated existing law, they violated the law, and I am referring to the Federal firearms laws that govern a licensed firearm dealer and that govern our manufacturers today.

Another example of conduct that would not be shielded from a civil lawsuit under this bill is the case in which the manufacturer or seller aided, abetted or conspired with any other person to sell firearms or ammunition if they knew or had reasonable cause to believe that the purchaser intended to use those products for the furtherance of a crime.

How clear can you get? If a manufacturer or a federally licensed firearms dealer knew they were selling to somebody who had criminal intent in mind for the use of the weapon, the firearm they just purchased, they are in violation of the law and it does not protect them. This is not a shield to do just that.

What I have listed for the convenience of my colleagues is all spelled out in title V of the bill. For those who question it, read it. If you don't understand it, get your lawyer and read it again because we worked overtime to make this as clear as it possibly can be made. Again, this is a rundown of the universe of lawsuits against members of the firearms industry that would not be stopped by this narrowly targeted bill.

What all these nonprohibited lawsuits have in common is that they involve actual misconduct or wrongful actions of some sort by a gun manufacturer, a seller or a trade association. Whether you support or oppose the bill, I think you can all agree that individuals should not be shielded from the legal repercussions of their own lawless acts. The Protection of Lawful Commerce in Arms Act expressly does not provide such a shield.

I am going to repeat this because some opponents continue to mischaracterize the bill. My guess is, in the closing arguments on Friday of this week, that mischaracterization will continue. This is not a gun industry immunity bill. It prohibits one kind of lawsuit, a suit trying to fix the blame of a third party's criminal acts or misdeeds on the manufacturer or the seller of the firearm used in that crime.

Even though this is a narrowly focused bill, it is an extremely important one. The junk lawsuits we are addressing today would reverse a longstanding legal principle in this country, and that principle is that manufacturers of products are not responsible for the criminal misuse of those products. You don't have to be a lawyer to know that runaway juries and activist judges can turn common sense on its head in a lot of cases, setting precedents that have dramatic repercussions and are potentially devastating in their results.

If a gun manufacturer is held liable for the harm done by a criminal who misuses a gun, then there is nothing to stop the manufacturers of any product used in crimes from having to bear the costs resulting from the actions of those criminals. So as I mentioned earlier, automobile manufacturers will have to take the blame for the death of a bystander who gets in the way of the drunk driver. The local hardware store will have to be held responsible for a kitchen knife it sold, if later that knife is used in the commission of a rape. The baseball team whose bat was used to bludgeon a victim will have to pay the cost of the crime. The list goes on and on.

Did that sound silly? Tragically enough, some lawyers and some activist judges and some runaway juries have taken us in those directions in the past. That is why we constantly, in the Congress, talk about tort reform, trying to narrow it, trying to make it more clear—still recognizing that law-abiding citizens have their rights and should not in any way be jeopardized in the legal sense from their constitutional right to go to court. At the same time, I don't think any of us believed that the court system of America would be gamed the way it has been gamed or that we would see the myriad of junk lawsuits that are being filed today and the venue shopping that continues to go on.

It is not just unfair to hold law-abiding businesses and workers responsible for criminal misconduct with the products they have made and sell, but this would also bring havoc to our marketplace. Hold onto your wallets, America, because those businesses will have to pass those costs directly on to the consumer if they plan to stay in business. Worse, some of those businesses will not be able to pass on those costs and still stay competitive. For some of them, this will mean layoffs, and ultimate bankruptcies, and the closure of the manufacturer's door.

We have already seen this in some of the firearm industry. In fact, these lawsuits have the potential to bankrupt the gun industry, even if they are not successful.

How could that be? The sheer cost of litigation, the repetitive filing of laws, the need to defend those lawsuits literally costs hundreds of millions of dollars. It is important to keep in mind that the deep pocket of the gun industry is not all that deep. In hearings before the House of Representatives, experts testified that the sales of the firearms industry taken together would not equal those of a single Fortune 500 company.

Why would I say that? People think this is a monolithic, large industry. It is not. It is a lot of small businesses, small manufacturers. In other words, all of them combined in America today would not equal one Fortune 500 company.

As of this year, it was estimated—and we can only estimate because the cost of litigation is confidential business information—that these baseless lawsuits have cost the firearms industry more than $250 million. Half of them have already been thrown out of court. Furthermore, don't think these companies can pass the costs off to their insurers because in nearly every case insurance carriers have denied coverage.

The impact on innocent workers and communities is not the only potential repercussion of these lawsuits. If U.S. firearms manufacturers close their doors, where will our military and our peace officers go to obtain their guns? As my colleagues know, the United States of America is the only major world power that does not have a government-run firearms factory. This is a little known fact but a reality. Yet last year we purchased more than 200,000 small arms for our soldiers, sailors, airmen, and marines. The very same companies that supply our troops in the war on terrorism, both abroad and here at home, are the targets of these reckless lawsuits that could force them to close their doors.

Some would say: Oh, gee, we buy some of our arms already from foreign countries.

Yes, we do. Does that mean that is where we should buy all of them; that we should be dependent on foreign countries for the supply of firearms to our military? Surely we do not want foreign suppliers to control our national defense and community law enforcement—not to mention the ability of individual American citizens to exercise their second amendment-protected rights through accessing firearms for self-defense, recreation or other lawful purposes.

For all of those reasons, more than 30 States have laws on the books offering some protection for the gun industry from these extraordinary threats. Support has already grown in Congress to take action at the Federal level. The House has passed this measure several times. The Senate is now attempting to do so.

This would not be the first time Congress acted to prevent a threat on an industry. Some would wring their hands and say: Oh, dare not, dare not change the Federal law; dare not, in some way offer some protection. But let me tell you this is not the first time, and my guess is, with the courts and the trial bar where it is, it will not be the last.

For example, there are a number of Members in this Chamber who were serving in Congress when the General Aviation Revitalization Act was passed barring product liability suits against manufacturers of planes more than 18 years ago. Just a few years ago in the Homeland Security Act, Congress placed limits on the liability of a half a dozen industries, including the manufacturers of smallpox vaccine and the sellers of antiterrorism technology.

These are only a couple of examples of a significant list of Federal tort reform measures that have been enacted over the years when Congress perceived a need to protect a specific sector of our economy or our defense interests from the burdensome, unfair and, as I believe, frivolous litigation of the kind we see today.

It is high time we act to stop this threat to our courts, our communities, our economy, and, yes, to our defense.

I have heard some Senators talking about loading up this bill with political amendments that have nothing whatsoever to do with the legislation. Let me say right here and now these are killer amendments. Many of them know that. That is why they are trying to place them.

I ask my colleagues to support the underlying legislation. It is well written, it is thoroughly vetted with all of the interested parties. I ask my colleagues to look at it as they have already looked at it—in a very strong, bipartisan way. Here now in the Senate a supermajority, Democrats and Republicans alike, supports this legislation. I hope they would resist the kinds of amendments that are obviously intended to drag this bill down once again. Some attempted it last year, and they were successful in doing so. I hope those who have signed on as cosponsors are sincere in their support of the bill, as I believe they are, and they will allow us to move it through the process over the next several days in a clean and effective way.

Our courts are supposed to be a forum to redress wrongs, not enact political agendas. How many times has the anti-gun community been rejected by the American public through the voice of their Senator or through the voice of their Congress men and women? Time and time again. And yet because of their political alignment and their philosophical bent, they stay at the issue even though clearly and profoundly we have described it as and believe it to be a constitutional right of an American citizen to own a firearm. Well, because they have not been successful at the doorsteps of Congress, they have turned to the doors of the courtroom. Lawsuits are being filed. Lawsuits are being rejected. Thousands upon thousands of dollars are used in legal fees to prepare the arguments. New and inventive ways are approached: Let's try this angle, let's try that angle. Surely we can get to the deep pocket.

I am also amazed at those who would not suggest that American citizens are responsible for their own actions, and most assuredly the criminal element ought to be. We have watched some administrations walk one direction. But I tell you where this administration is. It believes the criminal element ought to be prosecuted. And guess what happened in America when we started prosecuting the criminal element and putting them behind bars. Crime began to go down very rapidly. The streets of America and the communities of America became safer places because those who would violate the law and, more importantly, those who use a gun in the commission of a crime get locked up. That is gun control in the right sense. That is gun control that a majority of the American people support and that the Congress has continually supported.

This legislation, as I have mentioned, is clear. It is well defined, and it is narrow by its action. We believe that is why a bipartisan majority now supports it and why it deserves to become the law of the land, so we don't have venue-seeking, politically minded efforts to ignore the criminal element in the zealous support or approach to gun control but to go after the law-abiding citizen who either manufactures the firearm or sells it under a Federal firearms license.

That is the essence of S. 397, and I hope as we work through this bill, the clarity of that issue comes forward.

With that, Mr. President, I yield the floor.

Mr. REED. Mr. President, I ask unanimous consent to lay aside the pending amendment and send an amendment to the desk.

Mr. CRAIG. I object.

The PRESIDING OFFICER (Mr. THUNE). Objection is heard.

Mr. REED. Mr. President, I think the Senator from Idaho makes it very clear what seems to be going on now. I heard a few moments ago the majority leader's response to Senator KENNEDY, saying there would be an opportunity to present amendments, to debate this bill. I would also note that prior to any other action, cloture was filed on this bill.

Mr. CRAIG. Will the Senator yield?

Mr. REED. I would be happy to yield.

Mr. CRAIG. Obviously, I have an amendment on the floor now, or I should say an amendment that was filed by Leader FRIST. Under appropriate consultation, it is very possible there are a variety of amendments that could come to the floor prior to the ripening of the cloture motion. To now immediately move to that without consultation with the floor leader, myself, is something I will object to, and the Senator understands that. So let us not be tactical here. Let us work and cooperate. I am very happy to look at any amendments——

Mr. REED. If I may reclaim my time——

Mr. CRAIG. The Senator might have, but with that, my objection still stands until full consultation is brought, full cooperation is sought. I thank you.

Mr. REED. Reclaiming my time, I thank the Senator.

This amendment has been shared with the majority. It has been reviewed by the majority. We are not attempting to surprise anyone with this amendment. It deals with child safety locks. In fact, it is an amendment that was offered to the bill last year and passed overwhelmingly. It is my intent to provide opportunity to discuss issues with respect to gun legislation and to present them to the Senate.

Again, I would note when the majority leader requested unanimous consent to lay aside one of his amendments to offer another amendment, no one on my side objected because in fact we thought we were proceeding in good faith, that we shared amendments if we had an opportunity to look at the amendments beforehand, that we could proceed in an orderly and reasonable fashion. But I am a bit shocked. This amendment has been with the majority for the last, I would suggest, 30 or 40 minutes. It is an amendment that was presented in substance before to the floor. So I am a little bit surprised about the Senator's reaction.

Mr. CRAIG. Will the Senator yield again?

Mr. REED. I would be happy to yield.

Mr. CRAIG. Last year this amendment was offered by Senator BOXER, modified by Senator KOHL, and passed the Senate. We are examining the amendment now. We have only had it for 30 minutes or less. The Senator is absolutely right. And the amendment is substantively the same, but there are some differences in it. We are analyzing to see what those differences might be.

So, you see, there was a basis for my objection—until we clearly understand it. I think the agreement the Senator was speaking to was one based on the exact amendment of Senator KOHL of a year ago. So let us examine what those changes might be in the amendment and then there may be no objection on this side. But until that time I believe we have adequate time here to resolve the issue, and my objection would have to stand.

Mr. REED. Reclaiming my time, again, I appreciate the Senator's comments with respect to the amendment, but once again I think we provided you the opportunity to look at the amendment.

There are several issues here. The first issue is whether you think it would be appropriate to support and vote for it, which presumptively comes after debate. But the first issue is allowing us to offer the amendment. You might very well object to the substance of the amendment. You might very well urge our colleagues to reject it. I respect that. But the right to deny the amendment since you object goes against what the majority leader said in how we conduct this debate.

I will make a few comments now in general and I hope perhaps during the course of my comments the review of the amendment would allow us to formally offer it.

Again, there have been some comments about these junk lawsuits. These comments might have some resonance in this Chamber, but I doubt if we were talking to the widow of Conrad Johnson we would have the temerity to say the suit she filed on behalf of the family was a junk lawsuit. Or if you had a working man, someone sitting in his bus seat in the early morning having a cup of coffee and reading the paper—and when I read about that, it reminded me of what my father did every day as a school custodian. He would get up in the morning, read the paper, have a cup of coffee either at the school or someplace else, in the kitchen—and then suddenly his life was ended by snipers, leaving a wife and children. Then they find after the tragic incident the weapon was obtained by the snipers because, in my view, of the incontrovertible evidence of gross negligence, 230 or more weapons misplaced by the dealer, not realizing that a teenage boy walked into his gun shop and took a 3-foot assault weapon off the counter and walked out. That is not negligence?

Oh, and, by the way, because we were able to stop this legislation last year and because in that case the defendant recognized that if they went to a jury of 12 Americans sitting and deciding whether they were responsible in their actions, they settled.

That is not a junk lawsuit. Is it a junk lawsuit when two police officers are called to a violent scene and find themselves in a crossfire, find themselves critically injured, brought to a hospital, given their last rites, and then it is discovered the weapon that harmed them was purchased by a straw purchaser? Or that an individual walked in with a female companion, pointed out the guns, bought 12 of them at one time for cash, had her buy them because he could not pass a weapons background check, jumped in a car, took off—in fact, so obviously that the dealer called the ATF and said I took the money, gave them guns, but watch out. Negligence.

Both those lawsuits would have been stopped by this legislation. Those are not frivolous suits. Those are examples of people being hurt, police officers, bus drivers, through the negligence of gun dealers and gun manufacturers.

There is this constant refrain, the law is clear, the law is clear, we can't blame someone else for criminal activities, when in fact the law is quite clear on this point. I mentioned it before. What is the law of the United States? Well, in terms of tort law these laws are summarized, updated constantly in what is known as restatement. Basically it is a catalog of different positions of the law. Everyone knows it. Everyone coming to the floor, having passed a bar in one State of this country, knows the restatement basically says what is the settled law, the settled law with respect to criminal activity. I will read it again.

Section 449 of the Restatement Second of Torts:

> If the likelihood that a third person may act in a particular manner is the hazard or one of the hazards which makes the actor negligent, such an act, whether innocent, negligent, intentionally tortious, or criminal does not prevent the actor from being liable for harm caused thereby.

What does that mean? It means you have a duty to the public to take certain steps, and if you don't take those steps, even if in the chain of causation there is a criminal act by another party, you are still liable—not for that criminal act, you are still liable because you failed in your duty.

What this bill does is—this great talk about responsibility—it says everyone is responsible except the gun industry. Automobile manufacturers are responsible. In fact, when we get in our vehicles and drive home tonight, we are all going to benefit because years ago under the laws of tort and negligence, automobile companies were forced to improve the safety of their vehicles for the protection of the public. Now the logic that, oh, they can't be held liable for this because no one intends to crash the car, well, that is right; no one intends to crash an automobile, but if the design of the automobile is defective, if there are safety precautions that could be taken, those have to be adopted because they have a duty to the public to provide a safe product, to avoid obvious dangers.

This is a situation in which we have the obligation to take steps. So this notion about criminal intervening activities is not the law. That is not what the black letter law of this country says. The idea that manufacturers are not subject to the common obligation or duty to provide safe products, even if they are not required by statute, that is not the law either.

There is also a deliberate attempt to confuse two very different principles. We have criminal laws, we have regulations, we have statutes that require certain behavior. They define a range of activities that are impermissible. What this bill says is, if you violate a law, one of those aspects of impermissible behavior, yes, maybe you can sue a gun manufacturer. But there is a whole other range of activities—accidents, unreasonable behaviors—that are not defined by law. They are not the criminal, but they do involve opportunities under civil litigation to go to court and say this person acted unreasonably. They did not technically violate a statute. They acted unreasonably.

This statute essentially says, by and large, you can show they violated a very narrowly drawn legislative enactment or statute—they failed to fill out a record, et cetera—yes, maybe you can go to court.

What about all the cases we have talked about, the cases of the straw purchaser where weapons were sold and, obviously, to the casual observer, in a very peculiar way. Why didn't that fellow, I believe, in South Carolina, who is buying the pistols that eventually wounded officers Lamongello and McGuire, why didn't he offer his name? He obviously was picking out the weapon. Why did they buy 12 at one time? There is no law against buying 12 weapons at one time. Isn't it curious that would happen?

Again, we have a situation where this legislation has been carefully worked out to stop these lawsuits. Not the frivolous lawsuits, all lawsuits except under very narrow circumstances. And those circumstances do not seem to apply to the cases that have been filed. The exceptions would not have kept alive a suit by Officers Lamongello and McGuire or by the families of the victims of the Washington, DC, snipers or in the situation of Danny Guzman and Kahr Arms. That is more than coincidental. It is very deliberate.

Again, as I mentioned before, this legislation can't be the panacea for the gun industry, the one touted by the NRA, as we have to have this on one hand, and then allow all the good suits there, the really good suits, the ones, in fact, that have been filed. And it is not. It is designed to stop practically every attempt to be compensated for the negligence of a manufacturer, a gun dealer, or a trade association.

All of the particular aspects of the bill provide some window dressing—it sounds good, section XYZ of the United States Code—but when it doesn't work in practice, that is all it is. This explosion of suits, where are they? A small number of suits filed in this country involve anything covered by this legislation. The cost to the industry? This cost goes up $50 million every day we are here talking about it.

What we know for a fact is that the industry has pooled $100 million to protect themselves, preemptively, to ensure that the communications are covered by the attorney-client privilege, to ensure that doctors are all centralized so they cannot easily be accessed because of attorney-client privilege. They are using our system of civil justice in the courts very well to protect themselves. They are unwilling to let others use the same devices to protect themselves.

This great surge of lawsuits, as was indicated before many times in the Senate, financial reports filed with the SEC, many of the companies are privately held so only few report publicly, indicate to their shareholders there is no material financial risk involved with these suits by municipalities or individual litigants. The litigation costs out of pocket for one of these publicly reporting companies is about $4,500 in the last several months. Hardly a crisis.

And then there is the suggestion that our defense will be imperiled. As I pointed out in my opening remarks, voluntarily the Defense Department is contracting with foreign manufacturers. It is not because of lawsuits. In fact, I don't know what the status is of the civil law in Europe, but I would be surprised if it was more lenient than our laws at present, but they are doing it because they want better weapons.

I can recall as I entered the Army in 1967, the Colt .45 automatic was the side arm of the U.S. Army and had been since the Philippine insurrection in 1903. Now it is a Beretta Italian model produced by an American subsidiary, wholly owned subsidiary of an Italian company, and not, I don't believe, by a national armory of the Italian Government. They are a privately held company.

This notion that this has anything to do with the national defense is unsupported, unsubstantiated by any fact and by the behavior of the Pentagon. They are not coming to us and asking us for this bill so they can keep alive the necessary firearms manufacturers in the United States. They have made a conscious choice for many reasons to go overseas to buy these weapons.

Again, I am in a situation where we are attempting to reach into the courts of each State of the United States and tell them that their legislatures—that propound many of these rules with respect to civil liability—cannot do that. What can be more antidemocratic than that? Then, going to the Commonwealth of Massachusetts and saying: You know, those laws and rules you passed about liability? Can't do that. We don't like it. Or the gun industry doesn't like it.

The case most frequently cited to suggest a crisis is the result of the deliberations of the Washington, DC, council that passed a strict liability bill. That bill was upheld by the DC Court of Appeals. The DC Court of Appeals did not create a rule of strict liability. They said, essentially, the democratic process is working. Elected representatives of the people decided that would be the rule. As a court we cannot step in and overturn that. That is democracy. Of course, we are deciding we can step in and overturn the rules of 50 States. That is antidemocratic.

This legislation is going to deny people who have been hurt the right to bring their case. They might not succeed. As my colleagues have pointed out, many of these cases have been turned down because they could not show that the duty owed to the public was violated by the particular manufacturer or gun dealer. But they have the right now to make that showing. We are taking that right away from them. This right is something that I would think we all would protect, not try to circumscribe and deny, and you cannot go into court with a theoretical complaint saying: I do not like the law; make new law, Your Honor. You have to have a case. You have to show harm. You have to show what the duty of the defendant was, how that duty was breached, and how that breach caused the harm.

That is the way our system works. But not after this legislation passes. You can have the duty, you can have a breach of that duty, and you can have grievous harm. But the victim cannot go to court. It is not about an avalanche of lawsuits. There are a minuscule number of suits filed in this regard. It is not about courts out of control. In some sense it is Congress out of control, saying to State governments, we don't care what the State rules are, we are making the rule.

We should be able not only to talk about but to offer amendments. I hope in the intervening time we have had to analyze the amendments that we could offer amendments and talk about them. I hope that is the case.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I will submit for the RECORD a letter from Beretta U.S.A. Corporation that the Senator just mentioned as an Italian subsidiary, fully owned U.S. corporation. It is a significant letter because it effectively refutes almost all of what the Senator has said. I say that in this respect. It is true everything the Senator has said, and that is not in dispute as it relates to who Beretta is and what they do. They make the standard sidearm for U.S. Armed Forces, and they have had a long-term contract right now to supply this pistol to our fighting forces in Iraq. These pistols have been used extensively in combat during the current campaign, just as they have been used since the adoption of the Armed Forces in 1985.

Beretta U.S.A. also supplies pistols to law enforcement departments throughout the United States, including the Maryland State Police, Los Angeles City Police Department, and Chicago Police Department.

But here is what is significant about Beretta. What Beretta says is exactly what the Senator refuses to recognize. The decision by the District Court of Appeals to uphold the DC strict liability statute as they have in the case of DC v. Beretta U.S.A. has the likelihood of bankrupting not only Beretta U.S.A. but every manufacturer of semiautomatic pistols and rifles since 1991.

The letter to this administration, to Vice President DICK CHENEY, goes on to say:

> There are hundreds of homicides committed with firearms each year in D.C. and additional hundreds of injuries involving criminal misuse of firearms. No firearm manufacturer has the resources to defend itself against hundreds of lawsuits each year and, if that company's pistol or rifle is determined to have been used in a criminal shooting in the District, these companies do not have the resources to pay the resultant judgment against them in which they would have

> no defense if the pistol or rifle was originally sold to a civilian consumer.

That is the essence of a lawsuit that has just been decided in the District.

Mr. REED. If the Senator will yield, I notice you read the letter, but the subject of that letter is strict liability, which in layman's terms—and I will consider myself a layman—means that there is no real judgment about the behavior of the defendants; that if they can prove it was a weapon manufactured by Beretta, and it was involved in a crime, they would be liable without a showing of duty or negligence and whether they took rational and reasonable steps. That is what strict liability is.

There is a difference between strict liability and negligence. The legislation we are considering is not about strict liability alone. It is about negligence. It goes way beyond that letter. If we were debating legislation that said essentially a company may not be held strictly liable for X, Y, and Z, this would be a different debate entirely.

This legislation goes way beyond strict liability. It says that negligence cases, those that you must show that, in fact, the manufacturer or the dealer had a duty and unreasonably failed to perform that duty, that is what you have to show. In fact, I think I accurately represented what was in the letter.

Mr. CRAIG. I did not say you didn't.

Mr. REED. I appreciate that. I do. But the point is we are taking a legal theory of strict liability, which they are upset about, obviously, and concerned about, but it does not translate to this bill. None of these cases I talked about—Lemongello or the case with respect to Guzman—is arguing these manufacturers or sellers are strictly liable. They are saying, essentially—now there might be other cases—but they are saying, essentially, they had a duty, they were negligent.

This legislation we are debating today would wipe away their rights to make a negligence claim. So I agree entirely with the letter in terms of its accuracy. That is what they are talking about. They are concerned about it.

Frankly, if I were the general counsel of Beretta, I would be concerned about it. It might not move me to do the same thing they are suggesting. But we have to be very clear about this legislation, which goes way beyond the strict liability. Again, if we were talking about limiting strict liability suits, this would be an entirely different debate. I do not think I would necessarily agree, but certainly I would be looking at an almost entirely different subject matter.

I thank the Senator for being extremely kind in yielding me time and also being extremely accurate in summarizing my views.

Mr. CRAIG. Mr. President, I thank my colleague.

Let me read another paragraph from that letter, which I think clearly spells out the fear that my colleague would wish to step aside from and argue that is simply not the case. He is dealing with a strict liability statute.

This paragraph says:

> Passed in 1991, the D.C. statute had not been used until the District of Columbia recently filed a lawsuit against the firearm industry in an attempt to hold the firearm makers, importers and distributors liable for the cost of criminal gun misuse in the District. Although the Court of Appeals (sitting en banc in the case D.C. v. Beretta U.S.A. et al.) dismissed many parts of the case, it affirmed the D.C. strict liability statute and, moreover, ruled that victims of gun violence can sue firearm manufacturers simply to determine whether that company's firearm was used in the victim's shooting.

Now, does that take away the costs involved in the preparation, the hundreds of millions of dollars that are now being spent? No, it does not. This was a frivolous lawsuit from the beginning. It was clearly intended. And that is what the district court said. The District of Columbia did not hide it. They were after the industry because they believed the industry had produced the gun that the criminal used in the commission of a crime.

So it goes on. I submit this letter for the Record. I think the letter stands on its own. It clearly affirms why we are here on this floor debating S. 397 and the importance of this legislation.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BERETTA U.S.A. CORP.
Accokeek, MD, May 11, 2005.

Hon. RICHARD B. CHENEY,
Vice President of the United States,
Washington, DC.

DEAR MR. VICE PRESIDENT: A few weeks ago, the Washington, D.C. Court of Appeals issued a decision supporting a D.C. statute that holds the manufacturers of semiautomatic pistols and rifles strictly liable for any crime committed in the District with such a firearm.

Passed in 1991, the D.C. statute had not been used until the District of Columbia recently filed a lawsuit against the firearm industry in an attempt to hold firearm makers, importers and distributors liable for the cost of criminal gun misuse in the District. Although the Court of Appeals (sitting en banc in the case D.C. v. Beretta U.S.A. et al.) dismissed many parts of the case, it affirmed the D.C. strict liability statute and, moreover, ruled that victims of gun violence can sue firearm manufacturers simply to determine whether that company's firearm was used in the victim's shooting.

It is unlawful to possess most firearms in the District (including semiautomatic pistols) and it is unlawful to assault someone using a firearm. Notwithstanding these two criminal acts, neither of which are within the control of or can be prevented by firearm makers, the D.C. strict liability statute (and the D.C. Court of Appeals decision supporting it) will make firearm manufacturers liable for all costs attributed to such shootings, even if the firearm involved was originally sold in a state far from the District to a lawful customer.

Beretta U.S.A. Corp. makes the standard sidearm for the U.S. Armed Forces (the Beretta M9 9mm pistol). We have long-term contracts right now to supply this pistol to our fighting forces in Iraq and these pistols have been used extensively in combat during the current campaign, just as they have seen use since adopted by the Armed Forces in 1985. Beretta U.S.A. also supplies pistols to law enforcement departments throughout the U.S., including the Maryland State Police, Los Angeles City Police Department and to the Chicago Police Department. We also supply firearms used for self-protection and for sporting purposes to private citizens throughout our country.

The decision of the D.C. Court of Appeals to uphold the D.C. strict liability statute has the likelihood of bankrupting, not only Beretta U.S.A., but every maker of semiautomatic pistols and rifles since 1991. There are hundreds of homicides committed with firearms each year in D.C. and additional hundreds of injuries involving criminal misuse of firearms. No firearm maker has the resources to defend against hundreds of lawsuits each year and, if that company's pistol or rifle is determined to have been used in a criminal shooting in the District, these companies do not have the resources to pay the resultant judgment against them—a judgment against which they would have no defense if the pistol or rifle was originally sold to a civilian customer.

When the D.C. law was passed in 1991, it was styled to apply only to the makers of "assault rifles" and machineguns. Strangely, the definition of "machinegun" in the statute includes semiautomatic firearms capable of holding more than 12 rounds. Since any magazine-fed firearm is capable of receiving magazines (whether made by the firearm manufacturer or by someone else later) that hold more than 12 rounds, this means that such a product is considered a machinegun in the District, even though it is semiautomatic and even if it did not hold 12 rounds at the time of its misuse.

The Protection of Lawful Commerce in Arms Act (S. 397 and H.R. 800) would stop this remarkable and egregious decision by the D.C. Court of Appeals. The Act, if passed, will block lawsuits against the makers, distributors and dealers of firearms for criminal misuse of their products over which they have no control.

We urgently request your support for this legislation. Without it, companies like Beretta U.S.A. Colt, Smith & Wesson, Ruger and dozens of others could be wiped out by a flood of lawsuits emanating from the District.

This is not a theoretical concern. The instrument to deprive U.S. citizens of the tools through which they enjoy their 2nd Amendment freedoms now rests in the hands of trial lawyers in the District. Equally grave, control of the future supply of firearms needed by our fighting forces and by law enforcement officials and private citizens throughout the U.S. also rests in the hands of these attorneys.

We will seek Supreme Court review of this decision, but the result of a Supreme Court review is also not guaranteed. Your help in supporting S. 397 and H.R. 800 might provide our only other chance at survival.

Sincerest and respectful regards,
JEFFREY K. REH,
General Counsel and Vice-General Manager.

Mr. CRAIG. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 1619, if possible.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Mr. President, reserving the right to object, we are going to make every effort, over the course of today and tomorrow, to screen the amendments that are coming forward because there is a pending amendment on the floor that would have to be set aside. We are looking at the Senator's amendment now. He has just submitted it to us. Once we have analyzed it, I will be happy to get with him to determine whether I feel comfortable or we feel comfortable with that amendment and go forward.

So at this time, clearly, I appreciate the Senator's sincerity, but I would have to object to the setting aside of the pending business on the floor, which is the amendment offered by the majority leader.

The PRESIDING OFFICER. Objection is heard.

The Senator from New Jersey.

Mr. CORZINE. Mr. President, I ask the distinguished Senator if I might be able to understand the principles that would be involved in deciding whether there are particular avenues of exploration to make sure that this amendment is acceptable going forward? How would we look at this?

Mr. CRAIG. If the Senator will yield, Mr. President.

Mr. CORZINE. Certainly.

Mr. CRAIG. Mr. President, the rulings of the Senate. There is pending business before the Senate. It would take unanimous consent to set aside the pending business to go on to other business. So that is the circumstance we are involved in at this moment. And defending my right to the floor and the amendment before the floor, I am simply upholding that right to the rules of the Senate.

The leader has said, most sincerely, that we would examine all the amendments that are brought forth to determine if there are some that we can agree on, that ought to go forward, that fall, I think, into the conscript of those of us 67 Senators who are the supporters of this legislation and who would do so. But now it is the rules of the Senate that cause me to take the action I have taken.

Mr. CORZINE. Mr. President, I appreciate the Senator's candor. I hope we will be able to bring up my amendment, which will protect the rights of law enforcement officers who are victimized by gun violence to get justice through the American legal system.

I would note the presence of my colleague from the State of New Jersey in the Chamber, who has been a remarkable advocate for law enforcement and for the safety and security of people in our community.

This past Monday night, I missed a vote on the floor of the Senate because I went to a wake for a police officer, Officer Reeves, who was shot on the streets of Newark by a gang member. The gun that was used has not yet been traced to find out whether it was trafficked in the illegal or black market, or whether it was bought by a straw purchaser.

But there is one thing that is certain—there were five children sitting in the pew with their mother at that wake, all under the age of 11. Gun violence is real. The amendment I would like to bring up—which I appreciate the rules of the Senate and respect the judgment of the Senator from Idaho—but the Lemongello amendment I would like to offer to the gun immunity bill is about protecting police officers on the street and giving them the right to get justice in a court of law. If, by unfortunate circumstances, they are the victims of gun violence, we have the right in the State of New Jersey, within the legal system, to call to account those who have wrongfully allowed guns to get into the hands of criminals.

In the case of Detective Lemongello, 11 guns were sold to a gun trafficker out of a gunshop—11 guns. Why does one person happen to need 11 guns? These guns were bought by a straw-purchaser for a career criminal, who then put the guns in a car and drove them to New Jersey, where one was sold to the criminal who shot Detective Lemongello in Orange, NJ.

That gun was turned on this gentleman shown in this picture, Detective Lemongello, just as a gun was recently turned on the young police officer whose wake I recently attended in Newark on Monday night, Officer Dwayne Reeves. Officer Reeves was 31 years old, and he was married with five children.

I believe in the constitutional right of individuals to bear arms under circumstances that will protect the public. I have no argument with that. But I do not think there is a constitutional right to put guns into the hands of criminals who attack police officers and other innocent victims in our country.

I represent a State where crime rates are going down, but murder rates are going up because guns are freely available among gangs on the streets in our communities. This is completely unacceptable. And to allow gun trafficking to continue on, without giving the victims of gun violence the right to seek justice in a court of law, is just plain wrong. It should be enough for any individual with common sense to say: Enough is enough.

Prohibiting civil liability actions as this bill does—and I recognize that some may argue about limited exceptions to the general immunity given to the gun industry in this bill—would make it next to impossible for Detective Lemongello, his partner Officer McGuire, or the family of Officer Dwayne Reeves to have their day in court, to seek and receive justice through the American legal system.

So again, the purpose of my amendment is to protect the rights of law enforcement officers. I understand that this bill is going to pass with, I understand, 61 cosponsors. But I hope my colleagues will understand that, at a minimum, law enforcement officers should be permitted to bring lawsuits against culpable gun dealers and manufacturers.

In the Lemongello case, actually, the people who sold the guns recognized their own mistake, and settled with Detective Lemongello and Officer McGuire. They were able to reach this settlement because Congress did not pass this bill last year, which would have given the gun dealer immunity and removed these lawsuits from the courts.

Now, what's more, the gun dealer who sold the gun to the criminal who shot Detective Lemongello and Officer McGuire, along with several other purveyors of guns in that West Virginia city, changed their policies. These gun dealers now sell one gun at a time as a result of this lawsuit and they no longer make bulk sales.

So this is a real issue. This is not just a debate. There are people dying because we are not doing the right thing. There are lots of forums where we can make this case, and we will continue to, those of us who care about public safety, who want fewer guns on the streets, and who care about accountability.

It is hard for me to understand this legislation as it relates to States rights, in the sense that State legislatures, both Republican and Democratic, have supported the right of victims of gun violence to have access to the courts.

So this is my view, and I am only one Senator, but it is heartfelt. My opposition to this bill and my support for this amendment comes in the context of the real problems and the real tragedies that will occur if we do not have the right checks and balances in the system, if we take away the right of innocent victims to go to court when they are wronged.

I understand that this bill will pass but I am asking all my colleagues to, at the least, support this amendment to protect the brave men and women in uniform who risk their lives to protect the citizens of our country every single day—people like Detective Lemongello, Officer McGuire, and Officer Reeves.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from New Jersey and will share a little personal perspective.

I have been in law enforcement for the better part of my professional career as a prosecutor. Some of my best friends are law enforcement officers. I have stood shoulder to shoulder with them in prosecuting cases. I know the risks they undertake to carry out their duties. I believe in what they do, and I believe they should be supported.

These law enforcement officers are not telling me that if a criminal murders one of their brothers or sisters, that they want to sue Smith & Wesson. The thought does not cross their mind. They are concerned that if they catch the criminal who did it, that it is likely to be 15 or 20 years before the litigation and prosecution is over. If they are found guilty and sentenced to death—if the law provides for it, they should be—they get upset when it never seems to happen, and years and years and years go by. That disrespects police officers.

It seems to me some of the same people who are talking so much about defending police officers are not as aggressive as they should be on some of these issues that really mean much to them.

I would say that I think, on the Lemongello case that has been referred to, based on my experience and understanding of the law as a prosecutor in the Federal court, as a U.S. attorney who prosecuted individuals under Federal laws involving this, you cannot sell a firearm to a "straw" person who is holding it to move it to another person. And if you have reasonable evidence to believe the person you are selling it to is a "straw" person, and it is going to someone else, then that someone else must fill out all the forms, put their name on it, and qualify to receive the weapon. And if you do that, and sell the firearm under those circumstances to someone who is not the true purchaser, you are not only subject to a lawsuit under this bill for civil damages, but you are subject to criminal prosecution as violating a Federal law.

I have prosecuted people for that. I have even had the responsibility to prosecute a gun dealer for not accurately handling these kind of matters. If it is a crime, there is clearly a basis to sue the gun seller. But you don't want to sue the manufacturer off in Massachusetts or wherever they are making the gun. If a seller irresponsibly sells it or violates a law in selling a weapon, you don't sue the manufacturer. They don't become an insurer for criminal acts.

That is what we are trying to do here, to pass some legislation that does nothing more than restore the classical understanding of American civil liability. Who should be sued and under what circumstances should they be sued? If they sell 11 guns and they don't make them comply with the waiting requirement, if they don't get the proper identification from the person who is actually buying the gun, then they have aided and abetted in getting the gun to someone illegally. That is something for which they can be prosecuted and sued under this legislation. What we are talking about is abusive lawsuits where people are being held liable for criminal intervening acts. That is not a principle of American law.

People say: Enough is enough. We just have to do something.

What do you mean we have to do something? We are the legislative branch. We can consider laws if there are enough votes to pass them. But that doesn't mean we allow improper lawsuits to go forward. Senator CRAIG just read the letter from Beretta. One city, Washington, DC, if its laws are allowed to stand, which make gun manufacturers liable strictly for every crime committed by a criminal in DC, it will bankrupt every gun company in America. One city can do that. And these companies sell guns to our police officers. They sell guns to our military people. They are an important part of our American economy. Are we going to now buy our guns from foreign companies? We are not going to have any left in the United States that can survive this flood of lawsuits. It is a serious matter.

The bill is carefully crafted. That is why the Democratic leader, Senator REID, and former Democratic leader, Senator BYRD, and others are cosponsoring this bill. It has been here for several years. It has been reviewed. The loopholes in it have been examined and closed. It has gained support. Now we have a bill that should have already been passed.

I find it passing strange that our colleagues who filibustered a motion to proceed to consider the bill—they filibustered that and delayed this process over a day on that issue alone, when we could have already had the bill up, debated, and voted on. The votes are here to pass it. Let's move forward and get it done. It is quite odd that our colleagues would complain about wasting time on the bill. They are just unhappy because they don't have the votes to defeat it up or down. They don't have the votes to sustain a filibuster. They are conducting delaying tactics that make this legislation that is needed, that has strong bipartisan support, cost more days and more hours of the Senate's time than it ought to.

I wish to share an overall perspective on gun law enforcement in America. Back when I was a U.S. attorney, I came to believe that we should aggressively prosecute criminals who utilize guns during the course of criminal activity, that felons ought not to possess firearms. Both of these have been in our Federal law for many years. We enhanced penalties. Not too many years ago, in the 1980s, they made it a mandatory 5 years in jail, 60 months without parole, for anybody to carry a firearm during the commission of a Federal felony or any felony. That is a strong tool. I believe we ought to prosecute those cases because I am convinced that a lot of the murders in this country are caused by drug dealers and gang members carrying guns around as they do their criminal work. And if somebody crosses them, they pull out a gun and shoot them, and people get killed.

Let me say this first: Most Americans are not murderers. Most Americans are not criminals. Most Americans who have guns—and most Americans do have guns—are law-abiding, decent, peaceful citizens. They are not ever going to murder somebody. This is some sort of myth out there that we are going to fill up the jails if we enforce these laws. There are not that many people out here trying to kill somebody or commit crimes carrying firearms. That is a hardcore group of criminals who deserve to be targeted.

I created my own program called "project trigger lock" in the 1980s. I created a newsletter on it. We sent out news to our sheriffs and our police chiefs about these kind of crimes and the policies of my office to prosecute cases that they may be working on involving these kind of criminals. We enhanced our prosecutions.

Then I was elected to the Senate. I come in here in the middle of the 1990s. All I heard is, we have to pass more laws to crack down on innocent people who own guns, people who don't commit crimes. They are the ones for whom they want to make it more difficult. They want to constrict the constitutional right to keep and bear arms through any number of devices. At that time, it was thought to be politically popular, that we would just keep voting more and more restrictions on private ownership of guns. Pretty soon, I guess they thought people would just give up and Americans would capitulate and not stand up for their right to keep and bear arms. But it didn't happen that way. The American people got their back up on it.

The politicians are beginning to hear it now, and the people expect to be able to maintain their constitutional right to have a firearm. That is just what has happened.

As all this happened—and I am in the Senate—I am thinking. This isn't going to affect crime. Ninety percent of convictions in Federal firearms cases have to do with using a firearm or carrying a firearm during the commission of a felony and the possession of a firearm after having been convicted of a felony. Those are the bread-and-butter cases. Many of them are being brought. And when you effectively enforce justice, just those two laws—and there are many others, such as machine guns and other kinds of sawed-off shotguns—that is a common case that used to be prosecuted, and I prosecuted lots of them. I personally tried sawed-off shotgun cases. I personally tried and prosecuted cases where the serial number had been erased from a firearm. It is a crime to erase it. It is a crime to sell or to carry a firearm that has a serial number erased. It is a crime to transfer a firearm to somebody else that has the serial number erased. We have all kinds of laws. It is a crime to go to a gun dealership and provide any false statement on a document that you have to sign before you get a firearm or to violate any of the myriad of laws out there.

What I am saying again is that the most common cases are the possession of a sawed-off shotgun, carrying of a firearm during a criminal offense, or possession of a firearm after having been convicted of a felony. For the rest of your life, unless your disabilities are removed, if you are convicted of a felony, you cannot be allowed to possess any firearm, even to go hunting. That really galls some people, but that is the law. We enforce that. It is enforced right now in Federal court.

So we had all these cases. And the other side, President Clinton and Vice President Gore, was declaring that if you did not support all these new restrictions on legitimate ownership of guns—these laws and regulations that they were putting up, one right after another; as soon as one passed, they would come up with another one—then you didn't believe in law enforcement, you didn't believe in fighting crime, that you were allowing murders to take place, that you didn't love children. We heard all that.

I went down to the Department of Justice to pull their statistical book. I have seen the statistical book. I used to get it when I was U.S. attorney. It would show the number of prosecutions in every category of crime. What did I find? That under President Clinton's Attorney General Reno, Department of Justice gun prosecutions had declined rather significantly. At the same time they were accusing Members on this side of being soft on gun crimes and not supporting efforts to protect the innocent from criminals and all of these things, they were reducing the number of Federal prosecutions for gun crimes. I raised that in hearing after hearing after hearing. By the time the Clinton administration was leaving office, the numbers had picked up a little bit.

President Bush came in. At the first hearing, I asked new Attorney General John Ashcroft: Are you going to make it a priority of the U.S. Department of Justice to increase the number of gun prosecutions in this country? Attorney General Ashcroft said: Yes, that is my mandate. That is what the President wants. That is what I believe in, and we are going to do it. And prosecutions have gone up. Murders continue to decline. That is one of the more remarkable things that has happened.

We can celebrate. Murder and violent crime have been on a period of decline. I am absolutely convinced that one of the reasons that has occurred is because of the steadfast, consistent, tough prosecution of criminals who carry guns, either former criminals or criminals while they are conducting their crimes on the streets. I believe it works. In fact, it is known throughout the criminal community that if you carry a firearm during drug-trafficking offenses, if you carry a firearm during any other kind of crime you are committing, you are likely to go to Federal court to be tried by a Federal prosecutor. And in addition to the sentence you get for the underlying crime you committed, such as selling drugs or robbery or burglary, you get whacked by another 5 years in jail without parole. If you carried a machine gun, a fully automatic weapon, that is 20 years consecutive without parole. It is goodbye, so long, throw away the key. You are exiled from our community. That is what happened.

During the Clinton administration, a very fine U.S. attorney in Richmond began to drive this issue. He called it "Project Exile." He put out the word in the street. They had billboards. They put up signs. If you are convicted of carrying a gun during a crime—you are a felon and you carried a gun—we will prosecute you. You will be guaranteed a long time in jail without parole. You will be sent off to a Federal institution, maybe in a distant city. That is why he called it "Project Exile." The violent crime rate in Richmond plummeted. They did what they said they were going to do. They prosecuted those cases.

All I am saying is, with great sincerity, based on my personal experience and a fair analysis of what has happened out there, let's continue to be aggressive with these prosecutions.

Let's not let up. Let's make sure that even more people understand with crystal clarity that if they are a criminal and they are out using a gun in the course of their work, or carrying one as they go about their business, they will be prosecuted. And when they are prosecuted, they will not only be convicted, but they can be assured they are not going to get probation, some sort of halfway house, a couple of months on probation, or something like that, but they are going to the slammer for a significant period of time—perhaps a very long period of time. And if we keep that pressure on, we are going to continue to see the crime rate drop.

That is my hope and that is what is happening. I believe that is the fact. Fortune magazine, in the last few months, had an article about it. They said very few people have commented on the obvious fact that, yes, our prison population has gone up, but our crime rate has dropped. Can we add 2 and 2? Most people in America are not criminals. We are not going to continue to have the prison population go through the roof because most people don't commit robbery, burglary, or carry guns during illegal activities. Very few people do that.

What we were doing in the 1960s and 1970s was calling the criminal the victim. We forgot the true victims. We wanted to see what we could do to help the person who was committing the crimes. We finally realized that some of these people are just dangerous criminals and they have to be punished and removed from society. If you let them back out, they will commit more crimes.

So this has been occurring in our society. We are doing a better job of targeting repeat offenders. We are doing a better job of targeting violent offenders. Can we do better? Yes, we can. Can we be more sophisticated? Yes. Are our current laws a bit too heavyhanded? Probably so. We could probably reduce the penalties on some of the defendants. But the very principle that there is certainty and tough punishment for violation of Federal gun laws is one of the concepts that has led to the reduction of violent crime in America, for which we all ought to be excited.

Mr. President, I will conclude by saying we are doing some things right in law enforcement. Our law enforcement officers really are doing a fine job. We have turned the tide, in some ways. It is a mathematical thing. I have come to understand that.

Back in the 1960s, the crime rate was increasing 10, 15, 18 percent a year. People went from the 1950s when they never locked their doors to being terrified, raped, robbed, and murdered in the 1960s and 1970s. The crime rate had more than doubled in 20 years. Now there has been a decline. It has been declining for the reasons I just stated. We can be more sophisticated. I have personally offered legislation that would reduce the mandatory penalties for crack cocaine. Some on my side think that is soft on crime. I think we need to be sophisticated in enforcement. Every year in jail should be carefully considered, and people should not serve longer than they need to serve. I think we can modify that. Judges tell me they think it ought to be modified. I stepped up to the plate to do that.

But the basic principle that you crack down and you are tough on people who commit crime, and you are consistent, and they know if they are carrying a gun and committing a crime in our country they are going to be sentenced to a long time in jail, that will deter them. The word is out in Philadelphia, Richmond, and Alabama that if you carry a gun during your crimes, you are likely to go to Federal court and serve hard time, without parole. And they are not doing it so much.

I say this: It is likely that the number of gun prosecutions are going to begin to decline because criminals are not carrying guns anymore because they know it is a ticket to the big house. It is something that has worked. It has saved hundreds and thousands of innocent lives in this country. It has saved thousands of people from being permanently disabled by being victims of crime, whether it is guns, knives, or anything else. It has been a good thing that has been accomplished. I love the law enforcement community, our law officers with whom I served. They put their lives on the line for us. They work very hard for us.

As the crime rate has declined, we now have more police officers per crime. They are able to give even closer focus on each individual crime. At one point, there were so many crimes they hardly had time to investigate or prosecute them. Now, we have trends going our way. We need to keep after it. But having the right to bring out bogus lawsuits against an honest seller of a legal firearm, or against an honest manufacturer of a legal firearm, is not the right approach. It is just not consistent with our American principles of law; it is not what we believe in. It is not a legitimate tactic. It is an abuse of the legal system to carry out a political agenda, and it should not be done.

Every company, every person who has a license to sell guns, according to the law, ought to be able to do so without fear of being brought into some bogus lawsuit. That is all we are saying. I think this bill does that. I see my colleague from New Jersey, the great advocate that he is on this issue.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I want to say a few words about this bill and how I see it.

I think this is a terrible period for America—the fact that we are taking an action and making it a preceding action to considering some other issues that are, I think, far more important than the subject at hand.

I heard an accusation by our friends on the other side that the Democrats were using delaying tactics and just not permitting us to get this bill—this important piece of legislation that says if a gun manufacturer does something, or the dealer is careless and leaves the gun on the counter and someone picks it up and goes out and kills someone, you cannot sue them; there is no civil action. That is determined to be more important than getting a defense authorization through that said give our troops everything they need to protect themselves. No, no, no, we have to put that aside because what we want to protect today in this place—and it is shameful, in my view—is gun manufacturers who might knowingly make guns available to a criminal or someone who is deranged and not yet a criminal—he is not a criminal until he pulls the trigger—or a distributor or a gun dealer.

We saw a case not too long ago regarding the Washington sniper, and the fact that the shop owner could not tell whether this fellow had stolen the gun or whether he sold him the gun. There were no records kept. It is shocking. We have heard this: When a car manufacturer produces a car and a drunk driver takes that car and kills somebody on the road, should the automobile manufacturer be liable? I don't think that is a proper comparison. I say that if a gun shop owner walks away from his counter and leaves a pistol on the counter and somebody takes it and goes out and kills somebody, he ought to be punished—not only punished by having a civil action against him, but punished by going to jail. That is what the sentence ought to be.

When we talk about whether a product is used to harm others, automobiles typically are not produced to harm others. But guns are lethal. When you pull a trigger, something happens. I carried a gun. I carried a gun in the uniform of my country. I knew what I was supposed to do with that gun. I was supposed to kill the other guy, if I saw him first. So guns are not play toys and they ought not to have such a place in our society that we can delay getting onto our Defense bill, getting onto other legislation that we desperately need, such as the Transportation bill or Energy bill.

We cannot discuss those things, no. The majority says: No, America. I want Americans to listen to this. The most important thing we could do in this Senate—all 100 of us representing every State in the country—is make sure that gun manufacturers, or gun distributors, or gun retailers who may be careless—hear that—or grossly negligent, or reckless in the way they are handling their records or weapons—no, come on, America, stand up and protect those gun manufacturers and dealers. The heck with the rest of this other stuff that affects everyday lives, affects a family who has someone sitting in Iraq, maybe with not enough armor on their humvee, or not enough weapons.

I met with a group of veterans the other day who had returned from Iraq. They were here for some rehabilitation. They had gone through traumatic experiences, wounds, et cetera. I asked them: Was there anything you were missing? A young woman soldier who had seen combat said: We don't have enough ammunition to practice using a .50-caliber machine gun so that when we are in combat, we are not quite sure how to use it.

That is more important than protecting a gun manufacturer or dealer who is negligent in their behavior. I cannot get this. Negligence, gross negligence, recklessness, carelessness—in other words, you can behave any way you want. It is like calling out "fire" in a theater. You get punished for that. That is a crime. But for a gun dealer who doesn't handle the weapons inventory properly—no, we have to make sure we don't go after those guys.

Talk to the parents. Talk to those who have seen what happens with their child, in terms of gun violence, and see how they feel about the Senate spending time on this issue and holding up everything else. You cannot do other things, no, because artfully, craftily, the other side has shut down the ability to offer amendments. I don't want to get too complicated in explaining the process to the American public. They are not interested in the process.

My colleague was on the floor a moment ago. JON CORZINE, the distinguished Senator and my friend, and I enjoy serving with him. He tried to introduce an amendment that would make it a special penalty if a police officer was killed by a gun. You could then pierce this wall of immunity that says you cannot bring a lawsuit against a gun manufacturer, a gun distributor, a gun dealer—no, you cannot do that because that is important.

After all, these guys give money. They give money for campaigns. The NRA—a small organization in numbers—controls what we do in this body. It is shocking. It is shocking that that organization, which is bent on making sure that everyone who wants a gun can get it—that is what they are saying. No, we have to protect them.

But the remaining 290 million people—or whatever the number is—are not entitled to the same protections as we want to give the gun industry.

We heard talks about how can you, said one of our distinguished colleagues—and these people are my friends; we differ so much on this issue—how can you take a legitimate business and take away their ability to do business and punish them if somebody they sell a weapon to has a record of mental delinquency, a disability, a bent to violence? How can we blame the gun dealer? We make sure we protect gun dealers who are not licensed. It is a gun show loophole. Those are dealers who don't have to have a license, and they can sell a gun to anybody—Osama bin Laden, and the whole thing—and not get punished for it. They don't ask for any identification, no address, no phone number. They sell the person a gun and get the money. Those poor people, why should we make them go through the rigors of getting a license just because they are selling lethal weapons, the kind of weapons policemen carry and the FBI carries, and criminals? Why should we make them go through that?

My colleague talked about the policeman in New Jersey who just lost his life, Dwayne Reeves. He loved being a cop. He was following in his father's footsteps. Officer Reeves was breaking up a fight when a gang member pulled a gun and shot and killed him.

While this is another American tragedy, unfortunately it is not unique. We see lots of people every year perish because of a gun mishandled or a gun directed at innocent people. In the State of New Jersey, we had 415 gun deaths in 2002, according to the CDC. Mr. President, 2002 is the last full year of statistics they have. According to the CDC, 2,867 children and teenagers died from gunshot incidents in the United States in 2002. Again, that is the last year for which complete statistics are available.

We see that in the United States, 30,000 people were killed, including suicides, homicides, unintentional, accidental shootings. But when we look at other countries, we see how few households there are with firearms and gun homicides per million. In Japan, it was less than 1. In the United Kingdom, it was 1.3. In America, it is 62, 62 guns per million where homicide is involved. So we see we are especially susceptible in this society of ours to casual gun ownership, gun use, very frankly.

We see incidents in my State, as we see in every State. A young woman in Atlantic City, NJ, was at a dance. An older man with a history of mental disturbance met her at a friend's home and tried to engage her physically. He shot her through the eyes. She was 15 years old. Like every child killed by gun violence, the girl mentioned left behind many anguished loved ones—parents, grandparents, brothers, sisters, friends, and classmates.

I heard those parents ask: How did a gun fall into the hands of a deranged person? I heard police officers question how guns were obtained by gangsters, such as the man accused of murdering Dwayne Reeves, the police officer murdered the other day. I heard teachers, pastors, and neighbors bemoan the gun violence that has ripped communities apart and destroyed lives. But in my 20 years in the Senate, no one in New Jersey has ever come up to me and said: You know, Frank, I am worried about the fact that gun manufacturers might be held accountable for all this violence and bloodshed. Can you make sure we protect the gun dealers and gun manufacturers?

That is why I cannot believe the Republican leadership is wasting the Senate's time on this gun violence immunity bill. I believe it illustrates just how badly we as a Senate have lost touch with reality, with the concerns of the average American families.

If this bill passed the last time it was brought to the floor, the families of the six victims of the Washington snipers would have lost their right to sue the gun dealer who negligently put a gun in the hands of those murderers. The gun dealer, in that case, ultimately settled a lawsuit for $2.5 million. Why did they settle? Because they knew they were negligent.

Instead of debating gun violence immunity, we should be pressing forward with the Defense bill, as I said earlier, to support our troops, to really show concern for the average family because the average family are the ones supplying the sons and daughters to fight for our interests in the Middle East. But the majority leader decided that protecting gunmakers, distributors, and dealers from legitimate legal redress for their careless or reckless behavior is more important than making sure our troops have the armor, the weapons and, as I said, the ammunition they need. The Senate is setting aside the safety of our troops in order to protect gun dealers. What an outrage that is.

During the July recess, I had the chance, as I mentioned, to meet with some soldiers and military families in New Jersey. They have been affected by the Iraq war. The effects are so enormous that when you look at the problems they encounter, you shake your head and wonder, how can we do more to take care of them.

I talked with one young man who says, when he applies for a job, he doesn't list the fact that he is a member of the National Guard. Why? Because an employer does not want to hire someone who is going to be away for a couple of years.

We ought to be trying to shorten that term of duty. We ought to make sure we have more troops engaged so we can send some who are in Iraq home because they accidentally have been called up and are now doing tours of duty never dreamt about.

The soldiers and their families talk about not getting the resources they need to fight the war. They talk about shortages of tires for humvees. So there are not enough vehicles in working order. The shortage of humvees means troops don't get the appropriate practice of what to do when the convey is attacked.

As if that isn't bad enough, a soldier told me there is not enough Gatorade for them to drink while they are working in 125-degree heat. We know what it is like outside here, but we are not wearing full battle gear, and it is not 125 degrees.

When soldiers find a roadside bomb, when one explodes, they like to mark the spot with spray paint so it will be easy for them to tell if another bomb is put in the same place. But one soldier told me that the Army doesn't have any spray paint available. Soldiers were told to use their own money to buy paint to identify a place that is comfortable for someone to place a roadside bomb. They should use their own money to buy spray paint in a local market.

In short, I learned that our troops in Iraq are facing unnecessary danger because of inadequate training, lack of resources, but here we are in the Senate shoving the Defense bill aside so we can do this gun violence immunity bill. I dare these colleagues to call the families I met with and tell them we cannot help them because the NRA is asking us to grant legal immunity to these gun manufacturers, distributors, and sellers.

We should be taking up a bill to expand stem cell research. But rather than work on the stem cell bill to save lives, we are working to protect those who negligently sell guns to criminals which result in people being killed.

Most American families would prefer we devote our time to the Stem Cell Research Enhancement Act of 2005, the stem cell bill that I am proud to cosponsor, which would expand Federal funding for embryonic stem cell research. There are many other issues.

When we look just at the stem cell situation, as many as 100 million Americans could benefit from stem cell research, but we don't do that. Stem cell research can help Americans living with diseases such as diabetes or asthma—which afflicts 9 million children under the age of 18, including one of my grandchildren—cancer, Parkinson's disease, autism, spinal cord injury.

I find it amazing that the leadership of the Senate, a brilliant physician, the majority leader, is more concerned at this point with providing immunity for rogue gun dealers than giving a ray of hope to 100 million Americans who might benefit from stem cell research. Talk about misplaced priorities.

The Republican leadership in this Senate and this administration have lost touch with the priorities of the average family. What is the one thing that touches the life of every American every day? Transportation. We should have passed the highway bill 2 years ago. Once again, we are bogged down and the President is threatening to veto the highway bill if the final version is closer to the one passed by the Senate.

So we have a lot of debate, a lot of argument to go through. If it were up to the American people, they would pass a highway bill and veto this bill on gun violence immunity. The list of misplaced priorities goes on and on. We cannot address issues such as childcare and job training, but we can waste our time on gun violence immunity, and instead of letting a jury decide the merits of the case involving gun violence, Congress wants to give special protection to rogue gun dealers and restrict the right of all other Americans to plead their case before a judge and jury. That does not make sense.

When most Americans think about gun violence, they pray that their loved ones don't become a statistic. They are not looking to grant special legal immunity to the companies that sell guns. This bill is another example of the Republican leadership taking its marching orders from a rightwing special interest group and ignoring the interests of average families.

I don't know if this bill will pass, but I know one thing. If we spent our time addressing the issues that really matter to average families, this bill would never have seen the light of day. I hope the majority leader will take a cue from the American people and turn our attention to issues that matter to them—stem cell research, national defense, and transportation.

In fairness and equity, I have a disagreement with some of my friends in the Democratic Party also, and I urge them to put aside the time devoted to this gun immunity bill and let us get on with other issues.

Mr. President, I offer an amendment that poses a question to the Senate. The question is simple. Is it more important to protect our Nation's children or a special interest lobbying group? This bill gives immunity to the gun industry even when they are grossly negligent. What my amendment says is there should not be a blanket grant of immunity in cases in which a child is the victim.

How can we look a mother in the eye and tell her she cannot hold accountable the people who caused the death of her child? What the bill says now is that the parents of a child killed by gunfire when someone else is at fault cannot seek redress. What we are saying is, too bad about your child, but we cannot let you harm these friendly donors of ours.

I call up amendment No. 1620 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Reserving the right to object, we appreciate the Senator coming to the floor. I know he is committed to these issues and has been for a good number of years. We are reviewing the amendment now consistent with all of the amendments that are being submitted at this moment. We have not yet completed that review. We received the amendment about 25 or 30 minutes ago.

With that, I object to the unanimous consent request.

The PRESIDING OFFICER. The objection has been heard to the amendment.

The Senator from Rhode Island.

Mr. REED. Reserving my right to object—and I will not object, obviously—I know the Senator is looking carefully at these amendments. I make a point. I have served in the House of Representatives where there is a Rules Committee that looks at every amendment and decides what is coming to the floor. In the Senate that was never the practice. We are trying to be extremely cooperative and transparent in what we are doing, going, we hope, the extra mile. I hope it is reciprocated so we can get to amendments and get to votes. That is how in the Senate amendments are decided, not by a committee putting them up or down for consideration, but by Members voting. I do not object.

The PRESIDING OFFICER. Who yields time?

The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, we are examining these amendments closely. As I had mentioned to the Democratic floor leader a few moments ago on the trigger lock amendment, it was not last year's amendment. We are examining it now. It is quite extensive. It is a new approach toward trigger locks and licensed gun dealers and a much broader issue than before.

I see another Senator on the floor to speak. Let me speak only briefly because the Democratic floor leader, Senator REID, had mentioned in his debate a few moments ago a statement by Smith & Wesson in relation to the expenses involved as it relates to defending themselves in these frivolous lawsuits.

I have a letter from Smith & Wesson to Senator BILL FRIST that I think is important to recognize because it does put in context something that can very easily be taken out of context.

Michael Golden, president and CEO of Smith & Wesson, put it this way. He speaks to a letter in response to the Brady Center's wire story, obviously trying to knock down the claims of gun manufacturers in their support of the Protection of Lawful Commerce in Arms Act. He stated:

> In the article, the Brady Center attempts to minimize the financial implications that the numerous "junk" lawsuits have had on the firearms industries. To support their position, they cite, among other things, Smith & Wesson's most recent 10-Q, filed with the Securities and Exchange Commission. They quote Smith & Wesson's filing, stating, "In the nine months ended January 31, 2005, we incurred $4,535 in defense costs, net of amounts received from insurance carriers, relative to product liability and municipal litigation."
>
> As stated in our filing, the figure report reflects fees incurred over a 9-month period, and is exclusive of settlement amounts received from our insurers. Smith & Wesson entered into settlement agreements with two of its insurance carriers following years of coverage disputes. The settlement amounts equal a fraction of the total fees incurred by Smith & Wesson in defending against frivolous lawsuits. In fact, over the past 10 years, Smith & Wesson has spent millions of dollars defending itself against precisely the type of "junk" lawsuits that the legislation—

Referencing the legislation that is before us today—

> is designed to prevent.

So they do openly support passage of the Protection of Lawful Commerce in Arms Act. They feel it is critical to not only the survival of Smith & Wesson but to the firearms industry of America.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SMITH & WESSON,
Springfield, MA, July 26, 2005.

Hon. BILL FRIST,
Majority Leader, U.S. Senate, U.S. Capitol Building, Washington, DC.

DEAR SENATOR FRIST: This letter is in response to the Brady Center's newswire released yesterday regarding the Protection of Lawful Commerce in Arms Act. The newswire was entitled "The Biggest Lie Yet: Hoping to Ram Bill Through Senate, NRA Supporters Use Phony Scare Tactics, Says Brady Campaign.

In the article, the Brady Center attempts to minimize the financial implications that the numerous "junk" lawsuits have had on the firearms industry. To support their position, they cite, among other things, Smith & Wesson's most recent 10-Q, filed with the Securities and Exchange Commission. They quote Smith & Wesson's filing stating, "In the nine months ended January 31, 2005, we incurred $4,535 in defense costs, net of amounts received from insurance carriers, relative to product liability and municipal litigation."

As stated in our filing, the figure reported reflects fees incurred over a nine-month period, and is exclusive of settlement amounts received from our insurers. Smith & Wesson entered into settlement agreements with two of its insurance carriers following years of coverage disputes. The settlement amounts equal a fraction of the total fees incurred by Smith & Wesson in defending against frivolous lawsuits. In fact, over the past 10 years, Smith & Wesson has spent millions of dollars defending itself against precisely the type of "junk" lawsuits that the legislation is designed to prevent.

Passage of Protection of Lawful Commerce in Arms Act is obviously critical to Smith & Wesson, the firearm industry, our nation's economy and America's hunting traditions and firearm freedoms. Thank you for your sponsorship of this very important piece of legislation.

Very truly yours,
MICHAEL F. GOLDEN,
President and CEO.

Mr. CRAIG. I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mrs. LINCOLN. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mrs. LINCOLN are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, as most of our colleagues know, we are now on S. 397, the Protection of Lawful Commerce in Firearms Act. There is an amendment on the Senate floor for consideration at this moment. Cloture on the bill has been filed.

What I thought I might do is take a few moments to discuss some of the differences between S. 397, the one currently on the Senate floor, and S. 1805, the previous version of the Protection of Lawful Commerce in Firearms Act, which was considered in the Senate in the 108th Congress. Language has been added in this version to address developing issues or concerns expressed last Congress, garnering more support and adding more cosponsors on both sides.

As I announced this morning and submitted for the RECORD, we now have 61 cosponsors including myself. In some cases, the changes are just technical in their character.

But before I get to the changes, let me assure my colleagues that these changes do not alter the essential purpose and effect of the bill. As we have stressed repeatedly, this legislation will not bar the courthouse doors to victims who have been harmed by the negligence or misdeeds of anyone in the gun industry. Well recognized causes of action are protected by the bill. Plaintiffs can still argue their cases for violations of law, breach of warranty, and knowing transfers to dangerous persons. Specific language has been added to make it clear that the bill is not intended to prevent suits for damage caused by defective firearms or ammunition. The only lawsuits this legislation seeks to prevent are novel causes of action that have no history or grounding in legal principle.

This bill places blame where blame is due. If manufacturers or dealers break the law or commit negligence, they are still liable. However, if the cause of harm is the criminal act of a third person, this bill will prevent lawsuits targeting companies that have "deep pockets" but no control over those third persons.

The first change we made in this bill was to add the words "injunctive or other relief" in the title of the bill. This is to make sure S. 397 will prevent all qualified suits and respond to concerns that the 108th version would only have prevented suits for damages. The version of the bill before us today will prevent suits that seek injunctive or other relief besides those seeking only money damages. Without adding this language, law-abiding firearms businesses could still be crippled by being prevented from manufacturing or selling firearms. Any court decision that incorrectly finds dealers or manufacturers liable for criminal acts of others will destroy an industry whether there is an award of money damages or not.

In the "findings" section of the bill, we have made a couple of changes that do not alter but strengthen and clarify the second amendment principles that are reviewed there.

That same section contains a new paragraph responding to questions about the bill's Commerce Clause implications. That new section expresses the reality that the bill actually strengthens federalism and protects interstate commerce. Thirty-three states have already forbidden lawsuits like the ones this bill seeks to eliminate. Advocates of gun control are trying to usurp State power by circumventing the legislative process through judgments and judicial decrees. Allowing activist judges to legislate from the bench will destroy state sovereignty. This bill will protect it.

A new paragraph in the "purposes" section of the bill echoes this change.

In the "definitions" section of the bill spelling out what we mean by a "qualified civil liability action," we have added the words "or administrative proceeding . . .". This change responds to the experience of some in the industry, who have found themselves not only the target of junk lawsuits filed by a municipality but also the target of administrative proceedings, such as those to change zoning restrictions, also aimed at putting a law-abiding manufacturer or seller out of business just because it made or sold a firearm that was later used in a crime. However, it must be remembered that not all administrative proceedings involving someone in the firearms industry would be covered by this addition—only those that were "resulting from the criminal or unlawful misuse of a qualified product by the person [bringing the action] or a third party . . .". Let me emphasize: this change is not intended to, and would not, have the effect of preventing ATF or any other Federal, State, or local agency from using administrative proceedings to enforce Federal or State regulations that control the firearms business. So we are not trying to circumvent the Justice Department in any sense of the word; or, as I have said, State or local agencies that have the right to enforce the law. For example, if a dealer actually violated a zoning regulation or local licensure requirement, this provision would not prevent an action against the dealer. Likewise, if a dealer knowingly violated the law or committed any other infraction for which he or she could lose a Federal firearms dealer's license, this provision would not prevent ATF from initiating an administrative proceeding to revoke or suspend that dealer's license. This addition of the words "administrative proceeding" is simply intended to clarify that whether it is a reckless court or court-like administrative proceeding that is brought against a law-abiding business, based on a third party's misuse of a firearm, it is covered by this bill.

Also in this section of the bill, we have added the words "injunctive or declaratory relief, abatement, restitution, fines, or penalties, or other relief . . .". This is to ensure that the bill encompasses all qualified lawsuits, regardless of the relief being sought.

In the section relating to causes of action that would not be barred by this legislation, we have specifically listed circumstances in which manufacturers or sellers "knowingly" violate a statute. In the last Congress, we had two different versions of this section: one required the violation to be both knowing and willful, and the other version didn't require either. Since a person cannot violate the law "willfully" without doing so "knowingly," we have dropped the word "willfully" in this version.

Also in the section relating to causes of action that would not be barred by this legislation, we have made some clarifying changes to the paragraph concerning product liability actions. Again, this bill is not intended to prevent lawsuits against the industry for damages resulting from a defective product. Language was added to this section of the bill to make clear that even if the person who discharged a defective product was technically in violation of some law relating to possession of the product, that alone would not bar the lawsuit. For instance, if a juvenile were target shooting without written permission from his parents—that is a violation of current law, a violation of 18 U.S.C. 922y—and was injured by defective ammunition, the juvenile would still be able to bring a suit against the ammunition manufacturer.

The final major change, other than clarifications and emphasizing language, is the provision conforming the definition of trade association to the definition in the Internal Revenue regulations. The purpose of the change was to address some arguments that were made in the last Congress, attempting to stretch the concept of "trade association" to include groups that no one has ever considered to be a trade association. So, for anyone who might have been concerned that the National Rifle Association would somehow be protected by this bill—as was argued last time—being defined as a trade association, this change will prevent that from happening. We want that to be perfectly clear. It will also prevent illegitimate gun sellers, such as gangs or gun traffickers, from somehow qualifying as a trade association under the bill.

I believe that I have addressed most, if not all, of the significant changes in the bill. As we often find with legislation, while they are relatively small changes in the language itself, it took a lot of words to describe them. Even so, I hope this explanation is helpful to my colleagues.

This legislation is not identical to the legislation of the 108th, but it is to all intents and purposes the same, with the kind of clarifying examples I have just given. I certainly welcome the debate on the importance of this measure. I hope we can move it quickly through the Senate and conclude our work and provide this country with the

Protection of Lawful Commerce in Firearms as should be the case.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I don't know how many of our colleagues during this past number of hours have had the time to listen to the comments of our colleague from Rhode Island. I know we all have busy schedules and appointments in our offices and with the hearings we attend. I have had those meetings in my office as well. One thing I have not done today, which I do under normal circumstances, is put on the mute button when constituents come to my office. In the last couple of hours, I have not done that. I have been transfixed, listening to our colleague from Rhode Island.

I have witnessed a lot of people over my 24 years in the Senate make a case for or against a piece of legislation, and I do not recall another instance when someone has been as eloquent, as thoughtful, as well prepared as JACK REED of Rhode Island has in presenting his case here today as to why this bill is a bad idea. I publicly commend him for his well-prepared, well-thought-out, passionate arguments on why this is a troublesome piece of legislation. I thank him for being a good educator on this subject matter.

Let me take a few minutes, if I can, to express some views. It is not every day that I question at all the majority leader's decision to seek to bring a particular piece of legislation to the floor of the Senate. As someone who has been in this body for almost a quarter of a century, I have great respect for the role of majority leader and how difficult a job it is. In fact, it is the job of the majority leader to set the agenda and to exercise his or her prerogatives to move that the Senate proceed to a particular matter. So I am not questioning his right to do so. I am questioning the wisdom of having made this decision.

In this case, I cannot let pass the decision the majority leader has made to bring us to consideration of a gun liability bill. By his actions, the Senate has been prevented from concluding consideration of the Defense authorization bill. We were making very good progress on that bill on a number of issues that were very important to our men and women in uniform, to the families of our service men and women, to their survivors, and to the veterans of this country who were also the subject of numerous amendments that would have been offered on the bill had it remained on the floor of the Senate for another couple of days.

In my years here, good debates on a Defense authorization bill, which is what this body is all about, have gone on 9, 10, and 11 days before a cloture motion would be filed. There have been other occasions when it has been filed in less time, but never in less than 5 days of debate. You always look forward to the week or two prior to the August break when we gather to debate and discuss the Defense authorization bill.

For the good part of the last 24 years, we have not had a debate on the subject matter of that legislation at a time of war. This time, of course, we were. Therefore, it was stunning to me to know, at a time when our men and women are in a dangerous place, when there are literally hundreds who have lost their lives, thousands who have been injured, and thousands every day who are putting themselves in harm's way, that the decision was made by this body, by the leadership of this body, to put aside that bill, which might do some things to make their lives safer, provide some security for the survivors of those who lost their lives, and be of some help to veterans. It is stunning that we would set aside those issues to take up this bill that is now before us. In my quarter of a century in this body, I don't recall the Senate ever being forced off of a Defense bill in this manner.

The distinguished chairman of the Armed Services Committee put it simply and succinctly several months ago in this Chamber. Senator WARNER of Virginia said the following—when confronted, by the way, with a similar fact situation. There was a movement a year or so ago to take up the class action reform bill, of which I was the principal author at that time. I am a strong supporter of tort reform. There was a movement to bring up the class action reform bill.

In fact, I wrote a letter, with several other Members of this body, urging the leadership, as strongly as we felt about class action reform, not to set aside the Defense authorization bill in order to bring up the class action reform bill. That point of view prevailed and we stayed on the Defense authorization bill. But during consideration of that motion or that effort, the chairman of the Armed Services Committee said, "We are at war."

We have men and women wearing the uniform of the United States Armed Forces who are this very moment being hunted by enemies of our Nation. They are in combat. They are under siege. They are enduring some of the harshest conditions ever faced by American soldiers.

That is exactly where we are today. Yet, unlike a year or so ago when we turned back the efforts of those who would have put aside the Defense authorization bill to deal with a class action bill, this time when it comes to the gun lobby we said no, the gun lobby is more important than the men and women in uniform, more important than the people who are putting their lives on the line every day.

So here we have now the majority of the Senate saying those soldiers will have to wait a while. This is evidently a higher priority, and it is this bill, a bill that would confer special privileges on a small but very powerful industry. I am frankly incredulous, to say the least, that we will apparently recess for an entire month having spent barely 2 days to decide on the critical needs of the soldiers, sailors, airmen, marines, veterans, and their survivors. I think we should finish our job. It is the least the Senate could do for our troops before we take a month-long break from our work.

Our business is about choices, sometimes very difficult choices. You can't do everything at the same time. But I don't know how you could possibly draw the conclusion that this immunization bill for the gun industry is a more important piece of legislation than the Defense authorization bill, to provide additional protection and the needs of the people in uniform, for veterans, for survivors. I do not know how anyone could possibly draw that conclusion at a time we are at war. What do people think happened in London a few days ago, in Sharm el-Sheik a few days ago? What event has to occur to convince this body that we ought to be about the business of doing everything we can to protect this Nation? Instead, we decide it isn't quite that important, that this is more important.

I am stunned in many ways that anyone would even suggest this legislation in lieu of the Defense authorization bill. I can only imagine what the reaction would be if I were to come to this Chamber and offer a similar amendment that would exclude another entire industry from exposure to potential liability for wrongdoing.

I have more than a passing knowledge of the gun industry. The State of Connecticut, which I am proud to represent, has been, and to my knowledge remains, home to more gun manufacturers than any other State in America. I know of nine such companies that currently call Connecticut their home: Colt Manufacturing, Sturm Ruger, U.S. Repeating Arms, Marlin Firearms, U.S. Firearms Manufacturing, Charter Arms, L.W. Seecamp, Wildey, and O.F. Mossbert and Sons. From 1972 to 1997, more guns were manufactured in my home State of Connecticut than any other State. More than 25 million in all were produced in my small State of Connecticut. These are good people. These are good companies. And I represent good people who work in this industry. We produce fabulous guns. They are well constructed. They are the envy of the world.

Eli Whitney, of course, is best known as the inventor of the cotton gin. He also built a musket armory in New Haven, CT in the late 1700s. Since then, Connecticut has been the gun manufacturing capital of the country of our Nation, if not the world, for that matter. The first revolver was developed and mass produced in Connecticut in the 1830s by Samuel Colt and his wife Elizabeth who ran that company after Sam passed away at a very young age. That company today bears his name and that revolver became known as "the gun that won the West."

I also represent probably more insurance companies and more pharmaceutical companies in the State of Connecticut than almost any other State in the Nation. I am very proud to represent these industries. They do a first-rate job. But even though I support the people who work in these businesses and respect what they do, the idea that we would take any one of these industries in this Senator's State and absolve it from its legal responsibilities is stunning to me.

I have been a strong advocate of legal reform. I authored the securities litigation reform bill with the Senator from New Mexico. I wrote the uniform standards litigation bill. I coauthored the tort reforms on the Y2K litigation with Senator BENNETT of Utah. I have been a proponent of asbestos litigation reform. I coauthored the Class Action Fairness Act. I am proud of the work I have done in the area of tort reform. We need it. It is necessary. In my view, these bills have struck the right balance between frivolous lawsuits, while retaining citizens' rights to seek the redress of wrongs in a court of law.

But the idea that we would take an entire industry and give it immunity from wrongdoing is simply wrong, in my view. We are saying to this industry, if you act irresponsibly or wrongfully, and if you can foresee the consequences of your irresponsible or wrongful conduct, you do not have to worry about being held accountable for your actions. No matter how much harm you may cause, no matter how many people die or are injured at least in part as a result of your wrongful conduct, you will not be held responsible. In this day and age that this body would so overwhelmingly endorse an idea such as this is breathtaking. And it is little more than ironic that such an idea would be put forward by some who routinely lecture others about the need to take "responsibility" for their actions.

Evidently, taking responsibility is a fine philosophy for some, the poor, the elderly, schoolchildren, and men and women who struggle each and every day to put food on the table for themselves and their families. But the gun industry is being absolved in this legislation of virtually all responsibility for its actions.

Let's consider some of the consequences of enacting this legislation. First, it will have absolutely no impact whatsoever on reducing the rate of gun violence in our Nation. In fact, this bill ignores the devastating toll firearm violence continues to take on our fellow citizens.

According to the Centers for Disease Control and Prevention, there were more than 30,000 deaths in the United States from firearms in the year 2002 alone—30,000 deaths. That is, of course, 10 times the number of lives that were tragically lost on September 11 at the World Trade Center, here in Washington, and in a field in Pennsylvania. In fact, a year of gun violence in America nearly equals the number of Americans who died in the Korean war and almost half the Americans lost in the entire Vietnam conflict. The numbers are staggering. These numbers exceed by a huge margin the number of firearms-related deaths on a per capita basis in countries such as Canada, the United Kingdom, Germany, Japan, and France.

Among those individuals most affected by gun violence are children. Firearms are the second leading cause of death among young Americans age 19 and under. Approximately 2,700 children under the age of 19 are killed each year as a result of gun violence or the improper use of guns.

The rate of firearm deaths of children under the age of 14 is already 12 times higher in the United States than 25 other industrialized nations combined.

Let me repeat that. The firearms death rate of children under the age of 14 is 12 times higher in the United States than in 25 other industrialized nations in the world. One study noted the firearms injury epidemic among children is nearly 10 times larger than the polio epidemic in the first half of the 20th century.

Yet we are about to exclude an entire industry from even being brought to the bar to question whether they might be liable for some of these deaths.

The human cost of gun-related deaths and injuries is tragic in itself, but the economic loss is also significant. According to a study published in the year 2000, the average cost of treating gunshot wounds was $22,000 for each unintentional shooting and $18,000 for each of the gun injuries. These costs would undoubtedly be much higher today. The total societal cost of firearms is estimated to be between $100 billion and $126 billion each year. Who pays these expenses? By large measure, the American taxpayer does.

My colleagues speak against unfunded mandates, and yet this bill, if enacted, burdens the Nation's cities and counties with billions and billions of dollars in medical care, emergency services, police protection, courts, prisons, and school security. It is shameful that, while tens of thousands of people are dying each year due to firearms and while the American taxpayers pay tens of billions of dollars to cope with the effect of gun violence, the Senate is doing absolutely nothing to make our streets and homes safer, in my view. In fact, we are doing quite the opposite through our actions today.

Second, the legislation will give this industry special legal protections no other industry in the United States has. Neither cigarette companies nor asbestos companies nor polluters have such sweeping immunity as we are about to give this industry.

Let me quote from a recent letter sent to all Senators and Representatives from over 75 law professors from across our Nation. According to them the bill:

> . . . would represent a sharp break with traditional principles of tort liability. No other industry enjoys or has ever enjoyed such a blanket freedom from responsibility for the foreseeable and preventable consequences of negligent conduct.

Gun manufacturers and sellers are already exempt from Federal Consumer Product Safety Commission regulation, despite the fact that firearms are among the most dangerous and deadly products in our society. We have more regulations on toy guns than we do on the ones that fire real bullets. Imagine a toy gun that you buy from Mattel. The Consumer Product Safety Commission issues literally pages of regulations on what must be included in the production of that gun. There is not a single word in the regulations of the Consumer Product Safety Commission about the production of guns that may kill 30,000 people each year in this country.

The National Rifle Association made sure of this exemption 30 years ago, just as highly addictive tobacco products are not subject to regulation by the Food and Drug Administration.

I have supported tort reform in specific areas where I believe it is appropriate. My colleagues know I worked with many of them on these issues. At the same time I recognize that litigation has been a powerful tool in holding parties accountable for their negligence and providing them with the incentive to improve the safety of their products. It has been employed on behalf of other potentially dangerous products such as automobiles, lawnmowers, household products, and medicines to protect the health of the American people. The fact that guns are already specifically exempt from the oversight of the Consumer Product Safety Commission is reason enough, in my view, why we can't afford to grant the firearms industry legal immunity.

Third, this legislation is likely to increase criminal behavior, in my view, in our Nation. Consider the views of the people who know best, our Nation's law enforcement officers. Yesterday some 80 sheriffs, police chiefs, and others wrote to each and every Senator that this bill will "strip away the rights of gun violence victims, including law enforcement officers and their families, to seek redress against irresponsible gun dealers and manufacturers."

This legislation will do nothing to help our Nation's law enforcement officers to stop these criminals or to receive justice if they are shot or killed. Who better to listen to than our own police chiefs? Law enforcement officers will tell you this is a bad bill. It is a bad bill, and it is going to cause more problems in the streets of our country. And here is what two former Directors of the Bureau of Alcohol, Tobacco, and Firearms had to say about this bill:

> To handcuff ATF, as this bill does, will only serve to shield corrupt gun sellers, and facilitate criminals and terrorists who seek to wreak havoc with deadly weapons. To take such anti-law enforcement action in the post 9/11 age, when we know that suspected terrorists are obtaining firearms, and may well seek them from irresponsible gun dealers, is nothing short of madness.

If this legislation is enacted, it would remove any incentive under current tort law for gun manufacturers to make their firearms safer. Studies have shown that the technology is both readily available and very inexpensive to help avoid future gun-related tragedies. For example, a load indicator could be included to tell the user that the gun is still loaded. That is never going to happen now, I promise you. A magazine disconnect safety could be installed by the manufacturers to prevent guns from firing if the magazine is removed. Even childproofing the gun with safety locks can be done relatively easily. However, if this bill is enacted into law, gun manufacturers will lose the huge incentive to include such reasonable safety devices in their products.

Evidence has been uncovered that reveals that the gun industry has been engaged in irresponsible behavior for many years. Senator REED and others have already mentioned one such industry actor, Bull's Eye Shooter Supply in Takoma, WA.

This gun store claims it "lost" the gun used by the Washington, DC, snipers, John Muhammad and John Lee Malvo, as well as more than 200 other guns. Many of these firearms were traced to other crimes. Bull's Eye Shooter Supply had no record of the gun ever being sold and did not report it until the Bureau of Alcohol and Firearms recovered the weapon and traced it back. After the rifle was linked to the sniper shootings and the newspaper reported on the disappearance of the gun from Bull's Eye, the rifle manufacturer, Bushmaster, still considered Bull's Eye a good customer and was happy to keep selling to that shop.

The judge in this case has since ruled twice that the suit brought by the families of the DC area sniper victims against Bull's Eye and Bushmaster should proceed to trial, and a preliminary ruling has been rejected.

Nevertheless, this case, as well as other important pending and future lawsuits against negligent gun dealers and manufacturers, would be banned if this bill becomes law, as I suspect it will, according to the opinion of some of our Nation's most prominent legal scholars.

There are many more instances of the gun industry not taking steps to prevent guns from reaching the illegal market. According to Federal data from the year 2000, 1.2 percent of dealers account for 57 percent of all guns recovered in criminal investigations. Undercover sting operations in Illinois, Michigan, and Indiana have found that such dealers routinely permit gun sales "to straw purchasers," individuals with clean records who buy guns for criminals, juveniles, or other individuals barred by law from purchase.

If the Senate bill is enacted, police officers shot by a gun bought by a "straw purchaser" would no longer get his day or her day in court.

Gun shows are also an important source of guns for criminals. Studies have shown that unlicensed dealers often sell large quantities of weapons at these shows without having to run criminal background checks or keeping records. Many of my colleagues might recall that a gun show was the source of the firearm purchased by Eric Harris and Dylan Klebold before they went on their murderous rampage at Columbine high school, but the Senate bill would not hold such gun dealers responsible for the injuries and deaths their firearms cause.

Supporters of this legislation contend that there is a gun litigation crisis in America and that many of the cases being brought against the gun industry are frivolous. Nothing could be further from the truth. In fact, there are no massive backlogs of claims against the gun dealers and manufacturers burdening our court system. About 10 million tort suits were filed in State courts from 1993 through the year 2003; 57 of them were against gunmakers or dealers, 57 out of 10 million cases. Is that a litigation crisis, with 57 lawsuits out of 10 million other suits filed in the same relevant area? And the result of those 57 cases. The impact on the gun industry has hardly been crushing. Some of these suits have been dismissed. Some have been settled. Some have been appealed.

The industry claims it is spending $200 million a year on litigation costs. Yet it offers absolutely no data to support this. There is evidence that litigation costs are virtually insignificant: 57 cases in 10 years out of 10 million tort cases being filed. That alone ought to tell you this is a frivolous piece of legislation. This is what is frivolous, to suggest we need to clean up a problem involving 57 cases, many of which were dismissed.

One major gun manufacturer in a filing last November with the Securities and Exchange Commission—a filing, by the way, that it made under the pain and penalty of perjury—said this:

> It is not probable and is unlikely that litigation, including punitive damage claims, will have a material adverse effect on the financial position of the company.

Another gun manufacturer said this to the SEC in March of 2005:

> In the nine months ended January 31, 2005, we incurred $4,535 in defense costs . . . relative to product liability and municipal litigation.

That is a litigation crisis? It is outrageous to claim it is.

Of the small number of lawsuits filed against this industry, none to my knowledge have been dismissed as frivolous. On the contrary, there have been favorable rulings on the legal merits of many of these cases. Courts have recognized such cases are based upon well-established legal principles, negligence, product liability, and public nuisance. Important information on the gun industry's wrongful actions, which has been cloaked in secrecy for many years, has been revealed and injured parties have been compensated, fairly and justly. These cases, however, will be precluded, and the information gleaned from them will be lost if the gun industry is granted immunity, as it seeks with this legislation.

Rather than giving special immunity to those manufacturers and dealers who wrongfully make and sell guns to criminals, the Senate should be today or at some point—again I wish we were back on the Defense authorization bill—at some point we should work to protect our police officers and the people they protect every single day. Instead of zeroing out the COPS program we ought to take our time to do something about strengthening the police departments of our Nation. Rather than placing more guns on the streets, the Senate should be considering more responsible gun legislation such as making the ban on assault weapons permanent and closing the gun show loophole.

Rather than encouraging reasonable and safe gun use, the Senate is destroying any incentive for gun manufacturers to improve the safety of their deadly wares. This legislation, to this Senator, is an outrage. And, I represent more of these manufacturers than any other Member of this body. I know it is not common for a Senator to get up and speak against an industry in his State, and I have at least nine of them, as I said earlier, that have produced 25 million guns in the last 12 or 13 years. I respect my manufacturers. They are good people. But the idea that I would immunize nine industries in my State from their wrongdoings is incredible. While it may seem strange to have the Senator from the largest gun-producing State making these statements, I feel strongly. It is wrong to be doing it. It is an outrage.

You can say this is wrong, and we ought to be ashamed of ourselves for taking an entire industry and not holding it liable for the harm it may cause to people across the country. Thirty thousand people die every year, almost 3,000 kids, and we are about to say to the manufacturer of the products that kill them to take a walk and that you never have to show up again in court. That is shameful.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I will be very brief.

Mr. President, in the context of what the Senator from Connecticut has said, let me read some statistics from the National Safety Council injury fact sheet. I am talking about some very important statistics: Between 1993 and 2003, accidental or unintentional deaths by firearms has gone down 40 percent in America. Between 2002 and 2003, that reduction of accidental deaths has again gone down by 33 percent. Very significant numbers.

Here also are other significant numbers that my colleagues would want to be aware of that are tremendously important. Total unintentional accidental deaths in America, 101,500 in 2003; motor vehicle deaths of that year, 44,000; falls at home and work and on the streets of America, 16,000; drownings, 13,000; fire and burns, 4,300; ingestion of food objects, 2,900; firearms was down into the number of 700. That is less than 1 percent.

Here is what is most significant, because I don't take 700 unintentional accidental deaths by firearms lightly. But these are important statistics to understand as we look at the total scope of the legislation and even what the Senator from Connecticut said that I don't think pertains to this legislation.

Here are the statistics from the National Safety Council. Accidental firearms-related fatalities have been consistently decreasing for many years. Primarily, statistics show accidental firearms-related fatalities decline by 13 percent in one category, 2002 to 2003. Here is what is most important because we are all concerned about the young people of America. Over the past 7 years, accidental firearms-related fatalities among children under 14 years of age has decreased by 60 percent. Why? Because there are tremendous safety efforts not by the Federal Government but by private organizations and by responsible parents to teach their young people how to deal with firearms when they are either subject to them or find them in a location. These numbers are important in the context of this debate.

Again, this debate has nothing to do with crime on the street. This has everything to do with frivolous lawsuits against law-abiding citizens. I am afraid we have to start dealing with the criminal element instead of the law abiding.

I yield the floor.

Mr. DODD. Correct me if I am wrong, but I cited statistics between 1993 and 2003. There were 10 million lawsuits brought in the United States for wrongful death under the tort system. Of those 10 million, we have been able to find 57 in 10 years, 57 cases brought against gun manufacturers and gun dealers. Is the Senator telling me those are frivolous, 57 lawsuits out of 10 million? Is that a crisis in litigation?

Mr. CRAIG. Will the Senator yield?

Mr. DODD. I am happy to yield.

Mr. CRAIG. What the Senator is saying, there have been 24 or 25 lawsuits filed against gun manufacturers and dealers by municipalities. Half of them have been thrown out of the courts as being frivolous.

Mr. DODD. So what is the problem?

Mr. CRAIG. The problem is, and the Senator well knows, this Congress has, from time to time when they have seen industries subjected to wrongful lawsuits, chosen to exempt them from the wrongful lawsuit but not from liability.

Mr. DODD. For 24 cases in 10 years?

Mr. CRAIG. And millions and millions and millions of dollars spent. I appreciate the Senator's mindset on this issue. He is fundamentally wrong, and that is why we have the legislation now to provide a very narrow scope of protection, but certainly not from malfunctioning, not from bad product, only from that third-party criminal issue.

I am sorry to say the Senator would disagree with me, but a person who manufacturers a firearm is not the criminal who pulls the trigger and therefore should not be liable for that criminal act.

Mr. DODD. You are going to have your way if this bill is adopted, but that is the only industry in America with this special status. You would not do it for the automobile or chemical industry.

Mr. CRAIG. We did it for aircraft industry some years ago because of frivolous lawsuits that nearly bankrupted them until Congress stepped in and said, No, in certain categories that is unfair, and it allowed them to stabilize their economy and continue to build aircraft for the American consumer.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, I am concerned about what is going on in the Senate procedurally. This is the first time I can remember, during the tenure of Senator FRIST, we have had a bill where the so-called "tree" has been filled, allowing no amendments to be offered.

Senator FRIST, I have stated, has been very fair in allowing bills to go forward, with rare exception.

I am concerned about what has gone on very recently: filing cloture on the Defense bill after 1 day of debate. I direct these remarks through the Chair to the distinguished manager of the bill. Mr. President, I direct these remarks through you to the distinguished manager of the bill.

Mr. CRAIG. I apologize.

Mr. REID. I participated in a conversation I am confident the manager of the bill was in on this morning where the distinguished majority leader said he wanted to take a little bit of time, after having filled the tree, which is very unusual, and he would look at the amendments offered by the Senator from Rhode Island and make a decision as to which of those he would allow to be debated. He did say he had no problem with him offering amendments and we would be able to debate—and I do not recall him saying "vote on them"—but at least debate specific amendments that were up. But I assumed in the tenor of the conversation there would be votes on the amendments.

We have been on this bill now for 3 hours, after proceeding to it, and my friend from Rhode Island has been unable to offer any amendments. So I say to the manager of the bill, through the Chair, how much longer is it going to take before the majority makes a decision on something that should be fairly routine, as to when the Senator from Rhode Island can have some of his amendments heard before the body?

Mr. CRAIG. If the Senator will yield.

Mr. President, let me address the minority leader.

Certainly, all that he has said is exactly the conversation from my reference point that went on between him and the majority leader. There is no intent to block all amendments. That is not the intent of what the majority leader did.

We have seen these amendments less than 30 minutes, in almost every instance, prior to the time they were offered. Certainly, the Senator from Nevada knows the opportunity to examine and look at these amendments, in light of similar amendments offered last year, is a reasonable request. That is the request the majority leader and I, as the floor manager, have made. Those amendments are under review now.

The floor leader for the Democrats, Senator REED, and I have visited about some of them that may well meet that scope, and we are reviewing them at this moment. This is not unprecedented, and the Senator from Nevada knows that. This is a procedure under the rules of the Senate that has been used over time. Has Majority Leader FRIST used it? I don't know. I am not that good of a historian. But I have been here not quite as long as the Senator from Nevada, and I do know that both his side and our side have used it from time to time. It is clearly within the prerogative of the Senate to do so under its rules.

At the same time, clearly, what the majority leader has expressed was expressed in good faith with the minority leader. I would hope in the course of the evening—and we will certainly be on this legislation all day tomorrow because the cloture motion does not ripen until early Friday morning—that it would be adequate time to consider several of these amendments that have been offered. I know that is the intent of this floor leader. And certainly I believe it is the intent of the majority leader to do so.

Mr. REID. Mr. President, I am happy to hear the review is still taking place. I would hope that during the tenure of this reviewing of the amendments, a decision could be made so the Senator from Rhode Island can offer his amendments. I am happy to hear the decision has been made to allow him to do that, in keeping with my conversation with the majority leader, that amendments would be debated here on the floor.

I would also say something else as to how I look at all this. I know the majority leader has a real problem with trying to jam a lot of things in this final week before we go back to our States.

I say my friend from Rhode Island, who feels so strongly about this issue, has been willing—and I am saying publicly on his behalf and announcing to the Senate—in that we have conference reports that need to be completed, hopefully on the Energy bill, the highway bill, the Interior bill, the Legislative Branch appropriations bill, and that we have to do something on the Native Americans legislation, and other incidentals that crop up as we are trying to finish a period such as this for a 5-week break, the Senator from Rhode Island has said he is willing to allow the Senate to go forward with all these other items we have before us that I have outlined and, in fact, will waive the second 30 hours he will be entitled to after cloture is probably invoked on the underlying bill. The only thing he requires is that final passage of the bill take place, not on Saturday morning, in keeping with the rules here, but as soon as we get back, whenever the majority leader would want to do this bill when we get back. He can do it the first hour we get back here, the first day we get back here.

But I want the Senate to understand, both Democrats and Republicans, who are clamoring to go places—home or other places they have set to go during this recess—that Senator REED is not holding this up. Under the procedures of the Senate, he has a right and will keep us here until Saturday morning, unless there is a decision made that we can finish all this as quickly as possible, eliminating the 30 hours, and going forward with the other business of the Senate. Otherwise, it is going to be real tough to jam all that in.

I see nothing lost. There has been some talk: Well, during the 5-week period both sides will run ads and things of that nature. I have no doubt that may be true. But I cannot imagine it will change any votes.

But I want everyone to understand, when people come to me and say, "Why is Senator Reed of Rhode Island being so unreasonable?" the Senator from Rhode Island is being totally reasonable. Some of us have spoken to him. I think it is reasonable what he has agreed to do. So if people come to me and say, "Senator REED is not letting us leave here when we want to, and we have all this work to do," everyone should be disabused of that. It certainly is not true.

We are willing to finish our work here. We could finish all the work we have to do here tomorrow, early in the evening, and not have to be here Saturday. The rest is up to the majority. They are the ones, we understand, who control what amendments we can offer on this bill. They control when we will finally dispose of this bill. It can either be Saturday morning or it can be when we get back here in September.

Mr. REED. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. REED. For the record, there are three amendments we have attempted to offer. One is an amendment authored by Senator KOHL, which I offered on child safety locks. The floor manager and I have discussed this amendment. There are some technical concerns about it. But that is one.

The second is an amendment Senator CORZINE would like to offer about exempting law enforcement officers from the provisions of the bill.

The third is an amendment Senator LAUTENBERG would like to offer with respect to the denial of immunity when the victims are children.

These are the three amendments. But we are not seeking any extraordinary, provocative amendments. We are trying to get amendments up that are relevant to this discussion about gun safety. I honestly believe that 3 hours—my amendment is going to take 3 hours—and at least several hours for the other amendments will be sufficient time to review this.

I am not going to make a formal parliamentary inquiry now, but I am not under the impression, under the rules of the Senate, that a Senator must get the permission of any other Senator to offer an amendment. If he has the floor, and particularly before cloture, the amendment can be offered. I will seek to clarify that. I do not want to be in error on that point.

But we have gone to great lengths to be cooperative, collegial, to be able to offer these amendments, and to this point we have got this sort of silence—or not silence, but simply: We are looking at it, we are looking at it, we are looking at it. I do not think we can continue in this posture indefinitely.

I thank the Democratic leader.

Mr. REID. Mr. President, I would say—and I meant to say this in my response to the Senator from Idaho—no one has said he or the majority leader are violating the rules. Everyone is going by the rules here. I know them. I am just saying, it is very unusual for Majority Leader FRIST. In fact, I have nothing in my memory that he has ever done this before; that is, immediately going to a bill and filling the tree so no other amendments can be offered. I have never, ever known him to do this. It is so unusual. It is not in keeping with how he has done business here during his tenure as majority leader. While filling the tree is within the rules, it is done very rarely. And again, I am surprised that Senator FRIST did this.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. REID. Yes, I have yielded the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, we should be using our time right now to continue our work on the Department of Defense authorization bill, working through important amendments relating to the needs of our military and our Nation's security and giving these issues the time and careful attention that they so clearly deserve. At a time when our brave men and women in uniform are deployed in Afghanistan, Iraq, and elsewhere—risking and, too often, losing their lives in service to this country—we ought to be working intensively on the Defense bill. At a time when terrorist networks continue to strike at our allies, killing innocent civilians in an attempt to intimidate everyone who rejects their violent, extremist agenda, we ought to be focusing sustained attention on ensuring that our military has the tools that it needs, and our country has the policy that it needs, to create a more secure world for our children. And as a part of that effort, we must devote more time and more attention to a realistic assessment of where we stand today in Iraq, and where we should be going.

As my colleagues know, I have submitted a resolution calling for the President to provide a public report clarifying the mission that the U.S. military is being asked to accomplish in Iraq and laying out a plan and timeframe for accomplishing that mission. This doesn't seem like much to ask for. After all, if we don't have a clear plan and timeframe, how can we even hold ourselves accountable for giving the military the tools they need to succeed in achieving those goals? The resolution also calls on the President to submit a plan for the subsequent return home of U.S. troops that is also linked to a timeframe, so that we provide some clarity about our intentions and restore confidence at home and abroad that U.S. troops will not be in Iraq indefinitely.

My resolution does not dictate deadlines or dates certain. And it does request flexible timeframes for achieving our goals in Iraq rather than imposing any, because drawing up timeframes is best and most appropriately left to the administration, in consultation with military leaders. And, of course, any timeframe has to be flexible. There are variables that will affect how quickly various missions can be accomplished. But it is hard to conceive of an effective strategic plan that isn't linked to some timeframes. That is what the administration needs to share.

I want to respond directly to some of the criticisms I have heard of this approach.

Some have suggested that to question the path that we are on is to undermine our united commitment to support the courageous men and women who have been deployed in harm's way.

And some believe that any discussion of timeframes, flexible or otherwise, is basically a code for a "withdraw now" agenda.

Neither of these charges is credible. Just this morning, General Casey spoke publicly—publicly—of the potential to reduce our troop levels fairly substantially by the spring and summer of 2006. I think his comments, and Iraqi Prime Minister Jafari's frank acknowledgement that "the great desire of the Iraqi people is to see the coalition forces be on their way out," are constructive. And I hardly that General Casey be accused of failing to support his fellow service men and women.

My support for our troops has not wavered one inch. And it will not. I did not support the administration's decision to go to war in Iraq, but I have consistently voted to provide our service men and women with the resources they need in Iraq. And I know that our troops have done, and continue to do, a remarkable job. The brave men and women of the U.S. Armed Forces deserve our admiration, our respect, and our unflagging support. But that is not all that they deserve. They deserve sound policy from elected officials. They don't have that right now. The administration must not leave them in the lurch any longer. Are U.S. forces supposed to be waging a counterinsurgency campaign? Are they supposed to be taking sides in what may be an emerging civil war? Are they supposed to be focused primarily on training Iraqi forces so that the Iraqis can be in the driver's seat when it comes to taking the decisions, and the risks, associated with achieving their own stability? I hope the administration knows the answers to these questions, but until they provide them, all of us are in the dark.

It is also clear that we must not accept a false choice between supporting the status quo in Iraq and the so-called idea of cutting and running. The status quo—staying a rudderless course without a clear destination—would be a mistake. The course we are on is not leading to strength. In fact, I am concerned that the course we are on is making America weaker and our enemies stronger.

The ill-defined and open-ended military commitment that characterizes our current policy in Iraq is actually strengthening the very forces who wish to do us harm. I am not talking about disgruntled Baathists, although I am concerned that nationalist sentiments will make it more and more difficult for many Iraqis to accept a massive foreign troop presence on soil—something that they regard as a humiliation. But, more alarmingly, I am talking about the forces that attacked this country on September 11, 2001. These forces were not active in Iraq before the invasion, but they came once disorder in Iraq took hold. And today, as CIA Director Porter Goss has made plain in testimony before Congress:

> Islamic extremists are exploiting the Iraqi conflict to recruit new, anti-U.S. jihadists.

Just recently, President Bush told the country that "with each engagement, Iraqi soldiers grow more battle-hardened and their officers grow more experienced."

Unfortunately, the same is true of the foreign fighters. Iraq has become a prime on-the-job training ground for jihadists from around the world, terrorists who are getting experience in overcoming U.S. countermeasures, experience in bombing, and experience in urban warfare. They may well be getting a better education in terrorism than jihadists received at al-Qaida's camps in Afghanistan. And they don't just have skills. They now have contacts. They are building new, transnational networks, making the most of al-Qaida's new model of supporting loosely affiliated franchise-type organizations. Press reports suggest that the CIA is calling this emerging threat the "class of '05 problem." All of us, on both sides of the aisle, should be thinking about how to ensure that there is no similar class of '06.

It would be nice to believe that these terrorists will be swept into Iraq only to be annihilated by U.S. forces. But that kind of "roach motel" approach to fighting is hardly a strategic vision. At its best, it is wishful thinking, and more wishful thinking is just what our Iraq policy and our strategy for fighting terrorism do not need. I agree wholeheartedly with the President that we must not waver in our commitment to defeating the terrorist networks that wish to do us harm. And I know, as he must know, that these networks exist around the world. Fighting terrorists in Baghdad does not mean that we won't have to fight them elsewhere. Sadly, we need only look at the headlines over the past few weeks to find the terrible evidence of this hard fact.

I am gravely concerned that not only are our enemies gaining strength under the administration's current policies, I am concerned that we are getting weaker. The U.S. Army is being hollowed out by the administration's policies. The Army is straining to maintain the cycle of rotations and training that we know it needs to sustain its capacities, and recruitment efforts have been in serious trouble for some time now. Meanwhile, costs for the Future Combat System—a system that depends on technology that is not yet even developed—spiral out of control. We cannot stand by and allow the U.S. Army to be broken. We cannot stay this course.

The current course of action simply is not inspiring confidence among the American people. I know that my constituents are terribly troubled by the administration's handling of the war in Iraq. After the shifting justifications for this war, the rosy scenarios that bore no resemblance to reality, and the unreliable declarations of "mission accomplished," they sense that our policy is adrift. A democracy cannot succeed in achieving its goals without the support of the people. They deserve clarity and candor and so do our troops on the ground.

Finally, I want to talk about the most common criticism leveled at anyone who invokes the phrase "timetable" in talking about our military deployment in Iraq. The charge goes something like this: if the insurgents know when we plan to go, they will simply hunker down and lie in wait for the time when we are no longer present in large numbers, and then they will attack.

If that were the insurgents' plan, why wouldn't they cease all attacks now, lay low, let everyone believe that stability has been achieved, and spring up again once the security presence in Iraq is dramatically reduced? If we really believe the argument that any kind of timetable is a "lifeline" to the insurgents, then why wouldn't they try to induce us to throw them that lifeline?

We cannot know all the reasons behind the choices made by the diverse elements waging Iraq's insurgency. But one thing is clear: Ultimately, we will withdraw from Iraq, and it will not be secret when we do. Does the administration believe that the insurgents will be entirely defeated at that point? Is it really our policy to stay in Iraq until every last insurgent and every last terrorist is defeated? Recently Secretary of Defense Rumsfeld made news when he said that the insurgency could well last a decade or more, and that ultimately, "foreign forces are not going to repress that insurgency," rather it is going to be defeated by the Iraqis themselves. I think this analysis makes good sense, especially given the fact that our very presence in Iraq is helping to recruit more foreign jihadists every day. But the Secretary's candor made waves, because for long, costly months we lacked clarity on this critical point regarding just what the remaining U.S. military mission is in Iraq. Is it to defeat the insurgency, or is it to give the Iraqis the tools to do that themselves?

If the remaining military mission is to train Iraqis to provide for their own security, we ought to be able to articulate a clear plan for getting that job done. If we know how many troops we need to train, and we know how long it takes to train effectively, then we ought to have some sense of how long it will take to accomplish our mission.

When I was in Baghdad in February, a senior coalition officer told me that he believes the U.S. could "take the wind out of the sails of the insurgents" by providing a clear, public plan and timeframe for the remaining U.S. mission. He thought very clearly, that this could rob them of their recruiting momentum. I also think it could rob them of some unity. All reports indicate that the forces fighting U.S. troops and attacking Iraqi police, soldiers, and civilians are a disparate bunch with different agendas, from embittered former regime elements to foreign fighters. The one thing that unites them is opposition to America's presence in Iraq. Remove that factor, and we may see a more divided, less effective, more easily defeated insurgency.

Intense American diplomatic and political engagement in and support for Iraq will likely last long after the troops' mission is accomplished and they are withdrawn. I expect that we will continue some important degree of military and security cooperation with the Iraqis, as we work with them and with others around the world to combat terrorist networks, whether they are operating in Iraq or Afghanistan or England. And we have to be working diligently to combat a burgeoning culture of corruption in Iraq, or the rule of law doesn't stand a chance. We need to make reconstruction work and deliver real democracy dividends for the Iraqi people. The situation in Iraq is complex, and it requires a long-term political commitment from the U.S. What my resolution addresses is just one piece of the puzzle for achieving our interests in Iraq and helping the people of Iraq and the region move toward a more stable future.

I certainly don't have all the answers to the complex problem we confront in Iraq. But I know that it's time to restore confidence in the American people that this President and this administration know where we are going and how we plan to get there. It's time to put Iraq in the context of a broader vision for our security. It's time to regain a position of strength. That starts with sustained attention, focus, and debate—and we should be doing that right here in this Congress, right now.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise to ask my colleagues to support the Protection of Lawful Commerce in Arms Act. This act has strong bipartisan support. Sixty-one Senators are cosponsoring this legislation. I am very proud to be an original cosponsor of this bill. I thank my good friend from Idaho, Senator CRAIG, for his leadership in introducing the legislation and bringing the bill to the Senate floor, managing the legislation and doing an exemplary job.

The legislation we are considering will correct a significant injustice that threatens the viability of a lawful U.S. industry; that is, the firearms industry. An increasing number of lawsuits are being filed against the firearms industry seeking damages for wrongs committed by persons who have misused the industry's products. These lawsuits seek to impose liability on lawful businesses for the actions of people over whom the industry has no control. Outrageous. Businesses that comply with all applicable Federal and State laws and produce a product fit for its intended lawful purpose, including elk hunting, duck hunting, target shooting, or personal protection, should not be subjected to frivolous lawsuits that have only one goal—to put them out of business. This is an unacceptable burden on lawful interstate commerce. No other law-abiding industry faces this kind of attack.

People in my State are proud of their independence. We are proud of our outdoor heritage. Montanans are avid sports men and women. We cherish our right to hunt and fish and enjoy the outdoors. Passing this bill will allow us to protect that right by ensuring that the firearms industry stays in business.

Each year, hunters, shooters spend nearly $21 billion. This, in turn, generates more than 366,000 jobs that pay more than $8.8 billion in salaries and wages and provide $1.2 billion in State tax revenues. In addition, excise taxes imposed on firearms under the Federal Aid to Wildlife Restoration Act, also known as the Pittman-Robertson Act, generate critical revenues for State fish and wildlife conservation efforts and hunter safety training. For example, the Pittman-Robertson Act generated more than $150 million in revenue in 2002 alone.

In Montana, hunters and sportsmen generated $250 million in retail sales, generating about 5,592 jobs, over $100 million in salaries and wages, and $11 million in State tax revenues—no small matter.

In addition, threats to the U.S. gun industry also pose a threat to the U.S. military. Many domestic gun manufacturers supply the military with necessary firearms. If these companies are forced out of business, the U.S. military must look abroad to arm itself, and we cannot let that happen.

In short, the U.S. firearms industry serves America's gun owners, serves our sportsmen, and our military very well. It provides good-paying jobs for many Americans. It provides revenues that benefit all Americans. The industry should not be penalized for legally producing or selling a product that functions as designed and as intended. But that is exactly what certain groups are trying to do by asking the courts to step in and micromanage the industry. The Congress and most State legislators have refused to do so.

Let me list some of the demands so you get a flavor of how credible these lawsuits are. Some of these lawsuits would require one-gun-a-month purchase restrictions not required by State law. Others require firearm manufacturers and distributors to participate in a court-ordered study of lawful demand for firearms and to cease sales in excess of lawful demand, if you can imagine. Others require a prohibition on sales to dealers who are not stocking dealers with at least $250,000 in inventory, talking about the small gun dealers. Others would require systematic monitoring of dealers' practices by manufacturers and distributors.

These are just a few of the sweeping demands made in the lawsuits that the Protection of Lawful Commerce in Arms Act seeks to stop. As you can tell, these suits are asking the courts to step well outside of their jurisdiction, to legislate regulation of the industry. They also have nothing to do with holding accountable those who actually misuse the firearms.

Most courts have dismissed such lawsuits that are brought before them. A New York appellate court judge stated:

> The plain fact is that the courts are the least suited, least equipped, and thus the least appropriate branch of government to regulate or micromanage the manufacturing, marketing, distribution, and sale of handguns.

However, the time, expense, and effort that goes into defending these nuisance suits is a significant drain on the firearms industry, costing jobs and millions of dollars, increasing business operating costs, including skyrocketing insurance costs, and threatening to put dealers and manufacturers out of business. That is why this bill is so necessary.

Let me be clear about a couple the things. This bill will not close the courthouse doors to legitimate suits against the firearms industry. It will not shield the industry from its own wrongdoing or from its negligence or if the industry puts out a bad product. For example, the bill will not require dismissal of a lawsuit if a member of the industry breaks the law or if someone in the industry acts negligently in supplying a firearm to someone they have reason to believe is likely to misuse the firearm or supplies a firearm to someone they had reason to know was barred by Federal law from owning a firearm or a representative of the industry who designs a defective product.

The bill also doesn't protect unlicensed dealers. The bill would only protect federally licensed manufacturers, dealers, or importers of firearms.

This bill is only intended to protect law-abiding members of the firearms industry from nuisance suits that have no basis in current law, that are only intended to regulate the industry or harass the industry or put it out of business, none of which are appropriate purposes for a lawsuit.

Certainly, regulating the industry is well outside the appropriate role of the courts.

We could all agree that when a firearm is used in a criminal or careless manner that causes serious injury or loss of life, that is a terrible tragedy. Those responsible should be punished to the full extent of the law in both the civil and criminal areas. That includes the firearms industry, if one of its members breaks the law or acts negligently in selling a firearm to a criminal or other person they should have known would use the firearm to hurt another person. The Protection of Lawful Commerce in Arms Act will do nothing to change that or shield the arms industry from criminal wrongdoing.

At the same time, it is not right or fair to hold law-abiding members of the industry accountable for independent actions of third parties who use a firearm in a manner that industry never intended. Why, for example, should the industry be held liable if a member of the industry sells a gun to a lawful customer and that gun is then stolen from a customer and used in a crime? That makes no sense.

Again, the fact that a crime occurred is sad and tragic, but that doesn't mean that the firearms industry is in any way responsible for such a gross misuse of its product. But that is exactly what is happening in some of these lawsuits. This bill would put a stop to that. It is a very short, simple bill with a simple purpose. Nothing is hidden in it. It is also critically important to a vital national industry. We need to pass it, pass it now, as the situation will only get worse. I ask my colleagues to give it their full support.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE AND COMPETITIVENESS

Mr. BAUCUS. Mr. President, every few minutes, a new Chevy Malibu, a popular family sedan, rolls off the assembly line of General Motors Corporation's Fairfax plant Kansas City, KS. The invoice price starts at $17,600.

And every few minutes, across the ocean, a new Toyota Camry, a popular family sedan, rolls off the assembly line of the Toyota Motor Corporation plant in near Nagoya, Japan. The invoice price starts at about $16,600, a full $1,000 less than the Malibu.

One reason for the price difference between the Malibu and the Camry is health care. Yes, health care. For GM, health care costs amount to more than $1,500 for every vehicle it produces. For Toyota, health care costs account for closer to $500 for every vehicle that it produces. That is about the thousand dollars difference.

Two-thirds of Americans get their health insurance at their jobs. The system started in World War II, when the Government capped wages. Employers competed for workers by offering more generous fringe benefits. After the war, a Government tax preference further encouraged employers to provide health insurance.

Almost all Japanese get their health insurance through their government. That is true of pretty much every other major industrialized country.

America's system has yielded high health care costs. The average American spends more than $5,000 a year on health care. That is 53 percent more than the next most costly country. The average Japanese spends only about $2,000 a year on health care.

Last year, GM paid $3.6 billion in health care costs for about 450,000 retirees and their spouses. When GM workers retire, GM continues to pay much of their health care costs as part of the worker retiree benefits plan.

This year, 1,200 Japanese Toyota employees will retire. Within 2 years, pretty much every one of them will switch from Toyota's health insurance plan to the Japanese national plan. At that point, Toyota will pay absolutely nothing in health care costs for those 1,200 retirees and their spouses.

General Motors provides more medical benefits than any other private entity. GM covers 1.1 million Americans, including workers, retirees, and their families. Last year, GM paid for more than 11 million prescriptions for its hourly workers.

Premiums for health insurance have increased 15 percent or more in many years. GM expects that its health care bill will go up $1 billion this year, to $6.2 billion total. That is a year. Last year, GM spent $1.4 billion on prescription drugs alone. Last year, GM put $9 billion into a trust fund to pay for health care costs.

Remember, when those retirees leave Toyota, they do not cover the health care costs. The government does it in Japan.

In the late 1970s, GM controlled nearly half of the American car market. Since then, competitors such as Toyota, Nissan, and Honda have cut GM sales to about a quarter of the American market.

In the fiscal year ending March 2004, Toyota earned $10 billion in profits. GM has now been losing money for three quarters in a row. GM lost more than a billion dollars in the first quarter of this year alone.

Toyota is making nearly $1,500 a car in profit. GM is losing more than $2,300 per car.

Now, part of the blame for GM's declining market share lies with GM's inability to adjust to change. In the wake of the OPEC oil embargo, Japanese car makers sold low-cost, fuel-efficient cars to American families. But OPEC imposed its oil embargo more than 30 years ago, and Japanese car companies still lead the way in energy-efficient cars. Today, only Toyota and Honda mass produce fuel-efficient hybrid sedans.

But part of the blame also lies with the American health care system. Carrying the burden of health care costs handicaps American companies in their race for global markets.

Americans are smart. Americans work hard. But American manufacturers cannot compete with foreign manufacturers when American companies have to bear the extra load of these higher health care costs.

You might think that because Americans pay more for health care, well, at least we get better health care. But we do not.

The average American does not have better access to health services. Forty-five million Americans lack health insurance. Fifteen percent of our population is uninsured. Japan offers better access to the dialysis and diagnostic image services—MRIs and so forth—than America does.

Nor do we have better outcomes. That is a fancy term for saying our people are not healthier after they see a doctor and go to the hospital. We are not better. The average American woman can expect to live to age 79. The average Japanese woman can expect to live 5 years longer, to age 84. People can expect to live longer in Canada, France, Germany, Sweden, Switzerland, and Britain. And all of those countries spend less per person on health care than do we.

America's fragmented system yields high administrative costs. In 2003, administrative costs accounted for nearly a quarter of American health care costs. That is $400 billion—a quarter of what we spend on health care.

America is the only country in the industrialized world without a national health system. We do not have a single-payer system like Canada, Britain, or Switzerland. Instead, we have a system of uncoordinated payers, from private insurers to Medicare, from employers to State Medicaid programs. It is very uncoordinated, very diverse.

America's massive $2 trillion health care bill ought to buy more. America's health care system needs serious reform.

National health care reform appears unlikely any time soon. But we have at our disposal—if Congress can act—the means to attack some of the most glaring inefficiencies in our health care system and reduce unnecessary costs.

We can improve health care by facilitating the use of health information technology. We can improve health care by tying payment to the quality and value of care, rather than just spending on whatever services the doctors and hospital provide, irrespective of the quality and the outcome.

By encouraging investment in health information technology, computers, interoperability, getting rid of the paperwork—we can reduce unnecessary administrative costs, and we can enhance patient safety and clearly improve the quality of care.

Let me explain. America often invents new medical technologies. We often adopt new medical technologies early. We are leaders in the areas of drugs and devices, pills and procedures, science and surgeries.

But we have not complemented this innovation with the proper use of health information technology. The staggering cost of administering American's pen and paper system of health care claims proves the point.

Mr. President, 30 to 40 percent of American health care transactions still rely on paper claims. That is according to health economist, Ken Thorpe of Emory University. These claims can cost from $5 to $20 each.

But administering health care claims electronically can cut those costs to as little as 50 cents each. Professor Thorpe estimates that requiring automated claims processing would save the Federal Government nearly $80 billion over 10 years. Significant savings would also accrue to the private sector, if it fully automated claims.

And proper use of health IT can prevent unnecessary medical errors, hospitalizations, and other health care services.

Each year, about 7,000 Americans die because of errors in administering their medication. I also had a figure—and nobody disputed this—that the equivalent of two 747s crashing today is the number of Americans who die today because of medical errors. That is many more than people who die of gun deaths or in traffic accidents. The equivalent of two 747s crashing every day is the number of Americans who died on account of medical errors—not bad outcomes but medical errors.

Technology can help ensure that medical professionals give the right drug to the right patient at the right time. We are talking about drugs. We can help to do that by putting bar codes on all drugs, and by using health information technology to link medication administration to a patient's clinical information.

The inability to exchange clinical data among providers often causes duplication of diagnostic tests. Clearly, if you take somebody in Montana who goes on vacation in the great State of Louisiana and gets ill—maybe has a heart attack—and he goes to see a doctor, or goes to the emergency room, that doctor looks at the Montanan, administers some tests, and has no record of the Montanan who happens to be there on vacation—no idea what is going on. He has to start from scratch and run all these tests all over again. Clearly, it is unnecessary duplication. Just think how much more efficient we would be if that Louisiana doctor in that hospital could push a button and my Montanan's health care record would be available. Clearly, it could protect the right of privacy and confidentiality, but just think of the savings that can be made. Think of how much better the health care would be to my Montanan in Louisiana.

We could help make it easier for one doctor to pull up that x ray that another doctor took a week before. Duplication is eliminated and the quality of care clearly improves.

Medicare spends $50,000 more for the average 65-year-old in Miami than for the average 65-year-old in Minneapolis, MN—$50,000 more per beneficiary in Miami than in Minneapolis, MN. You might ask, why is that? In their last 6 months of life, Medicare beneficiaries in Miami visited specialists six times more often than those in Minneapolis. You might say, they are healthier; more is spent on them. Or they go because there are more specialists in Miami compared to Minneapolis. But that is not what is happening.

By using health IT appropriately, we can reduce error and duplication and overuse of services. We can also coordinate senior care to ensure that they receive adequate preventive care and management for their chronic conditions. In fact, patients who see primary care physicians in Minneapolis tend to be healthier, where fewer dollars are spent, than do seniors in Miami who see more specialists. That is counterintuitive, but that is the fact.

Why is America falling behind in health information technology? Part of the reason is lack of investment. The health care industry invests only about 2 percent of its revenues in health information technology. Other information-intensive industries invest about 10 percent. Think of the banking industry.

As a result, many health practitioners in America have limited information technology capability. In Britain, nearly all general practitioners—98 percent—have a computer somewhere in their office. In America, extremely few small physician practices—just 5 percent—use anything but a pen and paper.

We have to help ensure that health information systems can communicate with one another. We need an agreed-upon set of standards so that health information technology systems can work together. Otherwise, we will have a Tower of Babel preventing communication of critical health information.

We can do better, and that is why I have worked with my colleagues on the Finance Committee and on the HELP Committee to introduce the Better Healthcare Through Information Technology Act, a bill which facilitates nationwide adoption of information technologies in the health care field. It will help those systems to talk to one another, it will set up loans and grants to encourage the use of more health IT, and it will help us to improve health care quality.

We need to emphasize quality care. Medicare is the dominant care in America's health system, but Medicare is at best neutral and at worst negative toward quality. Medicare pays for the delivery of a service; Medicare does not pay for the achievement of health. And we see the effect. Patients receive recommended treatments only about half the time, and more care is often not producing better care.

Among the 50 States, levels of cost and quality vary greatly. In my home State of Montana, for example, Medicare spends about $5,000 per year per beneficiary. Quality of care ranks near the top. By contrast, some States spending around $7,000 a year per beneficiary—$2,000 more—have quality that ranks near the bottom.

States such as Montana, with its higher proportion of primary care practitioners, often produce lower costs and better quality. Less expensive care, when concentrated and patient centered, can do more for a patient than high-cost services.

I have introduced a bill with my colleagues, Senators Grassley, Enzi, and Kennedy, that will build value into the way Medicare pays for its services. The Medicare Value Purchasing Act of 2005 will provide higher Medicare reimbursements to providers who show they are working to improve the quality of care they deliver.

Together, these two bills I mentioned form a package. This quality bill goes hand in hand with the health IT bill I just mentioned. Together, they will help improve American health care and help keep American businesses competitive.

In his recent book about competitiveness, "The World is Flat," Tom Friedman talks about the need to strengthen what he calls the "muscles" of the individual American worker. Part of the solution to global competition, he says, lies in ensuring that the American health care system provides our workers with access to health care services without placing them or their employers in financial jeopardy. That means congressional action on health quality, and it means congressional action on health IT. I stand ready to work with my colleagues to realize that goal. Until we act, health care costs will continue to make America less competitive. Until we start investing in health IT, we risk falling further behind. And until we start paying for health care quality, we risk slowing our progress to a better future.

A little more than a century ago, in 1903, a man named Henry Ford established the Ford Motor Company in Detroit, MI. That same year, a man named Orville Wright became the first person to pilot an airplane in powered flight. Americans have been at the forefront of transportation ever since. In 1929, the Duesenberg J, a premier four-door luxury sedan, began rolling off the assembly line. The price was expensive at that time, starting at $13,000.

Like the automotive industry, health care has come a long way in the last century. And like the automotive industry, health care needs to adjust and adjust dramatically to change. If we invest in health IT and start paying for health care quality, we can help both the American automobile industry and the American health care system to keep moving forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, in a moment or two, I am going to propound a unanimous-consent request while the manager is here. Before I do that, I congratulate the Senator from Montana for his analysis of health care costs in relationship to the manufacturing situation in which we find ourselves.

He has pointed out something which is critically important, which is that of all the competition faced by American manufacturers, one of the competitive disadvantages we put them in is the health care system we have compared to the health care systems their competitors have, leading to, for instance, in the automotive area, a disadvantage of something like $1,000 or $1,500 a car.

I congratulate him for his efforts in this particular area and many other areas as well.

I have one little minor note, and that is, the Senator from Montana is currently looking at the proud owner of a Ford hybrid. So America now is manufacturing hybrids.

Mr. BAUCUS. And may Ford produce many more.

Mr. LEVIN. May they produce many more. I thank the Senator from Montana.

Mr. President, I want to for a couple minutes comment on the bill and then make a unanimous-consent request that the amendment I will offer be in order and that other amendments be laid aside. But first a moment or two of commentary.

The bill before us, S. 397, says that its purpose is "to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting"—and here are the keywords—"from the misuse of their products by others."

On page 3, in section 2, findings and purposes, finding No. 6 is:

> The possibility of imposing liability on an entire industry for harm that is solely—

And that is the keyword—

> solely caused by others is an abuse of the legal system. . . .

I happen to agree with that. If harm is solely caused by others, it would be an abuse of the legal system to impose liability on someone who did not contribute to somebody else's damage.

My amendment would make it clear, and I will just read one paragraph from my amendment:

> That nothing in this act shall be construed to prohibit a civil liability action from being brought or continued against a person if the gross negligence or reckless conduct of that person was a proximate cause of death or injury.

What my amendment would do is basically take the words that are in the stated purpose of this bill, which is that it is wrong that anyone have liability imposed on them for harm that is solely caused by others, and say that basically I accept that premise.

The problem with the bill is that it does not or could not or might not allow for damages to be imposed where someone's own reckless or gross misconduct is a cause, a proximate cause, or contributes to damages which others have.

This is an important part of this bill. We have a number of exceptions in the bill which are set forth. If somebody negligently entrusts a weapon to somebody else knowing that person will misuse it or if there is a violation of law or there are two other allowed lawsuits, but we surely should allow a lawsuit, particularly if State law allows it—and that is the key—but if State law allows the lawsuit, which most States do, against a person whose own gross negligence, whose own recklessness is a proximate cause of somebody else's damages, we should not prevent advertently or inadvertently that cause of action from being brought. State law would be displaced by this bill. This is a radical departure in terms of tort liability because it would displace State law.

The traditional role of the States in tort liability would be displaced in this instance, and I think it is important that we take the language that this bill says in its purpose is the purpose of the bill—that where harm is solely caused by others, that we should not allow liability to be imposed on some person who had no contributing cause or was not a contributing cause—it takes that stated purpose and puts into amendment form "that nothing in this act would be construed to prohibit a civil liability action from being brought or continued against a person if that person's own gross negligence or own reckless conduct was a proximate cause of the death or injury."

That is the explanation of my amendment. Now, with the manager's attention, I ask unanimous consent that the pending amendment be laid aside so that my amendment No. 1623, which I believe has been at the desk for a number of hours, be in order.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Mr. President, reserving the right to object, my colleague is most sincere in his effort. We received the amendment about 30 minutes ago. We are taking a look at it now. I remind my colleagues, Senator LEVIN offered a similar amendment last year that dealt with gross negligence and reckless conduct.

I must say, my frustration with these kinds of amendments are that these are not well-defined terms. There are thousands, if not millions, of pages of case law that have attempted to define them, but not successfully.

I suggest to the Senator, he refers to State law and State venue. Thirty-three States have already very specifically restricted liability in the context of what we are attempting to do here. Thirty-three States have already spoken. We did table this amendment last year by a fairly substantial margin. So at this time, until I have had a chance to review——

Mr. LEVIN. I wonder if the Senator will withhold that objection for 30 more seconds so I can respond to one point the good Senator said.

Mr. CRAIG. I will.

Mr. LEVIN. The term "gross negligence" is defined in my amendment as the term is defined in 42 United States Code 1791(B), and the term "reckless" has the meaning given under section 2(A)1.4 of the Federal Sentencing Guidelines. So we do define both terms very precisely as they are already defined in two laws.

I appreciate the Senator withholding his objection at this time so I could make that statement. I yield the floor.

Mr. CRAIG. Mr. President, I do appreciate the Senator's effort, but at this time, until we have effectively reviewed the amendment, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from North Dakota.

TRADE

Mr. DORGAN. Mr. President, late this evening or perhaps tomorrow morning, there will be a vote in the U.S. House on something called the Central American Free Trade Agreement. I have come to the Senate floor to speak about trade issues, but I especially want to discuss the Central American Free Trade Agreement, which passed in the Senate by a very narrow margin. The estimate is that the votes do not exist to pass this agreement it in the House.

Lord knows how many bridges and highways have been promised in the last 48 hours, and it may very well be, at midnight tonight, magically the votes sufficient to pass this trade agreement will appear and we will have miles of highways and all kinds of bright bridges built in this country in order to persuade wavering House Members to vote for this awful trade agreement. It will be one more chapter in a boom of failed trade strategy and will mean more Americans will lose their jobs.

Incidentally, there are some people today from the textile area of this country saying there will be some changes in CAFTA to protect the textile industry, which presumably would require some other legislation to be passed to implement these changes.

Let me just say to anybody who thinks there are going to be any changes to this, there will be nothing coming through this Senate that will not be slowed down to the nth degree, and we will try in every way possible to block it. But also if anybody promises you that they will do something in a trade agreement, don't believe it, it is not worth the paper it is written on. I have papers in my desk going all the way back to the United States-Canadian Free Trade Agreement, that have promises in writing from the Trade Ambassador, Clayton Yeutter, that didn't mean a thing, wasn't worth the paper it was written on. The same is true with sugar and sweeteners in Mexico. It could go on and on.

My hope is that those few who have been promised the Moon with respect to some changes for the textile folks will not swallow that minnow tonight.

(Mr. CRAIG assumed the Chair.)

I hope they will vote against CAFTA, and I hope the CAFTA trade agreement will be defeated. Let me say why. Similar to all the other trade agreements, it sets us up for losing more jobs.

I am going to talk about a company I have spoken about a number of times on the Senate floor, but there is new news about this company which is what brings me to the floor at a time when we are all talking about international trade. This company is kind of a poster child for what is going wrong in our economy. It is called the Huffy Bicycle Company.

Now I have talked about this company before, and the reason I come to the floor tonight is there is new news about Huffy Bicycles. Huffy Bicycles makes a lot of bicycles. At one point in one plant I believe they were making 19,000 bicycles a day. Huffy Bicycles had a substantial portion of the bicycle market in our country. They could be bought in Wal-Mart, Kmart, and Sears Roebuck. Everybody remembers Huffy Bicycles. They can be found in most of our communities.

The problem is, Huffy Bicycles left this country. Their first plant in Dayton, OH dates back to 1898. They made bicycles under the brand name of Huffy for many decades. In fact, between the handle bar and the front tire they had a little emblem on it that had the U.S. flag. When Huffy escaped our country, as have so many companies, to produce their bicycles in China, they replaced the flag with a little decal of the globe. I am told it was the last job that the U.S. employees had when that company moved its jobs to China. They had to take the existing inventory of bikes and change the U.S. flag on the bicycle to a globe.

Well, let me talk about the production plant in Celina, OH. This was the headline in the Dayton Daily News, June 29, 2005. Now I told my colleagues that Huffy Bicycles are not made in America any more. All the folks that work for Huffy lost their jobs because these jobs are now in China. Here is what happened last month: Huffy Corporation, a 117-year-old bicycle and sporting goods company, on Tuesday, announced it wants to quit paying pension benefits and become a Chinese-controlled company.

Let me read that again. Huffy wants to quit paying its pension benefits and become a Chinese-controlled company.

So how did that come to pass? Well, in 1998, the company celebrated its 100th anniversary by laying off 1,800 workers from its three plants. The jobs were outsourced both to Mexico and a plant in Shenzhen, China. That plant is located in the very same Chinese city where Wal-Mart held its annual board meeting last year. Eight hundred fifty workers got fired by Huffy, and they earned $11 an hour, plus benefits. The company felt that was way too much money to pay people to build bicycles.

Now those employees were not getting wealthy but they liked their jobs. I have talked to some of them. They enjoyed working at Huffy. Many of them worked there for a lifetime, but their jobs went to a plant in Shenzhen, China. The workers there make 33 cents an hour. They work 15-hour shifts, according to the reports from those who visited the plants, they work from 7 a.m. until 11 p.m., 7 days a week. They are housed in crowded barracks and fed two meals a day. They have no health benefits, and when they get sick, as many do, they are fired. If, of course, they tried to organize—there is no evidence that these workers tried to organize—they not only would be fired, but precedent would suggest some of them would be sent to prison for organizing for workers' rights.

Even though the jobs are gone, the bicycles are still sold in America, made in China but sold in America. Now, Huffy wants to become a Chinese company. The vice president of the Chinese company that is planning to buy Huffy said this:

> We look forward to Huffy's future growth as one of America's leading bicycle brands . . .

Notice he did not say one of America's leading bicycles because those bicycles are not made here any more, just "one of America's leading bicycle brands."

Meanwhile, the U.S. workers who lost their jobs read this in the Dayton Daily News: Huffy to quit paying pension benefits and become a Chinese company.

This is a letter that former Huffy employees received a couple of weeks ago. I obtained a copy of this letter from a former Huffy Corporation worker in Ohio with whom I spoke yesterday. This says that as a result of its Chapter XI, Huffy will be filing a motion asking the U.S. Bankruptcy Court to approve a distress termination of the Huffy retirement plan. If approved, the PBGC, Pension Benefit Guaranty Corporation, the Government agency that ensures these plans, will take over. It says: You are still going to get your benefits. That will not be affected by this action. It is just that the PBGC, or the American taxpayer, the Federal Government, will pay your retirement.

Then, down in the other portion, it says, but some may lose a portion of their retirement. You may not get all of your retirement.

So they want to become a Chinese company, make all their bikes in China, sell their bikes in America and pawn off pensions that were promised to workers who used to work for Huffy to the Pension Benefit Guaranty Corporation, which is guaranteed, of course, by the American taxpayers.

The letter says: Your retirement benefits will not be affected by this action, but after it states that retirees will receive their full pension benefits, it says some may lose benefits. That is the fine print.

As I said, I recently spoke to a former Huffy employee. The reason I am talking about this company is that it is symbolic of so many companies in exactly the same position. He told me that there are many people who worked a lifetime for Huffy, and now they are worried sick. They earned a pension because they worked every day, came to work every day, liked their job, were proud of the work they did, and now they are worried sick. Many older workers could only find low-wage jobs after being laid off and losing their jobs to China, so they were counting on their pensions to be there.

The workers at the Celina, OH, plant took a 30-percent wage and benefit cut to keep their jobs at one point, only to have Huffy decide it did not matter.

The Huffy worker whom I spoke to yesterday told me something poignant. He said, when the workers at the plant in Celina, OH, lost their jobs, on the last day of work, as those employees left the parking lot for the last time, they left a pair of shoes in the place where their car had been parked. So when the last car left the lot, there was a parking lot full of shoes. Workers wanted to tell this company that they had worked a lifetime for that company and loved their jobs. They wanted to say to that company: You are not going to find people to fill our shoes, you just will not find people to fill our shoes. You can find people who will work for 30 cents an hour. You can find people whom you can fire who want to join a labor union. You can find people whom you put in a plant working 15 hours a day, 7 days a week, but you will not find people who will fill these shoes.

Another worker who worked at the Celina plant was Ruth Schumaker. I did not know Ruth Schumaker, but I came across her name when I began looking at this case—I looked at many cases, Fruit of the Loom, Levis, Fig Newton cookies. I can talk forever about these companies who have left our country and taken their production elsewhere—Ruth Schumaker was one of those employees who made bicycles. She had been paid $12 an hour. She worked 28 years and was very proud of her job. When she was told she was going to be laid off, she was going to lose her job because it was going to China, she was not able to retire because she still had many costs to deal with.

The only job she could find at that point was a part-time job at $7 an hour at the breakfast bar at the Holiday Inn. Her daughter said she never quite got over the stress of losing that job. Ruth died 2 years ago of cancer.

At the time they closed this plant, by the way, and moved these jobs to China and laid off Ruth and the last car left that parking lot with shoes in the parking spaces saying you will not fill these shoes, the CEO of that company was paying himself $771,000 a year. And, oh, by the way, Wal-Mart has expanded now in Celina. A Wal-Mart supercenter has been built on 50 acres that used to belong to Huffy. So it comes full circle.

I talk about Huffy only because of this news, this venerable old bicycle company with bicycles built by American hands that were proud of their jobs, announces that it wants to become a Chinese company after having moved all of its production to China. I have 33 pages—single-spaced, front and back—of information from the Department of Labor that describes jobs lost in this country this year by companies that have certified to the Department of Labor, so their employees can get trade adjustment assistance, that they have moved certain jobs overseas or that certain jobs have been displaced by overseas trade. I have 33 pages—front and back, single-spaced, in small lines—of the names of the companies and the number of employees. That is just since the first of this year.

The question is: Does anybody care? The answer likely is, not people who matter, not people who can affect the outcome of this, certainly not this Senate because by a handful of votes this Senate said, let us just keep doing this. Let us continue to give tax breaks to companies that move their jobs overseas. Let us keep rewarding those who fire American workers and move those jobs overseas. Let us say to the American worker, you ought to have to compete against 30-cent-an-hour labor, you ought to have to compete against people who work in unsafe plants and are put in jail if they try to join a labor union.

Tonight there will be a vote in the House on CAFTA, and likely the message coming from the House will be, let us do more of the same. My colleagues from the South have all of these sayings, and former Congressman Stenholm always used to talk about the law of holes: When you find yourself in a hole, you ought to stop digging. But that does not seem to be the case with this Congress and international trade.

It is obvious to everyone this is not working. We have the biggest trade deficit in the history of this country. We have massive job loss. We have jobs that are moving outside of this country very quickly, and when American workers can find a job to replace the job they have lost, in most cases, they find a job paying 75 or 80 percent of their former income.

The question for our kids and their kids is what kind of a country will they inherit? We fought for a century over the conditions of production. We became the most productive country in the world. We are the world's leading economic power and military power. But we will not long remain the world's leading economic power without our major manufacturing base, and that manufacturing base is shrinking dramatically. Again, nobody seems to care very much.

I have introduced legislation to address this. We get blocked. It cannot even come to the Senate floor, regrettably. When the next trade agreement comes to the floor that does exactly the same thing and sets up American workers against unfair foreign competition, this Congress embraces it like a teddy bear.

In September, I intend to provide three or four lengthier discussions about international trade and talk about the specifics and remedies. Today, on the eve of the CAFTA vote in the House, I wished to call the attention of my colleagues to this company's story. It is so symbolic of the failure of our trade policy.

My hope is that perhaps, instead of talking about the general and instead of talking about the theory of it all, perhaps we can start thinking about and talking about real Americans who go to work every morning proud of their jobs, and who believe that this country they have inherited ought to give them an opportunity to do well if they play by the rules and do the things that are necessary.

The Pledge of Allegiance is not said everywhere these days. There is a pledge in the board room, and a pledge to profits, but not necessarily a pledge to this country's long-term economic health. I hope very much that is going to change, and I hope that the circumstances that existed for these employees will one day call to action the conscience of this Congress, and that it will say, this ought not to continue, this country can do better than that.

These people in this company, similar to the people in so many other companies I have talked about, did not lose their jobs and were not fired because they were not good Americans. It is because they could not compete against 30-cent labor, and they could not compete against a country that says: Try to organize, and we will fire you. They could not compete against a country that says to companies: Come on in, build your plants here and dump your chemicals into the streams and into the air. They could not compete against a country that says: Come on in and put your workers in an unsafe plant because we are not going to have OSHA here, and we are not going to enforce safe workplaces. We cannot compete against countries in which little kids are taken into a workplace at ages 9, 10, 11, and 12 and locked into that workplace, and where then the work product comes out and goes to the shelves of stores in Fargo or Toledo or St. Louis, and then the American worker is told: Compete with that, compete with, that; if you cannot, you lose your job.

That is not the way we built this country. It is not the way Congress should allow this trade strategy to continue. It is my hope that at some point, some way, somehow in the days ahead we will be able to take action on the floor of the Senate and further strengthen this country's long-term opportunities, help rebuild a manufacturing base, and give people the opportunity in this country, and the belief in this country there is an opportunity, for them and their families to have a good job that pays well, with job security.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment?

The Senator from Idaho is recognized.

Mr. CRAIG. Reserving the right to object, I know the intent of the Senator from Virginia is to file an amendment at the desk and not usurp the position of the current amendment that is before the Congress. I would have to ask the Parliamentarian as to the priority of that.

The PRESIDING OFFICER. The pending amendment can only be laid aside by unanimous consent.

Mr. CRAIG. The Senator does not have to lay the pending amendment aside to file an amendment?

The PRESIDING OFFICER. No, he does not.

Mr. CRAIG. I would object to the laying aside of the pending amendment, which would not restrict the Senator's right to file an amendment at the desk and speak about it.

The PRESIDING OFFICER. The amendment may be submitted for the RECORD.

Mr. WARNER. Mr. President, I so amend my request to the Presiding Officer for the purpose of filing the amendment. I marvel at the parliamentary situation of the managing of this bill. Perhaps if I had done something similar, I would now be on the Defense bill. But nevertheless, we are where we are.

Mr. President, I rise to offer an amendment, but I will file it at the present time and hope at some point I can be recognized for the purpose of having this placed into the queue.

The PRESIDING OFFICER. The Senator can be recognized to discuss his amendment at this time if he so desires.

Mr. WARNER. I thought I made that request to the Chair. I failed to communicate. I now make that request.

The PRESIDING OFFICER. The Senator is recognized to discuss his amendment.

Mr. WARNER. From the outset, let me make it clear I have long been a supporter of tort reform. I believe the proliferation of baseless lawsuits and runaway jury awards is having a profound negative effect on many Americans, and indeed on the American economy. For these reasons I was a strong supporter of the Class Action Fairness Act that was signed into law earlier this year. I also support reforming the asbestos litigation system and I support medical malpractice liability reform.

In my view, measured, balanced reforms to our tort system can address very real problems. That is the purpose of this amendment.

Indeed, throughout history Congress has responded to very real problems in our tort system by passing reasonable tort reform measures. In 1994, Congress passed the General Aviation Revitalization Act. The law does not bar lawsuits altogether against the airline industry. Instead, it bars any product liability suit against a manufacturer involving planes more than 18 years old with fewer than 20 seats.

I remember that legislation as if it were yesterday, to the everlasting credit of one of my classmates, who joined when I came into the Senate 20-some-odd years ago, Nancy Kassebaum. She was the author of that historic breakthrough in tort reform as a Senator.

In 1996, Congress passed the Bill Emerson Good Samaritan Food Donation Act. This law, which was intended to address the legal uncertainties that prevented food donation, provided limited immunity to certain individuals who are involved in the donation of food. It is important to note, however, that immunity does not apply in cases of gross negligence or intentional misconduct.

In 2001, Congress passed the Paul Coverdell Teacher Protection Act. What a wonderful man Senator Coverdell was. I so cherish the memories, having served with him here in this Chamber. This measure provided teachers with immunity from negligence lawsuits when teachers' actions are legal and in furtherance of efforts to control classroom discipline. The act did not immunize teachers from lawsuits claiming gross negligence or reckless or willful misconduct. So we see there has been a slow evolution of the law so that you don't give absolute immunity, but immunity that is in a balanced way. That is the purpose of my amendment.

In my view, the proponents of the gun immunity bill have undoubtedly acted in good faith by trying to respond to another very real problem. Without question, the gun industry in America is under legal siege, fighting lawsuits, many of them frivolous, all over the country.

I will have a letter printed in the RECORD from a gun manufacturer in my State who indicates the seriousness of this problem and the likelihood that the facility in Virginia may not survive unless some protection is given to the manufacturing industry. I strongly support protection to the manufacturing industry as provided in this bill.

My amendment goes to another provision in the bill, which I will enumerate momentarily.

I ask unanimous consent this letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. The costs incurred by the gun industry in defending these lawsuits is staggering. Indeed, the costs are so great that Beretta USA, an American company that supplies weapons for the U.S. Armed Forces, has written to me claiming that their "ability to continue operations is threatened by these lawsuits." That is from the letter I placed in the RECORD.

Without a doubt, I think some reasonable measure of tort reform is necessary to protect the manufacturers. However, I must say I am deeply concerned about the broad scope of this litigation in other areas. In my view, it will undoubtedly have unintended consequences, but it is likely that we in the Senate will not be able to recognize some of these inequities until they occur. However, experiences in my State of Virginia make it clear to me that there is currently one unintended consequence in the bill as drafted that, if not corrected now, could impose a glaring inequity.

It is absolutely clear that this bill, if it had become law in a previous Congress, would have prevented certain lawsuits brought by victims of the snipers who wreaked havoc in the Virginia, DC, and Maryland area. In particular, this bill would have prevented the victims and their families from ever having their day in court, to sue a gun dealer, from which the snipers John Allen Muhammad and John Lee Malvo illegally received their weapon.

The facts surrounding this gun dealer continue to amaze me. According to reports, the DC area snipers "stole" a gun from this particular gun dealer in Washington State who had lost over 200 guns in the previous 3 years.

I say those words "lost" or "stolen" carefully, because I am not sure how any legitimate, law-abiding dealer can lose or have stolen from its possession over 200 guns. But these were the facts that were developed in this case.

In my view, gun dealers such as this one, which at best have an established history of irresponsibility of securing its firearm inventory and at worst show signs of illegal activity in who they sell their guns to, ought not to have the blanket immunity as provided in this bill.

I can understand the need to protect responsible gun dealers from frivolous lawsuits. I join those in seeking that effort. After all, if a gun dealer is selling legal products to people legally entitled to buy weapons, then the dealer has done nothing wrong and should not be legally held responsible.

Indeed, in my view, the vast majority of gun dealers in America are faithfully abiding by the law. They are deserving of protection, and I would like to support the provisions of the bill that try to give that protection.

But we need to make sure this bill does not immunize the irresponsible behavior of a gun store such as the one in Washington State. How do you "lose" or "have stolen" more than 200 weapons? In my view, gun dealers who have established histories of lost or stolen weapons should not be immune from lawsuits when such a weapon is used to commit a violent crime. To give these dealers immunity in these cases is to give them a completely free pass from having to exercise any type of responsibility in securing or accounting for their weapons. That is plain wrong.

Accordingly, the amendment I am offering tonight would make it absolutely clear that victims of these types of crimes would be absolutely able to pursue their cases against those very few irresponsible or unscrupulous gun dealers in America. My amendment simply says if a gun dealer has an established history of lost or stolen guns as defined by the Attorney General of the United States, and the lost or stolen gun is used in a way that causes death or injury to another, then that lawsuit would not be barred from its outset from going forward by the legislation now before the Senate.

In sum, this Warner amendment, which is based on the very real instances in the Virginia, DC, and Maryland sniper cases, makes it clear that irresponsible gun dealers will not be given a free pass by the Congress. It is a narrowly tailored amendment that will directly address a very real scenario. I would like at this time to read the language of the bill, together with my amendment.

I go to a section of the bill. I refer colleagues to page 8 of S. 397, copies of which are on each Senator's desk. It provides as follows:

> An action brought against a seller for negligent entrustment or negligence per se. . . .

I would add the following to it. My amendment reads: "On page 8, line 21"—that is the line to which I have drawn the attention of the Senate—"before the semicolon, insert the following:"

> . . . or an action against a seller that has an established history of qualified products being lost or stolen, under such criteria as shall be established by the Attorney General by regulation—

That is the Attorney General of the United States—

> —for an injury or death caused by a qualified product that was in the possession of the seller, but subsequently lost or stolen.

That provides, I think, and reposes in the proper authority the responsibility to look at these cases and determine what has, in fact, been the record of this dealer.

As I understand it, the ATF keeps certain records, and other records are kept, perhaps, by the States to determine how this gun dealer conducted its business. The regulations would spell out the criteria, first of their record, and then how this weapon was stolen. So, in my judgment, I think it strengthens the legislation. If it is a case, as I say, such as the sniper case in Virginia and Maryland—it captivated with fear the people in this region. I think it is our duty, in drawing up this legislation, to ensure we are doing everything possible not to have a repetition of that chapter.

I remember it so well because I was heavily involved with others in it. Certainly it was in my State. People didn't go out at night. People didn't go to gas stations; they didn't go to the market. They lived in fear, and it was a serious impact on the economy in this region, not to mention the tragedy of the loss of life and injury inflicted by these two extraordinary criminal individuals who had obtained a gun in the State of Washington from a dealer who had a horrible record, a record which on its face spelled out the highest degree of negligence.

So I ask the managers, at the appropriate time, if I may bring up this amendment, and I entrust to them a sense of fairness.

Mr. CRAIG. Will the Senator yield.

Mr. WARNER. Yes, of course. I would ask the Parliamentarian if they would look at the amendment to determine whether, should cloture be filed, it would be a germane amendment.

The PRESIDING OFFICER. The amendment will be reviewed for the Senator.

Mr. WARNER. Which is to say that at this point in time I cannot obtain such ruling; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Then I yield to the wisdom of the Presiding Officer and the Parliamentarian and at some point in time that judgment can be made.

I yield the floor to my good friend.

Mr. CRAIG. I thank the Senator from Virginia. I know he is sincere in the offering of this amendment. Of course, it will be reviewed by the Parliamentarian as to its germaneness postcloture. I would ask the Senator and his staff to examine the Frist amendment that was laid down and that is now pending because what we attempt to do by that amendment is to send a message, if you will, downline to federally licensed firearms dealers that there is no forgiveness here to bad faith and/or to the misuse or the misconduct within the current Federal statutes. We are examining now, but clearly that Washington dealer that the Senator referred to——

Mr. WARNER. Washington State.

Mr. CRAIG. Washington State dealer the Senator referred to—yes, there are no gun dealers in Washington, this city—those were actions in violation of Federal firearms law. And of course the question is the administering of the law, and clearly that amendment does so.

But I have seen the amendment in quick glance, will review it to see if there can be some accommodation here. I know the intent of the Senator. It is intent in good faith to do exactly what he said and that is exactly what we want done. We do not want those who are under the umbrella of a federally licensed dealer to in any way misuse that law and not to be prosecuted for the misuse of that law.

That is the intent here. It is the frivolous lawsuits that we are attempting to block. We have been very clean and specific in the language of the bill. We have even refined it over last year in a way that I hope the Senator might be able to support in the end because I think it clarifies a complicated situation that is currently before manufacturers and licensed dealers.

Mr. WARNER. Mr. President, I will look at the Frist amendment.

Mr. CRAIG. I thank the Senator.

EXHIBIT 1

BERETTA U.S.A. CORP.,
Accokeek, MD, May 11, 2005.

Hon. RICHARD B. CHENEY,
Vice President of the United States, Eisenhower Executive Office Building, Washington, DC.

DEAR MR. VICE PRESIDENT: A few weeks ago, the Washington, D.C. Court of Appeals issued a decision supporting a D.C. statute that holds the manufacturers of semiautomatic pistols and rifles strictly liable for any crime committed in the District with such a firearm.

Passed in 1991, the D.C. statute had not been used until the District of Columbia recently filed a lawsuit against the firearm industry in an attempt to hold firearm makers, importers and distributors liable for the cost of criminal gun misuse in the District. Although the Court of Appeals (sitting en banc in the case D.C. v. Beretta U.S.A. et al.) dismissed many parts of the case, it affirmed the D.C. strict liability statute and, moreover, ruled that victims of gun violence can sue firearm manufacturers simply to determine whether that company's firearm was used in the victim's shooting.

It is unlawful to possess most firearms in the District (including semiautomatic pistols) and it is unlawful to assault someone using a firearm. Notwithstanding these two criminal acts, neither of which are within the control of or can be prevented by firearm makers, the D.C. strict liability statute (and the D.C. Court of Appeals decision supporting it) will make firearm manufacturers liable for all costs attributed to such shootings, even if the firearm involved was originally sold in a state far from the District to a lawful customer.

Beretta U.S.A. Corp. makes the standard sidearm for the U.S. Armed Forces (the Beretta M9 9mm pistol). We have long-term contracts right now to supply this pistol to our fighting forces in Iraq and these pistols have been used extensively in combat during the current campaign, just as they have seen use since adopted by the Armed Forces in 1985. Beretta U.S.A. also supplies pistols to law enforcement departments throughout the U.S., including the Maryland State Police, Los Angeles City Police Department and to the Chicago Police Department. We also supply firearms used for self-protection and for sporting purposes to private citizens throughout our country.

The decision of the D.C. Court of Appeals to uphold the D.C. strict liability statute has the likelihood of bankrupting, not only Beretta U.S.A., but every maker of semiautomatic pistols and rifles since 1991. There are hundreds of homicides committed with firearms each year in D.C. and additional hundreds of injuries involving criminal misuse of firearms. No firearm maker has the resources to defend against hundreds of lawsuits each year and, if that company's pistol or rifle is determined to have been used in a criminal shooting in the District, these companies do not have the resources to pay the resultant judgment against them—a judgment against which they would have no defense if the pistol or rifle was originally sold to a civilian customer.

When the D.C. law was passed in 1991 it was styled to apply only to the makers of "assault rifles" and machineguns. Strangely, the definition of "machineguns" in the statute includes semiautomatic firearms capable of holding more than 12 rounds. Since any magazine-fed firearm is capable of receiving magazines (whether made by the firearm manufacturer or by someone else later) that hold more than 12 rounds, this means that such a product is considered a machinegun in the District, even though it is semi-automatic and even if it did not hold 12 rounds at the time of its misuse.

The Protection of Lawful Commerce in Arms Act (S. 397, H.R. 800) would stop this remarkable and egregious decision by the D.C. Court of Appeals. The Act, if passed, will block lawsuits against the makers, distributions and dealers of firearms for criminal misuse of their products over which they have no control.

We urgently request your support for this legislation. Without it, companies like Beretta U.S.A., Colt, Smith & Wesson, Ruger and dozens of others could be wiped out by a flood of lawsuits emanating from the District.

This is not a theoretical concern. The instrument to deprive U.S. citizens of the tools through which they enjoy their 2nd Amendment freedoms now rests in the hands of trial lawyers in the District Equally grave, control of the future supply of firearms needed by our fighting forces and by law enforcement officials and private citizens throughout the U.S. also rests in the hands of these attorneys.

We will seek Supreme Court review of this decision, but the result of a Supreme Court review is also not guaranteed. Your help in supporting S. 397 and H.R. 800 might provide our only other chance at survival.

Sincerest and respectful regards,

JEFFREY K. REH,
General Counsel and Vice-General Manager.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I think if Senator REID is ready, I am ready to propound a unanimous consent request.

Mr. REED. I am. Go ahead.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CRAIG. Mr. President, I ask unanimous consent that the pending amendments be temporarily set aside and that Senator REED then be recognized in order to call up amendment No. 1626 on behalf of Senator KOHL; provided further that on Wednesday there be 1 hour equally divided for debate in relation to the Kohl amendment and that following the use or yielding back of time, the Senate proceed to a vote in relation to the Kohl amendment, with no amendment in order to the amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. I should say, yes, I would amend that unanimous consent to say Thursday, not Wednesday.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? The Chair hears none, and it is so ordered.

Mr. CRAIG. If the Senator wishes to make brief remarks, then I would put the Senate in morning business.

Mr. REED. I will bring up the amendment and make brief remarks.

Mr. CRAIG. Surely.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 1626

Mr. REED. Mr. President, I will call up amendment 1626 on behalf of Senator KOHL.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for Mr. KOHL, proposes an amendment numbered 1626.

The amendment is as follows:

(Purpose: To amend chapter 44 of title 18, United States Code, to require the provision of a child safety lock in connection with the transfer of a handgun)

At the end of the bill, add the following:

SEC. 5. CHILD SAFETY LOCKS.

(a) SHORT TITLE.—This section may be cited as the "Child Safety Lock Act of 2005".

(b) PURPOSES.—The purposes of this section are—

(1) to promote the safe storage and use of handguns by consumers;

(2) to prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun; and

(3) to avoid hindering industry from supplying firearms to law abiding citizens for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(c) FIREARMS SAFETY.—

(1) MANDATORY TRANSFER OF SECURE GUN STORAGE OR SAFETY DEVICE.—Section 922 of title 18, United States Code, is amended by inserting at the end the following:

"(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

"(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

"(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

"(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

"(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

"(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

"(3) LIABILITY FOR USE.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

"(B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any Federal or State court.

"(C) DEFINED TERM.—As used in this paragraph, the term 'qualified civil liability action'—

"(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—

"(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

"(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

"(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.".

(2) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(A) in subsection (a)(1), by striking "or (f)" and inserting "(f), or (p)"; and

(B) by adding at the end the following:

"(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

"(1) IN GENERAL.—

"(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

"(i) suspend for not more than 6 months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

"(ii) subject the licensee to a civil penalty in an amount equal to not more than $2,500.

"(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided under section 923(f).

"(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) shall not preclude any administrative remedy that is otherwise available to the Secretary.".

(3) LIABILITY; EVIDENCE.—

(A) LIABILITY.—Nothing in this section shall be construed to—

(i) create a cause of action against any Federal firearms licensee or any other person for any civil liability; or

(ii) establish any standard of care.

(B) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action relating to section 922(z) of title 18, United States Code, as added by this subsection.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

Mr. REED. I thank the Chair.

Very briefly, this amendment is a very important one related to safety for children with respect to firearms. There are more than 10,000 accidental shootings a year in this country, and many of these shootings result in the senseless deaths of children, and many of those accidental deaths do not fully take into account the violence because, in addition to that, there are many young people who tragically use a firearm to take their own lives. So we are looking at a situation where nearly 3,000 children, young people, die each year from gun-related injuries. And this recitation of numbers is not only grim but to all of us, I believe, unacceptable and particularly painful to families who must bear this terrible loss.

This legislation is simple, straightforward, and effective. I must commend Senator KOHL for his authorship and for his persistence in pursuing this legislation. It mandates that a child safety lock device or trigger lock be sold with every handgun. Most locks resemble a padlock that locks around the gun trigger and immobilizes the trigger, preventing it from being used. These and other locks can be purchased for every gun for less than $10 and thus used by thousands of gun owners to protect their firearms from unauthorized use.

This approach is supported by a huge number of individuals. In fact, this Senate has gone on record previously overwhelmingly supporting this amendment. Polls have shown that 73 percent of the American public supports this amendment, including 6 out of 10 gun owners.

This legislation is not only well meaning and well intended, but it could be very effective if we adopt it. I am pleased to see we are now moving to consider this amendment. I am delighted that tomorrow morning we will get a chance for further debate and a vote on this amendment.

I yield my time.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, let me thank Senator REED for his cooperation and effort today as we work our way through this legislation. Several amendments that had have been brought to the floor with an attempt to offer them we are looking to see if we can work with our colleagues in acceptance of them. We have a broad base of support for the underlying legislation, and we want to be able to sustain that support as we go into final passage.

Mr. WARNER. Mr. President, I have now had the opportunity to review the Frist amendment, No. 1606. This amendment simply restates that the Attorney General of the United States can continue to enforce current Federal firearms laws against those who violate them, including dealers. In my view, nothing in S. 397 would prohibit the Attorney General from going forward in those matters. Nevertheless, at this time, I have no objection to restating that authority, as proposed in amendment No. 1606.

In my view, though, amendment No. 1606 does not address the circumstances that my amendment seeks to remedy. The Attorney General has always had the authority to enforce its gun laws yet some dealers continue to act irresponsibly. My concern is that the provisions of S. 397 would completely immunize from lawsuits those irresponsible gun dealers who have an established history of repeatedly losing guns or have an established history of firearms being stolen again and again from their inventory. If enacted without my amendment, S. 397 could cause the relatively small number of irresponsible gun deales to grow, not shrink.

My amendment is precisely aimed at these irresponsible and unscrupulous gun dealers who repeatedly lose firearms and have firearms stolen from their inventory. This is exactly what happened in the DC area sniper case. The snipers, both of whom were not allowed under the law to purchase a firearm, apparently stole their weapon from a gun store in Washington state that had previously lost or had stolen more than 200 weapons over a short period of time. When a gun dealer has an established history of lost or stolen guns and that lost or stolen gun is used in the commission of a serious crime that causes death or injury, it is a grave inequity to lock those victims out of the courthouse doors.

While I have no objection to amendment No. 1606, it clearly does not address the very real problem remedied by my amendment.

MORNING BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent there now be a period of morning business with Senators permitted to speak up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

PENSION REFORM

Mr. WYDEN. Mr. President, there has been a significant development in private pension law this week, and I have come to the floor to discuss it briefly because I think it is something that will be of enormous interest to working families across the country who, of course, have been reading for months now about their pension plans going belly up. These are workers who work hard, play by the rules, hope to have a dignified retirement and have understood that Social Security was never going to cover all of their retirement security needs. So they have sought to have a private pension, and companies across this country have given them the impression—falsely, in a number of instances—that their private pension would be secure and there for them when they retire.

One of the aspects of this whole challenge, with respect to pension security, has been to eliminate what I believe is a double standard today in private pension laws. There is in fact a double standard in private pension law because so often the executive retirement benefits get hidden in a lockbox while the worker ends up getting creamed in the process.

What we have done, on a bipartisan basis in the Senate Finance Committee, is to say that that double standard, the standard that protects the executives while it clobbers the workers, will no longer be tolerated under our private pension statutes.

As a result of a change that a number of our colleagues worked on, which was backed by Chairman GRASSLEY and Senator BAUCUS, if this provision that we have developed becomes law, if a company pension plan is funded at less than 80 percent, then the executive pensions cannot be hidden under the ruse of being "deferred compensation." That is what we have seen come to light in the last few months, that somehow the executives walk away with millions of dollars worth of pension benefits under the guise of it somehow being something called deferred compensation while the workers end up seeing their pensions disappear by 40, 50, 60 percent.

This provision, in my view, is extremely important because it will prevent companies whose pension plans are at risk of going under from protecting the executive pension while allowing the employees' pensions to sink like a stone.

An example of this would be a flight attendant from Tigard, OR, who gave United Airlines 16 years of service, saw her pension fall recently to a net of $138 a month, while the CEO of United is going to continue to receive $4.5 million. Now, of course, the CEO claims it is not really a pension, that this was compensation worked out before the executive came to United. But I can tell you that elderly woman in Tigard, OR, would sure like to have what the United executive has, regardless of what it is technically referred to under pension law.

A lot more needs to be done to ensure that the executives are not going to reap these huge gains at the expense of their workers. Captain Duane Woerth of the Airline Pilots Association said it well, in my view, when he said, "While thousands of pilots will retire with only a fraction of the pension benefits they earned and expected, airline executives can look forward to retirements knowing that their nest eggs are solid gold." This was reported in Fortune magazine. And there are numerous other examples where generous executive pensions have been protected at the expense of the workers' retirement.

In March 2002, for example, US Air CEO Stephen Wolf took a lump-sum pension payout of $15 million, including benefits, for 24 years of service that he never actually performed. Six months later, the company filed for bankruptcy and terminated its pilot pension plan, leaving the Pension Benefit Guarantee Corporation with $2.2 billion in liabilities. Where is the fairness in all of that? The executive takes this huge golden parachute away while the workers try to figure out how to make ends meet when the company files for bankruptcy and terminates the pension plan.

Three months before United filed for bankruptcy in 2002, the company placed $4.5 million in a special bankruptcy protected trust for their CEO, Mr. Glenn Tilton. United then terminated all of its pension plans in 2005, leaving the Pension Benefit Guarantee Corporation with $6.6 billion in liability.

In 2002, the Motorola Company chose to not make any contributions to its pension plan for 70,000 employees and retirees, a plan that was underfunded by $1.4 billion. At the same time, Motorola found another $38 million to give its top executives a variety of pension perks.

In 1999, IBM's cash balance conversion resulted in dramatic pension cuts for the older workers. It is still being litigated in the courts, but in 2002, IBM CEO Lou Gerstner, who oversaw the cash conversion, retired with a pension of $1.1 million per year.

In November of 2002, Delta began phasing out its traditional defined benefit plan for 56,000 employees and replaced it with a cash balance pension plan. As Delta was shorting its workers, their former CEO got a generous guaranteed pension plan of $1 million per year that will be available to him when he turns 65.

These are a few examples, Mr. President, of excessive executive generosity, and they have been particularly egregious in the airline sector, where there have been numerous threats of bankruptcy and actual problems with respect to keeping the workers' pensions intact or even a portion of them secure.

I am pleased the Finance Committee took a significant first step yesterday toward cutting off this corporate spigot that has been gushing millions of dollars for executive pensions but produces less than a trickle of funds for tens of thousands of hard-working Americans. There is more to do.

Certainly the first step that began yesterday in the Senate Finance Committee at ending this double standard came about because Chairman GRASSLEY and Senator BAUCUS worked in a bipartisan fashion, and Senator BINGAMAN, Senator KERRY, Senator SCHUMER, and others joined me in pressing for this change. But suffice it to say there is more to do in this area. Certainly the question of what companies are required to do in terms of making their premium payments is important. In the days ahead the Finance Committee and eventually the Senate as a body will have to take up these issues.

What I wanted to bring to the Senate's attention today is that this is an important start. It is a start that keeps faith with American workers who have come to my townhall meetings. The Presiding Officer is from Georgia and represents a number of workers affected by the financial problems of Delta Airlines. People come to our town meetings and ask, how is it that the executives get off scot-free with respect to these pension issues while we are getting clobbered? I am tired of reading about how the executives have somehow been able, under the guise of deferred compensation or special retirement benefits that are protected from bankruptcy proceedings, and I am tired of seeing how the executives always come out hunky-dory while the workers end up trying to figure how to make ends meet when their pensions have been slashed by 40, 50, or 60 percent.

There is more to do in terms of reforming private pension law, but this effort to eliminate the double standard where executives get protected and workers get hurt, eliminating that double standard is at the center of what good bipartisan pension reform ought to be all about. Fortunately, the Senate Committee on Finance took a big step in the right direction by saying yesterday that if a company's pension plan is not actually funded, then the executives cannot find their way to yet another lockbox and protect themselves with these deferred compensation arrangements.

I yield the floor.

TRIBUTE TO JERMAIN TAYLOR

Mrs. LINCOLN. Mr. President, I thank my colleagues for allowing me to take a few moments for an important recognition for Arkansans. Today I rise to pay tribute to two very distinguished Arkansans, first to the new and undefeated, undisputed middleweight champion of the world, Jermain Taylor.

Jermain Taylors' skill in the boxing ring is only one reason for me to recognize him on the Senate floor. Jermain is one of boxing's rising young stars.

He is known for his skill and his power in the ring, but he is also known for his grace and humility outside of the ring.

On July 16, Jermain, a Little Rock native, thrilled the people of Arkansas when he stepped into a ring in Las Vegas, NV and took the middleweight championship of the world from Bernard Hopkins.

Jermain's victory that night was the culmination of a lifetime of hard work and sacrifice that began when he was just a small boy. When Jermain was 5, he had to take on the responsibility of being the man of the house after his father left the family.

Even at that young age, he took responsibility for his younger sisters without hesitation.

At the age of 13, he made his way into Ozell Nelson's gym and, though he lost his first sparring session, he enjoyed the challenge and believed he would improve, and he could improve with hard work.

He did, and in 1996 he won the U.S. Under 19 Championships. In 2000, he won a bronze medal while representing his country in the Olympic Games held in Sydney, Australia. Shortly thereafter he began his pro career.

By all accounts and by every measure, Jermain Taylor is a great fighter, but he is an even better person. He has been described as humble, determined and one who knows that family comes first.

In short, he embodies the best of what being an Arkansan is all about.

He is a self described country boy with country values. Being an old farmer's daughter myself, I can vouch for the fact that there is nothing wrong with that.

Thousands of Arkansans traveled to Las Vegas to support their local hero. Chants of J.T. and the calling of the hogs could be heard throughout the fight as Jermain outworked and outboxed his opponent.

TRIBUTE TO JACKSON T. "JACK" STEPHENS

Mrs. LINCOLN. Mr. President, I also now go to a sadder note and rise to pay tribute to a fallen pillar of the Arkansas business and philanthropy community, Mr. Jack Stephens. Jack passed away quietly at his home on Saturday, July 23, after a period of illness. He has been remarked to have been one of the most incredible businessmen in his lifetime. We have truly lost a visionary businessman who invested in hundreds of Arkansas companies, many of which became leaders in their industry.

He also became one of my home State's most active philanthropists, never forgetting his humble roots and the value of rural life. Jackson T. Stephens was born during the Roaring Twenties and was raised during the Great Depression on a farm in south central Arkansas. He picked cotton and worked a mule on the farm before taking jobs in nearby Hope, AR, during his teens.

The Depression helped to shape a generation of Americans who valued every penny and deeply respected the opportunities that freedom brings, the opportunity to earn a living and to give back. Those lessons were not lost on Jack Stephens. His parents A. J. and Ethel taught him the values of self-reliance, diligence, integrity, and hard work. His father once told Jack, "Success is not a destiny to be reached but the quality of the journey we make."

After attending public schools in Prattsville, AR, and graduating high school from Columbia Military Academy in Columbia, TN, Jack Stephens became a 1947 graduate of the U.S. Naval Academy. For the rest of his life, he remained close to many of his Naval Academy buddies, particularly ADM William Crowe, Ambassador Vernon Weaver, and President Jimmy Carter. He never forgot the important value of that education at a service academy and, more importantly, his service to this great Nation.

After finishing up at the Naval Academy, Jack joined his brother Witt Stephens at his financial company, Stephens, Inc. The two of them built one of the country's most premier investment banking firms, the largest off Wall Street.

In recent years, Jack has been recognized for his philanthropy. He once told a reporter there are only two pleasures associated with money: making it and giving it away.

For over 20 years, Jack has been the principal benefactor for the Delta Project, a program designed to assist and educate underprivileged children in Arkansas's delta. He also supported the City Educational Trust Fund. For 20 years, the trust fund has provided scholarships for students and incentive awards for innovative teachers.

Jack also gave $48 million to the University of Arkansas for Medical Sciences. The money was used to build, equip, and support the Jackson T. Stephens Spine and Neuroscience Institute.

In 1997, he gave $5 million to support First Tee, a program designed to allow underprivileged children to learn about and play the game of golf. He viewed First Tee as a teaching tool for children. He understood that the lessons of patience, respect, and following the rules the game of golf teaches could be used in any area of a child's life and, more important, provided them the life skills they needed to be a success in the future.

He also served from 1991 to 1998 as the fourth chairman of the Augusta National Golf Club, home of the Master's Golf Tournament. Jack also gave about $20 million to the University of Arkansas at Little Rock for a special events center that will be used for basketball.

In closing, I want to say a word about the character of Jack Stephens and the men and women of his generation. Jack came from a time when Arkansans believed in the spirit of Arkansas. We in Arkansas believe in ourselves. We believe in our family and our family of Arkansas people. We believe in our dreams and the things we can accomplish when we work hard and we reach out to one another.

Men such as J. B. Hunt, Sam Walton, John Tyson, Witt Stephens, and Jack Stephens believed in the values they were taught in Arkansas and knew that the best place to build a business was right there in their own backyard.

All of these men along with Jack Stephens, nurtured and invested in the businesses and the people of their great State of Arkansas, knowing full well that Arkansas, Arkansas's hard work, its ethics, its values, could be marketed all across the globe.

In the 1980s, Jack Stephens was one of the first to venture and look toward places in the East where investments could be made and relationships built for future of the global economy in the 21st century. They set a high standard for all of Arkansas to follow. Many of us look to the image of Jack Stephens to know of the success that can happen in Arkansas.

My thoughts and prayers go to the family and friends of Jack Stephens this week, as we celebrate his wonderful life and cherish the moments that were spent with him. The people of Arkansas can all be proud of Jack Stephens and the life he lived. He contributed mightily to the well-being of our State and to its people, all because he never forgot where he came from. I am sure the entire Senate will join with me as I honor the well-lived life of Jackson T. "Jack" Stephens.

TECHNICAL EXPLANATION OF H.R. 6

I ask unanimous consent that a document entitled "Description and Technical Explanation of the Conference Agreement of H.R. 6, Title XIII, "Energy Tax Incentives Act of 2005," prepared by the Joint Committee on Taxation, dated July 27, 2005, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Description and Technical Explanation of the Conference Agreement of H.R. 6, Title XIII, "Energy Tax Incentives Act of 2005"

A. Energy Infrastructure Tax Incentives

1. Natural gas gathering lines treated as seven-year property (sec. 1301 of the House bill, sec. 1326 of the conference agreement, and sec. 168 of the Code)

PRESENT LAW

The applicable recovery period for assets placed in service under the Modified Accelerated Cost Recovery System is based on the "class life of the property." The class lives of assets placed in service after 1986 are generally set forth in Revenue Procedure 87–56. Revenue Procedure 87–56 includes two asset classes either of which could describe natural gas gathering lines owned by nonproducers of natural gas. Asset class 46.0, describing pipeline transportation, provides a class life of 22 years and a recovery period of 15 years. Asset class 13.2, describing assets used in the exploration for and production of petroleum and natural gas deposits, provides a class life of 14 years and a depreciation recovery period of seven years. The uncertainty regarding the appropriate recovery period of natural gas gathering lines has resulted in litigation between taxpayers and the IRS. In each of three recent cases, appellate courts have held that natural gas gathering lines owned by nonprocedures fall within the scope of Asset class 13.2 (i.e., seven-year recovery period). The appellate court in each case reversed a lower court holding that natural gas gathering lines owned by nonproducers fall within the scope of Asset class 46.0 (i.e., 15-year recovery period). The IRS has not yet indicated whether it acquiesces in the result in these three appellate decisions in cases arising in other circuits.

HOUSE BILL

The House bill establishes a statutory seven-year recovery period and a class life of 14 years for natural gas gathering lines. In addition, no adjustment will be made to the allowable amount of depreciation with respect to this property for purposes of computing a taxpayer's alternative minimum taxable income. A natural gas gathering line is defined to include any pipe, equipment, and appurtenance that is (1) determined to be a gathering line by the Federal Energy Regulatory Commission, or (2) used to deliver natural gas from the wellhead or a common point to the point at which such gas first reaches (a) a gas processing plant, (b) an interconnection with an interstate transmission line, (c) an interconnection with an intrastate transmission line, or (d) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.

Effective date.—The House bill provision is effective for property placed in service after April 11, 2005. No inference is intended as to the proper treatment of natural gas gathering lines placed in service on or before April 11, 2005.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that the provision requires that the original use of the property begin with the taxpayer. The provision does not apply to property with respect to which the taxpayer (or a related party) had a binding acquisition contract on or before April 11, 2005.

2. Natural gas distribution lines treated a fifteen-year property (sec. 1302 of the House bill, sec. 1515 of the Senate amendment, sec. 1325 of the conference agreement, and sec. 168 of the Code)

PRESENT LAW

The applicable recovery period for assets placed in service under the Modified Accelerated Cost Recovery System is based on the "class life of the property." The class lives of assets placed in service after 1986 are generally set forth in Revenue Procedure 87–56. Natural gas distribution pipelines are assigned a 20-year recovery period and a class life of 35 years.

HOUSE BILL

The House bill establishes a statutory 15-year recovery period and a class life of 35 years for natural gas distribution lines.

Effective date.—The House bill provision is effective for property placed in service after April 11, 2005.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except the Senate amendment requires that the original use of the property being with the taxpayer and that the property be placed in service prior to January 1, 2008.

Effective date.—The Senate amendment provision is effective for property placed in service after the date of enactment. However, the provision does not apply to property subject to a binding contract on or before June 14, 2005.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, with the following modifications. The conference agreement is effective for property, the original use of which begins with the taxpayer after April 11, 2005, which is placed in service after April 11, 2005 and before January 1, 2011. The provision does not apply to property subject to a binding contract on or before April 11, 2005.

3. Transmission property treated as fifteen-year property (sec. 1301 of the House bill, sec. 1308 of the conference agreement, and sec. 168 of the Code)

PRESENT LAW

The applicable recovery period for assets placed in service under the Modified Accelerated Cost Recovery System is based on the "class life of the property." The class lives of assets placed in service after 1986 are generally set forth in Revenue Procedure 87–56. Assets used in the transmission and distribution of electricity for sale and related land improvements are assigned a 20-year recovery period and a class life of 30 years.

HOUSE BILL

The House bill provision establishes a statutory 15-year recovery period and a class life of 30 years for certain assets used in the transmission of electricity for sale and related land improvements. For purposes of the provision, section 1245 property used in the transmission at 69 or more kilovolts of electricity for sale, the original use of which commences with the taxpayers after April 11, 2005, will qualify for the new recovery period.

Effective date.—The House bill provision is effective for property placed in service after April 11, 2005.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that the provision does not apply to property which is the subject of a binding contract on or before April 11, 2005.

4. Amortization of atmospheric pollution control facilities (sec. 1304 of the House bill, sec. 1309 of the conference agreement, and sec. 169 of the Code)

PRESENT LAW

In general, a taxpayer may elect to recover the cost of any certified pollution control facility over a period of 60 months. A certified pollution control facility is defined as a new, identifiable treatment facility which (1) is used in connection with a plant in operation before January 1, 1976, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing, or preventing the creation or emission of pollutants, contaminants, wastes or heat; and (2) does not lead to a significant increase in output or capacity, a significant extension of useful life, a significant reduction in total operating costs for such plant or other property (or any unit thereof), or a significant alteration in the nature of a manufacturing production process or facility. Certification is required by appropriate State and Federal authorities that the facility complies with appropriate standards.

For a pollution control facility with a useful life greater than 15 years, only the portion of the basis attributable to the first 15 years is eligible to be amortized over a 60-month period. In addition, a corporate taxpayer must reduce the amount of basis otherwise eligible for the 60-month recovery by 20 percent. The amount of basis not eligible for 60-month amortization is depreciable under the regular tax rules for depreciation.

HOUSE BILL

The House bill expands the provision allowing a taxpayer to recover the cost of certain certified air pollution control facilities (but not water pollution control facilities) over 60 months by repealing the requirement that only certified pollution control facilities used in connection with a plant in operation before January 1, 1976 qualify. Under the House bill, a certified air pollution control facility which used in connection with an electric generation plant which is primarily coal fired will be eligible for 60-month amortization regardless of whether the associated plant or other property was in operation prior to January 1, 1976. In the case of a facility used in connection with a plant or other property not in operation before January 1, 1976, the facility must be property that either (i) the construction, reconstruction, or erection of which is completed by the taxpayer after April 11, 2005 (to the extent of the portion of the basis properly attributable to the construction, reconstruction, or erection after that date), or (ii) is acquired after April 11, 2005, if the original use of the property commences with the taxpayer after that date. The House bill does not change the present-law rules relating to corporate taxpayers or to pollution control facilities with a useful life greater than 15 years, and the House bill does not modify in any way the treatment of water pollution control facilities.

Effective date.—The provision is effective for air pollution control facilities placed in service after April 11, 2005.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that the amortization period is 84 months (rather than 60 months) for certified air pollution control facilities used in connection with an electric generation plant which is primarily coal fired and which was not in operation before January 1, 1976.

5. Modification of credit for producing fuel from a non-conventional source (sec. 1305 of the House bill, secs. 1321 and 1322 of the conference agreement, and sec. 29 and new sec. 45K of the Code)

PRESENT LAW

Certain fuels produced from "non-conventional sources" and sold to unrelated parties are eligible for an income tax credit equal to $3 (generally adjusted for inflation) per barrel or Btu oil barrel equivalent ("section 29 credit"). Qualified fuels must be produced within the United States.

Qualified fuels include:

oil produced from shale and tar sands;

gas produced from geopressured brine, Devonian shale, coal seams, tight formations, or biomass; and

liquid, gaseous, or solid synthetic fuels produced from coal (including lignite).

Generally, the section 29 credit has expired, except for certain biomass gas and synthetic fuels sold before January 1, 2008, and produced at facilities placed in service after December 31, 1992, and before July 1, 1998.

The section 29 credit may not exceed the excess of the regular tax liability over the tentative minimum tax. Unused section 29 credits may not be carried forward or carried back to other taxable years. However, to the extent the section 29 credit is disallowed because of the tentative minimum tax, the minimum tax credit allowable in future years is increased by the amount so disallowed.

Other business credits are included in the general business credit (sec. 38). Generally, the general business credit may not exceed the excess of the taxpayer's net income tax over the greater of the taxpayer's tentative minimum tax or 25 percent of so much of the taxpayer's net regular tax liability as exceeds $25,000. General business credits in excess of this limitation may be carried back one year and forward up to 20 years. The section 29 credit is not part of the general business credit.

The section 29 credit includes definitional cross-references and a credit limitation relating to the Natural Gas Policy Act of 1978. The Natural Gas Policy Act of 1978 has been repealed.

HOUSE BILL

The provision makes the credit for producing fuel from a non-conventional source part of the general business credit. Thus, the credit for producing fuel from a non-conventional source will be subject to the limitations applicable to the general business credit. Any unused credits may be carried back one year and forward 20 years.

The provision also makes certain clerical changes in cross-references to the Natural Gas Policy Act of 1978, which has been repealed.

Effective date.—The provision applies to credits determined for taxable years ending after December 31, 2005. The clerical changes are effective on the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House provision with modifications. In addition to making the section 29 credit part of the general business credit, the conference agreement adds a production credit for qualified facilities that produce coke or coke gas. Qualified facilities must have been placed in service before January 1, 1993, or after June 30, 1998, and before January 1, 2010. The conferees understand that a single facility for the production of coke or coke gas is generally composed of multiple coke ovens or similar structures.

The production credit may be claimed with respect to coke and coke gas produced and sold during the period beginning on the later of January 1, 2006, or the date such facility is placed in service and ending on the date which is four years after such period began. The amount of credit-eligible coke produced may not exceed an average barrel-of-oil equivalent of 4,000 barrels per day. The $3.00 credit for coke or coke gas is indexed for inflation using 2004 as the base year instead of

1979. A facility that has claimed a credit under Code section 29(g) is not eligible to claim the new credit for producing coke or coke gas.

The conferees understand that the Internal Revenue Service has stopped issuing private letter rulings and other taxpayer-specific guidance regarding the section 29 credit. The conferees believe that the Internal Revenue Service should consider issuing such rulings and guidance on an expedited basis to those taxpayers who had pending ruling requests at the time the moratorium was implemented.

6. Modification to special rules for nuclear decommissioning costs (sec. 1306 of the House bill, sec. 1310 of the conference agreement, and sec. 468A of the Code)

PRESENT LAW

Overview

Special rules dealing with nuclear decommissioning reserve funds were enacted in the Deficit Reduction Act of 1984 ("1984 Act"), when tax issues regarding the time value of money were addressed generally. Under general tax accounting rules, a deduction for accrual basis taxpayers is deferred until there is economic performance for the item for which the deduction is claimed. However, the 1984 Act contains an exception under which a taxpayer responsible for nuclear powerplant decommissioning may elect to deduct contributions made to a qualified nuclear decommissioning fund for future decommissioning costs. Taxpayers who do not elect this provision are subject to general tax accounting rules.

Qualified nuclear decommissioning fund

A qualified nuclear decommissioning fund (a "qualified fund") is a segregated fund established by a taxpayer that is used exclusively for the payment of decommissioning costs, taxes on fund income, management costs of the fund, and for making investments. The income of the fund is taxed at a reduced rate of 20 percent for taxable years beginning after December 31, 1995.

Contributions to a qualified fund are deductible in the year made to the extent that these amounts were collected as part of the cost of service to ratepayers (the "cost of service requirement"). Funds withdrawn by the taxpayer to pay for decommissioning costs are included in the taxpayer's income, but the taxpayer also is entitled to a deduction for decommissioning costs as economic performance for such costs occurs.

Accumulations in a qualified fund are limited to the amount required to fund decommissioning costs of a nuclear powerplant for the period during which the qualified fund is in existence (generally post-1984 decommissioning costs of a nuclear powerplant). For this purpose, decommissioning costs are considered to accrue ratably over a nuclear powerplant's estimated useful life. In order to prevent accumulations of funds over the remaining life of a nuclear powerplant in excess of those required to pay future decommissioning costs of such nuclear powerplant and to ensure that contributions to a qualified fund are not deducted more rapidly than level funding (taking into account an appropriate discount rate), taxpayers must obtain a ruling from the IRS to establish the maximum annual contribution that may be made to a qualified fund (the "ruling amount"). In certain instances (e.g., change in estimates), a taxpayer is required to obtain a new ruling amount to reflect updated information.

A qualified fund may be transferred in connection with the sale, exchange or other transfer of the nuclear powerplant to which it relates. If the transferee is a regulated public utility and meets certain other requirements, the transfer will be treated as a nontaxable transaction. No gain or loss will be recognized on the transfer of the qualified fund and the transferee will take the transferor's basis in the fund. The transferee is required to obtain a new ruling amount from the IRS or accept a discretionary determination by the IRS.

Nonqualified nuclear decommissioning funds

Federal and State regulators may require utilities to set aside funds for nuclear decommissioning costs in excess of the amount allowed as a deductible contribution to a qualified fund. In addition, taxpayers may have set aside funds prior to the effective date of the qualified fund rules. The treatment of amounts set aside for decommissioning costs prior to 1984 varies. Some taxpayers may have received no tax benefit while others may have deducted such amounts or excluded such amounts from income. Since 1984, taxpayers have been required to include in gross income customer charges for decommissioning costs (sec. 88), and a deduction has not been allowed for amounts set aside to pay for decommissioning costs except through the use of a qualified fund. Income earned in a nonqualified fund is taxable to the fund's owner as it is earned.

HOUSE BILL

Repeal of cost of service requirement

The House bill repeals the cost of service requirement for deductible contributions to a nuclear decommissioning fund. Thus, all taxpayers, including unregulated taxpayers, are allowed a deduction for amounts contributed to a qualified fund.

Permit contributions to a qualified fund for pre-1984 decommissioning costs

The House bill also repeals the limitation that a qualified fund only accumulate an amount sufficient to pay for a nuclear powerplant's decommissioning costs incurred during the period that the qualified fund is in existence (generally post–1984 decommissioning costs). Thus, any taxpayer is permitted to accumulate an amount sufficient to cover the present value of 100 percent of a nuclear powerplant's estimated decommissioning costs in a qualified fund. The House bill does not change the requirement that contributions to a qualified fund not be deducted more rapidly than level funding.

Exception to ruling amount for certain decommissioning costs

The House bill permits a taxpayer to make contributions to a qualified fund in excess of the ruling amount in one circumstance. Specifically, a taxpayer is permitted to contribute up to the present value of total nuclear decommissioning costs with respect to a nuclear powerplant previously excluded under section 468A(d)(2)(A). It is anticipated that an amount that is permitted to be contributed under this special rule shall be determined using the estimate of total decommissioning costs used for purposes of determining the taxpayer's most recent ruling amount. Any amount transferred to the qualified fund under this special rule is allowed as a deduction over the remaining useful life of the nuclear powerplant. If a qualified fund that has received amounts under this rule is transferred to another person, the transferor will be permitted a deduction for any remaining deductible amounts at the time of transfer.

Effective date.—The provision is effective for taxable years beginning after December 31, 2005.

SENATE BILL

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, with the following modification. The conference agreement requires that a taxpayer apply for a new ruling amount with respect to a nuclear powerplant in any tax year in which the powerplant is granted a license renewal, extending its useful life.

7. Arbitrage rules not to apply to prepayments for natural gas (sec. 1307 of the House bill, sec. 1327 of the conference agreement, and sec. 148 of the Code)

PRESENT LAW

Arbitrage restrictions

Interest on bonds issued by States or local governments to finance activities carried out or paid for by those entities generally is exempt from income tax. Restrictions are imposed on the ability of States or local governments to invest the proceeds of these bonds for profit (the "arbitrage restrictions"). One such restriction limits the use of bond proceeds to acquire "investment-type property." The term investment-type property includes the acquisition of property in a transaction involving a prepayment if a principal purpose of the prepayment is to receive an investment return from the time the prepayment is made until the time payment otherwise would be made. A prepayment can produce prohibited arbitrage profits when the discount received for prepaying the costs exceeds the yield on the tax-exempt bonds. In general, prohibited prepayments include all prepayments that are not customary in an industry by both beneficiaries of tax-exempt bonds and other persons using taxable financing for the same transaction.

On August 4, 2003, the Treasury Department issued final regulations deeming to be customary, and not in violation of the arbitrage rules, certain prepayments for natural gas and electricity. Generally, a qualified prepayment under the regulations requires that 90 percent of the natural gas or electricity purchased with the prepayment be used for a qualifying use. Generally, natural gas is used for a qualifying use if it is to be (1) furnished to retail gas customers of the issuing municipal utility who are located in the natural gas service area of the issuing municipal utility, however, gas used to produce electricity for sale is not included under this provision (2) used by the issuing municipal utility to produce electricity that will be furnished to retail electric service area customers of the issuing utility, (3) used by the issuing municipal utility to produce electricity that will be sold to a utility owned by a governmental person and furnished to the service area retail electric customers of the purchaser, (4) sold to a utility that is owned by a governmental person if the requirements of (1), (2) or (3) are satisfied by the purchasing utility (treating the purchaser as the issuing utility) or (5) used to fuel the pipeline transportation of the prepaid gas supply. Electricity is used for a qualifying use if it is to be (1) furnished to retail service area electric customers of the issuing municipal utility or (2) sold to a municipal utility and furnished to retail electric customers of the purchaser who are located in the electricity service area of the purchaser.

Private activity bond tests

State and local bonds may be classified as either governmental bonds or private activity bonds. Governmental bonds are bonds the proceeds of which are primarily used to finance governmental functions or the debt is repaid with governmental funds. Private activity bonds are bonds where the State or local government serves as a conduit providing financing to private businesses or individuals. A bond will be treated as a private activity bond if more than five percent of the proceeds of the bond issue, or, if less, more than $5,000,000 is used (directly or indirectly) to make or finance loans to persons other than governmental units (the "private loan financing test") or if it meets the requirements of a two-part private business test.

The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain purposes permitted by the Code. Section 141(d) of the Code provides that the term "private activity bond" includes any bond issued as part of an issue if the amount of the proceeds of the issue which are to be used (directly or indirectly) for the acquisition by a governmental unit of nongovernmental output property exceeds the lesser of five percent of such proceeds or $5 million. "Nongovernmental output property" generally means any property (or interest therein) which before such acquisition was used (or held for use) by a person other than a governmental unit in connection with an output facility (other than a facility for the furnishing of water). An exception applies to output property which is to be used in connection with an output facility 95 percent or more of the output of which will be consumed in (1) a qualified service area of the governmental unit acquiring the property, or (2) a qualified annexed area of such unit.

HOUSE BILL

In general

The House bill creates a safe harbor exception to the general rule that tax-exempt bond-financed prepayments violate the arbitrage restrictions. The term "investment type property" does not include a prepayment under a qualified natural gas supply contract. The provision also provides that such prepayments are not treated as private loans for purposes of the private business tests.

Under the House bill, a prepayment financed with tax-exempt bond proceeds for the purpose of obtaining a supply of natural gas for service area customers of a governmental utility is not treated as the acquisition of investment-type property. A contract is a qualified natural gas contract if the volume of natural gas secured for any year covered by the prepayment does not exceed the sum of (1) the average annual natural gas purchased (other than for resale) by customers of the utility within the service area of the utility ("retail natural gas consumption") during the testing period, and (2) the amount of natural gas that is needed to fuel transportation of the natural gas to the governmental utility. The testing period is the 5-calendar-year period immediately preceding the calendar year in which the bonds are issued. A retail customer is one who does not purchase natural gas for resale. Natural gas used to generate electricity by a utility owned by a governmental unit is counted as retail natural gas consumption if the electricity was sold to retail customers within the service area of the governmental electric utility.

Adjustments

The volume of gas permitted by the general rule is reduced by natural gas otherwise available on the date of issuance. Specifically, the amount of natural gas permitted to be acquired under a qualified natural gas contract for any period is to be reduced by the applicable share of natural gas held by the utility on the date of issuance of the bonds and natural gas that the utility has a right to acquire for the prepayment period (determined as of the date of issuance). For purposes of the preceding sentence, "applicable share" means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

For purposes of the safe harbor, if after the close of the testing period and before the issue date of the bonds (1) the government utility enters into a contract to supply natural gas (other than for resale) for a commercial person for use at a property within the service area of such utility and (2) the gas consumption for such property was not included in the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period, then the amount of gas permitted to be purchased may be increased to accommodate the contract.

The calculation of average annual retail natural gas consumption for purposes of the safe harbor, however, is not to exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

Intentional acts

The safe harbor does not apply if the utility engages in intentional acts to render (1) the volume of natural gas covered by the prepayment to be in excess of that needed for retail natural gas consumption, and (2) the amount of natural gas that is needed to fuel transportation of the natural gas to the governmental utility.

Definition of service area

Service area is defined as (1) any area throughout which the governmental utility provided (at all times during the testing period) in the case of a natural gas utility, natural gas transmission or distribution services, or in the case of an electric utility, electricity distribution services; (2) limited areas contiguous to such areas, and (3) any area recognized as the service area of the governmental utility under State or Federal law. Contiguous areas are limited to any area within a county contiguous to the area described in (1) in which retail customers of the utility are located if such area is not also served by another utility providing the same service.

Ruling request for higher prepayment amounts

Upon written request, the Secretary may allow an issuer to prepay for an amount of gas greater than that allowed by the safe harbor based on objective evidence of growth in gas consumption or population that demonstrates that the amount permitted by the exception is insufficient.

Nongovernmental output property restrictions

A qualified natural gas supply contract as defined in the provision is not nongovernmental output property for purposes of subsection (d) of section 141. Subsection (d) of section 141 does not apply to prepayment contracts for natural gas or electricity that either under the Treasury regulations or statutory safe harbor are not investment-type property for purposes of the arbitrage rules under section 148. No inference is intended regarding the application of subsection 141(d) to prepayment contracts not covered by the statutory safe harbor or Treasury regulations.

Application to joint action agencies

In a number of States, joint action agencies serve as purchasing agents for their member municipal gas utilities. The provision is intended to allow municipal utilities in a State to participate in such buying arrangements as established under State law, subject to the same limitations that would apply if an individual utility were to purchase gas directly. When acting on behalf of its municipal gas utility members, the total amount of gas that can be purchased by a joint action agency under the provision's exception to the arbitrage rules is the aggregate of what each such member could purchase for itself on a direct basis. Thus, with respect to qualified natural gas supply contracts entered into by joint action agencies for or on behalf of one or more member municipal utilities, the requirements of the safe harbor are tested at the individual municipal utility level based on the amount of gas that would be allocated to such member during any year covered by the contract.

Effective date.—The provision is effective for bonds issued after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

8. Determination of small refiner exception to oil depletion deduction (sec. 1308 of the House bill, sec. 1328 of the conference agreement, and sec. 613A of the Code)

PRESENT LAW

Present law classifies oil and gas producers as independent producers or integrated companies. The Code provides special tax rules for operations by independent producers. One such rule allows independent producers to claim percentage depletion deductions rather than deducting the costs of their asset, a producing well, based on actual production from the well (i.e., cost depletion).

A producer is an independent producer only if its refining and retail operations are relatively small. For example, an independent producer may not have refining operations the runs from which exceed 50,000 barrels on any day in the taxable year during which independent producer status is claimed. A refinery run is the volume of inputs of crude oil (excluding any product derived from oil) into the refining stream.

HOUSE BILL

The bill increases the current 50,000-barrel-per-day limitation to 75,000. In addition, the bill changes the refinery limitation on claiming independent producer status from a limit based on actual daily production to a limit based on average daily production for the taxable year. Accordingly, the average daily refinery runs for the taxable year may not exceed 75,000 barrels. For this purpose, the taxpayer calculates average daily refinery runs by dividing total refinery runs for the taxable year by the total number of days in the taxable year.

Effective date.—The provision is effective for taxable years ending after date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

9. Extension and modification of renewable electricity production credit (secs. 1501–1503 of the Senate amendment, secs. 1301 and 1302 of the conference agreement, and sec. 45 of the Code)

PRESENT LAW

In general

An income tax credit is allowed for the production of electricity from qualified facilities sold by the taxpayer to an unrelated person (sec. 45). Qualified facilities comprise wind energy facilities, closed-loop biomass facilities, open-loop biomass (including agricultural livestock waste nutrients) facilities, geothermal energy facilities, solar energy facilities, small irrigation power facilities, landfill gas facilities, and trash combustion facilities. In addition, an income tax credit is allowed for the production of refined coal.

Credit amounts and credit period

In general

The base amount of the credit is 1.5 cents per kilowatt-hour (indexed for inflation) of electricity produced. The amount of the credit is 1.9 cents per kilowatt-hour for 2005. A taxpayer may claim credit for the 10-year period commencing with the date the qualified facility is placed in service. The credit is reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits. The amount of credit a taxpayer may claim is phased out as the market price of electricity (or refined coal in the case of the refined coal production credit) exceeds certain threshold levels.

Reduced credit amounts and credit periods

In the case of open-loop biomass facilities (including agricultural livestock waste nutrient facilities), geothermal energy facilities, solar energy facilities, small irrigation power facilities, landfill gas facilities, and trash combustion facilities, the 10-year credit period is reduced to five years commencing on the date the facility is placed in service. In general, for eligible pre-existing facilities and other facilities placed in service prior to January 1, 2005, the credit period commences on January 1, 2005. In the case of a closed-loop biomass facility modified to co-fire with coal, to co-fire with other biomass, or to co-fire with coal and other biomass, the credit period begins no earlier than October 22, 2004.

In the case of open-loop biomass facilities (including agricultural livestock waste nutrient facilities), small irrigation power facilities, landfill gas facilities, and trash combustion facilities, the otherwise allowable credit amount is 0.75 cent per kilowatt-hour, indexed for inflation measured after 1992 (currently 0.9 cents per kilowatt-hour for 2005).

Credit applicable to refined coal

The amount of the credit for refined coal is $4.375 per ton (also indexed for inflation after 1992 and equaling $5.481 per ton for 2005).

Other limitations on credit claimants and credit amounts

In general, in order to claim the credit, a taxpayer must own the qualified facility and sell the electricity produced by the facility (or refined coal in the case of the refined coal production credit) to an unrelated party. A lessee or operator may claim the credit in lieu of the owner of the qualifying facility in the case of qualifying open-loop biomass facilities originally placed in service on or before the date of enactment and in the case of a closed-loop biomass facilities modified to co-fire with coal, to co-fire with other biomass, or to co-fire with coal and other biomass. In the case of a poultry waste facility, the taxpayer may claim the credit as a lessee or operator of a facility owned by a governmental unit.

For all qualifying facilities, other than closed-loop biomass facilities modified to co-fire with coal, to co-fire with other biomass, or to co-fire with coal and other biomass, the amount of credit a taxpayer may claim is reduced by reason of grants, tax-exempt bonds, subsidized energy financing, and other credits, but the reduction cannot exceed 50 percent of the otherwise allowable credit. In the case of closed-loop biomass facilities modified to co-fire with coal, to co-fire with other biomass, or to co-fire with coal and other biomass, there is no reduction in credit by reason of grants, tax-exempt bonds, subsidized energy financing, and other credits.

The credit for electricity produced from renewable sources is a component of the general business credit (sec. 38(b)(8)). Generally, the general business credit for any taxable year may not exceed the amount by which the taxpayer's net income tax exceeds the greater of the tentative minimum tax or so much of the net regular tax liability as exceeds $25,000. Excess credits may be carried back one year and forward up to 20 years.

A taxpayer's tentative minimum tax is treated as being zero for purposes of determining the tax liability limitation with respect to the section 45 credit for electricity produced from a facility (placed in service after October 22, 2004) during the first four years of production beginning on the date the facility is placed in service.

Qualified facilities

Wind energy facility

A wind energy facility is a facility that uses wind to produce electricity. To be a qualified facility, a wind energy facility must be placed in service after December 31, 1993, and before January 1, 2006.

Closed-loop biomass facility

A closed-loop biomass facility is a facility that uses any organic material from a plant which is planted exclusively for the purpose of being used at a qualifying facility to produce electricity. In addition, a facility can be a closed-loop biomass facility if it is a facility that is modified to use closed-loop biomass to co-fire with coal, with other biomass, or with both coal and other biomass, but only if the modification is approved under the Biomass Power for Rural Development Programs or is part of a pilot project of the Commodity Credit Corporation.

To be a qualified facility, a closed-loop biomass facility must be placed in service after December 31, 1992, and before January 1, 2006. In the case of a facility using closed-loop biomass but also co-firing the closed-loop biomass with coal, other biomass, or coal and other biomass, a qualified facility must be originally placed in service and modified to co-fire the closed-loop biomass at any time before January 1, 2006.

Open-loop biomass (including agricultural livestock waste nutrients) facility

An open-loop biomass facility is a facility using open-loop biomass to produce electricity. Open-loop biomass is defined as (1) any agricultural livestock waste nutrients, or (2) any solid, nonhazardous, cellulosic or lignin waste material which is segregated from other waste materials and which is derived from certain forest-related resources, solid wood waste materials, or agricultural sources. Eligible forest-related resources are mill residues, other than spent chemicals from pulp manufacturing, precommercial thinnings, slash, and brush. Solid wood waste materials include waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings. Agricultural sources include orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues. However, qualifying open-loop biomass does not include municipal solid waste (garbage), gas derived from biodegradation of solid waste, or paper that is commonly recycled. In addition, open-loop biomass does not include closed-loop biomass or any biomass burned in conjunction with fossil fuel (co-firing) beyond such fossil fuel required for start up and flame stabilization.

Agricultural livestock waste nutrients are defined as agricultural livestock manure and litter, including bedding material for the disposition of manure.

To be a qualified facility, an open-loop biomass facility must be placed in service after October 22, 2004 and before January 1, 2006, in the case of a facility using agricultural livestock waste nutrients and must be placed in service at any time prior to January 1, 2006 in the case of a facility using other open-loop biomass.

Geothermal facility

A geothermal facility is a facility that uses geothermal energy to produce electricity. Geothermal energy is energy derived from a geothermal deposit which is a geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure). To be a qualified facility, a geothermal facility must be placed in service after October 22, 2004 and before January 1, 2006.

Solar facility

A solar facility is a facility that uses solar energy to produce electricity. To be a qualified facility, a solar facility must be placed in service after October 22, 2004 and before January 1, 2006.

Small irrigation facility

A small irrigation power facility is a facility that generates electric power through an irrigation system canal or ditch without any dam or impoundment of water. The installed capacity of a qualified facility must be not less than 150 kilowatts but less than five megawatts. To be a qualified facility, a small irrigation facility must be originally placed in service after October 22, 2004 and before January 1, 2006.

Landfill gas facility

A landfill gas facility is a facility that uses landfill gas to produce electricity. Landfill gas is defined as methane gas derived from the biodegradation of municipal solid waste. To be a qualified facility, a landfill gas facility must be placed in service after October 22, 2004 and before January 1, 2006.

Trash combustion facility

Trash combustion facilities are facilities that burn municipal solid waste (garbage) to produce steam to drive a turbine for the production of electricity. To be a qualified facility, a trash combustion facility must be placed in service after October 22, 2004 and before January 1, 2006.

Refined coal facility

A qualifying refined coal facility is a facility producing refined coal that is placed in service after October 22, 2004 and before January 1, 2009. Refined coal is a qualifying liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high-carbon fly ash, including such fuel used as a feedstock. A qualifying fuel is a fuel that when burned emits 20 percent less nitrogen oxides and either SO_2 or mercury than the burning of feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2003, and if the fuel sells at prices at least 50 percent greater than the prices of the feedstock coal or comparable coal. In addition, to be qualified refined coal the fuel must be sold by the taxpayer with the reasonable expectation that it will be used for the primary purpose of producing steam.

Summary of credit rate and credit period by facility type

TABLE 1.—SUMMARY OF SECTION 45 CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES AND REFINED COAL

Electricity produced from renewable resources	Credit amount for 2005 (cents per kilowatt-hour; dollars per ton)	Credit period (years from placed-in-service date)[1]
Wind	1.9	10
Closed-loop biomass	1.9	10
Open-loop biomass (including agricultural livestock waste nutrient facilities)	0.9	5
Geothermal	1.9	5
Solar	1.9	5
Small irrigation power	0.9	5
Municipal solid waste (including landfill gas facilities and trash combustion facilities)	0.9	5
Refined Coal	5.481	10

[1] For eligible pre-existing facilities and other facilities placed in service prior to January 1, 2005, the credit period commences on January 1, 2005. In the case of certain co-firing closed-loop facilities, the credit period begins no earlier than October 22, 2004.

Taxation of cooperatives and their patrons

For Federal income tax purposes, a cooperative generally computes its income as if it were a taxable corporation, with one exception—the cooperative may exclude from its taxable income distributions of patronage dividends. Generally, cooperatives that are subject to the cooperative tax rules of subchapter T of the Code are permitted a deduction for patronage dividends from their taxable income only to the extent of net income that is derived from transactions with patrons who are members of the cooperative. The availability of such deductions from taxable income has the effect of allowing the cooperative to be treated like a conduit with respect to profits derived from transactions with patrons who are members of the cooperative. Present law does not permit cooperatives to pass any portion of the income tax credit for electricity production through to their patrons.

HOUSE BILL

No provision.

SENATE AMENDMENT

Extension of placed-in-service date for qualifying facilities

The provision extends the placed-in-service date by three years (through December 31, 2008) for the following qualifying facilities: wind facilities; closed-loop biomass facilities (including a facility co-firing the closed-loop biomass with coal, other biomass, or coal and other biomass); open-loop biomass facilities; geothermal facilities; small irrigation power facilities; landfill gas facilities; and trash combustion facilities. The proposal does not extend the terminating placed-in-service date for solar facilities (December 31, 2005) or refined coal facilities (December 31, 2008).

New qualifying energy resources

The provision adds three new qualifying energy resources: fuel cells; hydropower; and wave, current, tidal, and ocean thermal energy.

Fuel cells

A qualifying fuel cell facility is an integrated system composed of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means. A qualifying facility must have an electricity-only generation efficiency of greater than 30 percent, generate at least 0.5 megawatt of electricity, and be placed in service after December 31, 2005 and before January 1, 2009.

Hydropower

A qualifying hydropower facility is (1) a facility that produced hydroelectric power (a hydroelectric dam) prior to the date of enactment at which efficiency improvements or additions to capacity have been made after the date of enactment and before January 1, 2009, that enable the taxpayer to produce incremental hydropower or (2) a facility placed in service before the date of enactment that did not produce hydroelectric power (a nonhydroelectric dam) on the date of enactment and to which turbines or other electricity generating equipment have been added after the date of enactment and before January 1, 2009.

At an existing hydroelectric facility, the taxpayer may only claim credit for the production of incremental hydroelectric power. Incremental hydroelectric power for any taxable year is equal to the percentage of average annual hydroelectric power produced at the facility attributable to the efficiency improvement or additions of capacity determined by using the same water flow information used to determine an historic average annual hydroelectric power production baseline for that facility. The Federal Energy Regulatory Commission will certify the baseline power production of the facility and the percentage increase due to the efficiency and capacity improvements.

At a nonhydroelectric dam, the facility must be licensed by the Federal Energy Regulatory Commission and meet all other applicable environmental, licensing, and regulatory requirements and the turbines or other generating devices are added to the facility after the date of enactment and before January 1, 2009. In addition there must not be any enlargement of the diversion structure, or construction or enlargement of a bypass channel, or the impoundment or any withholding of additional water from the natural stream channel.

In the case of electricity generated from a qualifying hydropower facility, the taxpayer may claim a credit equal to one-half the otherwise allowable amount.

Wave, current, tidal, and ocean thermal energy

A qualifying wave, current, tidal, and ocean thermal energy facility is a facility placed in service after the date of enactment and before January 1, 2009 that uses free flowing ocean water derived from tidal currents, ocean currents, waves, or estuary currents, ocean thermal energy, or free flowing water in rivers, lakes, man-made channels, or streams to produce electricity. However, a qualifying facility does not include any facility that includes impoundment structures or a small irrigation power facility.

Equalization of credit period for all qualifying renewable resources

The provision extends the credit period from five years to 10 years for electricity produced from qualifying open-loop biomass facilities (including agricultural livestock waste nutrient facilities), geothermal facilities, solar facilities, small irrigation power facilities, landfill gas facilities, and trash combustion facilities placed in service after the date of enactment. The provision also provides that for electricity produced from the energy resources newly qualified under the bill—fuel cells, hydropower, and wave, current, tidal, and ocean thermal energy—the credit period is 10 years.

Clarification of units added to pre-existing trash combustion facilities

The provision clarifies that a qualifying trash combustion facility includes a new unit, placed in service after October 22, 2004, that increases electricity production capacity at an existing trash combustion facility. A new unit generally would include a new burner/boiler and turbine. The new unit may share certain common equipment, such as trash handling equipment, with other pre-existing units at the same facility. Electricity produced at a new unit of an existing facility qualifies for the production credit only to the extent of the increased amount of electricity produced at the entire facility.

Taxation of cooperatives and their patrons

The Senate amendment allows eligible cooperatives to elect to pass any portion of the credit through to their patrons. An eligible cooperative is defined as a cooperative organization that is owned more than 50 percent by agricultural producers or entities owned by agricultural producers.

Under the Senate amendment, the credit may be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year. The election must be made on a timely filed return for the taxable year, and once made, is irrevocable for such taxable year.

The amount of the credit apportioned to patrons is not included in the organization's credit for the taxable year of the organization. The amount of the credit apportioned to a patron is included in the taxable year the patron with or within which the taxable year of the organization ends. If the amount of the credit for any taxable year is less than the amount of the credit shown on the cooperative's return for such taxable year, an amount equal to the excess of the reduction in the credit over the amount not apportioned to patrons for the taxable year is treated as an increase in the cooperative's tax. The increase is not treated as tax imposed for purposes of determining the amount of any tax credit.

Effective date.—The provision generally is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with modifications.

Extension of placed-in-service date for qualifying facilities

The conference agreement extends the placed-in-service date by two years (through December 31, 2007) for the following qualifying facilities: wind facilities; closed-loop biomass facilities (including a facility co-firing the closed-loop biomass with coal, other biomass, or coal and other biomass); open-loop biomass facilities; geothermal facilities; small irrigation power facilities; landfill gas facilities; and trash combustion facilities. The conference agreement does not alter the terminating placed-in-service date for solar facilities (December 31, 2005) or refined coal facilities (December 31, 2008).

New qualifying energy resources

The conference agreement adds two new qualifying energy resources: hydropower; and Indian coal.

Hydropower

The conference agreement follows the Senate amendment with respect to hydropower.

Indian coal

The conference agreement adds Indian coal as a new energy source. The taxpayer may claim a credit for sales of coal to an unrelated third party from a qualified facility for the seven- year period beginning on January 1, 2006, and ending after December 31, 2012. The value of the credit is $1.50 per ton for the first four years of the seven-year period and $2.00 per ton for the last three years of the seven-year period. The credit amounts are indexed for inflation. A qualified Indian coal facility is a facility that produces coal from reserves that on June 14, 2005, were owned by a Federally recognized tribe of Indians or were held in trust by the United States for a tribe or its members.

Equalization of credit period for all qualifying renewable resources

The conference agreement follows the Senate amendment with respect to equalization of the credit period for qualifying open-loop biomass facilities (including agricultural livestock waste nutrient facilities), geothermal facilities, solar facilities, small irrigation power facilities, landfill gas facilities, trash combustion facilities, and hydropower facilities. The conference agreement provides a seven-year credit period for Indian coal facilities, as explained above.

Clarification of units added to pre-existing trash combustion facilities

The conference agreement follows the Senate amendment with respect to clarification of units added to pre-existing trash combustion facilities.

Taxation of cooperatives and their patrons

The conference agreement follows the Senate amendment with respect to the taxation of cooperatives and their patrons.

Effective date.—The provision generally is effective on the date of enactment. With respect to the taxation of cooperatives and their patrons, the provision applies to taxable years ending after the date of enactment.

10. Clean renewable energy bonds (sec. 1504 of the Senate amendment, sec. 1303 of the conference agreement, and new sec. 54 of the Code)

PRESENT LAW

Tax-exempt bonds

Interest on State and local governmental bonds generally is excluded from gross income for Federal income tax purposes if the proceeds of the bonds are used to finance direct activities of these governmental units or if the bonds are repaid with revenues of the governmental units. Subject to certain restrictions, activities that can be financed with these tax-exempt bonds include electric power facilities (i.e., generation, transmission, distribution, and retailing).

Generally, interest on State or local government bonds to finance activities of private persons ("private activity bonds") is taxable unless a specific exception is contained in the Code. The term "private person" generally includes the Federal Government and all other individuals and entities other than States or local governments. The Code includes exceptions permitting States or local governments to act as conduits providing tax-exempt financing for certain private activities. In most cases, the aggregate volume of these tax-exempt private activity bonds is restricted by annual aggregate volume limits imposed on bonds issued by issuers within each State. For calendar year 2005, the State volume cap is the greater of $80 per resident or $239 million. The Code imposes several additional restrictions on tax-exempt private activity bonds that do not apply to bonds for governmental activities.

The tax exemption for State and local bonds also does not apply to any arbitrage bond. An arbitrage bond is defined as any bond that is part of an issue if any proceeds of the issue are reasonably expected to be used (or intentionally are used) to acquire higher yielding investments or to replace funds that are used to acquire higher yielding investments. In general, arbitrage profits may be earned only during specified periods (e.g., defined "temporary periods") before funds are needed for the purpose of the borrowing or on specified types of investments (e.g., "reasonably required reserve or replacement funds"). Subject to limited exceptions, investment profits that are earned during these periods or on such investments must be rebated to the Federal government.

An issuer must file with the IRS certain information in order for a bond issue to be tax-exempt. Generally, this information return is required to be filed no later the 15th day of the second month after the close of the calendar quarter in which the bonds were issued.

Qualified zone academy bonds

As an alternative to traditional tax-exempt bonds, States and local governments may issue "qualified zone academy bonds." "Qualified zone academy bonds" are defined as any bond issued by a State or local government, provided that (1) at least 95 percent of the proceeds are used for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other school personnel in a "qualified zone academy" and (2) private entities have promised to contribute to the qualified zone academy certain equipment, technical assistance or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds. A school is a "qualified zone academy" if (1) the school is a public school that provides education and training below the college level, (2) the school operates a special academic program in cooperation with businesses to enhance the academic curriculum and increase graduation and employment rates, and (3) either (a) the school is located in an empowerment zone or enterprise community designated under the Code, or (b) it is reasonably expected that at least 35 percent of the students at the school will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

Financial institutions that hold qualified zone academy bonds are entitled to a nonrefundable tax credit in an amount equal to a credit rate multiplied by the face amount of the bond. The Treasury Department sets the credit rate at a rate estimated to allow issuance of qualified zone academy bonds without discount and without interest cost to the issuer. The credit is includable in gross income (as if it were a taxable interest payment on the bond), and may be claimed against regular income tax and AMT liability. The maximum term of the bond is determined by the Treasury Department, so that the present value of the obligation to repay the bond is 50 percent of the face value of the bond.

There is an annual limitation of $400 million on the amount of qualified zone academy bonds that may be issued in calendar years 1998 through 2005. The $400 million aggregate bond cap is allocated each year to the States according to their respective populations of individuals below the poverty line. Each State, in turn, allocates the credit authority to qualified zone academies within such State.

Tax credits for production of electricity from renewable sources

An income tax credit is allowed for the production of electricity from qualified facilities sold by the taxpayer to an unrelated person. The base amount of the credit is 1.5 cents per kilowatt-hour (indexed for inflation) of electricity produced. The amount of the credit is 1.9 cents per kilowatt-hour for 2005. A taxpayer may claim credit for the 10-year period commencing with the date the qualified facility is placed in service. The credit is reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits. The amount of credit a taxpayer may claim is phased out as the market price of electricity (or refined coal in the case of or refined coal production credit) exceeds certain threshold levels.

Qualified facilities comprise wind energy facilities, closed-loop biomass facilities, open-loop biomass (including agricultural livestock waste nutrients) facilities, geothermal energy facilities, solar energy facilities, small irrigation power facilities, landfill gas facilities, and trash combustion facilities. In addition, an income tax credit is allowed for the production of refined coal.

For purposes of the credit, qualified facilities must be placed in service by certain dates. However, with the exception of qualifying refined coal facilities, in no event may qualifying facilities be placed in service after December 31, 2005.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision creates a new category of tax credit bonds: Clean Renewable Energy Bonds ("CREBs"). CREBs are defined as any bond issued by a qualified issuer if, in addition to the requirements discussed below, 95 percent or more of the proceeds of such bonds are used to finance capital expenditures incurred by qualified borrowers for facilities that qualify for the tax credit under section 45 ("qualified projects"), without regard to the placed-in-service date requirements of that section.

Like qualified zone academy bonds, CREBs are not interest-bearing obligations. Rather, the taxpayer holding CREBs on a credit allowance date would be entitled to a tax credit. The amount of the credit is determined by multiplying the bond's credit rate by the face amount on the holder's bond. The credit rate on the bonds is determined by the Secretary and is to be a rate that permits issuance of CREBs without discount and interest cost to the qualified issuer. The credit accrues quarterly and is includible in gross income (as if it were an interest payment on the bond), and can be claimed against regular income tax liability and alternative minimum tax liability.

The provision also imposes a maximum maturity limitation on any CREBs. The maximum maturity is the term which the Secretary estimates will result in the present value of the obligation to repay the principal on a CREBs being equal to 50 percent of the face amount of such bond. Moreover, the provision requires level amortization of CREBs during the period such bonds are outstanding.

For purposes of the provision, "qualified issuers" include (1) governmental bodies (including Indian tribal governments); (2) the

Tennessee Valley Authority; (3) mutual or cooperative electric companies (described in section 501(c)(12) or section 1381(a)(2)(C), or a not-for-profit electric utility which has received a loan or guarantee under the Rural Electrification Act); and (4) clean energy bond lenders. A clean energy bond lender means a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002. The term "qualified borrower" includes a governmental body, the Tennessee Valley Authority, and a mutual or cooperative electric company.

Under the provision, CREBs are subject to the arbitrage requirements of section 148 that apply to traditional tax-exempt bonds. Principles under section 148 and the regulations thereunder shall apply for purposes of determining the yield restriction and arbitrage rebate requirements applicable to CREBs. For example, for arbitrage purposes, the yield on an issue of CREBs is computed by taking into account all payments of interest, if any, on such bonds, i.e., whether the bonds are issued at par, premium, or discount. However, for purposes of determining yield, the amount of the credit allowed to a taxpayer holding CREBs is not treated as interest, although such credit amount is treated as interest income to the taxpayer.

In addition, to qualify as CREBs, the qualified issuer must reasonably expect to and actually spend 95 percent or more of the proceeds of such bonds on qualified projects within the five-year period that begins on the date of issuance. To the extent less than 95 percent of the proceeds are used to finance qualified projects during the five-year spending period, bonds will continue to qualify as CREBs if unspent proceeds are used within 90 days from the end of such five-year period to redeem any "nonqualified bonds." For these purposes, the amount of nonqualified bonds is to be determined in the same manner as Treasury regulations under section 142. In addition, the provision provides that the five-year spending period may be extended by the Secretary upon the qualified issuer's request.

Unlike qualified zone academy bonds, the provision requires issuers of CREBs to report issuance to the IRS in a manner similar to the information returns required for tax-exempt bonds. Under the provision, there is a national limitation of $1 billion of CREBs that the Secretary may allocate, in the aggregate, to qualified projects. The authority to issue CREBs expires December 31, 2008.

Effective date.—The provision is effective for bonds issued after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with modifications. Under the conference agreement, the term "qualified issuers" includes (1) governmental bodies (including Indian tribal governments); (2) mutual or cooperative electric companies (described in section 501(c)(12) or section 1381(a)(2)(C), or a not-for-profit electric utility which has received a loan or guarantee under the Rural Electrification Act); and (3) clean energy bond lenders. The term "qualified borrower" includes a governmental body (including an Indian tribal government) and a mutual or cooperative electric company.

Under the conference agreement, there is a national limitation of $800 million of CREBs that the Secretary may allocate, in the aggregate, to qualified projects. Qualified projects are any "qualified facilities" within the meaning of section 45 (without regard to the placed-in-service date requirements of that section), other than Indian coal production facilities. In addition, the conference agreement provides that the authority to issue CREBs expires December 31, 2007. However, the Secretary shall not allocate more than $500 million of CREBs to finance qualified projects for qualified borrowers that are governmental bodies (as defined under the conference agreement).

11. Treatment of income of certain electric cooperatives (sec. 1505 of the Senate amendment, sec. 1304 of the conference agreement, and sec. 501(c)(12) of the Code)

PRESENT LAW

In general

Under present law, an entity must be operated on a cooperative basis in order to be treated as a cooperative for Federal income tax purposes. Although not defined by statute or regulation, the two principal criteria for determining whether an entity is operating on a cooperative basis are: (1) ownership of the cooperative by persons who patronize the cooperative; and (2) return of earnings to patrons in proportion to their patronage. The Internal Revenue Service requires that cooperatives must operate under the following principles: (1) subordination of capital in control over the cooperative undertaking and in ownership of the financial benefits from ownership; (2) democratic control by the members of the cooperative; (3) vesting in and allocation among the members of all excess of operating revenues over the expenses incurred to generate revenues in proportion to their participation in the cooperative (patronage); and (4) operation at cost (not operating for profit or below cost).

In general, cooperative members are those who participate in the management of the cooperative and who share in patronage capital. As described below, income from the sale of electric energy by an electric cooperative may be member or non-member income to the cooperative, depending on the membership status of the purchaser. A municipal corporation may be a member of a cooperative.

For Federal income tax purposes, a cooperative generally computes its income as if it were a taxable corporation, with one exception—the cooperative may exclude from its taxable income distributions of patronage dividends. In general, patronage dividends are the profits of the cooperative that are rebated to its patrons pursuant to a pre-existing obligation of the cooperative to do so. The rebate must be made in some equitable fashion on the basis of the quantity or value of business done with the cooperative.

Except for tax-exempt farmers' cooperatives, cooperatives that are subject to the cooperative tax rules of subchapter T of the Code are permitted a deduction for patronage dividends from their taxable income only to the extent of net income that is derived from transactions with patrons who are members of the cooperative. The availability of such deductions from taxable income has the effect of allowing the cooperative to be treated like a conduit with respect to profits derived from transactions with patrons who are members of the cooperative.

Cooperatives that qualify as tax-exempt farmers' cooperatives are permitted to exclude patronage dividends from their taxable income to the extent of all net income, including net income that is derived from transactions with patrons who are not members of the cooperative, provided the value of transactions with patrons who are not members of the cooperative does not exceed the value of transactions with patrons who are members of the cooperative.

Taxation of electric cooperatives exempt from subchapter T

In general, the cooperative tax rules of subchapter T apply to any corporation operating on a cooperative basis (except mutual savings banks, insurance companies, other tax-exempt organizations, and certain utilities), including tax-exempt farmers' cooperatives (described in sec. 521(b)). However, subchapter T does not apply to an organization that is "engaged in furnishing electric energy, or providing telephone service, to persons in rural areas." Instead, electric cooperatives are taxed under rules that were generally applicable to cooperatives prior to the enactment of subchapter T in 1962. Under these rules, an electric cooperative can exclude patronage dividends from taxable income to the extent of all net income of the cooperative, including net income derived from transactions with patrons who are not members of the cooperative.

Tax exemption of rural electric cooperatives

Section 501(c)(12) provides an income tax exemption for rural electric cooperatives if at least 85 percent of the cooperative's income consists of amounts collected from members for the sole purpose of meeting losses and expenses of providing service to its members. The IRS takes the position that rural electric cooperatives also must comply with the fundamental cooperative principles described above in order to qualify for tax exemption under section 501(c)(12). The 85-percent test is determined without taking into account any income from: (1) qualified pole rentals; (2) open access electric energy transmission services; (3) open access electric energy distribution services; (4) any nuclear decommissioning transaction; (5) any asset exchange or conversion transaction.

Income from open access transactions

Income received or accrued by a rural electric cooperative (other than income received or accrued directly or indirectly from a member of the cooperative) from the provision or sale of electric energy transmission services or ancillary services on a nondiscriminatory open access basis under an open access transmission tariff approved or accepted by FERC or under an independent transmission provider agreement approved or accepted by FERC (including an agreement providing for the transfer of control—but not ownership—of transmission facilities) is excluded in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12).

In addition, income is excluded for purposes of the 85-percent test if it is received or accrued by a rural electric cooperative (other than income received or accrued directly or indirectly from a member of the cooperative) from the provision or sale of electric energy distribution services or ancillary services, provided such services are provided on a nondiscriminatory open access basis to distribute electric energy not owned by the cooperative: (1) to end-users who are served by distribution facilities not owned by the cooperative or any of its members; or (2) generated by a generation facility that is not owned or leased by the cooperative or any of its members and that is directly connected to distribution facilities owned by the cooperative or any of its members.

The exclusion for income from open access transactions does not apply to taxable years beginning after December 31, 2006.

Income from nuclear decommissioning transactions

Income received or accrued by a rural electric cooperative from any "nuclear decommissioning transaction" also is excluded in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12). The term "nuclear decommissioning transaction" is defined as—

1. any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the cooperative's interest in a nuclear powerplant or nuclear powerplant unit;
2. any distribution from a trust, fund, or instrument established to pay any nuclear decommissioning costs; or
3. any earnings from a trust, fund, or instrument established to pay any nuclear decommissioning costs.

The exclusion for income from nuclear decommissioning transactions does not apply to taxable years beginning after December 31, 2006.

Income from asset exchange or conversion transactions

Gain realized by a tax-exempt rural electric cooperative from a voluntary exchange or involuntary conversion of certain property is excluded in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12). This provision only applies to the extent that: (1) the gain would qualify for deferred recognition under section 1031 (relating to exchanges of property held for productive use or investment) or section 1033 (relating to involuntary conversions); and (2) the replacement property that is acquired by the cooperative pursuant to section 1031 or section 1033 (as the case may be) constitutes property that is used, or to be used, for the purpose of generating, transmitting, distributing, or selling electricity or natural gas.

The exclusion for income from asset exchange or conversion transactions does not apply to taxable years beginning after December 31, 2006.

Treatment of income from load loss transactions

Tax-exempt rural electric cooperatives

Under present law, income received or accrued by a tax-exempt rural electric cooperative from a "load loss transaction" is treated under section 501(c)(12) as income collected from members for the sole purpose of meeting losses and expenses of providing service to its members. Therefore, income from load loss transactions is treated as member income in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12). In addition, income from load loss transactions does not cause a tax-exempt electric cooperative to fail to be treated for Federal income tax purposes as a mutual or cooperative company under the fundamental cooperative principles described above.

The term "load loss transaction" is generally defined as any wholesale or retail sale of electric energy (other than to a member of the cooperative) to the extent that the aggregate amount of such sales during a seven-year period beginning with the "start-up year" does not exceed the reduction in the amount of sales of electric energy during such period by the cooperative to members. The "start-up year" is defined as the first year that the cooperative offers nondiscriminatory open access or, if later and at the election of the cooperative, 2004.

Present law also excludes income received or accrued by rural electric cooperatives from load loss transactions from the tax on unrelated trade or business income.

The special rule for income received or accrued by a tax-exempt rural electric cooperative from a load loss transaction does not apply to taxable years beginning after December 31, 2006.

Taxable electric cooperatives

The receipt or accrual of income from load loss transactions by taxable electric cooperatives is treated as income from patrons who are members of the cooperative. Thus, income from a load loss transaction is excludible from the taxable income of a taxable electric cooperative if the cooperative distributes such income pursuant to a pre-existing contract to distribute the income to a patron who is not a member of the cooperative. In addition, income from load loss transactions does not cause a taxable electric cooperative to fail to be treated for Federal income tax purposes as a mutual or cooperative company under the fundamental cooperative principles described above.

The special rule for income received or accrued by a taxable electric cooperative from a load loss transaction does not apply to taxable years beginning after December 31, 2006.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment eliminates the sunset date for the rules excluding income received or accrued by tax-exempt rural electric cooperatives from open access electric energy transmission or distribution services, any nuclear decommissioning transaction, and any asset exchange or conversion transaction for purposes of the 85-percent test under section 501(c)(12). The provision also eliminates the sunset date for the rule that allows income from load loss transactions to be treated as member income in determining whether a rural electric cooperative satisfies the 85-percent test. In addition, the provision eliminates the sunset date for the rule that permits taxable electric cooperatives to treat the receipt or accrual of income from load loss transactions as income from patrons who are members of the cooperative.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

12. Dispositions of transmission property to implement FERC restructuring policy (sec. 1506 of the Senate amendment, sec. 1305 of the conference agreement, and sec. 451 of the Code)

PRESENT LAW

Generally, a taxpayer selling property recognizes gain to the extent the sales price (and any other consideration received) exceeds the seller's basis in the property. The recognized gain is subject to current income tax unless the gain is deferred or not recognized under a special tax provision.

One such special tax provision permits taxpayers to elect to recognize gain from qualifying electric transmission transactions ratably over an eight-year period beginning in the year of sale if the amount realized from such sale is used to purchase exempt utility property within the applicable period (the "reinvestment property"). If the amount realized exceeds the amount used to purchase reinvestment property, any realized gain is recognized to the extent of such excess in the year of the qualifying electric transmission transaction.

A qualifying electric transmission transaction is the sale or other disposition of property used by the taxpayer in the trade or business of providing electric transmission services, or an ownership interest in such an entity, to an independent transmission company prior to January 1, 2007. In general, an independent transmission company is defined as: (1) an independent transmission provider approved by the FERC; (2) a person (i) who the FERC determines under section 203 of the Federal Power Act (or by declaratory order) is not a "market participant" and (ii) whose transmission facilities are placed under the operational control of a FERC-approved independent transmission provider before the close of the period specified in such authorization, but not later than January 1, 2007; or (3) in the case of facilities subject to the jurisdiction of the Public Utility Commission of Texas, (i) a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization, or (ii) a political subdivision, or affiliate thereof, whose transmission facilities are under the operational control of an organization described in (i).

Exempt utility property is defined as: (1) property used in the trade or business of generating, transmitting, distributing, or selling electricity or producing, transmitting, distributing, or selling natural gas, or (2) stock in a controlled corporation whose principal trade or business consists of the activities described in (1).

If a taxpayer is a member of an affiliated group of corporations filing a consolidated return, the reinvestment property may be purchased by any member of the affiliated group (in lieu of the taxpayer).

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision extends the treatment under the present-law deferral provision to sales or dispositions to an independent transmission company prior to January 1, 2008.

Effective date.—The Senate amendment provision is effective for transactions occurring after the date of enactment. However, because the provision is an extension of a present law provision which expires on December 31, 2006, only transactions occurring after December 31, 2006 and prior to January 1, 2008 will be affected.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

13. Credit for production from advanced nuclear power facilities (sec. 1507 of the Senate amendment, sec. 1306 of the conference agreement, and new sec. 45J of the Code)

PRESENT LAW

An income tax credit is allowed for production of electricity from qualified facilities sold by the taxpayer to an unrelated person (sec. 45). Qualified facilities comprise wind energy facilities, "closed-loop" biomass facilities, open-loop biomass (including agricultural livestock waste nutrients) facilities, geothermal energy facilities, solar energy facilities, small irrigation power facilities, landfill gas facilities, and trash combustion facilities. The base amount of the credit is 1.5 cents per kilowatt-hour (indexed for inflation) of electricity produced. The amount of the credit is 1.9 cents per kilowatt-hour for 2005. However, electricity produced at open-loop biomass, small irrigation power, and municipal solid waste facilities receives only 50 percent of the credit, or 0.9 cents per kilowatt-hour for 2005. Generally, wind and closed-loop biomass facilities may claim this credit for 10 years from the placed-in-service date of the facility. Other qualified facilities may claim the credit for only five years from the placed-in-service date.

Present law does not provide a credit for electricity produced at advanced nuclear power facilities.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision permits a taxpayer producing electricity at a qualifying advanced nuclear power facility to claim a credit equal to 1.8 cents per kilowatt-hour of electricity produced for the eight-year period starting when the facility is placed in service. The aggregate amount of credit that a taxpayer may claim in any year during the eight-year period is subject to limitation based on allocated capacity and an annual limitation as described below.

A qualifying advanced nuclear facility is an advanced nuclear facility for which the taxpayer has received an allocation of megawatt capacity from the Secretary and is placed in service before January 1, 2021. The taxpayer may only claim credit for production of electricity equal to the ratio of the allocated capacity that the taxpayer receives from the Secretary to the rated nameplate capacity of the taxpayer's facility. For example, if the taxpayer receives an allocation of 750 megawatts of capacity from the Secretary and the taxpayer's facility has a rated nameplate capacity of 1,000 megawatts, then the taxpayer may claim three-quarters of the otherwise allowable credit, or 1.35 cents per kilowatt-hour, for each kilowatt-hour of electricity produced at the facility (subject to the annual limitation described below). The Secretary may allocate up to 6,000 megawatts of capacity.

A taxpayer operating a qualified facility may claim no more than $125 million in tax credits per 1,000 megawatts of allocated capacity in any one year of the eight-year credit period. If the taxpayer operates a 1,350 megawatt rated nameplate capacity system and has received an allocation from the Secretary for 1,350 megawatts of capacity eligible for the credit, the taxpayer's annual limitation on credits that may be claimed is equal to 1.35 times $125 million, or $168.75 million. If the taxpayer operates a facility with a nameplate rated capacity of 1,350 megawatts, but has received an allocation from the Secretary for 750 megawatts of credit eligible capacity, then the two limitations apply such that the taxpayer may claim a credit equal to 1.35 cents per kilowatt-hour of electricity produced (as described above) subject to an annual credit limitation of $93.75 million in credits (three-quarters of $125 million).

An advanced nuclear facility is any nuclear facility for the production of electricity, the reactor design for which was approved after 1993 by the Nuclear Regulatory Commission. For this purpose, a qualifying advanced nuclear facility does not include any facility for which a substantially similar design for a facility of comparable capacity was approved before 1994.

In addition, the credit allowable to the taxpayer is reduced by reason of grants, tax-exempt bonds, subsidized energy financing, and other credits, but such reduction cannot exceed 50 percent of the otherwise allowable credit. The credit is treated as part of the general business credit.

Effective date.—The provision applies to electricity produced in taxable years beginning after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

14. Credit for investment in clean coal facilities (sec. 1508 of the Senate amendment, sec. 1307 of the conference agreement, and new secs. 48A and 48B of the Code)

PRESENT LAW

Present law does not provide an investment credit for electricity production facilities property that uses coal as a fuel or for the gasification of coal or other materials. However, a nonrefundable, 10–percent investment tax credit ("energy credit") is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, or (2) that is used to produce, distribute, or use energy derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage (sec. 48). The energy credit is a component of the general business credit (sec. 38(b)(1)).

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision creates two new 20–percent investment tax credits. Both credits are available only to projects certified by the Secretary of Treasury, in consultation with the Secretary of Energy. Certifications are issued using a competitive bidding process.

With respect to the first investment tax credit, the provision .establishes a 10–year program to produce 7,500 megawatts of power generation capacity using integrated gasification combined cycle ("IGCC") and other advanced coal-based electricity generation technologies. Qualified projects must be economically feasible and use the appropriate clean coal technologies. The Secretary of Treasury, in consultation with the Secretary of Energy, must allocate up to 4,125 megawatts of power generation capacity to credit-eligible projects using IGCC technology. The remaining 3,375 megawatts of power generation capacity must be allocated to credit-eligible projects that use other advanced coal-based technologies.

In determining which projects to certify that use IGCC technology, the Secretary must allocate power generation capacity in relatively equal amounts to projects that use bituminous coal, subbituminous coal, and lignite as primary feedstock. In addition, the Secretary must give high priority to projects which include greenhouse gas capture capability, increased by-product utilization, and other benefits.

With respect to the second investment tax credit, the provision authorizes the certification of certain gasification projects. Qualified gasification projects convert coal, petroleum residue, biomass, or other materials recovered for their energy or feedstock value into a synthesis gas composed primarily of carbon monoxide and hydrogen for direct use or subsequent chemical or physical conversion. Under the provision, certified gasification projects are eligible for the new 20 percent investment tax credit. The total qualified investment which may be certified as eligible for credit under the gasification program may not exceed $4 billion. In addition, the Secretary may certify a maximum of $1 billion in qualified investment as eligible for credit with respect to any single project.

Effective date.—The credits apply to periods after the date of enactment, under rules similar to the rules of section 48(m) (as in effect before its repeal).

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with modifications. Under the conference agreement, the Secretary may allocate investment credits for projects using IGCC and other advanced coal-based technologies based on the amount invested, rather than on megawatts of power generation capacity. The Secretary may allocate $800 million of credits to IGCC projects and $500 million of credits to projects using other advanced coal-based technologies.

Under the agreement, the credit available to IGCC projects remains 20 percent of qualified investments; however, the credit for other advanced coal-based projects is reduced to 15 percent of qualified investments. With respect to IGCC projects, the conference agreement narrows the definition of credit-eligible investments to include only investments in property associated with the gasification of coal, including any coal handling and gas separation equipment. Thus, investments in equipment that could operate by drawing fuel directly from a natural gas pipeline do not qualify for the credit.

The conference agreement retains the 20 percent investment credit for certified gasification projects. The agreement, however, reduces the total amount of gasification credits allocable by the Secretary to $350 million. A maximum of $650 million of credit-eligible investment may be allocated to any single gasification project. The conference agreement also clarifies that only property which is part of a qualifying gasification project and necessary for the gasification technology of such project is eligible for the gasification credit.

15. Clean energy coal bonds (sec. 1509 of the Senate amendment)

PRESENT LAW

Tax-exempt bonds

Interest on State and local governmental bonds generally is excluded from gross income for Federal income tax purposes if the proceeds of the bonds are used to finance direct activities of these governmental units or if the bonds are repaid with revenues of the governmental units. Subject to certain restrictions, activities that can be financed with these tax-exempt bonds include electric power facilities (i.e., generation, transmission, distribution, and retailing).

Generally, interest on State or local government bonds to finance activities of private persons ("private activity bonds") is taxable unless a specific exception is contained in the Code. The term "private person" generally includes the Federal Government and all other individuals and entities other than States or local governments. The Code includes exceptions permitting States or local governments to act as conduits providing tax-exempt financing for certain private activities. In most cases, the aggregate volume of these tax-exempt private activity bonds is restricted by annual aggregate volume limits imposed on bonds issued by issuers within each State. For calendar year 2005, the State volume cap is the greater of $80 per resident or $239 million. The Code imposes several additional restrictions on tax-exempt private activity bonds that do not apply to bonds for governmental activities.

The tax exemption for State and local bonds also does not apply to any arbitrage bond. An arbitrage bond is defined as any bond that is part of an issue if any proceeds of the issue are reasonably expected to be used (or intentionally are used) to acquire higher yielding investments or to replace funds that are used to acquire higher yielding investments. In general, arbitrage profits may be earned only during specified periods (e.g., defined "temporary periods") before funds are needed for the purpose of the borrowing or on specified types of investments (e.g., "reasonably required reserve or replacement funds"). Subject to limited exceptions, investment profits that are earned during these periods or on such investments must be rebated to the Federal Government.

An issuer must file with the IRS certain information in order for a bond issue to be tax-exempt. Generally, this information return is required to be filed no later than the 15th day of the second month after the close of the calendar quarter in which the bonds were issued.

Qualified zone academy bonds

As an alternative to traditional tax-exempt bonds, States and local governments may issue "qualified zone academy bonds." "Qualified zone academy bonds" are defined as any bond issued by a State or local government, provided that (1) at least 95 percent of the proceeds are used for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other school personnel in a "qualified zone academy" and (2) private entities have promised to contribute to the qualified zone academy certain equipment, technical assistance or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds. A school is a "qualified zone academy" if (1) the school is a public school that provides education and training below the college level, (2) the school operates a special academic program in cooperation with businesses to enhance the academic curriculum and increase graduation and employment rates, and (3) either (a) the school is located in an empowerment zone or enterprise community designated under the Code, or (b) it is reasonably expected that at least 35 percent of the students at the school will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

Financial institutions that hold qualified zone academy bonds are entitled to a nonrefundable tax credit in an amount equal to a credit rate multiplied by the face amount of the bond. The Treasury Department sets the credit rate at a rate estimated to allow issuance of qualified zone academy bonds without discount and without interest cost to the issuer. The credit is includable in gross income (as if it were a taxable interest payment on the bond), and may be claimed against regular income tax and AMT liability. The maximum term of the bond is determined by the Treasury Department, so that the present value of the obligation to repay the bond is 50 percent of the face value of the bond.

There is an annual limitation of $400 million on the amount of qualified zone academy bonds that may be issued in calendar years 1998 through 2005. The $400 million aggregate bond cap is allocated each year to the States according to their respective populations of individuals below the poverty line. Each State, in turn, allocates the credit authority to qualified zone academies within such State.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision creates a new category of tax credit bonds: Clean Energy Coal Bonds ("ClECos"). ClECos are defined as any bond issued by a qualified issuer if, in addition to the requirements discussed below, 95 percent or more of the proceeds of such bonds are used to finance capital expenditures incurred by qualified borrowers for "certified coal property." Certified coal property is defined as any property that is part of a qualifying advanced coal project certified by the Secretary.

Like qualified zone academy bonds, ClECos are not interest-bearing obligations. Rather, the taxpayer holding a ClECos on a credit allowance date would be entitled to a tax credit. The amount of the credit is determined by multiplying the bond's credit rate by the face amount on the holder's bond. The credit rate on the bonds is determined by the Secretary and is to be a rate that permits issuance of ClECos without discount and interest cost to the qualified issuer. The credit accrues quarterly and is includible in gross income (as if it were an interest payment on the bond), and can be claimed against regular income tax liability and alternative minimum tax liability.

For purposes of the provision, "qualified issuers" include (1) governmental bodies; (2) the Tennessee Valley Authority; (3) mutual or cooperative electric companies (described in section 501(c)(12) or section 1381(a)(2)(C), or a not-for-profit electric utility which has received a loan or guarantee under the Rural Electrification Act); and (4) clean energy bond lenders. A clean energy bond lender means a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002. The term "qualified borrower" includes a governmental body, the Tennessee Valley Authority, and a mutual or cooperative electric company.

Under the provision, ClECos are subject to the arbitrage requirements of section 148 that apply to traditional tax-exempt bonds. In addition, to qualify as ClECos, the qualified issuer must reasonably expect to and actually spend 95 percent or more of the proceeds of such bonds on certified coal property within the five-year period that begins on the date of issuance. To the extent less than 95 percent of the proceeds are used to finance qualified projects during the five- year spending period, bonds will continue to qualify as ClECos if unspent proceeds are used within 90 days from the end of such five-year period to redeem any "nonqualified bonds." For these purposes, the amount of nonqualified bonds is to be determined in the same manner as Treasury regulations under section 142. In addition, the provision provides that the five-year spending period may be extended by the Secretary upon the qualified issuer's request.

The provision also imposes a maximum maturity limitation on any ClECos. The maximum maturity is the term which the Secretary estimates will result in the present value of the obligation to repay the principal on a ClECos being equal to 50 percent of the face amount of such bond. Moreover, the provision requires level amortization of ClECos during the period such bonds are outstanding.

Unlike qualified zone academy bonds, the provision requires issuers of ClECos to report issuance to the IRS in a manner similar to the information returns required for tax-exempt bonds. Under the provision, there is a national limitation of $1 billion of ClECos that the Secretary may allocate, in the aggregate, to certified coal property projects. The authority to issue ClECos expires December 31, 2010.

Effective date.—The provision is effective for bonds issued after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

16. Credit for investment in clean coke/cogeneration manufacturing facilities (sec. 1511 of the Senate amendment)

PRESENT LAW

Present law does not provide a credit for investment in clean coke/cogeneration manufacturing facilities property.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides a 20-percent investment tax credit for qualified investments in clean coke/cogeneration facilities property. The provision defines clean coke/cogeneration manufacturing facilities property as depreciable real and tangible personal property located in the United States that meets certain emission standards and is used for the manufacture of metallurgical coke or for the production of steam or electricity from waste heat generated during the production of metallurgical coke.

The qualified investment for any taxable year is the basis of each coke/cogeneration facilities property placed in service by the taxpayer during such taxable year. The provision excludes the credit from the basis adjustment rules for investment credit property set out in section 50(c) of the Code. Under the basis adjustment rules, the basis in investment credit property is generally reduced by the amount of the investment credit.

Effective date.—The provision applies to periods after December 31, 2004, and before January 1, 2010, under rules similar to the rules of section 48(m) (as in effect before its repeal).

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

17. Temporary expensing for equipment used in the refining of liquid fuels (sec. 1512 of the Senate amendment, sec. 1323 of the conference agreement, and new sec. 179C of the Code)

PRESENT LAW

Depreciation of refinery assets

Under present law, depreciation allowances for property used in a trade or business generally are determined under the Modified Accelerated Cost Recovery System ("MACRS") of section 168 of the Internal Revenue Code. Under MACRS, petroleum refining assets are depreciated for regular tax purposes over a 10-year recovery period using the double declining balance method. Petroleum refining assets are assets used for distillation, fractionation, and catalytic cracking of crude petroleum into gasoline and its other components. Present law also provides a special expensing rule for small refiners for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.

Taxation of cooperatives and their patrons

For Federal income tax purposes, a cooperative generally computes its income as if it were a taxable corporation, with one exception—the cooperative may exclude from its taxable income distributions of patronage dividends. Generally, cooperatives that are subject to the cooperative tax rules of subchapter T of the Code are permitted a deduction for patronage dividends from their taxable income only to the extent of net income that is derived from transactions with patrons who are members of the cooperative. The availability of such deductions from taxable income has the effect of allowing the cooperative to be treated like a conduit with respect to profits derived from transactions with patrons who are members of the cooperative.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision provides a temporary election to expense qualified refinery property. Qualified refinery property includes assets, located in the United States, used in the refining of liquid fuels: (1) with respect to the construction of which there is a binding construction contract before January 1, 2008; (2) which are placed in service before January 1, 2012; (3) which increase the capacity of an existing refinery by at least five percent or increase the percentage of total throughput attributable to qualified fuels (as defined in present law section 29(c), which is redesignated as section 45K(c) by section 1322(a)(1) of the Act) such that it equals or exceeds 25 percent; and (4) which meet all applicable environmental laws in effect when the property is placed in service.

The expensing election is not available with respect to identifiable refinery property built solely to comply with Federally mandated projects or consent decrees. For example, a taxpayer may not elect to expense the cost of a scrubber, even if the scrubber is installed as part of a larger project, if the scrubber does not increase throughput or increased capacity to accommodate qualified fuels and is necessary for the refinery to comply with the Clean Air Act. This exclusion applies regardless of whether the mandate or consent decree addresses environmental concerns with respect to the refinery itself or the refined fuels.

The Senate amendment provision allows cooperative organizations to pass through to the owners of such organizations the expensing deduction for qualified refinery property. To the extent the deduction is passed through to owners, the cooperative is denied deductions it would otherwise be entitled with respect to qualified refinery property.

As a condition of eligibility for the expensing of equipment used in the refining of liquid fuels, the Senate amendment provision provides that a refinery must report to the IRS concerning its refinery operations (e.g. production and output).

Effective date.—The Senate amendment provision is effective for property placed in service after the date of enactment, the original use of which begins with the taxpayer, provided the property was not subject to a binding contract for construction on or before June 14, 2005.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with the following modifications. Under the conference agreement, the expensing election is limited to 50% of the taxpayer's qualifying expenditures. The remaining 50% is recovered as under present law.

Under the conference agreement, the five percent capacity requirement refers to the output capacity of the refinery, as measured by the volume of finished products other than asphalt and lube oil, rather than input capacity, as measured by rated capacity.

The conference agreement includes a clarification that the expensing election is not available with respect to identifiable refinery property built solely to comply with consent decrees or projects mandated by Federal, State, or local governments.

Finally, an exception to the original use requirement is provided for property which would meet the requirement but for a saleleaseback transaction within the first three months after the property is originally placed in service.

Under the conference agreement, a cooperative organization electing to pass the expensing deduction through to its owners must make such an election on the tax return for the taxable year to which the deduction relates. Once made, the election is irrevocable. Moreover, the organization making the election must provide cooperative owners receiving an allocation of the deduction written notice of the amount of such allocation.

18. Allow pass through to owners of deduction for capital costs incurred by small refiner cooperative in complying with Environmental Protection Agency sulfur regulations (sec. 1513 of the Senate amendment, sec. 1324 of the conference agreement, and sec. 179B of the Code)

PRESENT LAW

Expensing and credit for small refiners

Taxpayers generally may recover the costs of investments in refinery property through annual depreciation deductions. In addition, the Code permits small business refiners to immediately deduct as an expense up to 75 percent of the costs paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency ("EPA"). Costs qualifying for the deduction are those costs paid or incurred with respect to any facility of a small business refiner during the period beginning on January 1, 2003 and ending on the earlier of the date that is one year after the date on which the taxpayer must comply with the applicable EPA regulations or December 31, 2009.

The Code also provides that a small business refiner may claim credit equal to five cents per gallon for each gallon of low sulfur diesel fuel produced during the taxable year that is in compliance with the Highway Diesel Fuel Sulfur Control Requirements. The total production credit claimed by the taxpayer is limited to 25 percent of the capital costs incurred to come into compliance with the EPA diesel fuel requirements. As with the deduction permitted under present law, costs qualifying for the credit are those costs paid or incurred with respect to any facility of a small business refiner during the period beginning on January 1, 2003 and ending on the earlier of the date that is one year after the date on which the taxpayer must comply with the applicable EPA regulations or December 31, 2009. The taxpayer's basis in property with respect to which the credit applies is reduced by the amount of production credit claimed.

For these purposes a small business refiner is a taxpayer who is within the business of refining petroleum products employs not more than 1,500 employees directly in refining and has less than 205,000 barrels per day (average) of total refinery capacity. The deduction is reduced, pro rata, for taxpayers with capacity in excess of 155,000 barrels per day.

In the case of a qualifying small business refiner that is owned by a cooperative, the cooperative is allowed to elect to pass any production credits to patrons of the organization. Present law does not permit cooperatives to pass through to members the deduction permitted for the costs paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirements.

Taxation of cooperatives and their patrons

For Federal income tax purposes, a cooperative generally computes its income as if it were a taxable corporation, with one exception—the cooperative may exclude from its taxable income distributions of patronage dividends. In general, patronage dividends are the profits of the cooperative that are rebated to its patrons pursuant to a pre-existing obligation of the cooperative to do so. The rebate must be made in some equitable fashion on the basis of the quantity or value of business done with the cooperative.

Except for tax-exempt farmers' cooperatives, cooperatives that are subject to the cooperative tax rules of subchapter T of the Code are permitted a deduction for patronage dividends from their taxable income only to the extent of net income that is derived from transactions with patrons who are members of the cooperative. The availability of such deductions from taxable income has the effect of allowing the cooperative to be treated like a conduit with respect to profits derived from transactions with patrons who are members of the cooperative.

Cooperatives that qualify as tax-exempt farmers' cooperatives are permitted to exclude patronage dividends from their taxable income to the extent of all net income, including net income that is derived from transactions with patrons who are not members of the cooperative, provided the value of transactions with patrons who are not members of the cooperative does not exceed the value of transactions with patrons who are members of the cooperative.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment allows cooperatives to pass through to their owners the deduction permitted for costs paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirements. To the extent the deduction is passed through to owners, the cooperative is denied deductions it would otherwise be entitled with respect to costs attributable to complying with the Highway Diesel Fuel Sulfur Control Requirements.

Effective date.—The provision is effective as if included in the amendments made by section 338(a) of the American Jobs Creation Act of 2004.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with modifications. The conference agreement clarifies the manner in which a cooperative organization may elect to pass through to cooperative owners the deduction for costs paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirements. Specifically, the election must be made on the tax return of the organization for the taxable year to which the deduction relates. Once made, the election is irrevocable. Moreover, the organization making such an election must provide cooperative owners receiving an allocation of the deduction written notice of the amount of such allocation. The written notice must be provided by the due date for the tax return on which the election is made.

19. Modification of enhanced oil recovery credit (sec. 1514 of the Senate amendment)

PRESENT LAW

Taxpayers may claim a credit equal to 15 percent of enhanced oil recovery ("EOR") costs (sec. 43). Qualified EOR costs include the following costs associated with an EOR project: (1) amounts paid for depreciable tangible property; (2) intangible drilling and development expenses; (3) tertiary injectant expenses; and (4) construction costs for certain Alaskan natural gas treatment facilities.

The EOR credit is ratably reduced over a $6 phase-out range when the reference price for domestic crude oil exceeds $28 per barrel (adjusted for inflation after 1991). The reference price is determined based on the annual average price of domestic crude oil for the calendar year preceding the calendar year in which the taxable year begins (sec. 29(d)(2)(C)).

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision modifies the EOR credit to increase the credit rate to 20 percent with respect to any new EOR project or substantial expansion of an existing EOR project that occurs after December 31, 2005, and uses carbon dioxide flooding or injection as an oil recovery method. The increased credit is available only for qualified EOR projects that use carbon dioxide that is (1) from an industrial source or (2) separated from natural gas and natural gas liquids at a natural gas processing plant.

The provision also expands the definition of a qualified EOR project to include qualified deep gas well projects. A qualified deep gas well project is defined as any project located in the United States which involves the production of natural gas from onshore formations deeper than 20,000 feet. Under the provision, the credit for qualified deep gas well projects phases out as crude oil prices increase using the same formula applicable to other EOR projects.

Effective date.—The provision applies to costs paid or incurred in taxable years ending after December 31, 2005, but terminates for costs paid or incurred after December 31, 2009.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

B. MISCELLANEOUS ENERGY TAX INCENTIVES

1. Credit for residential energy efficient property (sec. 1311 of the House bill, sec. 1527 of the Senate amendment, sec. 1335 of the conference agreement, and new sec. 25D of the Code)

PRESENT LAW

A taxpayer may exclude from income the value of any subsidy provided by a public utility for the purchase or installation of an energy conservation measure. An energy conservation measure means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit (sec. 136).

There is no present-law credit for residential solar hot water, photovoltaic, or fuel cell property.

HOUSE BILL

The provision provides a personal tax credit for the purchase of qualified photovoltaic property and qualified solar water heating property that is used exclusively for purposes other than heating swimming pools and hot tubs. The credit is equal to 15 percent of qualified investment up to a maximum credit of $2,000 for solar water heating property and $2,000 for rooftop photovoltaic property. The provision also provides a 15-percent personal tax credit for the purchase of qualified fuel cell power plants. The credit may not exceed $500 for each 0.5 kilowatt of capacity. The credit is nonrefundable. The taxpayer's basis in the property is reduced by the amount of the credit.

Qualifying solar water heating property is property that heats water for use in a dwelling unit if at least half of the energy used by such property for such purpose is derived from the sun. Qualified photovoltaic property is property that uses solar energy to generate electricity for use in a dwelling unit. A qualified fuel cell power plant is an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means, and which has an electricity-only generation efficiency of greater than 30 percent.

To qualify for the credit, the property must be installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer. If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusines purposes shall be taken into account. Certain equipment safety requirements need to be met to qualify for the credit. Special proration rules apply in the case of jointly owned property, condominiums, and tenant-stockholders in cooperative housing corporations.

Effective date.—The credit applies to expenditures made after the date of enactment in taxable years ending before January 1, 2008.

SENATE AMENDMENT

The provision provides a personal tax credit for the purchase of qualified photovoltaic property and qualified solar water heating property that is used exclusively for purposes other than heating swimming pools and hot tubs. The credit is equal to 30 percent of qualifying expenditures, with a maximum credit for each of these systems of property of $2,000. The provision also provides a 30 percent credit for the purchase of qualified fuel cell power plants. The credit for any fuel cell may not exceed $500 for each 0.5 kilowatt of capacity.

Qualifying solar water heating property means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence if at least half of the energy used by such property for such purpose is derived from the sun. Qualified photovoltaic property is property that uses solar energy to generate electricity for use in a dwelling unit. A qualified fuel cell power plant is an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that (1) converts a fuel into electricity using electrochemical means, (2) has an electricity-only generation efficiency of greater than 30 percent, and (3) generates at least 0.5 kilowatts of electricity. The qualified fuel cell power plant must be installed on or in connection with a dwelling unit located in the United States and used by the taxpayer as a principal residence.

The credit is nonrefundable, and the depreciable basis of the property is reduced by the amount of the credit. Expenditures for labor costs allocable to onsite preparation, assembly, or original installation of property eligible for the credit are eligible expenditures.

Certain equipment safety requirements need to be met to qualify for the credit. Special proration rules apply in the case of jointly owned property, condominiums, and tenant-stockholders in cooperative housing corporations. If less than 80 percent of the property is used for nonbusiness purposes, only that portion of expenditures that is used for nonbusiness purposes is taken into account.

Effective date.—The credit applies to property placed in service after December 31, 2005 and prior to January 1, 2010.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, but only for property placed in service prior to January 1, 2008.

Effective date.—The credit applies to property placed in service after December 31, 2005 and prior to January 1, 2008.

2. Credit for business installation of qualified fuel cells and stationary microturbine power plants (sec. 1528 of the Senate amendment, sec. 1336 of the conference agreement, and sec. 48 of the Code)

PRESENT LAW

A 10-percent business energy investment tax credit is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, or (2) used to produce, distribute, or use energy derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage.

The business energy investment tax credit is a component of the general business credit. The general business credit generally may not exceed the excess of the taxpayer's net income tax over the greater of (1) the tentative minimum tax or (2) 25 percent of net regular tax liability in excess of $25,000. A general business credit in excess of the tax limitation generally may be carried back one year and carried forward up to 20 years.

There is no present-law credit for fuel cell or microturbine power plant property.

HOUSE BILL

The provision provides a 15-percent credit for the purchase of qualified fuel cell power plants for businesses. The credit is part of the business energy investment tax credit. A qualified fuel cell power plant is an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means, and which has an electricity-only generation efficiency of greater than 30 percent. The credit may not exceed $500 for each 0.5 kilowatt of capacity. The taxpayer's basis in the property is reduced by the amount of the credit claimed.

Effective date.—The provision applies to property placed in service after April 11, 2005, and before January 1, 2008, under rules similar to rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

SENATE AMENDMENT

The provision provides a 30 percent business energy credit for the purchase of qualified fuel cell power plants for businesses. A qualified fuel cell power plant is an integrated system composed of a fuel cell stack assembly and associated balance of plant components that (1) converts a fuel into electricity using electrochemical means, (2) has an electricity-only generation efficiency of greater than 30 percent, and (3) generates at least 0.5 kilowatts of electricity. The credit for any fuel cell may not exceed $500 for each 0.5 kilowatts of capacity.

Additionally, the provision provides a 10-percent credit for the purchase of qualifying stationary microturbine power plants. A qualified stationary microturbine power plant is an integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components that converts a fuel into electricity and thermal energy. Such system also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency and power factors. Such system must have an electricity-only generation efficiency of not less that 26 percent at International Standard Organization conditions and a capacity of less than 2,000 kilowatts. The credit is limited to the lesser of 10 percent of the basis of the property or $200 for each kilowatt of capacity.

Additionally, for purposes of the fuel cell and microturbine credits, and only in the case of telecommunications companies, the provision removes the present-law section 48 restriction that would prevent telecommunication companies from claiming the new credit due to their status as public utilities.

The credit is nonrefundable. The taxpayer's basis in the property is reduced by the amount of the credit claimed.

Effective date.—The credit applies to periods after December 31, 2005 and before January 1, 2010 (January 1, 2009 in the case of micro turbines), for property placed in service in taxable years ending after December 31, 2005, under rules similar to rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, but only for periods before January 1, 2008.

Effective date.—The credit applies to periods after December 31, 2005 and before January 1, 2008, for property placed in service in taxable years ending after December 31, 2005, under rules similar to rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

3. Business solar investment tax credit (sec. 1529 of the Senate amendment, sec. 1337 of the conference agreement, and sec. 48 of the Code)

PRESENT LAW

A nonrefundable, 10-percent business energy credit is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, or (2) used to produce, distribute, or use energy derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage.

The business energy tax credits are components of the general business credit (sec. 38(b)(1)). The business energy tax credits, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of so much of the net regular tax liability as exceeds $25,000 or (2) the tentative minimum tax. An unused general business credit generally may be carried back one year and carried forward 20 years (sec. 39).

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision increases the 10-percent credit to 30-percent in the case of solar energy property. Additionally, the provision provides that equipment that uses fiber-optic distributed sunlight to illuminate the inside of a structure is solar energy property eligible for the 30-percent credit. The provision provides that property used to generate energy for the purposes of heating a swimming pool is not eligible solar energy property.

Effective date.—The provision applies to periods after December 31, 2005 and before January 1, 2012 for property placed in service in taxable years ending after December 31, 2005, under rules similar to rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, but only for periods before January 1, 2008 with respect to the 30-percent credit and the fiber-optic distributed sunlight. The conference agreement makes permanent the provision that provides that property used to generate energy for the purposes of heating a swimming pool is not eligible solar energy property.

Effective date.—The provision with respect to the heating of swimming pools applies to periods after December 31, 2005. The increase in the credit rate and the provision related to fiber-optic distributed sunlight applies to periods after December 31, 2005 and before January 1, 2008 for property placed in service in taxable years ending after December 31, 2005, under rules similar to rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

4. Diesel-water fuel emulsion (sec. 1313 of the House bill, sec. 1343 of the conference agreement, and sec. 4081 of the Code)

PRESENT LAW

A 24.3-cents-per-gallon excise tax is imposed on diesel fuel to finance the Highway Trust Fund. Gasoline and most special motor fuels are subject to tax at 18.3 cents per gallon for the Trust Fund.

The tax rate for certain special motor fuels is determined, on an energy equivalent basis, as follows:

Liquefied petroleum gas (propane)	13.6 cents per gallon
Liquefied natural gas	11.9 cents per gallon
Methanol derived from natural gas	9.15 cents per gallon
Compressed natural gas	48.54 cents per MCF

No special tax rate is provided for diesel fuel blended with water to form a diesel-water fuel emulsion.

HOUSE BILL

A special tax rate of 19.7 cents per gallon is provided for diesel fuel blended with water into a diesel-water fuel emulsion to reflect the reduced Btu content per gallon resulting from the water. Emulsion fuels eligible for the special rate must consist of not more than 83.1 percent diesel (and other minor chemical additives to enhance combustion) and at least 16.9 percent water. The emulsion addition must be registered by a United States manufacturer with the Environmental Protection Agency pursuant to section 211 of the Clean Air Act (as in effect on March 31, 2003). A refund of the difference between the regular rate (24.3 cents per gallon) and the incentive rate (19.7 cents per gallon) is available to the extent tax-paid diesel is used to produce a qualifying emulsion diesel fuel. Anyone who separates the diesel fuel from the diesel-water fuel emulsion on which a reduced rate of tax was imposed is treated as a refiner of the fuel and is liable for the difference between the amount of tax on the latest removal of the separated fuel and the amount of tax that was imposed upon the pre-mixture removal.

Effective date.—The provision is effective on January 1, 2006.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill except the diesel-water emulsion fuels eligible for the special rate must consist of least 14 percent water. In addition, the person claiming entitlement to the special rate of tax must be registered with the Secretary. The conference agreement clarifies that claims for refund based on the incentive rate may be filed quarterly if such person can claim at least $750. If the person cannot claim at least $750 at the end of quarter, the amount can be carried over to the next quarter to determine if the person can claim at least $750. If the person cannot claim at least $750 at the end of the taxable year, the person must claim a credit on the person's income tax return.

5. Amortization of delay rental payments (sec. 1314 of the House bill)

PRESENT LAW

Present law generally requires costs associated with inventory and property held for resale to be capitalized rather than currently deducted as they are incurred (sec. 263). Oil and gas producers typically contract for mineral production in exchange for royalty payments. If mineral production is delayed, these contracts provide for "delay rental payments" as a condition of their extension. The Internal Revenue Service has taken the position that the uniform capitalization rules of section 263A require delay rental payments to be capitalized.

HOUSE BILL

The provision allows delay rental payments incurred in connection with the development of oil or gas within the United States to be amortized over two years. In the case of abandoned property, remaining basis may no longer be recovered in the year of abandonment of a property as all basis is recovered over the two-year amortization period.

Effective date.—The provision applies to amounts paid or incurred in taxable years beginning after the date of enactment. No inference is intended from the prospective effective date of this provision as to the proper treatment of pre-effective date delay rental payments.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House provision.

6. Amortization of geological and geophysical expenditures (sec. 1315 of the House bill, sec. 1329 of the conference agreement, and sec. 167 of the Code)

PRESENT LAW

In general

Geological and geophysical expenditures ("G&G costs") are costs incurred by a taxpayer for the purpose of obtaining and accumulating data that will serve as the basis for the acquisition and retention of mineral properties by taxpayers exploring for minerals. A key issue with respect to the tax treatment of such expenditures is whether or not they are capital in nature. Capital expenditures are not currently deductible as ordinary and necessary business expenses, but are allocated to the cost of the property.

Courts have held that G&G costs are capital, and therefore are allocable to the cost of the property acquired or retained. The costs attributable to such exploration are allocable to the cost of the property acquired or retained. As described further below, IRS administrative rulings have provided further guidance regarding the definition and proper tax treatment of G&G costs.

Revenue Ruling 77–188

In Revenue Ruling 77-188 (hereinafter referred to as the "1977 ruling"), the IRS provided guidance regarding the proper tax treatment of G&G costs. The ruling describes a typical geological and geophysical exploration program as containing the following elements:

It is customary in the search for mineral producing properties for a taxpayer to conduct an exploration program in one or more identifiable project areas. Each project area encompasses a territory that the taxpayer determines can be explored advantageously in a single integrated operation. This determination is made after analyzing certain variables such as (1) the size and topography of the project area to be explored, (2) the existing information available with respect to the project area and nearby areas, and (3) the quantity of equipment, the number of personnel, and the amount of money available to conduct a reasonable exploration program over the project area.

The taxpayer selects a specific project area from which geological and geophysical data are desired and conducts a reconnaissance-type survey utilizing various geological and geophysical exploration techniques. These techniques are designed to yield data that will afford a basis for identifying specific geological features with sufficient mineral potential to merit further exploration.

Each separable, noncontiguous portion of the original project area in which such a specific geological feature is identified is a separate "area of interest." The original project area is subdivided into as many small projects as there are areas of interest located and identified within the original project area. If the circumstances permit a detailed exploratory survey to be conducted without an initial reconnaissance-type survey, the project area and the area of interest will be coextensive.

The taxpayer seeks to further define the geological features identified by the prior reconnaissance-type surveys by additional, more detailed, exploratory surveys conducted with respect to each area of interest. For this purpose, the taxpayer engages in more intensive geological and geophysical exploration employing methods that are designed to yield sufficiently accurate sub-surface data to afford a basis for a decision to acquire or retain properties within or adjacent to a particular area of interest or to abandon the entire area of interest as unworthy of development by mine or well.

The 1977 ruling provides that if, on the basis of data obtained from the preliminary geological and geophysical exploration operations, only one area of interest is located and identified within the original project area, then the entire expenditure for those exploratory operations is to be allocated to that one area of interest and thus capitalized into the depletable basis of that area of interest. On the other hand, if two or more areas of interest are located and identified within the original project area, the entire expenditure for the exploratory operations is to be allocated equally among the various areas of interest.

If no areas of interest are located and identified by the taxpayer within the original project area, then the 1977 ruling states that the entire amount of the G&G costs related to the exploration is deductible as a loss under section 165. The loss is claimed in the taxable year in which that particular project area is abandoned as a potential source of mineral production.

A taxpayer may acquire or retain a property within or adjacent to an area of interest, based on data obtained from a detailed survey that does not relate exclusively to any discrete property within a particular area of interest. Generally, under the 1977 ruling, the taxpayer allocates the entire amount of G&G costs to the acquired or retained property as a capital cost under section 263(a). If more than one property is acquired, it is proper to determine the amount of the G&G costs allocable to each such property by allocating the entire amount of the costs among the properties on the basis of comparative acreage.

If, however, no property is acquired or retained within or adjacent to that area of interest, the entire amount of the G&G costs allocable to the area of interest is deductible as a loss under section 165 for the taxable year in which such area of interest is abandoned as a potential source of mineral production.

In 1983, the IRS issued Revenue Ruling 83–105, which elaborates on the positions set forth in the 1977 ruling by setting forth seven factual situations and applying the principles of the 1977 ruling to those situations. In addition, Revenue Ruling 83-105 explains what constitutes "abandonment as a potential source of mineral production."

HOUSE BILL

The provision allows geological and geophysical amounts incurred in connection with oil and gas exploration in the United States to be amortized over two years. In the case of abandoned property, remaining basis may no longer be recovered in the year of abandonment of a property as all basis is recovered over the two-year amortization period.

Effective date.—The provision is effective for geological and geophysical costs paid or incurred in taxable years beginning after the date of enactment. No inference is intended from the prospective effective date of this provision as to the proper treatment of pre-effective date geological and geophysical costs.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

7. Alternative technology vehicle credits (sec. 1316 of the House bill, sec. 1553 of the Senate amendment, secs. 1341 and 1348 of the conference agreement, sec. 179A of the Code, and new sec. 30B of the Code)

PRESENT LAW

Certain costs of qualified clean-fuel vehicle may be expensed and deducted when such property is placed in service (sec. 179A). Qualified clean-fuel vehicle property includes motor vehicles that use certain clean-burning fuels (natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity and any other fuel at least 85 percent of which is methanol, ethanol, any other alcohol or ether). The maximum amount of the deduction is $50,000 for a truck or van with a gross vehicle weight over 26,000 pounds or a bus with seating capacities of at least 20 adults; $5,000 in the case of a truck or van with a gross vehicle weight between 10,000 and 26,000 pounds; and $2,000 in the case of any other motor vehicle. Qualified electric vehicles do not qualify for the clean-fuel vehicle deduction. The deduction is reduced to 25 percent of the otherwise allowable deduction in 2006 and is unavailable for purchases after December 31, 2006.

HOUSE BILL

The House bill provides a credit for each new qualified advanced lean-burn technology motor vehicle placed in service by the taxpayer during the taxable year. The amount of the credit for any vehicle is the sum of an amount for fuel efficiency and an amount for conservation. The amount for fuel efficiency is based on a comparison of the fuel efficiency of the vehicle compared to the Environmental Protection Agency's 2000 model year city fuel economy for a vehicle in the same inertia weight class. The amount for conservation is based on the qualifying vehicle's estimated lifetime fuel savings compared to the same 2000 model year standard.

Table 2, below, shows the credit amount for fuel efficiency of a qualified advanced lean- burn technology motor vehicle.

TABLE 2.—FUEL EFFICIENCY CREDIT AMOUNT FOR QUALIFIED ADVANCED LEAN-BURN TECHNOLOGY MOTOR VEHICLES

Credit Amount	If Fuel Economy of the Vehicle Is:	
	at least	but less than
$500	125% of base fuel economy	150% of base fuel economy
1,000	150% of base fuel economy	175% of base fuel economy
1,500	175% of base fuel economy	200% of base fuel economy
2,000	200% of base fuel economy	225% of base fuel economy
2,500	225% of base fuel economy	250% of base fuel economy
3,000	250% of base fuel economy	

The credit amount for conservation of a qualified advanced lean burn technology vehicle is computed as follows. The vehicle is assumed to be driven 120,000 miles over its life. The 120,000 miles of lifetime mileage is divided by the fuel economy rating of the vehicle. The 120,000 miles of lifetime mileage also is divided by the 2000 model year city economy for a vehicle in the same inertia weight class. The difference is the lifetime fuel savings. If the vehicle achieves a lifetime motor fuel savings between 1,500 and 2,500 gallons of fuel, the credit amount for the vehicle is $250. If the vehicle achieves a lifetime fuel savings of at least 2,500 gallons of motor fuel, the credit amount is $500.

The base fuel economy is the 2000 model year city fuel economy for vehicles by inertia weight class by vehicle type. The "vehicle inertia weight class" is that defined in regulations prescribed by the Environmental Protection Agency for purposes of Title II of the Clean Air Act. A qualifying advanced lean-burn technology motor vehicle means a motor vehicle the original use of which commences with the taxpayer, powered by an internal combustion engine that is designed to operate primarily using more air than is necessary for complete combustion of the fuel and incorporates direct injection, that uses only diesel fuel (as defined in section 4083(a)(3)), has sufficient fuel economy to qualify for the credit, and meets the Environmental Protection Agency's Tier II bin 8 emissions standards. In addition, in order to qualify for a credit, a vehicle must be in compliance with the applicable provisions of the Clean Air Act and the motor vehicle safety provisions.

In general, the credit is allowed to the vehicle owner, including the lessor of a vehicle subject to a lease. If the use of the vehicle is described in paragraph (3) or (4) of section 50(b) (relating to use by tax-exempts, governments, and foreign persons) and is not subject to a lease, the seller of the vehicle may claim the credit so long the seller clearly discloses to the user in a document the amount that is allowable as a credit. A vehicle must be used predominantly in the United States to qualify for the credit.

The provision permits the credit to offset both the regular tax and the alternative minimum tax. Credits in excess of this limitation may be carried forward for up to 20 years; credits may not be carried back to earlier years.

Effective date.—The provision is effective for property placed in service after the date of enactment and before January 1, 2008.

SENATE AMENDMENT

Alternative motor vehicle credits

The Senate amendment provides a credit for each new qualified fuel cell vehicle, each new qualified hybrid motor vehicle, and each new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

In general, the credit is allowed to the vehicle owner, including the lessor of a vehicle subject to a lease. If the use of the vehicle is described in paragraphs (3) or (4) of section 50(b) (relating to use by tax-exempts, governments, and foreign persons) and is not subject to a lease, the seller of the vehicle may claim the credit so long as the seller clearly discloses to the user in a document the amount that is allowable as a credit. A vehicle must be used predominantly in the United States to qualify for the credit.

Any deduction otherwise allowable under section 179A is reduced by the amount of the credit allowable.

The provision permits the credit to offset the excess of the regular tax (reduced by certain credits) over the alternative minimum tax. Credits in excess of this limitation may be carried back for up to three years and forward for up to 20 years; credits may not be carried back to taxable years beginning before the date of enactment and credits for vehicles used for personal use may not be carried back.

Fuel cell vehicles

A qualifying fuel cell vehicle is a motor vehicle that is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle and may or may not require reformation prior to use. The amount of credit for the purchase of a fuel cell vehicle is determined by a base credit amount that depends upon the weight class of the vehicle and, in the case of automobiles or light trucks, an additional credit amount that depends upon the rated fuel economy of the vehicle compared to a base fuel economy. For these purposes the base fuel economy is the 2002 model year city fuel economy rating for vehicles of various weight classes (see below). Table 3, below, shows the proposed base credit amounts.

TABLE 3.—BASE CREDIT AMOUNT FOR FUEL CELL VEHICLES

Vehicle Gross Weight Rating in Pounds	Credit Amount
Vehicle ≤ 8,500	$8,000
8,500 < vehicle ≤ 14,000	10,000
14,000 < vehicle ≤ 26,000	20,000
26,000 < vehicle	40,000

In the case of a fuel cell vehicle weighing less than 8,500 pounds and placed in service after December 31, 2009, the $8,000 amount in Table 3, above is reduced to $4,000.

Table 4, below, shows the proposed additional credits for passenger automobiles or light trucks.

Table 4.—CREDIT FOR QUALIFYING FUEL CELL VEHICLES

Credit	If Fuel Economy of the Fuel Cell Vehicle Is:	
	At least	but less than
$1,000	150% of base fuel economy	175% of base fuel economy
1,500	175% of base fuel economy	200% of base fuel economy
2,000	200% of base fuel economy	225% of base fuel economy
2,500	225% of base fuel economy	250% of base fuel economy
3,000	250% of base fuel economy	275% of base fuel economy
3,500	275% of base fuel economy	300% of base fuel economy
4,000	300% of base fuel economy	

Hybrid motor vehicles

A qualifying hybrid vehicle is a motor vehicle that draws propulsion energy from onboard sources of stored energy which include both an internal combustion engine or heat engine using combustible fuel and a rechargeable energy storage system (e.g., batteries). A qualifying hybrid motor vehicle must be placed in service before January 1, 2010.

In the case of an automobile or light truck (vehicles weighing 8,500 pounds or less), the amount of credit for the purchase of a hybrid vehicle varies with the rated fuel economy of the vehicle compared to a 2002 model year. A qualifying hybrid automobile or light truck must have a maximum available power from the rechargeable energy storage system of at least five percent. In addition, the vehicle must meet or exceed certain EPA emissions standards. For a vehicle with a gross vehicle weight rating of 8,500 pounds or less the applicable emissions standards are the Bin 5 Tier II emissions standards.

Table 5, below, shows the fuel economy credit available to a hybrid passenger automobile or light truck whose fuel economy (on a gasoline gallon equivalent basis) exceeds that of a base fuel economy.

Table 5.—Fuel Economy Credit

Credit	If Fuel Economy of the Fuel Cell Vehicle Is:	
	At least	but less than
$400	125% of base fuel economy	150% of base fuel economy
800	150% of base fuel economy	175% of base fuel economy
1,200	175% of base fuel economy	200% of base fuel economy
1,600	200% of base fuel economy	225% of base fuel economy
2,000	225% of base fuel economy	250% of base fuel economy
2,400	250% of base fuel economy	

In the case of a qualifying hybrid motor vehicle weighing more than 8,500 pounds, the amount of credit is determined by the estimated increase in fuel economy and the incremental cost of the hybrid vehicle compared to a comparable vehicle powered solely by a gasoline or diesel internal combustion engine and that is comparable in weight, size, and use of the vehicle. For a vehicle that achieves a fuel economy increase of at least 30 percent but less than 40 percent, the credit is equal to 20 percent of the incremental cost of the hybrid vehicle. For a vehicle that achieves a fuel economy increase of at least 40 percent but less than 50 percent, the credit is equal to 30 percent of the incremental cost of the hybrid vehicle. For a vehicle that achieves a fuel economy increase of 50 percent or more, the credit is equal to 40 percent of the incremental cost of the hybrid vehicle.

The credit is subject to certain maximum applicable incremental cost amounts. For a qualifying hybrid motor vehicle weighing more than 8,500 pounds but not more than 14,000 pounds, the maximum allowable incremental cost amount is $7,500. For a qualifying hybrid motor vehicle weighing more than 14,000 pounds but not more than 26,000 pounds, the maximum allowable incremental cost amount is $15,000. For a qualifying hybrid motor vehicle weighing more than 26,000 pounds, the maximum allowable incremental cost amount is $30,000.

A qualifying hybrid motor vehicle weighing more than 8,500 pounds but not more than 14,000 pounds must have a maximum available power from the rechargeable energy storage system of at least 10 percent. A qualifying hybrid vehicle weighing more than 14,000 pounds must have a maximum available power from the rechargeable energy storage system of at least 15 percent.

Alternative fuel vehicle

The credit for the purchase of a new alternative fuel vehicle would be 50 percent of the incremental cost of such vehicle, plus an additional 30 percent if the vehicle meets certain emissions standards, but not more than between $4,000 and $32,000 depending upon the weight of the vehicle. Table 8, below, shows the maximum permitted incremental cost for the purpose of calculating the credit for alternative fuel vehicles by vehicle weight class.

TABLE 6.—MAXIMUM ALLOWABLE INCREMENTAL COST FOR CALCULATION OF ALTERNATIVE FUEL VEHICLE CREDIT

Vehicle Gross Weight Rating in Pounds	Maximum Allowable Incremental Cost
Vehicle ≤ 8,500	$5,000
8,500 < vehicle ≤ 14,000	10,000
14,000 < vehicle ≤ 26,000	25,000
26,000 < vehicle	40,000

Alternative fuels comprise compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid fuel that is at least 85 percent methanol. Qualifying alternative fuel motor vehicles are vehicles that operate only on qualifying alternative fuels and are incapable of operating on gasoline or diesel (except in the extent gasoline or diesel fuel is part of a qualified mixed fuel, described below).

Certain mixed fuel vehicles, that is vehicles that use a combination of an alternative fuel and a petroleum-based fuel, are eligible for a reduced credit. If the vehicle operates on a mixed fuel that is at least 75 percent alternative fuel, the vehicle is eligible for 70 percent of the otherwise allowable alternative fuel vehicle credit. If the vehicle operates on a mixed fuel that is at least 90 percent alternative fuel, the vehicle is eligible for 90 percent of the otherwise allowable alternative fuel vehicle credit.

Base fuel economy

The base fuel economy is the 2002 model year city fuel economy for vehicles by inertia weight class by vehicle type. The "vehicle inertia weight class" is that defined in regulations prescribed by the Environmental Protection Agency for purposes of Title II of the Clean Air Act.

Table 7, below, shows the 2002 model year city fuel economy for vehicles by type and by inertia weight class.

TABLE 7.—2002 MODEL YEAR CITY FUEL ECONOMY

Vehicle Inertia Weight Class (Pounds)	Passenger Automobile (miles per gallon)	Light Truck (miles per gallon)
1,500	45.2	39.4

TABLE 7.—2002 MODEL YEAR CITY FUEL ECONOMY—Continued

Vehicle Inertia Weight Class (Pounds)	Passenger Automobile (miles per gallon)	Light Truck (miles per gallon)
1,750	45.2	39.4
2,000	39.6	35.2
2,250	35.2	31.8
2,500	31.7	29.0
2,750	28.8	26.8
3,000	26.4	24.9
3,500	22.6	21.8
4,000	19.8	19.4
4,500	17.6	17.6
5,000	15.9	16.1
5,500	14.4	14.8
6,000	13.2	13.7
6,500	12.2	12.8
7,000	11.3	12.1
8,500	11.3	12.1

Effective date.—The provision applies to vehicles placed in service after the date of enactment and, in the case of qualified fuel cell motor vehicles, before January 1, 2015; in the case of qualified hybrid motor vehicles, before January 1, 2010; and in the case of qualified alternative fuel motor vehicles, before January 1, 2011.

CONFERENCE AGREEMENT

The conference agreement follows both the House bill and the Senate amendment with modifications.

Fuel cell vehicles

The conference agreement follows the Senate amendment with respect to fuel cell vehicles.

Alternate fuel vehicles

The conference agreement follows the Senate amendment with respect to alternate fuel vehicles.

Hybrid vehicles and advanced lean-burn technology vehicles

Qualifying hybrid vehicle

A qualifying hybrid vehicle is a motor vehicle that draws propulsion energy from onboard sources of stored energy which include both an internal combustion engine or heat engine using combustible fuel and a rechargeable energy storage system (e.g., batteries). A qualifying hybrid motor vehicle must be placed in service before January 1, 2011 (January 1, 2010 in the case of a hybrid motor vehicle weighing more than 8,500 pounds).

HYBRID VEHICLES THAT ARE AUTOMOBILES AND LIGHT TRUCKS

In the case of an automobile or light truck (vehicles weighing 8,500 pounds or less), the amount of credit for the purchase of a hybrid vehicle is the sum of two components: a fuel economy credit amount that varies with the rated fuel economy of the vehicle compared to a 2002 model year standard and a conservation credit based on the estimated lifetime fuel savings of a qualifying vehicle compared to a comparable 2002 model year vehicle. A qualifying hybrid automobile or light truck must have a maximum available power from the rechargeable energy storage system of at least four percent. In addition, the vehicle must meet or exceed certain EPA emissions standards. For a vehicle with a gross vehicle weight rating of 6,000 pounds or less the applicable emissions standards are the Bin 5 Tier II emissions standards. For a vehicle with a gross vehicle weight rating greater than 6,000 pounds and less than or equal to 8,500 pounds, the applicable emissions standards are the Bin 8 Tier II emissions standards.

Table 8, below, shows the fuel economy credit available to a hybrid passenger automobile or light truck whose fuel economy (on a gasoline gallon equivalent basis) exceeds that of a base fuel economy.

TABLE 8.—FUEL ECONOMY CREDIT

Credit	If Fuel Economy of the Hybrid Vehicle Is:	
	at least	but less than
$400	125% of base fuel economy	150% of base fuel economy
800	150% of base fuel economy	175% of base fuel economy
1,200	175% of base fuel economy	200% of base fuel economy
1,600	200% of base fuel economy	225% of base fuel economy
2,000	225% of base fuel economy	250% of base fuel economy
2,400	250% of base fuel economy	

Table 9, below, shows the conservation credit.

TABLE 9.—CONSERVATION CREDIT

Estimated Lifetime Fuel Savings	Conservation Amount
At least 1,200 but less than 1,800	$250
At least 1,800 but less than 2,400	500
At least 2,400 but less than 3,000	750
At least 3,000	1,000

Advanced lean-burn technology motor vehicles

The conference agreement a credit for the purchase of a new advanced lean burn technology motor vehicle. The amount of credit for the purchase of an advanced lean burn technology motor vehicle is the sum of two components: a fuel economy credit amount that varies with the rated fuel economy of the vehicle compared to a 2002 model year standard as described in Table 8, above and a conservation credit based on the estimated lifetime fuel savings of a qualifying vehicle compared to a comparable 2002 model year vehicle as described in Table 9 above.

A qualifying advanced lean burn technology motor vehicle that incorporates direct injection, achieves at least 125 percent of the 2002 model year city fuel economy, and 2004 and later model vehicles meets or exceeds certain Environmental Protection Agency emissions standards. For a vehicle with a gross vehicle weight rating of 6,000 pounds or less the applicable emissions standards are the Bin 5 Tier II emissions standards. For a vehicle with a gross vehicle weight rating greater than 6,000 pounds and less than or equal to 8,500 pounds, the applicable emissions standards are the Bin 8 Tier II emissions standards. A qualifying advanced lean burn technology motor vehicle must be placed in service before January 1, 2011.

Limitation on number of qualified hybrid and advanced lean-burn technology motor vehicles eligible for the credit

The conference agreement imposes a limitation on the number of qualified hybrid motor vehicles and advanced lean-burn technology motor vehicles sold by each manufacturer of such vehicles that are eligible for the credit. Taxpayers may claim the full amount of the allowable credit up to the end of the first calendar quarter after the quarter in which the manufacturer records its sale of the 60,000th hybrid and advanced lean-burn technology motor vehicle. Taxpayers may claim one half of the otherwise allowable credit during the two calendar quarters subsequent to the first quarter after the manufacturer has recorded its 60,000th such sale. In the third and fourth calendar quarters subsequent to the first quarter after the manufacturer has recorded its 60,000th such sale, the taxpayer may claim one quarter of the otherwise allowable credit.

Thus, summing the sales of qualifying hybrid motor vehicles of all weight classes and all sales of qualifying advanced lean-burn technology motor vehicles, if a manufacturer records the sale of its 60,000th in February of 2007, taxpayers purchasing such vehicles from the manufacturer may claim the full amount of the credit on their purchases of qualifying vehicles through June 30, 2007. For the period July 1, 2007, through December 31, 2007, taxpayers may claim one half of the otherwise allowable credit on purchases of qualifying vehicles of the manufacturer. For the period January 1, 2008, through June 30, 2008, taxpayers may claim one quarter of the otherwise allowable credit on the purchases of qualifying vehicles of the manufacturer. After June 30, 2008, no credit may be claimed for purchases of hybrid motor vehicles or advanced lean-burn technology motor vehicles sold by the manufacturer.

Hybrid vehicles that are medium and heavy trucks

In the case of a qualifying hybrid motor vehicle weighing more than 8,500 pounds, the conference agreement follows the Senate amendment.

Other rules

The portion of the credit attributable to vehicles of a character subject to an allowance for depreciation is treated as a portion of the general business credit; the remainder of the credit is allowable to the extent of the excess of the regular tax (reduced by certain other credits) over the alternative minimum tax for the taxable year.

Termination of Code section 179A

The conference agreement provides that section 179A sunsets after December 31, 2005.

Effective date.—The provision applies to vehicles placed in service after December 31, 2005, in the case of qualified fuel cell motor vehicles, before January 1, 2015; in the case of qualified hybrid motor vehicles that are automobiles and light trucks and in the case of advanced lean-burn technology vehicles, before January 1, 2011; in the case of qualified hybrid motor vehicles that medium and heavy trucks, before January 1, 2010; and in the case of qualified alternative fuel motor vehicles, before January 1, 2011.

8. Modification and extension of credit for electric vehicles (sec. 1532 of the Senate amendment)

PRESENT LAW

A 10-percent tax credit is provided for the cost of a qualified electric vehicle, up to a maximum credit of $4,000. A qualified electric vehicle generally is a motor vehicle that is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current. The full amount of the credit is available for purchases prior to 2006. The credit is reduced to 25 percent of the otherwise allowable amount for purchases in 2006, and is unavailable for purchases after December 31, 2006.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision repeals the phase out of the credit under present law. The provision also modifies present law to provide for a credit equal to the lesser of $1,500 or 10 percent of the manufacturer's suggested retail price of certain vehicles that conform to the Motor Vehicle Safety Standard 500. For all other electric vehicles, Table 10, below describes the credit.

TABLE 10.—CREDIT FOR QUALIFYING BATTERY ELECTRIC VEHICLES

Vehicle Gross Weight Rating in Pounds	Credit Amount
Vehicle ≤ 8,500	$4,000
8,500 < vehicle ≤ 14,000	10,000
14,000 < vehicle ≤ 26,000	20,000
26,000 < vehicle	40,000

If an electric vehicle weighing not more than 8,500 pounds has an estimated driving range of at least 100 miles on a single charge of the vehicle's batteries or if it is capable of a payload capacity of at least 1,000 pounds, then the credit amount in Table 10 is $6,000.

In general, the credit is allowed to the vehicle owner, including the lessor of a vehicle subject to a lease. If the use of the vehicle is described in paragraph (3) or (4) of section 50(b) (relating to use by tax-exempts, governments, and foreign persons) and is not subject to a lease, the seller of the vehicle may claim the credit so long the seller clearly discloses to the user in a document the amount that is allowable as a credit. A vehicle must be used predominantly in the United States to qualify for the credit.

The provision permits the credit to offset the excess of the regular tax (reduced by certain credits) over the alternative minimum tax. Credits in excess of this limitation may be carried back for up to three years and forward for up to 20 years; credits may not be carried back to taxable years beginning before the date of enactment and credits for vehicles used for personal use may not be carried back.

Effective date.—The provision is effective for property placed in service after the date of enactment and before January 1, 2010.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

9. Credit for installation of alternative fuel refueling property (sec. 1533 of the Senate amendment, sec. 1342 of the conference agreement, and new sec. 30C of the Code)

PRESENT LAW

Clean-fuel vehicle refueling property may be expensed and deducted when such property is placed in service (sec. 179A). Clean-fuel vehicle refueling property comprises property for the storage or dispensing of a clean-burning fuel, if the storage or dispensing is the point at which the fuel is delivered into the fuel tank of a motor vehicle. Clean-fuel vehicle refueling property also includes property for the recharging of electric vehicles, but only if the property is located at a point where the electric vehicle is recharged. Up to $100,000 of such property at each location owned by the taxpayer may be expensed with respect to that location. The deduction is unavailable for costs incurred after December 31, 2006.

For the purpose of sec. 179A clean fuels comprise natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel at least 85 percent of which is methanol, ethanol, or any other alcohol or ether.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision permits taxpayers to claim a 50-percent credit for the cost of installing clean-fuel vehicle refueling property to be used in a trade or business of the taxpayer or installed at the principal residence of the taxpayer. In the case of retail clean-fuel vehicle refueling property the allowable credit may not exceed $30,000. In the case of residential clean-fuel vehicle refueling property the allowable credit may not exceed $1,000.

Under the provision clean fuels are any fuel at least 85 percent of the volume of which consists of ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, and hydrogen and any mixture of diesel fuel and biodiesel containing at least 20 percent biodiesel.

The taxpayer's basis in the property is reduced by the amount of the credit and the taxpayer may not claim deductions under section 179A with respect to property for which the credit is claimed. In the case of refueling property installed on property owned or used by a tax-exempt person, the taxpayer that installs the property may claim the credit. To be eligible for the credit, the property must be placed in service before January 1, 2010. The credit allowable in the taxable year cannot exceed the difference between the taxpayer's regular tax (reduced by certain other credits) and the taxpayer's tentative minimum tax. The taxpayer may carry forward unused credits for 20 years.

Effective date.—The provision is effective for property placed in service December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with modifications. The conference agreement provides that the credit rate is 30 percent rather than 50 percent.

The portion of the credit attributable to property of a character subject to an allowance for depreciation is treated as a portion of the general business credit; the remainder of the credit is allowable to the extent of the excess of the regular tax (reduced by certain other credits) over the alternative minimum tax for the taxable year.

The conference agreement provides that the credit may not be claimed for property placed in service after December 31, 2007.

Effective date.—The provision is effective for property placed in service December 31, 2005 and before January 1, 2008.

10. Volumetric excise tax credit for alternative fuels (sec. 1534 of the Senate amendment)

PRESENT LAW

A 24.3-cents-per-gallon excise tax is imposed on diesel fuel to finance the Highway Trust Fund. Gasoline and most special motor fuels are subject to tax at 18.3 cents per gallon for the Trust Fund. The statutory rates for certain special motor fuels are determined on an energy equivalent basis, as follows:

Liquefied petroleum gas (propane)	13.6 cents per gallon
Liquefied natural gas	11.9 cents per gallon
Methanol derived from petroleum or natural gas	9.15 cents per gallon
Compressed natural gas	48.54 cents per MCF

Under section 4041, tax is imposed on special motor fuels (any liquid other than gas oil, fuel oil or any product taxable under section 4081) when there is a taxable sale by any person to an owner, lessee or other operator of a motor vehicle or motorboat, for use as fuel in the motor vehicle or motorboat or used by any person as a fuel in a motor vehicle or motorboat unless there was a prior taxable sale. No excise tax credit is provided for the sale or use of those fuels.

Liquid hydrogen is a special motor fuel for purposes of the tax on special motor fuels and is subject to a tax of 18.3 cents per gallon. Compressed hydrogen gas used or sold as a fuel is not subject to tax.

Prior to the American Jobs Creation Act of 2004, gasohol and gasoline to be blended into gasohol was taxed at a reduced rate based on the amount of ethanol contained in the mixture (e.g., 10 percent, 7.7 percent or 5.5 percent alcohol in the mixture). The Act eliminated reduced rates of excise tax for most alcohol-blended fuels. In place of the reduced rates, the Act amended the Code to create two new excise tax credits: the alcohol fuel mixture credit and the biodiesel mixture credit. The sum of these credits may be taken against the tax imposed on taxable fuels (by section 4081). A person may also file a claim for payment equal to the amount of these credits for biodiesel or alcohol used to produce an eligible mixture. The credits and payments are paid out of the General Fund. If the alcohol is ethanol with a proof of 190 or greater, the credit or payment amount is 51 cents per gallon. For agri-biodiesel, the credit or payment amount is $1.00 per gallon; for biodiesel other than agri-biodiesel, the credit or payment amount is 50 cents per gallon. Under the Code's coordination rules, a claim may be taken only once with respect to any particular gallon of alcohol or biodiesel.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, the liquefied petroleum gas, and P Series fuels (as defined by the Secretary of Energy under 42 U.S.C. sec. 13211(2)) are taxed at 18.3 cents per gallon under section 4041. Compressed natural gas is taxed at 18.3 cents per energy equivalent of a gallon of gasoline. Liquefied natural gas, any liquid fuel derived from coal (other than ethanol or methanol) and liquid hydrocarbons derived from biomass are taxed at 24.3 cents per gallon under section 4041. Under the provision, hydrogen (whether in liquid or gas form) is exempt from the tax imposed by section 4041; however, persons selling hydrogen as fuel are required to register with the Secretary. Collectively, these fuels (including hydrogen) are referred to as "alternative fuels."

In addition, the Senate amendment creates two new excise tax credits, the alternative fuel credit, and the alternative fuel mixture credit. The credits are allowed against section 4041 liability. The alternative fuel credit is 50 cents per gallon of alternative fuel or gasoline gallon equivalents of nonliquid alternative fuel sold by the taxpayer for use as a motor fuel in a highway vehicle. The alternative fuel mixture credit is 50 cents per gallon of alternative fuel used in producing an alternative fuel mixture for sale or use in a trade or business of the taxpayer. The mixture must be sold by the taxpayer for use as a fuel in a highway vehicle or used by the taxpayer for use as a fuel in a highway vehicle. Liquid fuel derived from coal would only qualify for the credits if derived from the Fisher-Tropsch process. The credits generally expire after September 30, 2009. The provision also allows persons to file a claim for payment equal to the amount of the alternative fuel credit and alternative fuel mixture credits. These payment provisions generally also expire after September 30, 2009. With respect to hydrogen, the credit and payment provisions expire after December 31, 2014. Both credits and payments are made out of the General Fund. Under coordination rules, a claim for payment or credit may only be taken once with respect to any particular gallon or gasoline-gallon equivalent of alternative fuel.

Effective date.—The provision is effective for any sale, use or removal for any period after September 30, 2006.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

11. Extend excise tax provisions and income tax credit for biodiesel and create similar incentives for renewable diesel (sec. 1535 of the Senate amendment, secs. 1344 and 1346 of the conference agreement, and secs. 40A, 6426 and 6427 of the Code)

PRESENT LAW

Biodiesel income tax credit

Overview

The Code provides an income tax credit for biodiesel and qualified biodiesel mixtures, the biodiesel fuels credit.[80] The biodiesel fuels credit is the sum of the biodiesel mixture credit plus the biodiesel credit and is treated as a general business credit. The amount of the biodiesel fuels credit is includable in gross income. The biodiesel fuels credit is coordinated to take into account benefits from the biodiesel excise tax credit and payment provisions discussed below. The credit may not be carried back to a taxable year ending before or on December 31, 2004. The provision does not apply to fuel sold or used after December 31, 2006.

Biodiesel is monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet (1) the registration requirements established by the Environmental Protection Agency under section 211 of the Clean Air Act and (2) the requirements of the American Society of Testing and Materials D6751. Agri-biodiesel is biodiesel derived solely from virgin oils including oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, mustard seeds, or animal fats.

Biodiesel may be taken into account for purposes of the credit only if the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of the biodiesel and agri-biodiesel in the product.

Biodiesel mixture credit

The biodiesel mixture credit is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture. For agri-biodiesel, the credit is $1.00 per gallon. A qualified biodiesel mixture is a mixture of biodiesel and diesel fuel that is (1) sold by the taxpayer producing such mixture to any person for use as a fuel, or (2) is used as a fuel by the taxpayer producing such mixture. The sale or use must be in the trade or business of the taxpayer and is to be taken into account for the taxable year in which such sale or use occurs. No credit is allowed with respect to any casual off-farm production of a qualified biodiesel mixture.

Biodiesel credit

The biodiesel credit is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel (100 percent biodiesel or B-100) and which during the taxable year is (1) used by the taxpayer as a fuel in a trade or business or (2) sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle. For agri-biodiesel, the credit is $1.00 per gallon.

Biodiesel mixture excise tax credit

The Code also provides an excise tax credit for biodiesel mixtures.[81] The credit is 50 cents for each gallon of biodiesel used by the taxpayer in producing a biodiesel mixture for sale or use in a trade or business of the taxpayer. In the case of agri-biodiesel, the credit is $1.00 per gallon. A biodiesel mixture is a mixture of biodiesel and diesel fuel that (1) is sold by the taxpayer producing such mixture to any person for use as a fuel, or (2) is used as a fuel by the taxpayer producing such mixture. No credit is allowed unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel that identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

The credit is not available for any sale or use for any period after December 31, 2006. This excise tax credit is coordinated with the income tax credit for biodiesel such that credit for the same biodiesel cannot be claimed for both income and excise tax purposes.

Payments with respect to biodiesel fuel mixtures

If any person produces a biodiesel fuel mixture in such person's trade or business, the Secretary is to pay such person an amount equal to the biodiesel mixture credit. To the extent the biodiesel fuel mixture credit exceeds the section 4081 liability of a person, the Secretary is to pay such person an amount equal to the biodiesel fuel mixture credit with respect to such mixture. Thus, if the person has no section 4081 liability, the credit is refundable. The payment provision does not apply with respect to biodiesel fuel mixtures sold or used after December 31, 2006.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends the income tax credit, excise tax credit, and payment provisions through December 31, 2010.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement extends the income tax credit, excise tax credit, and payment provisions through December 31, 2008. The conference agreement also creates a similar income tax credit, excise tax credit and payment system for renewable diesel; however, there is no credit for small producers of renewable diesel. Renewable diesel means diesel fuel derived from biomass (as defined in section 29(c)(3), thus excluding petroleum oil, natural gas, coal, or any product thereof) using a thermal depolymerization process. Renewable diesel must meet the requirements of the American Society of Testing and Materials D975 or D396, and meet the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 USC 7545). The amount of the credit for renewable diesel is $1.00 per gallon. In addition, all producers of renewable diesel must be registered with the Secretary.

Effective date.—The extension of incentives is effective on the date of enactment. The renewable diesel provisions are effective for fuel sold or used after December 31, 2005.

12. Credit for certain nonbusiness energy property (sec. 1317 of the House bill, sec. 1524 of the Senate amendment, sec. 1333 of the conference agreement, and new sec. 25C of the Code)

PRESENT LAW

A taxpayer may exclude from income the value of any subsidy provided by a public utility for the purchase or installation of an energy conservation measure. An energy conservation measure means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit (sec. 136).

There is no present law credit for energy efficiency improvements to existing homes.

HOUSE BILL

The provision provides a 20-percent credit for the purchase of qualified energy efficiency improvements to existing homes. The maximum credit for a taxpayer with respect to the same dwelling for all taxable years is $2,000. A qualified energy efficiency improvement is any energy efficiency building envelope component that meets or exceeds the prescriptive criteria for such a component established by the 2000 International Energy Conservation Code as supplemented and as in effect on the date of enactment (or, in the case of metal roofs with appropriate pigmented coatings, meets the Energy Star program requirements), and (1) that is installed in or on a dwelling located in the United States; (2) owned and used by the taxpayer as the taxpayer's principal residence; (3) the original use of which commences with the taxpayer; and (4) such component reasonably can be expected to remain in use for at least five years. The credit is nonrefundable.

Building envelope components are: (1) insulation materials or systems which are specifically and primarily designed to reduce the heat loss or gain for a dwelling; (2) exterior windows (including skylights) and doors; and (3) metal roofs with appropriate pigmented coatings which are specifically and primarily designed to reduce the heat loss or gain for a dwelling.

The taxpayer's basis in the property is reduced by the amount of the credit. Special rules apply in the case of condominiums and tenant-stockholders in cooperative housing corporations.

In the case of expenditures that exceed $1,000, certain certification requirements must be met in order to qualify for the credit.

Effective date.—The provision is effective for qualified energy efficiency improvements installed after the date of enactment and before January 1, 2008.

SENATE AMENDMENT

The provision provides a personal tax credit equal to the greater of (1) the total of the allowable credits for the purchase of certain property, or (2) the credit with respect to a highly energy-efficient principal residence.

The allowable credit for the purchase of certain property is (1) $50 for each advanced main air circulating fan, (2) $150 for each qualified natural gas, propane, or oil furnace or hot water boiler, and (3) $300 for each item of qualified energy efficient property.

An advanced main air circulating fan is a fan used in a natural gas, propane, or oil furnace originally placed in service by the taxpayer during the taxable year, and which has an annual electricity use of no more than two percent of the total annual energy use of the furnace (as determined in the standard Department of Energy test procedures).

A qualified natural gas, propane, or oil furnace or hot water boiler is a natural gas, propane, or oil furnace or hot water boiler with an annual fuel utilization efficiency rate of at least 95.

Qualified energy-efficient property is: (1) an electric heat pump water heater which yields an energy factor of at least 2.0 in the standard Department of Energy test procedure, (2) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 13, (3) a geothermal heat pump which (i) in the case of a closed loop product, has an energy efficiency ratio (EER) of at least 14.1 and a heating coefficient of performance (COP) of at least 3.3, (ii) in the case of an open loop product, has an energy efficiency ratio (EER) of at least 16.2 and a heating coefficient of performance (COP) of at least 3.6, and (iii) in the case of a direct expansion (DX) product, has an energy efficiency ratio (EER) of at least 15 and a heating coefficient of performance (COP) of at least 3.5, (4) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 13, and (5) a natural gas, propane, or oil water heater which has an energy factor of at least 0.80.

The credit with respect to a highly energy-efficient principal residence is $2,000 if the principal residence achieves a 50 percent reduction in energy costs relative to the original condition of the building. In the case of a new home, the original condition of the building is deemed to be a home constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code as in effect (including supplements) on the date of enactment, and for which and any applicable Federal minimum efficiency standards for equipment are met. In the case of a principal residence that achieves a reduction in energy costs between 20 and 50 percent, the allowable credit is $4,000 times the percentage reduction. No credit is allowed in the case of energy cost savings of less than 20 percent.

The residence must be located in the United States, and, in the case of a new residence, not be acquired from a contractor eligible for a credit for the production of a new energy efficient home under Code section 45K (as added by the bill).

If a credit is allowed under Code section 25D (as added by the bill) relating to residential solar, photovoltaic and fuel cell property, for the purpose of measuring energy efficiency improvements under this provision, the original condition of the home, or the comparable building in the case of a new home, is determined assuming the building contains the property for which the credit is allowed. Additionally, if a credit is allowed under this provision for any expenditure, the increase in the basis of the property that would result from such expenditure is reduced by the amount of the credit.

In order to be eligible for the credit, the residence's energy savings must be demonstrated by performance-based compliance and be certified according to regulations established by the Secretary that follow various rules and procedures, including the use of computer software based on the 2005 California Residential Alternative Calculation Method Approval Manual. The determination of compliance may be provided by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy rating system provider. All providers shall be accredited, or otherwise authorized to use approved energy performance measurement methods, by the Residential Energy Services Network (RESNET).

Special proration rules apply in the case of jointly owned property, condominiums, and tenant-stockholders in cooperative housing corporations. Certain restrictions and limitations apply with respect to property financed by subsidized energy financing or obtained through grant programs. If less than 80 percent of the property is used for nonbusiness purposes, only that portion of expenditures that is used for nonbusiness purposes is taken into account. If a credit is allowed under this provision with respect to any property, the basis of such property is reduced by the amount of the credit so allowed.

Effective date.—The credit applies to property placed in service after December 31, 2005 and prior to January 1, 2009.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment with modifications. The conference agreement follows the House bill with respect to energy efficient improvements to the building envelope, but the credit rate is reduced to 10 percent. The conference agreement includes the Senate amendment provisions related to (1) advanced main air circulating fans, (2) natural gas, propane, or oil furnace or hot water boilers and (3) qualified energy-efficient property. The conference agreement does not include the Senate amendment provision related to highly energy-efficient principal residences. The credit allowed under the conference agreement may not exceed $500 in total across all taxable years, and no more than $200 dollars of such credit may be attributable to expenditures on windows. There is no requirement for certification of expenditures.

The conference agreement modifies the energy efficiency requirements for qualifying central air conditioners to be the highest efficiency tier established by the Consortium for Energy Efficiency as in effect on Jan. 1, 2006.

The conference agreement also modifies the effective date.

Effective date.—The credit applies to property placed in service after December 31, 2005 and prior to January 1, 2008.

13. Energy efficient commercial buildings deduction (sec. 1521 of the Senate amendment sec. 1331 of the conference agreement, and new sec. 179D of the Code)

PRESENT LAW

No special deduction is provided for expenses incurred for energy-efficient commercial building property.

HOUSE BILL

No provision.

SENATE AMENDMENT

In general

The provision provides a deduction equal to energy-efficient commercial building property expenditures made by the taxpayer. Energy-efficient commercial building property expenditures is defined as property (1) which is installed on or in any building located in the United States that is within the scope of Standard 90.1-2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America ("ASHRAE/IESNA"), (2) which is installed as part of (i) the interior lighting systems, (ii) the heating, cooling, ventilation, and hot water systems, or (iii) the building envelope, and (3) which is certified as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems of the building by 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1–2001 (as in effect on April 2, 2003). The deduction is limited to an amount equal to $2.25 per square foot of the property for which such expenditures are made. The deduction is allowed in the year in which the property is placed in service.

Certain certification requirements must be met in order to qualify for the deduction. The Secretary, in consultation with the Secretary of Energy, will promulgate regulations that describe methods of calculating and verifying energy and power costs using qualified computer software based on the provisions of the 2005 California Nonresidential Alternative Calculation Method Approval Manual or, in the case of residential property, the 2005 California Residential Alternative Calculation Method Approval Manual.

The Committee intends that the methods for calculation be fuel neutral, such that the same energy efficiency features qualify a building for the deduction under this provision regardless of whether the heating source is a gas or oil furnace or boiler or an electric heat pump. The Committee also intends that the calculation methods provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either Standard 90.1-2001 or in the 2005 California Nonresidential Alternative Calculation Method Approval Manual, including the following: (i) Natural ventilation (ii) Evaporative cooling (iii) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks(iv) Daylighting (v) Designs utilizing semi-conditioned spaces which maintain adequate comfort conditions without air conditioning or without heating (vi) Improved fan system efficiency, including reductions in static pressure (vii) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors (viii) On-site generation of electricity, including combined heat and power systems, fuel cells, and renewable energy generation such as solar energy (ix) Wiring with lower energy losses than wiring satisfying Standard 90.1-2001 requirements for building power distribution systems. The calculation methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance which exceeds typical performance

The Secretary shall prescribe procedures for the inspection and testing for compliance of buildings that are comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems. Individuals qualified to determine compliance shall only be those recognized by one or more organizations certified by the Secretary for such purposes.

For energy-efficient commercial building property expenditures made by a public entity, such as public schools, the Secretary shall promulgate regulations that allow the deduction to be allocated to the person primarily responsible for designing the property in lieu of the public entity.

If a deduction is allowed under this section, the basis of the property shall be reduced by the amount of the deduction. Additionally, if a deduction is allowed for business energy property under section 1523 of the Senate amendment, or an individual credit for nonbusiness energy property or principal residence is allowed under section 1524 of the Senate amendment, then with respect to property for which a deduction under this provision may be claimed, the annual energy and power costs of the reference building is to be determined assuming the reference building contains the property for which the deduction or credit has been allowed, and any cost of such property taken into account under those other provisions of the bill cannot be taken into account under this provision.

Partial allowance of deduction

In the case of a building that does not meet the overall building requirement of a 50-percent energy savings, a partial deduction is allowed with respect to each separate building system that comprises energy efficient property and which is certified by a qualified professional as meeting or exceeding the applicable system-specific savings targets established by the Secretary of the Treasury. The applicable system-specific savings targets to be established by the Secretary are those that would result in a total annual energy savings with respect to the whole building of 50 percent, if each of the separate systems met the system specific target. The separate building systems are (1) the interior lighting system, (2) the heating, cooling, ventilation and hot water systems, and (3) the building envelope. The maximum allowable deduction is $0.75 per square foot for each separate system.

In the case of system-specific partial deductions, in general no deduction is allowed until the Secretary establishes system-specific targets. However, in the case of lighting system retrofits, until such time as the Secretary issues final regulations, the system-specific energy savings target for the lighting system is deemed to be met by a reduction in Lighting Power Density of 40 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 of ASHRAE/IESNA Standard 90.1-2001. Also, in the case of a lighting system that reduces lighting power density by 25 percent, a partial deduction of 37.5 cents per square foot is allowed. A pro-rated partial deduction is allowed in the case of a lighting system that reduces lighting power density between 25 percent and 40 percent. Certain lighting level and lighting control requirements must also be met in order to qualify for the partial lighting deductions.

Effective date.—The provision is effective for property placed in service after the date of enactment and prior to January 1, 2010.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with modifications. The conference agreement provides that the deduction amount is reduced to $1.80 per square foot, and that the partial deduction for building subsystems is reduced to $0.60 per square foot. The conference agreement also modifies the effective date.

Effective date.—The provision is effective for property placed in service after December 31, 2005 and prior to January 1, 2008.

14. Deduction for business energy property (sec. 1523 of the Senate amendment)

PRESENT LAW

There is no special deduction provided for energy-efficient property.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides a deduction equal to the greater of (1) the total of the allowable deductions for the purchase of certain property, or (2) the allowable deduction with respect to energy-efficient residential rental building property.

The allowable deduction for the purchase of certain property is (1) $150 for each advanced main air circulating fan, (2) $450 for each qualified natural gas, propane, or oil furnace or hot water boiler, and (3) $900 for each item of qualified energy efficient property.

An advanced main air circulating fan is a fan used in a natural gas, propane, or oil furnace originally placed in service by the taxpayer during the taxable year, and which has an annual electricity use of no more than two percent of the total annual energy use of the furnace (as determined in the standard Department of Energy test procedures).

A qualified natural gas, propane, or oil furnace or hot water boiler is a natural gas, propane, or oil furnace or hot water boiler with an annual fuel utilization efficiency rate of at least 95.

Qualified energy-efficient property is: (1) an electric heat pump water heater which yields an energy factor of at least 2.0 in the standard Department of Energy test procedure, (2) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 13, (3) a geothermal heat pump which (i) in the case of a closed loop product, has an energy efficiency ratio (EER) of at least 14.1 and a heating coefficient of performance (COP) of at least 3.3, (ii) in the case of an open loop product, has an energy efficiency ratio (EER) of at least 16.2 and a heating coefficient of performance (COP) of at least 3.6, and (iii) in the case of a direct expansion (DX) product, has an energy efficiency ratio (EER) of at least 15 and a heating coefficient of performance (COP) of at least 3.5, (4) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 13, and (5) a natural gas, propane, or oil water heater which has an energy factor of at least 0.80.

The allowable deduction with respect to energy-efficient residential rental building property is $6,000 if the building achieves a 50 percent reduction in energy costs relative to the original condition of the building (in the case of new construction, the original condition of the building is deemed to be a building built to the standards necessary for compliance with applicable local building construction codes). In the case of a building that achieves a reduction in energy costs between 20 and 50 percent, the allowable deduction is $12,000 times the percentage reduction. No deduction is allowed in the case of energy cost savings of less than 20 percent. In order to be eligible for the deduction, the building's energy savings must be certified according to regulations established by the Secretary that follow various rules and procedures. In the case of energy efficient residential rental building property which is public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the improvements to the property in lieu of the public entity which is the owner of such property.

In order to be eligible for the deduction, the rental building's energy savings must be demonstrated by performance-based compliance and be certified according to regulations established by the Secretary that follow various rules and procedures, including the use of computer software based on the 2005 California Residential Alternative Calculation Method Approval Manual. The determination of compliance may be provided by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy rating system provider. All providers shall be accredited, or otherwise authorized to use approved energy performance measurement methods, by the Residential Energy Services Network (RESNET).

For energy-efficient residential rental building property owned by a Federal, State, or local government or political subdivision thereof, the Secretary shall promulgate regulations that allow the deduction to be allocated to the person primarily responsible for designing the property in lieu of the public entity.

No deduction for energy efficient residential rental property is allowed for any property for which a deduction is allowable under Code section 179D (as added by the bill), relating to the deduction for energy efficient commercial building property.

If a deduction is allowed under this provision with respect to any property, the basis of such property is reduced by the amount of the deduction so allowed.

Effective date.—The credit applies to property placed in service after the date of enactment and prior to January 1, 2009.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

15. Energy efficient new homes (sec. 1522 of the Senate amendment, sec. 1332 of the conference agreement, and new sec. 45L of the Code)

PRESENT LAW

There is no present-law credit for the construction of new energy-efficient homes.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides a credit to an eligible contractor for the construction of a qualified new energy-efficient home. To qualify as an energy-efficient new home, the home must be: (1) a dwelling located in the United States, (2) substantially completed after the date of enactment, and (3) certified in accordance with guidance prescribed by the Secretary to have a projected level of annual heating and cooling energy consumption that meets the standards for either a 30-percent or 50–percent reduction in energy usage, compared to a comparable dwelling constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code as in effect (including supplements) on the date of enactment, and any applicable Federal minimum efficiency standards for equipment. With respect to homes that meet the 30-percent standard, one-third of such 30 percent savings must come from the building envelope, and with respect to homes that meet the 50–percent standard, one-fifth of such 50 percent savings must come from the building envelope.

The credit equals $1,000 in the case of a new home that meets the 30 percent standard and $2,000 in the case of a new home that meets the 50 percent standard.

The eligible contractor is the person who constructed the home, or in the case of a manufactured home, the producer of such home. The Committee intends that the building envelope component means insulation materials or system specifically and primarily designed to reduce heat loss or gain, exterior windows (including skylights), doors, and any duct sealing and infiltration reduction measures.

Manufactured homes that conform to federal manufactured home construction and safety standards are eligible for the credit provided all the criteria for the credit are met. Manufactured homes certified by a method prescribed by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program are eligible for the $1,000 credit provided criteria (1) and (2), above, are met.

The credit is part of the general business credit. No credits attributable to energy efficient homes can be carried back to any taxable year ending on or before the effective date of the credit.

Effective date.—The credit applies to homes whose construction is substantially completed after the date of enactment, and which are purchased during the period beginning on the date of enactment and ending on December 31, 2009 (December 31, 2007 in the case of the $1,000 credit).

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with modifications. The conference agreement provides that the credit related to homes meeting the 30-percent efficiency standard applies only to manufactured homes. The conference agreement also modifies the effective date.

Effective date.—The credit applies to homes whose construction is substantially completed after December 31, 2005, and which are purchased after December 31, 2005 and prior to January 1, 2008.

16. Energy credit for combined heat and power system property (sec. 1525 of the Senate amendment)

PRESENT LAW

A nonrefundable, 10-percent business energy credit is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, or (2) used to produce, distribute, or use energy derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage.

The business energy tax credits are components of the general business credit (sec. 38(b)(1)). The business energy tax credits, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of net regular tax liability above $25,000 or (2) the tentative minimum tax. For credits arising in taxable years beginning after December 31, 1997, an unused general business credit generally may be carried back one year and carried forward 20 years (sec. 39).

A taxpayer may exclude from income the value of any subsidy provided by a public utility for the purchase or installation of an energy conservation measure. An energy conservation measure means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit (sec. 136).

There is no present-law credit for combined heat and power ("CHP") property.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides a 10-percent credit for the purchase of CHP property.

CHP property is property: (1) that uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications); (2) that has an electrical capacity of not more than 15 megawatts or a mechanical energy capacity of no more than 2000 horsepower or an equivalent combination of electrical and mechanical energy capacities; (3) that produces at least 20 percent of its total useful energy in the form of thermal energy that is not used to produce electrical or mechanical power, and produces at least 20 percent of its total useful energy in the form of electrical or mechanical power (or a combination thereof); and (4) the energy efficiency percentage of which exceeds 60 percent. CHP property does not include property used to transport the energy source to the generating facility or to distribute energy produced by the facility.

Additionally, the provision provides that systems whose fuel source is at least 90 percent bagasse and that would qualify for the credit but for the failure to meet the efficiency standard are eligible for a credit that is reduced in proportion to the degree to which the system fails to meet the efficiency standard. For example, a system that would otherwise be required to meet the 60-percent efficiency standard, but which only achieves 30-percent efficiency, would be permitted a credit equal to one-half of the otherwise allowable credit (i.e., a 5-percent credit).

Effective date.—The credit applies to periods after the date of enactment in taxable years ending after the date of enactment, for property placed in service before January 1, 2008, under rules similar to rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

17. Energy efficient appliances (sec. 1526 of the Senate amendment, sec. 1334 of the conference agreement, and new sec. 45M of the Code)

PRESENT LAW

There is no present-law credit for the manufacture of energy-efficient appliances.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides a credit for the eligible production of certain energy-efficient dishwashers, clothes washers and refrigerators.

The credit for dishwashers applies to dishwashers produced in 2006 and 2007 that meet the Energy Star standards for 2007. The credit amount equals $3 multiplied by the percentage by which the efficiency of the 2007 standards (not yet known) exceeds that of the 2005 standards. The credit may not exceed $100 per dishwasher.

The credit for clothes washers equals (1) $50 for clothes washers manufactured in 2005 that have a modified energy factor (MEF) of at least 1.42, (2) $100 for clothes washers manufactured in 2005-2007 that meet the requirements of the Energy Star program which are in effect for clothes washers in 2007, or (3) the minimum of (i) $200 or (ii) $10 multiplied by the average of the energy and water savings percentages of the 2010 Energy Star standards relative to the 2007 Energy Star standards, for clothes washers manufactured in 2008–2010 that meet the requirements of the Energy Star program which are in effect for clothes washers in 2010.

The credit for refrigerators is based on energy savings and year of manufacture. The energy savings are determined relative to the energy conservation standards promulgated by the Department of Energy that took effect on July 1, 2001. Refrigerators that achieve a 15 to 20 percent energy saving and that are manufactured in 2005 or 2006 receive a $75 credit. Refrigerators that achieve a 20 to 25 percent energy saving receive a (i) $125 credit if manufactured in 2005-2007, or (ii) $100 credit if manufactured in 2008. Refrigerators that achieve at least a 25 percent energy saving receive a (i) $175 credit if manufactured in 2005–2007, or (ii) $150 credit if manufactured in 2008-2010.

Appliances eligible for the credit include only those that exceed the average amount of production from the 3 prior calendar years for each category of appliance. In the case of refrigerators, eligible production is production that exceeds 110 percent of the average amount of production from the 3 prior calendar years. Proration rules apply in the case of credits for 2005 production.

A dishwasher is any a residential dishwasher subject to the energy conservation standards established by the Department of Energy. A refrigerator must be an automatic defrost refrigerator-freezer with an internal volume of at least 16.5 cubic feet to qualify for the credit. A clothes washer is any residential clothes washer, including a residential style coin operated washer, that satisfies the relevant efficiency standard.

The taxpayer may not claim credits in excess of $75 million for all taxable years, and may not claim credits in excess of $20 million with respect to clothes washers eligible for the $50 credit and refrigerators eligible for the $75 credit. A taxpayer may elect to increase the $20 million limitation described above to $25 million provided that the aggregate amount of credits with respect to such appliances, plus refrigerators eligible for the $100 and $125 credits, is limited to $50 million for all taxable years.

Additionally, the credit allowed in a taxable year for all appliances may not exceed two percent of the average annual gross receipts of the taxpayer for the three taxable years preceding the taxable year in which the credit is determined.

The credit is part of the general business credit.

Effective date.—The credit applies to appliances produced after the date of enactment and prior to January 1, 2011 (January 1, 2008, in the case of dishwashers).

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, but only with respect to the provisions that cover production after December 31, 2005 and prior to January 1, 2008.

Effective date.—The credit applies to appliances produced after December 31, 2005 and prior to January 1, 2008.

C. ALTERNATIVE MINIMUM TAX RELIEF PROVISIONS

1. Allow nonbusiness energy credits against the alternative minimum tax (sec. 1321 of the House bill)

PRESENT LAW

Present law imposes an alternative minimum tax on individuals in an amount equal to the excess of the tentative minimum tax over the regular tax liability. The tentative minimum tax is an amount equal to specified rates of tax imposed on the excess of the alternative minimum taxable income over an exemption amount.

Generally, for taxable years beginning after December 31, 2005, nonrefundable personal credits may not exceed the excess of the regular tax liability over the tentative minimum tax.

HOUSE BILL

The provision allows the personal energy credits added by the House bill to offset both the regular tax and the alternative minimum tax.

Effective date.—The provision applies to taxable years beginning after December 31, 2005.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not contain the House bill provision.

2. Allow certain business energy credits against the alternative minimum tax (sec. 1322 of the House bill and sec. 1548(c) of the Senate amendment)

PRESENT LAW

Present law imposes an alternative minimum tax on individuals and corporations in an amount equal to the excess of the tentative minimum tax over the regular tax liability. The tentative minimum tax is an amount equal to specified rates of tax imposed on the excess of the alternative minimum taxable income over an exemption amount.

Generally, the general business credit may not exceed the excess of the regular tax liability over the tentative minimum tax (or, if greater, 25 percent of so much of the regular tax liability as exceeds $25,000). Amounts in excess of this limitation generally may be carried back one year and forward 20 years. In applying the tax limitation to certain business energy credits, the tentative minimum tax is treated as being zero. These credits include the alcohol fuels credit and the section 45 credit for electricity produced from a facility (placed in service after October 22, 2004) during the first four years of production beginning on the date the facility is placed in service.

HOUSE BILL

The House bill expands the list of business energy credits for which the tentative minimum tax is treated as being zero to include (i) the low sulfur diesel fuel production credit, (ii) the marginal oil and gas well production credit, (iii) the portion of the investment credit attributable to qualified fuel cells, and (iv) for taxable years beginning after December 31, 2005, and before January 1, 2008, the enhanced oil recovery credit.

Effective date.—The provision generally applies to credits determined for taxable years beginning after December 31, 2005. In the case of the credit for qualified fuel cells, the provision applies for taxable years ending after April 11, 2005.

SENATE AMENDMENT

The Senate amendment expands the list of business energy credits for which the tentative minimum tax is treated as being zero to include the credit for production of coal owned by Indian tribes.

Effective date.—The provision is effective as if included in the provision allowing the credit.

CONFERENCE AGREEMENT

The conference agreement does not expand the list of business energy credits for which the tentative minimum tax is treated as being zero.

D. Additional Energy Tax Incentives

1. Ten-year recovery period for underground natural gas storage facilities and cushion gas (sec. 1541 of the Senate amendment)

PRESENT LAW

Under present law, depreciation allowances for property used in a trade or business generally are determined under the Modified Accelerated Cost Recovery System ("MACRS"). Under MACRS, natural gas storage facilities and related equipment have a class life of 22 years and a recovery period of 15 years.

Cushion gas is the minimum volume of natural gas necessary to provide the pressure to facilitate the flow of gas from a storage reservoir to a pipeline. Recoverable cushion gas will be available for sale or other use upon abandonment of the storage reservoir, while nonrecoverable cushion gas will become obsolete with that abandonment. Under present law, the tax treatment of cushion gas depends on whether such gas is recoverable. The quantity of cushion gas that is recoverable is not subject to depreciation because it is not subject to exhaustion, wear, tear, or obsolescence. Conversely, nonrecoverable cushion gas is subject to obsolescence and is therefore subject to tax depreciation. The depreciable life of non-recoverable cushion gas is also 15 years.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment reclassifies underground natural gas storage facilities and nonrecoverable cushion gas as 10-year MACRS property. The present law treatment of recoverable cushion gas remains unchanged.

Effective date.—The Senate amendment provision applies to property placed in service after the date of enactment, the original use of which commences with the taxpayer.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

2. Modify research credit for research relating to energy (sec. 1542 of the Senate amendment, sec. 1351 of the conference agreement, and sec. 41 of the Code)

PRESENT LAW

General rule

Section 41 provides for a research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenses for a taxable year exceed its base amount for that year. The research tax credit is scheduled to expire and generally will not apply to amounts paid or incurred after December 31, 2005.

A 20-percent research tax credit also applies to the excess of (1) 100 percent of corporate cash expenses (including grants or contributions) paid for basic research conducted by universities (and certain nonprofit scientific research organizations) over (2) the sum of (a) the greater of two minimum basic research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation. This separate credit computation is commonly referred to as the university basic research credit (see sec. 41(e)).

Alternative incremental research credit regime

Taxpayers are allowed to elect an alternative incremental research credit regime. If a taxpayer elects to be subject to this alternative regime, the taxpayer is assigned a three-tiered fixed-base percentage (that is lower than the fixed-base percentage otherwise applicable under present law) and the credit rate likewise is reduced. Under the alternative credit regime, a credit rate of 2.65 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of one percent (i.e., the base amount equals one percent of the taxpayer's average gross receipts for the four preceding years) but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 3.2 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1.5 percent but do not exceed a base amount computed by using a fixed-base percentage of two percent. A credit rate of 3.75 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of two percent. An election to be subject to this alternative incremental credit regime may be made for any taxable year beginning after June 30, 1996, and such an election applies to that taxable year and all subsequent years unless revoked with the consent of the Secretary of the Treasury.

Eligible expenses

Qualified research expenses eligible for the research tax credit consist of: (1) in-house expenses of the taxpayer for wages and supplies attributable to qualified research; (2) certain time-sharing costs for computer use in qualified research; and (3) 65 percent of amounts paid or incurred by the taxpayer to certain other persons for qualified research conducted on the taxpayer's behalf (so-called contract research expenses). In the case of amounts paid to a research consortium, 75 percent of amounts paid for qualified research is treated as qualified research expenses eligible for the research credit (rather than 65 percent under the general rule) if (1) such research consortium is a tax-exempt organization that is described in section 501(c)(3) (other than a private foundation) or section 501(c)(6) and is organized and operated primarily to conduct scientific research, and (2) such qualified research is conducted by the consortium on behalf of the taxpayer and one or more persons not related to the taxpayer.

To be eligible for the credit, the research must not only satisfy the requirements of present-law section 174 for the deduction for research expenses, but must be undertaken for the purpose of discovering information that is technological in nature, the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and substantially all of the activities of which must constitute elements of a process of experimentation for functional aspects, performance, reliability, or quality of a business component.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision modifies the present-law research credit as it applies to qualified energy research. In particular, the provision provides that the taxpayer may claim a credit equal to 20 percent of the taxpayer's expenditures on qualified energy research undertaken by an energy research consortium. The amount of credit claimed is determined only by regard to such expenditures by the taxpayer within the taxable year. Unlike the general rule for the research credit, the 20-percent credit for research by an energy research consortium applies to all such expenditures, not only those in excess of a base amount however determined. An energy research consortium is a qualified research consortium as under present law that also is organized and operated primarily to conduct energy research and development in the public interest and to which at least five unrelated persons paid, or incurred amounts, to such organization within the calendar year. In addition, to be a qualified energy research consortium no single person shall pay or incur more than 50 percent of the total amounts received by the research consortium during the calendar year.

The provision also provides that 100 percent of amounts paid or incurred by the taxpayer to eligible small businesses, universities, and Federal for qualified energy research would constitute qualified research expenses as contract research expenses, rather than 65 percent of qualified research expenditures allowed under present law. An eligible small business for this purpose is a business in which the taxpayer does not own a 50 percent or greater interest and the business has employed, on average, 500 or fewer employees in the two preceding calendar years.

Qualified energy research expenditures are expenditures that would otherwise qualify for the research credit under present law and relate to the production, supply, and conservation of energy, including otherwise qualifying research expenditures related to alternative energy sources or the use of alternative energy sources. For example, research relating to hydrogen fuel cell vehicles would qualify under this provision, if the research expenditures otherwise satisfy the criteria of present-law sec. 41. Likewise, otherwise qualifying research undertaken to improve the energy-efficiency of lighting would qualify under this provision.

Effective date.—The provision is effective for amounts paid or incurred after the date of enactment in taxable years ending after such date.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

3. Small agri-biodiesel producer credit (sec. 1543 of the Senate amendment, sec. 1345 of the conference agreement, and sec. 40A of the Code)

PRESENT LAW

Biodiesel income tax credit

The Code provides an income tax credit for biodiesel and qualified biodiesel mixtures, the biodiesel fuels credit. The biodiesel fuels credit is the sum of the biodiesel mixture credit plus the biodiesel credit and is treated as a general business credit. The amount of the biodiesel fuels credit is includable in gross income. The biodiesel fuels credit is coordinated to take into account benefits from the biodiesel excise tax credit and payment provisions created by the Act. The credit may not be carried back to a taxable year ending before or on December 31, 2004. The provision does not apply to fuel sold or used after December 31, 2006.

Biodiesel is monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet (1) the registration requirements established by the Environmental Protection Agency under section 211 of the Clean Air Act and (2) the requirements of the American Society of Testing and Materials D6751. Agri-biodiesel is biodiesel derived solely from virgin oils including oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, mustard seeds, or animal fats.

Biodiesel may be taken into account for purposes of the credit only if the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of the biodiesel and agri-biodiesel in the product.

The biodiesel income tax credit does not contain any incentives for small producers.

Small ethanol producer credit

Present law provides several tax benefits for ethanol and methanol produced from renewable sources that are used as a motor fuel or that are blended with other fuels (e.g., gasoline) for such a use. In the case of ethanol, a separate 10-cents-per-gallon credit for up to 15 million gallons per year for small producers, defined generally as persons whose production does not exceed 15 million gallons per year and whose production capacity does not exceed 30 million gallons per year. The ethanol must (1) be sold by such producer to another person (a) for use by such other person in the production of al qualified alcohol fuel mixture in such person's trade or business (other than casual off-farm production), (b) for use by such other person as a fuel in a trade or business, or, (c) who sells such ethanol at retail to another person and places such ethanol in the fuel tank of such other person; or (2) used by the producer for any purpose described in (a), (b), or (c). A cooperative may pass through the small ethanol producer credit to its patrons. The alcohol fuels tax credits are includible in income. This credit may be used to offset alternative minimum tax liability. The credit is a treated as a general business credit, subject to the ordering rules and carryforward/carryback rules that apply to business credits generally. The alcohol fuels tax credit is scheduled to expire after December 31, 2010.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment adds to the biodiesel fuels credit a small agri-biodiesel producer credit. The credit is a 10-cents-per-gallon credit for up to 15 million gallons of agri-biodiesel produced by small producers, defined generally as persons whose agri-biodiesel production capacity does not exceed 60 million gallons per year. The agri-biodiesel must (1) be sold by such producer to another person (a) for use by such other person in the production of a qualified biodiesel mixture in such person's trade or business (other than casual off-farm production), (b) for use by such other person as a fuel in a trade or business, or, (c) who sells such agri-biodiesel at retail to another person and places such ethanol in the fuel tank of such other person; or (2) used by the producer for any purpose described in (a), (b), or (c).

Like the small ethanol producer credit, cooperatives may elect to pass through any portion of the small agri-biodiesel producer credits to its patrons. The credit is apportioned pro rata among patrons of the cooperative on the basis of the quantity or value of the business done with or for such patrons for the taxable year. An election to pass through the credit is made on a timely filed return for the taxable year and is irrevocable for such taxable year.

The amount of the credit not apportioned to patrons is included in the organization's credit for the taxable year of the organization. The amount of the credit apportioned to patrons is to be included in the patron's credit for the first taxable year of each patron ending on or after the last day of the payment period for the taxable year of the organization, or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

If the amount of the cooperative's credit for a taxable year is less than the amount of the credit shown on the organization's tax return for such taxable year, an amount equal to the excess of the reduction in the credit over the amount not apportioned to patrons for the taxable year is treated as an increase in the cooperative's tax. The increase is not treated as tax imposed for purposes of determining the amount of any tax credit or for purposes of the alternative minimum tax.

The credit sunsets after December 31, 2010, along with the other biodiesel incentives as extended under the Senate amendment.

Effective date.—The provision is effective for taxable years ending after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment except the credit sunsets after December 31, 2008.

4. Modifications to small ethanol producer credit (sec. 1544 of the Senate amendment, sec. 1347 of the conference agreement, and sec. 40 of the Code)

PRESENT LAW

Present law provides several tax benefits for ethanol and methanol that are used as a fuel or that are blended with other fuels (e.g., gasoline) for such a use. For example, the Code provides an income tax credit for alcohol and alcohol-blended fuels. In the case of ethanol, the Code provides an additional 10-cents-per-gallon credit for small producers, defined generally as persons whose production capacity does not exceed 30 million gallons per year.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment increases the limit on production capacity for small ethanol producers from 30 million gallons to 60 million gallons per year.

The Senate amendment also provides that an election to pass the small ethanol producer credit through to cooperative patrons is not valid unless the cooperative provides patrons timely written notice of the apportionment of the credit. Under the Senate amendment, notice is timely if mailed to patrons during the payment period described in section 1382(d) of the Code.

Effective date.—The provision is effective for taxable years ending after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

5. Credit for equipment for processing or sorting materials gathered through recycling (sec. 1545 of the Senate amendment and sec. 1353 of the conference agreement)

PRESENT LAW

There is no present law credit for equipment for processing or sorting materials gathered through recycling.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides a 15-percent business tax credit for the cost of qualified recycling equipment placed in service or leased by the taxpayer. Qualified recycling equipment is equipment, including connecting piping, (1) that is employed in sorting or processing residential and commercial qualified recyclable materials (any packaging or printed material which is glass, paper, plastic, steel, or aluminum generated by an individual or business) for the purpose of converting such materials for use in manufacturing tangible consumer products, including packaging, or (2) whose primary purpose is the shredding and processing of any electronic waste, including any cathode ray tube, flat panel screen, or similar video display device with a screen size greater than four inches measured diagonally, or a central processing unit.

Qualified recycling equipment does not include rolling stock or other equipment used to transport recyclable materials. Materials that are not packaging or printed material, such as tires or scrap metal from junked automobiles, are not qualified recyclable materials, and thus equipment used to process such materials are not qualified recycling equipment.

For the purposes of (1), qualified recycling equipment includes equipment that is utilized at commercial or public venues, including recycling collection centers, where the equipment is utilized to sort or process qualified recyclable materials for such purpose. For the purpose of (2), only the cost of each piece of equipment as exceeds $400,000 is eligible for the credit.

Effective date.—The credit applies to amounts paid or incurred during the taxable year for qualified recycling equipment placed in service or leased in taxable years beginning after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision. The conference agreement directs the Secretary of the Treasury, in consultation with the Secretary of Energy, to conduct a study to determine and quantify the energy savings achieved through the recycling of glass, paper, plastic, steel, aluminum, and electronic devices, and to identify tax incentives that would encourage recycling of such material. The study is to be submitted to Congress within one year of the date of enactment.

Effective date.—The provision is effective on the date of enactment.

6. Five-year carryback of net operating losses for certain electric utility companies (sec. 1546 of the Senate amendment, sec. 1311 of the conference agreement, and sec. 172 of the Code)

PRESENT LAW

A net operating loss ("NOL") is, generally, the amount by which a taxpayer's allowable deductions exceed the taxpayer's gross income. A carryback of an NOL generally results in the refund of Federal income tax for the carryback year. A carryover of an NOL reduces Federal income tax for the carryover year.

In general, an NOL may be carried back two years and carried over 20 years to offset taxable income in such years. Under present-law ordering rules, NOLs generally are first applied to the earliest of the taxable years to which the loss may be carried.

Different rules apply with respect to NOLs arising in certain circumstances. For example, a three-year carryback applies with respect to NOLs (1) arising from casualty or theft losses of individuals, or (2) attributable to Presidentially declared disasters for taxpayers engaged in a farming business or a small business. A five-year carryback period applies to NOLs from a farming loss (regardless of whether the loss was incurred in a Presidentially declared disaster area). Special rules also apply to real estate investment trusts (no carryback), specified liability losses (10-year carryback), and excess interest losses (no carryback to any year preceding a corporate equity reduction transaction).

Section 202 of the Job Creation and Worker Assistance Act of 2002 ("JCWAA") provided a temporary extension of the general NOL carryback period to five years (from two years) for NOLs arising in taxable years ending in 2001 and 2002. In addition, the five-year carryback period applies to NOLs from these years that qualify under present law for a three-year carryback period (i.e., NOLs arising from casualty or theft losses of individuals or attributable to certain Presidentially declared disaster areas).

A taxpayer can elect to forgo the five-year carryback period. The election to forgo the five-year carryback period is made in the manner prescribed by the Secretary of the Treasury and must be made by the due date of the return (including extensions) for the year of the loss. The election is irrevocable. If a taxpayer elects to forgo the five-year carryback period, then the losses are subject to the rules that otherwise would apply under section 172 absent the provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides a temporary extension of the NOL carryback period to five years for NOLs of certain electric utility companies arising in taxable years ending in 2003, 2004, and 2005 ("eligible NOLs"). Regardless of the taxable year in which an eligible NOL arose, refund claims resulting from the extended carryback period can be made during any taxable year ending after December 31, 2005, and before January 1, 2009. However, the amount of the refund claimed during any one taxable year may not exceed the amount of the electric utility company's investment in electric transmission property and pollution control facilities ("qualifying investment") in the preceding taxable year. The present-law NOL carryover ordering rules apply. Taxpayers may elect to forgo the five-year carryback period provided under the provision if an election is filed before January 1, 2009.

Effective date.—The Senate amendment provision is effective for refund claims resulting from net operating losses generated in taxable years ending in 2003, 2004, and 2005.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with the following modifications. The conference agreement provides an election for certain electric utility companies to extend the carryback period to five years for a portion of NOLs arising in 2003, 2004, and 2005 ("loss years"). The election may be made during any taxable year ending after December 31, 2005, and before January 1, 2009 ("election years"). An electing taxpayer must specify to which loss year the election applies.

The portion of the loss year NOL to which the election may apply is limited to 20 percent of the amount of the taxpayer's qualifying investment in the taxable year prior to the year in which the election is made (the "qualifying investment limitation"). Rules similar to those applicable to specified liability losses apply, and any remaining portion of the loss year NOL remains subject to the present law NOL carryover rules. Only one election may be made in any election year, and elections may not be made for more than one election year beginning in the same calendar year. Thus, for example, a taxpayer with two short taxable years beginning in calendar year 2006 is eligible to make an election under this provision in only one of those two short taxable years. Once an election has been made with respect to a loss year, no subsequent election is available with respect to that loss year.

For purposes of calculating interest on overpayments, any overpayment resulting from a five-year NOL carryback elected under this provision is deemed not to have been made prior to the filing date for the taxable year in which the election is made. The statute of limitations for refund claims, and that for assessment of deficiencies, are also extended.

An election under this provision is made in such manner as the Secretary may prescribe. However, the conferees expect that the filing of a refund claim will be considered sufficient for making the election, provided that the taxpayer attaches to the refund claim a statement specifying the election year, the loss year, and the amount of qualifying investment in electric transmission property and pollution control facilities in the preceding taxable year.

Under the conference agreement, an investment in electric transmission property qualifies if it is a capital expenditure made by the taxpayer which is attributable to electric transmission property used by the taxpayer in the transmission at 69 or more kilovolts of electricity for sale.

An investment in pollution control equipment qualifies if it is a capital expenditure, made by an electric utility company (as defined in the Public Utility Holding Company Act as in effect on the day before the date of enactment of the provision), which is attributable to a facility which will qualify as a certified pollution control facility, generally as defined under section 169(d)(1) but without regard to the requirements therein that the facility be new or that it be used in connection with a plant or other property in operation before January 1, 1976.

The conferees recognize that a significant amount of time may be required between the date of a capital expenditure for electric transmission property or pollution control equipment and the date the property is placed in service. Accordingly, there is no requirement that the transmission property or pollution control facilities be placed in service in the year in which the capital expenditures are incurred. However, it is intended that qualifying investment under the provision includes only capital expenditures to which the taxpayer is committed and with respect to property which the taxpayer intends to ultimately place in service in the taxpayer's trade or business. Under the conference agreement, capital expenditures which, at the taxpayer's option, are refundable or subject to material modification in a manner which would not meet the requirements of the provision, may not be taken into account. For example, if a taxpayer makes a cash deposit with respect to a contract for the purchase of electric transmission property, and the contract contains an option (or there is otherwise an understanding) under which the taxpayer may subsequently apply the deposit to the purchase of equipment other than electric transmission property, the deposit is not included in the taxpayer's qualifying investment. This rule is intended as an anti-abuse rule and should be interpreted to prevent a taxpayer from taking into account capital expenditures to which the taxpayer is not permanently committed.

Effective date.—The conference agreement provision is effective for elections made in taxable years ending after December 31, 2005, and before January 1, 2009, with respect to net operating losses arising in taxable years ending in 2003, 2004, and 2005.

7. Qualifying pollution control equipment credit (sec. 1547 of the Senate amendment)

PRESENT LAW

There is no tax credit for investment in pollution control equipment. An investment credit is available for investment in certain energy property.

SENATE AMENDMENT

The Senate amendment provides an investment credit for qualifying pollution control equipment. The credit is an amount equal to 15 percent of the basis of qualifying pollution control equipment placed in service at a qualifying facility during the taxable year. Qualifying pollution control equipment means any technology that is installed in or on a qualifying facility to reduce air emissions of any pollutant regulated by the Environmental Protection Agency under the Clean Air Act, including thermal oxidizers, scrubber systems, vapor recovery systems, low nitric oxide burners, flair systems, bag houses, cyclones, and continuous emission monitoring systems. A qualifying facility is a facility that produces not less than 1,000,000 gallons of ethanol during the taxable year. For depreciation purposes, the basis of qualifying pollution control equipment is reduced by 50 percent of the amount of the credit.

In the case of property constructed over a period of two or more years, a taxpayer may elect to claim the credit on the basis of qualified progress expenditures made during the period of construction before the property is completed and placed in service.

Effective date.—The credit applies to periods after the date of enactment in accordance with the transitional rules set forth in 48(m) (as in effect before its repeal).

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

8. Credit for production of coal owned by Indian tribes (sec. 1548 of the Senate amendment)

PRESENT LAW

Present law provides two income tax incentives for businesses operating within Indian reservations: (1) accelerated depreciation with respect to certain non-gaming property used in a trade or business within an Indian reservation (sec. 168(j)); and (2) a nonrefundable income tax credit to employers on the first $20,000 of qualified wages and health care costs paid to certain members of Indian tribes (or their spouses) who work on or near an Indian reservation and who earn less than $30,000 per year (adjusted for inflation beginning in 1993) (sec. 45A). Both credits expire after December 31, 2005.

Present law does not provide a credit for the production of coal from coal reserves owned by an Indian tribe.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision establishes a credit for "Indian coal" sold to an unrelated person. Indian coal is defined as coal produced from coal reserves that on June 14, 2005, were owned by a Federally recognized tribe of Indians or are held in trust by the United States for a tribe or its members.

The amount of the credit equals $1.50 per ton for coal sold in 2006 through 2009 and $2.00 per ton for coal sold after 2009. The credit is indexed for inflation after 2006, is part of the general business credit (sec. 38), and is allowed against the alternative minimum tax.

Effective date.—The provision applies to Indian coal sold after December 31, 2005, and before January 1, 2013.

CONFERENCE AGREEMENT

The conference agreement generally follows the Senate amendment with some modifications. Under the conference agreement, the credit for Indian coal is added by modifying Code section 45, rather than by amending Code section 38 and creating new Code section 45N. As a result, some technical aspects of the credit are changed. These technical aspects are described in section A.9. of this report along with descriptions of other modifications to Code section 45.

9. Replacement stoves meeting environmental standards in non-attainment areas (sec. 1549 of the Senate amendment)

PRESENT LAW

There is no present law tax credit relating to stoves.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides a $500 credit for the replacement of a non-compliant wood stove with a solid fuel burning stove that complies with the Environmental Protection Agency's ("EPA") emission performance standards. In general, a non-compliant wood stove is any wood stove purchased prior to June 30, 1992. Stoves produced after June 30, 1992 must comply with EPA's Standards of Performance for Residential Wood Heaters. The credit is only available for replacements that occur in areas designated by the EPA as non-attainment areas for particulate matter less than 2.5 micrometers in diameter or non-attainment areas for particulate matter less than 10 micrometers in diameter.

Effective date.—The credit applies to solid fuel burning stoves purchased after the date of enactment and before January 1, 2009.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

10. Exemption for bulk beds from excise tax on retail sale of heavy trucks and trailers (sec. 1550 of the Senate amendment)

PRESENT LAW

The Code imposes a 12-percent excise tax on the first retail sale of heavy trucks and trailers (chassis and bodies). Under present law, the tax on the first retail sale of automobile truck bodies does not apply to any body primarily designed: (1) to process or prepare seed, feed, or fertilizer for use on farms; (2) to haul feed, seed, or fertilizer to and on farms; (3) to spread feed, seed, or fertilizer on farms; (4) to load or unload feed, seed, or fertilizer on farms; or (5) for any combination of the foregoing.

The IRS has issued various rulings in this area. In Revenue Ruling 69–579, the IRS found that a truck body used primarily for hauling animal and poultry feed to and unloading it on farms qualified for exemption because the built-in equipment was elaborate and expensive. Thus, the IRS concluded that the nature of the unloading systems made it impractical to purchase the bodies for use other than in hauling feed, seed, or fertilizer to and unloading it on farms.

In 1975, the IRS ruled as not exempt a dump truck designed for and used primarily in hauling grain and sugar beets from the field to points on or off the farm but which may also be used to haul feed or fertilizer from a distribution point over the highway to the farm. The ruling concluded that bodies that are used for the general hauling of feed, seed, or fertilizer over the highway are subject to the tax unless they have specific features that indicate they are primarily designed to haul feed, seed, or fertilizer to and on farms. In this case, although feed and fertilizer were among the commodities that the dump truck could be used for, it did not have specific features to indicate that it was primarily designed to haul feed, seed, or fertilizer to and on farms.

In 1990, the IRS issued a technical advice memorandum ("the 1990 TAM") that concluded that a type of truck bought by farmers to haul seed potatoes, sugar beets, grain, and other farm products qualified for exemption. Each model had a full-length, powered conveyor belt that was designed to support and unload the cargo; a powered rear discharge door to control the discharge rate of the cargo; and a standard universal motor mount to which an electric drive could be mounted. In that ruling, the IRS noted the special unloading equipment was elaborate and expensive, added substantially to the cost and weight of each body, and limited its load-carrying capabilities.

In 1999, the IRS revoked the 1990 TAM prospectively, noting that the exemption was not intended to cover truck bodies designed for general use, even if capable of hauling feed, seed, or fertilizer to and on farms. The IRS noted that the sales literature indicated that the body was designed to be versatile for hauling potatoes, beets, and small grains. The IRS also observed that unlike the bodies described in Rev. Rul. 69-579, which would not be purchased for use other than in hauling feed, seed, or fertilizer, the bodies at issue are designed for general hauling of farm cargo. Further, the IRS found that the presence of a conveyor belt was equally useful for unloading a crop at market as it is for unloading feed, etc. on a farm. Thus, the IRS concluded that the truck body was not primarily designed for an exempt purpose.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment exempts bulk beds used for transporting farm crops to and on farms from the excise tax on the retail sale of heavy trucks and trailers if sold to a person who certifies to the seller that such person is actively engaged in the trade or business of farming and the primary use of the bulk bed is to haul to and on farms farm crops grown in connection with such trade or business. The Senate amendment provides for the recapture of the tax from the purchaser upon resale of within two years of the first retail sale, or if such purchaser makes substantial nonexempt use of the article.

Effective date.—The provision is effective for sales after September 30, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

11. National Academy of Sciences study (sec. 1551 of the Senate amendment and sec. 1352 of the conference agreement)

PRESENT LAW

Present law does not provide for a study of the health, environmental, security, and infrastructure external costs that may be associated with the use and production of energy.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision requires the Secretary of Treasury to enter into an agreement, within 60 days, with the National Academy of Sciences to conduct a study to define and evaluate the health, environmental, security, and infrastructure external costs and benefits associated with production and consumption of energy that are not or may not be fully incorporated into the price of such activities, or into the Federal tax or fee or other applicable revenue measure related to such activities. The results of the study are to be submitted to Congress within two years of the agreement.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

12. Income tax exclusion for certain fuel costs of rural carpoolers (sec. 1552 of the Senate amendment)

PRESENT LAW

Under present law, qualified transportation benefits are excludable from gross income and wages for employment tax purposes. Qualified transportation benefits are: (1) transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment ("van pooling"); (2) transit passes; and (3) qualified parking. For purposes of the exclusion for van pooling benefits, a commuter highway vehicle is any highway vehicle: (1) the seating capacity of which is at least six adults (excluding the driver); and (2) at least 80 percent of the mileage use of which can reasonably be expected to be (a) for purposes of transporting employees in connection with travel between their residences and their place of employment and (b) on trips during which the number of employees transported for such purposes is at least one-half of the adult seating capacity of such vehicle (not including the driver).

The maximum amount of qualified parking that is excludable from income and wages is $200 per month (for 2005). The maximum amount of transit passes and van pooling benefits that are excludable from income and wages per month is $105 (for 2005). These dollar amounts are indexed for inflation.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment establishes a new qualified transportation fringe benefit. Employer reimbursement for certain fuel costs (up to $50 per month) of employees who meet rural carpool requirements are excluded from a taxpayer's gross income (but not wages) as a qualified transportation fringe benefit. To be eligible for the benefit, the employee must: (1) reside in a rural area; (2) not be eligible for transit or vanpooling benefits provided by the employer; (3) use the employee's vehicle when traveling between the employee's residence and place of employment; and (4) for at least 75 percent of the total mileage of such travel, be accompanied by one or more employees of the same employer. In addition, the premises of the employer must be located in an area that is not accessible by a transit system designed primarily to provide daily work trips within a local commuting area.

Effective date.—The Senate amendment is effective for expenses incurred on or after the date of enactment and before January 1, 2007.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

13. Three-year applicable recovery period for depreciation of qualified energy management devices (sec. 1553 of the Senate amendment)

PRESENT LAW

No special recovery period is provided for depreciation of energy management devices.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides a three-year recovery period for qualified new energy management devices placed in service by any taxpayer who is a supplier of electric energy or is a provider of electric energy services. A qualified energy management device is any meter or metering device which is used by the taxpayer (1) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and (2) to provide such data on at least a monthly basis to both consumers and the taxpayer. Additionally, the original use of the energy management device must commence with the taxpayer, and the purchase must be subject to a binding contract entered into after June 23, 2005, and only if there was no written binding contract entered into on or before such date.

Effective date.—The provision applies to taxable years ending after December 31, 2005, for property placed in service after the December 31, 2005 and prior to January 1, 2008.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

14. Exception from volume cap for certain cooling facilities (sec. 1554 of the Senate amendment)

PRESENT LAW

Tax-exempt bonds

In general

Interest on bonds issued by State and local governments generally is excluded from gross income for Federal income tax purposes if the proceeds of the bonds are used to finance direct activities of these governmental units or if the bonds are repaid with revenues of the governmental units. Interest on State or local bonds to finance activities of private persons ("private activity bonds") is taxable unless a specific exception is contained in the Code (or in a non-Code provision of a revenue Act). The term "private person" generally includes the Federal Government and all other individuals and entities other than States or local governments.

Qualified private activity bonds

Private activity bonds are eligible for tax-exemption if issued for certain purposes permitted by the Code ("qualified private activity bonds"). The definition of a qualified private activity bond includes an exempt facility bond, or qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond. The definition of exempt facility bond includes bonds issued to finance local district heating and cooling facilities.

The issuance of most qualified private activity bonds is subject (in whole or in part) to annual State volume limitations ("State volume cap"). For calendar year 2005, the State volume cap is the greater of $80 per resident or $239 million. Exceptions are provided for bonds issued to finance certain governmentally owned facilities (airports, ports, high-speed intercity rail, and solid waste disposal) and bonds which are subject to separate local, State, or national volume limits (public/private educational facilities, enterprise zone facility bonds, and qualified green building/sustainable design projects).

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides an exception from the State volume cap for certain qualified private activity bonds issued to finance certain local district heating or cooling facilities. Specifically, State volume cap does not apply to bonds issued to finance local district heating or cooling facilities that are designed to access deep water cooling sources for building air conditionings if the aggregate face amount of bonds issued with respect to such a facility is not more than $75 million.

Effective date.—The provision applies to projects placed in service after the date of enactment and before July 1, 2008.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

E. REVENUE RAISING PROVISIONS

1. Treatment of kerosene for use in aviation (sec. 1561 of the Senate amendment)

PRESENT LAW

In general, aviation-grade kerosene is taxed at a rate of 21.8 cents per gallon upon removal of such fuel from a refinery or terminal (or entry into the United States) and on the sale of such fuel to any unregistered person unless there was a prior taxable removal or entry of such fuel. Aviation-grade kerosene may be removed at a reduced rate, either 4.3 or zero cents per gallon, if the aviation fuel is removed directly into the fuel tank of an aircraft for use in commercial aviation or for a use that is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax), or is removed or entered as part of an exempt bulk transfer. These taxes are credited to the Airport and Airway Trust Fund. If taxed aviation-grade kerosene is used for a nontaxable use, a claim for credit or refund may be made. Such claims are paid from the Airport and Airway Trust Fund to the general fund of the Treasury. All other removals and entries of kerosene used for surface transportation are taxed at the diesel tax rate of 24.3 cents per gallon, and these taxes are credited to the Highway Trust Fund. If aviation-grade kerosene is taxed upon removal or entry but fraudulently diverted for surface transportation, the taxes remain in the Airport and Airway Trust Fund, and the Highway Trust Fund is not credited for the taxes on such fuel.

A special rule of present law addresses whether a removal from a refueler truck, tanker, or tank wagon may be treated as a removal from a terminal for purposes of determining whether aviation-grade kerosene is removed directly into the wing of an aircraft for use in commercial aviation, and so eligible for the 4.3 cents per gallon rate. For the special rule to apply, a qualifying truck, tanker, or tank wagon must be loaded with aviation-grade kerosene from a terminal: (1) that is located within a secured area of an airport, and (2) from which no vehicle licensed for highway use is loaded with aviation fuel, except in exigent circumstances identified by the Secretary in regulations. In order to qualify for the special rule, a refueler truck, tanker, or tank wagon must: (1)

be loaded with fuel for delivery only into aircraft at the airport where the terminal is located; (2) have storage tanks, hose, and coupling equipment designed and used for the purposes of fueling aircraft; (3) not be registered for highway use; and (4) be operated by the terminal operator (who operates the terminal rack from which the fuel is unloaded) or by a person that makes a daily accounting to such terminal operator of each delivery of fuel from such truck, tanker, or tank wagon.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment imposes the kerosene tax rate of 24.3 cents per gallon upon the entry or removal of aviation-grade kerosene and on the sale of such fuel to any unregistered person unless there was a prior taxable removal or entry of the fuel. In general, the present law reduced rates for removals of aviation-grade kerosene directly into the fuel tank of an aircraft apply. In addition, under the provision, the rate of tax is 21.8 cents per gallon if kerosene is removed (1) directly into the fuel tank of an aircraft for use in aviation other than commercial aviation and (2) from refueler trucks, tankers, and tank wagons that are loaded with fuel from a terminal that is located in an airport, without regard to whether the terminal is located in a secured area of the airport, as long as all the other requirements of the present law special rule related to such trucks, tankers, and wagons are met. The provision clarifies that the rate of tax upon removal of kerosene is zero if the removal is from a refueler truck, tanker, or tank wagon that meets all of the requirements of present law, including the security requirement, the kerosene is delivered directly into the fuel tank of an aircraft, and the kerosene is exempt from the tax imposed by section 4041(c) (other than by prior imposition of tax).

The Senate amendment provides that amounts may be claimed as credits or refunds for kerosene that is taxed at the 24.3 cents per gallon rate and used for aviation purposes. If kerosene is used for noncommercial aviation, the amount is 2.5 cents; if kerosene is used for commercial aviation, the amount is 20 cents; if kerosene is used for a use that is exempt from tax (as determined under present law), the amount is 24.3 cents. Present law rules with respect to claims apply, except for claims with respect to kerosene used in noncommercial aviation, which are payable to the ultimate vendor only. To be eligible to receive a payment, a vendor must be registered and must show either that the price of the fuel did not include the tax and the tax was not collected from the purchaser, the amount of tax was repaid to the ultimate purchaser, or the written consent of the purchaser to the making of the claim was filed with the Secretary.

Under the Senate amendment, all taxes collected at the 24.3 cents per gallon rate (under section 4081) initially are credited to the Highway Trust Fund. The provision requires the Secretary to transfer at least monthly from the Highway Trust Fund into the Airport and Airway Trust Fund amounts equivalent to 21.8 cents per gallon for claims made with respect to kerosene used for noncommercial aviation purposes and 4.3 cents per gallon for claims made with respect to kerosene used for commercial aviation purposes. The provision requires that transfers be made on the basis of estimates by the Secretary, with proper adjustments to be made subsequently to the extent prior estimates were in excess of or less than the amounts required to be transferred. Transfers are required to be made with respect to taxes received on or after October 1, 2005, and before October 1, 2011. The provision provides that the Airport and Airway Trust Fund does not make payments with respect to kerosene that is taxed at the 24.3 cents per gallon rate and used for aviation purposes.

Effective date.—The Senate amendment is effective for fuels or liquids removed, entered, or sold after September 30, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

2. Repeal of ultimate vendor refund claims with respect to farming (sec. 1562 of the Senate amendment)

PRESENT LAW

In general—ultimate purchaser refunds for nontaxable uses

In general, the Code provides that if diesel fuel or kerosene on which tax has been imposed is used by any person in a nontaxable use, the Secretary is to refund (without interest) to the ultimate purchaser the amount of tax imposed. The refund is made to the ultimate purchaser of the taxed fuel by either income tax credit or refund payment. Not more than one claim may be filed by any person with respect to fuel used during its taxable year. However, there are exceptions to this rule.

An ultimate purchaser may make a claim for a refund payment for any quarter of a taxable year for which the purchaser can claim at least $750. If the purchaser cannot claim at least $750 at the end of quarter, the amount can be carried over to the next quarter to determine if the purchaser can claim at least $750. If the purchaser cannot claim at least $750 at the end of the taxable year, the purchaser must claim a credit on the person's income tax return.

As discussed below, these ultimate purchaser refund rules do not apply to diesel fuel or kerosene used on a farm. The Code precludes the ultimate purchaser from claiming a refund for such use. Instead, the refund claims are made by registered vendors as described below.

Special vendor rule for use on a farm for farming purposes

In the case of diesel fuel or kerosene used on a farm for farming purposes, refund payments are paid to the ultimate, registered vendors ("registered ultimate vendor") of such fuels. Thus a registered ultimate vendor that sells undyed diesel fuel or undyed kerosene to any of the following may make a claim for refund: (1) the owner, tenant, operator of a farm for use by that person on a farm for farming purposes; and (2) a person other than the owner, tenant, or operator of a farm for use by that person on a farm in connection with cultivating, raising or harvesting. The registered ultimate vendor is the only person who may make the claim with respect to diesel fuel or kerosene used on a farm for farming purposes. The purchaser of the fuel cannot make the claim for refund.

Registered ultimate vendors may make weekly claims if the claim is at least $200 ($100 or more in the case of kerosene). If not paid within 45 days (20 days for an electronic claim), the Secretary is to pay interest on the claim.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment repeals ultimate vendor refund claims in the case of diesel fuel or kerosene used on a farm for farming purposes. Thus, refunds for taxed diesel fuel or kerosene used on a farm for farming purposes would be paid to the ultimate purchaser under the rules applicable to nontaxable uses of diesel fuel or kerosene.

Effective date.—The provision is effective for sales after September 30, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

3. Refunds of excise taxes on exempt sales of taxable fuel by credit card (sec. 1563 of the Senate amendment)

PRESENT LAW

Under the rules in effect prior to 2005, in the case of gasoline on which tax had been paid and sold to a State or local government, to a nonprofit educational organization, for supplies for vessels or aircraft, for export, or for the production of special fuels, the wholesale distributor that sold such gasoline was treated as the only person who paid the tax and thereby was the proper claimant for a credit or refund of the tax paid. A "wholesale distributor" included any person, other than an importer or producer, who sold gasoline to producers, retailers, or to users who purchased in bulk quantities and accepted delivery into bulk storage tanks. A wholesale distributor also included any person who made retail sales of gasoline at 10 or more retail motor fuel outlets.

Under a special administrative exception to these rules, a sale of gasoline charged on an oil company credit card issued to an exempt person described above is not considered a direct sale by the person actually selling the gasoline to the ultimate purchaser if the seller receives a reimbursement of the tax from the oil company (or indirectly through an intermediate vendor). Thus, the person that actually paid the tax, in most cases the oil company, is treated as the only person eligible to make the refund claim.

The American Jobs Creation Act of 2004 ("AJCA") modified the pre-existing statutory rules with respect to certain sales. Under AJCA, if a registered ultimate vendor purchases any gasoline on which tax has been paid and sells such gasoline to a State or local government or to a nonprofit educational organization, for its exclusive use, such ultimate vendor is treated as the only person who paid the tax and thereby is the proper claimant for a credit or refund of the tax paid. However, AJCA did not change the special administrative oil company credit card rule described above.

In addition, under AJCA, refund claims made by such an ultimate vendor may be filed for any period of at least one week for which $200 or more is payable. Any such claim must be filed on or before the last day of the first quarter following the earliest quarter included in the claim. The Secretary must pay interest on refunds unpaid after 45 days. If the refund claim was filed by electronic means, and the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified for highway exempt use as a State or local government or a nonprofit educational organization, refunds unpaid after 20 days must be paid with interest.

In the case of diesel fuel or kerosene used in a nontaxable use, the ultimate purchaser is generally the only person entitled to claim a refund of excise tax. However, in the case of diesel fuel or kerosene used on a farm for farming purposes or by a State or local government, aviation-grade kerosene, and certain nonaviation-grade kerosene, an ultimate vendor may claim the refund if the ultimate vendor is registered and bears the tax (or receives the written consent of the ultimate purchaser to claim the refund).

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment replaces the oil company credit card rule with a new set of rules applicable to certain credit card sales. The new rules apply to all taxable fuels. Under the Senate amendment, if a purchase of taxable fuel is made by means of a credit card issued to an ultimate purchaser that is either a State or local government or, in the case of gasoline, a nonprofit educational organization, for its exclusive use, a credit card issuer who is registered and who extends such credit to the ultimate purchaser with respect to such purchase shall be the only person entitled to apply for a credit or refund if the following two conditions are met: (1) such registered person has not collected the amount of the tax from the purchaser, or has obtained the written consent of the ultimate purchaser to the allowance of the credit or refund; and (2) such registered person has either repaid or agreed to repay the amount of the tax to the ultimate vendor, has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or has otherwise made arrangements that directly or indirectly provide the ultimate vendor with reimbursement of such tax. It is anticipated that such indirect arrangements may consist of the contractual undertaking of the relevant oil company to the credit card issuer that it will pay the amount of the tax to the ultimate vendor, and the corresponding contractual undertaking of the oil company to the ultimate vendor.

If a credit card issuer is not registered, or if either condition (1) or (2) described above is not met (or if the ultimate purchaser is not exempt), then the credit card issuer is required to collect an amount equal to the tax from the ultimate purchaser and only an (exempt) ultimate purchaser may claim a credit or payment from the IRS. Thus, tax-paid fuel shall not be sold tax free to an exempt entity by means of a credit card unless the credit card issuer is registered. An unregistered credit card issuer that does not collect an amount equal to the tax from the exempt entity is liable for present-law penalties for failure to register.

A credit card issuer entitled to claim a refund under the provision is responsible for collecting and supplying all the appropriate documentation currently required from ultimate vendors. The present-law refund amount and timing rules applicable to ultimate vendors, including the special rules for electronic claims, apply to refunds to credit card issuers under the provision.

The Senate amendment also conforms present-law penalty provisions to the new rules.

The Senate amendment does not change the present-law rules applicable to non-credit card purchases.

Effective date.—The provision is effective for sales after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

4. Recertification of exempt status (sec. 1564 of the Senate amendment)

PRESENT LAW

If gasoline is sold to any person for an exempt use, an ultimate purchaser that has borne the tax is entitled to claim a refund. However, a registered ultimate vendor is the appropriate person to claim a refund of Federal excise taxes on gasoline sold to a State or local government or to a nonprofit educational organization.

In general, in order to claim a refund of Federal excise taxes on gasoline (and on other articles subject to manufacturers excise taxes under Chapter 32 of the Code) sold to a State or local government or to a nonprofit educational organization, for its exclusive use, a claimant must submit a statement indicating that it possesses evidence of the exempt use giving rise to the overpayment of tax. Such evidence consists of a certificate executed and signed by the ultimate purchaser, and must identify the article, show the name and address of the ultimate purchaser, and state the exempt use made or to be made of the article. In the case where the certificate sets forth the use to be made of the article, rather than its actual use, it must show that the ultimate purchaser has agreed to notify the claimant if the article is not in fact used as specified in the certificate.

However, if the article to which the claim relates has passed through a chain of sales from the claimant to the ultimate purchaser, a certificate executed and signed by the ultimate vendor is sufficient to document the exempt use. The ultimate vendor certificate must contain the exempt sales information, and a statement that it possesses the ultimate purchaser certificates and will forward them to the claimant within three years from the date of the statement. An ultimate vendor statement may be made covering no more than 12 consecutive calendar quarters.

In general, an ultimate purchaser is the proper party to claim a refund of Federal excise tax on diesel fuel or kerosene used by any person in a nontaxable use. However, in the case of diesel or kerosene used by a State or local government, the ultimate vendor is the proper person if such vendor is registered and has borne the tax (or receives the written consent of the ultimate purchaser to claim the refund). A registered ultimate vendor claiming a refund under this provision must provide a statement that it has in its possession an unexpired exemption certificate of the purchaser and that the claimant has no reason to believe any information in the certificate is false.

A State or local government includes any political subdivision of a State, or the District of Columbia. A nonprofit educational organization means an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, and which either is exempt from income tax under section 501(a) or is a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a).

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, additional documentation requirements are imposed with respect to purchases of taxable fuel and certain other articles on a nontaxable basis by State or local governments and nonprofit educational organizations and with respect to refunds or credits by any person with respect to such purchases. The Senate amendment covers Federal excise taxes on sales of liquids for use as a fuel (including taxable fuels), compressed natural gas (except if sold for use on school buses or intracity buses), heavy trucks and trailers, recreational equipment (bows and arrows, sport fishing equipment and firearms), and tires (except for tires sold for use on qualified buses). The Senate amendment does not cover Federal excise taxes on sales of coal and vaccines.

In addition to present-law documentation requirements, in order for a State or local governmental entity to claim exemption from tax on sales of such covered articles, or for any person to claim a credit or refund based upon the State or local governmental status of the purchaser of such articles, the State must certify that the article is sold to a State or local government for the exclusive use of a State or local government. In the case of articles sold to a qualified volunteer fire department, as defined in section 150(e)(2), the State must so certify, and the article must be sold for the exclusive use of the qualified volunteer fire department.

In order for a nonprofit educational organization to claim exemption from tax on such articles, or for any person to claim a credit or refund of tax on such articles based upon the nonprofit educational status of an organization, the State in which such organization is providing educational services must certify that such organization is in good standing.

For purposes of this provision, an Indian tribal government is treated as a State. Consequently, it is intended that the applicable Indian tribal government will provide the certifications under this provision.

It is intended that the certifications required under this provision will be provided by exempt purchasers to the refund claimants (in addition to documentation required under present law), and that the IRS may require that such certifications be submitted as part of the claims. The Secretary may prescribe forms for such certifications.

Effective date.—The provision is effective for all sales after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

5. Reregistration in event of change in ownership (sec. 1565 of the Senate amendment)

PRESENT LAW

Blenders, enterers, pipeline operators, position holders, refiners, terminal operators, and vessel operators are required to register with the Secretary with respect to fuels taxes imposed by sections 4041(a)(1) and 4081. An assessable penalty for failure to register is $10,000 for each initial failure, plus $1,000 per day that the failure continues. A non-assessable penalty for failure to register is $10,000. A criminal penalty of $10,000, or imprisonment of not more than five years, or both, together with the costs of prosecution also applies to a failure to register and to certain false statements made in connection with a registration application. Treasury regulations require that a registrant notify the Secretary of any change (such as a change in ownership) in the information a registrant submitted in connection with its application for registration within 10 days of the change. The Secretary has the discretion to revoke the registration of a noncompliant registrant.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment requires that upon a change in ownership of a registrant, the registrant must reregister with the Secretary, as provided by the Secretary. A change in ownership means that after a transaction (or series of related transactions), more than 50 percent of the ownership interests in, or assets of, a registrant are held by persons other than persons (or persons related thereto) who held more than 50 percent of such interests or assets before the transaction (or series of related transactions). The provision does not apply to a company, the stock of which is regularly traded on an established securities market. The penalties for failure to reregister are the same as the present law penalties for failure to register. The provision applies to changes in ownership occurring prior to, on, or after the date of enactment.

Effective date.—The Senate amendment is effective for actions or failures to act after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

6. Registration of operators of deep-draft vessels (sec. 1566 of the Senate amendment)

PRESENT LAW

Blenders, enterers, pipeline operators, position holders, refiners, terminal operators, and vessel operators are required to register with the Secretary with respect to fuels taxes imposed by sections 4041(a)(1) and 4081. Treasury regulations define a vessel operator as any person that operates a vessel within the bulk transfer terminal system, excluding deep-draft ocean-going vessels. Accordingly, operators of deep-draft ocean-going vessels are not required to register. A deep-draft ocean-going vessel is a vessel that is designed primarily for use on the high seas that has a draft of more than 12 feet.

An assessable penalty for failure to register is $10,000 for each initial failure, plus $1,000 per day that the failure continues. A non-assessable penalty for failure to register is $10,000. A criminal penalty of $10,000, or imprisonment of not more than five years, or both, together with the costs of prosecution also applies to a failure to register and to certain false statements made in connection with a registration application.

In general, gasoline, diesel fuel, and kerosene ("taxable fuel") are taxed upon removal from a refinery or a terminal. Tax also is imposed on the entry into the United States of any taxable fuel for consumption, use, or warehousing. The tax does not apply to any removal or entry of a taxable fuel transferred in bulk (a "bulk transfer") by pipeline or vessel to a terminal or refinery if the person removing or entering the taxable fuel, the operator of such pipeline or vessel, and the operator of such terminal or refinery are registered with the Secretary as required by section 4101. Transfer to an unregistered party subjects the transfer to tax.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, an operator of deep-draft ocean-going vessel is required to register with the Secretary unless such operator uses such vessel exclusively for purposes of the entry of taxable fuel. If a deep-draft ocean-going vessel is used as part of a bulk transfer, the operator of such vessel must be registered in order for the bulk transfer exemption to apply, except with respect to the entry of taxable fuel, in which case, registration is not required.

Effective date.—The Senate amendment is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

7. Reconciliation of on-loaded cargo to entered cargo (sec. 1567 of the Senate amendment)

PRESENT LAW

The Trade Act of 2002 directed the Secretary to promulgate regulations pertaining to the electronic transmission to the Bureau of Customs and Border Patrol ("Customs") of information pertaining to cargo destined for importation into the United States or exportation from the United States, prior to such importation or exportation. The Department of the Treasury issued final regulations on October 31, 2002. The regulations require the advance and accurate presentation of certain manifest information prior to lading at the foreign port and encourage the presentation of this information electronically. Customs must receive from the carrier the vessel's Cargo Declaration (Customs Form 1302) or the electronic equivalent within 24 hours before such cargo is laden aboard the vessel at the foreign port.

Certain carriers of bulk cargo, however, are exempt from these filing requirements. Such bulk cargo includes that composed of free flowing articles such as oil, grain, coal, ore and the like, which can be pumped or run through a chute or handled by dumping. Thus, taxable fuels are not required to file the Cargo Declaration within 24 hours before such cargo is laden aboard the vessel at the foreign port. Instead the Cargo Declaration must be filed within 24 hours prior arrival in the United States.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that not later than one year after the date of enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, is to establish an electronic data interchange system through which Customs shall transmit to the Internal Revenue Service information pertaining to cargoes of taxable fuels (as defined in section 4083) that Customs has obtained electronically under its regulations adopted to carry out the Trade Act of 2002 requirement. For this purpose, not later than one year after the date of enactment, all filers of required cargo information for such taxable fuels, as defined, must provide such information to Customs through its approved electronic data interchange system.

Effective date.—The provision is effective upon date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

8. Gasoline blend stocks and kerosene (sec. 1568 of the Senate amendment)

PRESENT LAW

In general

A "taxable fuel" is gasoline, diesel fuel (including any liquid, other than gasoline, which is suitable for use as a fuel in a diesel-powered highway vehicle or train), and kerosene. An excise tax is imposed upon (1) the removal of any taxable fuel from a refinery or terminal, (2) the entry of any taxable fuel into the United States, or (3) the sale of any taxable fuel to any person who is not registered with the IRS to receive untaxed fuel, unless there was a prior taxable removal or entry. The tax does not apply to any removal or entry of taxable fuel transferred in bulk to a terminal or refinery if the person removing or entering the taxable fuel, the operator of such pipeline or vessel, and the operator of such terminal or refinery are registered with the Secretary.

Gasoline blend stocks

Definition

Under the regulations, "gasoline" includes all products commonly or commercially known or sold as gasoline and are suitable for use as a motor fuel, and that have an octane rating of 75 or more. Gasoline also includes, to the extent provided in regulations, gasoline blend stocks and products commonly used as additives in gasoline. By regulation, the Treasury has identified certain products as gasoline blend stocks, however, the term "gasoline blend stocks" does not include any product that cannot be blended into gasoline without further processing or fractionation ("off-spec gasoline").

Gasoline blend stock exemptions

If certain conditions are met, the removal, entry, or sale of gasoline blend stocks is not taxable. Generally, the exemption from tax applies if a gasoline blend stock (1) is not used to produce finished gasoline (2) is received at an approved terminal or refinery, or (3) in bulk transfer to an industrial user.

Gasoline blend stocks not used to produce finished gasoline.—Pursuant to Treasury regulation, no tax is imposed on nonbulk removals from a terminal or refinery, or nonbulk entries into the United States of any gasoline blend stocks if (1) the person liable for the tax is a taxable fuel registrant, and (2) such person does not use the gasoline blend stocks to produce finished gasoline. In connection with a sale, no tax is imposed on the nonbulk removal or entry if (1) the person liable for the tax is a gasoline registrant and (2) at the time of sale such party has an unexpired certificate from the buyer, and has no reason to believe any information in the certificate is false.

Any sale (or resale) of a gasoline blend stock that was not subject to tax on nonbulk removal or entry is taxable unless the seller has an unexpired certificate from the buyer and has no reason to believe that any information in the certificate is false.

The certificate to be provided by a buyer of gasoline blend stocks contains a statement that the gasoline blend stocks covered by the certificate will not be used to produce finished gasoline, identifies the type (or types of blend stocks) covered by the certificate and provides that the buyer will not claim a credit or refund for any gasoline covered by the certificate. The certificate is signed under penalties of perjury by a person with authority to bind the buyer. The certificate expires on the earliest of one year from the effective date of the certificate, the date a new certificate is provided to the seller or the date the seller is notified by the IRS or the buyer that the buyer's right to provide a certificate has been withdrawn.

Gasoline blend stocks received at an approved terminal or refinery.—Treasury regulations provide that tax is not imposed on the removal or entry of gasoline blend stocks that are received at a terminal or refinery if the person liable for tax is a taxable fuel registrant, has an unexpired notification certificate from the operator of the terminal or refinery where the gasoline blend stocks are received; and has no reason to believe that any information in the certificate is false. A notification certificate is used to notify another person of the taxable fuel registrant's registration status.

Bulk transfer to an industrial user.—Tax is not imposed if upon removal of the gasoline blend stocks from a pipeline or vessel, the gasoline blend stocks are received by a taxable fuel registrant that is an industrial user. An industrial user means any person that receives gasoline blend stocks by bulk transfer for its own use in the manufacture of any product other than finished gasoline.

Refunds or credits for tax imposed on gasoline blend stocks not used for producing gasoline

If any gasoline blend stock or additive is not used by a person to produce gasoline and that person establishes that the ultimate use of the gasoline blend stock or additive is not used to produce gasoline, then the Secretary is to pay (without interest) to such person, an amount equal to the aggregate amount of tax imposed on such person with respect to such gasoline or blend stock.

If gasoline is used in an off-highway business use, the ultimate purchaser of the gasoline is entitled to a credit or refund for the excise taxes imposed on the fuel. "Off-highway business use" means any use by a person in a trade or business of such person otherwise than as a fuel in a highway vehicle that meets certain requirements. Gasoline for this purpose includes gasoline blend stocks.

The Code also provides for a refund of tax for tax-paid fuel sold to a subsequent manufacturer or producer if the subsequent manufacturer or producer uses the fuel, for nonfuel purposes, as a material in the manufacture or production of any other article manufactured or produced by him.

Kerosene

Definition of kerosene

By regulation, kerosene is defined as the kerosene described in ASTM Specification D 3699 (No. 1-K and No. 2-K), ASTM Specification D 1655 (kerosene-type jet fuel), and military specifications MIL-DTL-5624T (Grade JP-5) and MIL-DTL-83133E (Grade JP-8). Kerosene does not include any liquid that is an excluded liquid.

An "excluded liquid" is (1) any liquid that contains less than four percent normal paraffins, or (2) any liquid that has a distillation range of 125 degrees Fahrenheit or less, sulfur content of 10 ppm or less, and minimum color of +27 Saybolt. These liquids are commonly known as "mineral spirits" and are obtained by distillation of crude oil. Mineral spirits are used for a wide variety of purposes, such as in dry-cleaning fluids, paint thinners, varnishes, photocopy toners, inks, adhesives, and as general purpose cleaners and degreasers.

Exemptions

Diesel fuel and kerosene that is to be used for a nontaxable purpose will not be taxed upon removal from the terminal if it is dyed to indicate its nontaxable purpose. Kerosene received by pipeline or vessel to satisfy a feedstock purpose is exempt from the dyeing requirement. Pursuant to Treasury regulations, nonbulk removals of kerosene for a feedstock purpose by a registered feedstock user also are exempt. The person receiving the kerosene must be registered with the IRS and provide a certificate noting that the kerosene will be used for a feedstock purpose in order for the exemption to apply. Pursuant to the Treasury regulations, tax also does not apply upon the removal or entry of kerosene if the person otherwise liable for tax is a taxable fuel registrant and such person uses the kerosene for a feedstock purpose.

"Feedstock purpose" means the use of kerosene for nonfuel purposes in the manufacture or production of any substance (other than gasoline, diesel fuel or special fuels subject to tax). Thus, for example, kerosene is used for a feedstock purpose when it is used as an ingredient in the production of paint and is not used for a feedstock purpose when it is used to power machinery at a factory where paint is produced.

Refunds and payments for nontaxable uses of kerosene

If tax-paid kerosene is used by any person in a nontaxable use, the Secretary is required to pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel. For this purpose, a nontaxable use is any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of prior imposition of tax. Claims relating to kerosene used on a farm for farming purposes and by a State are made by registered ultimate vendors. Claims relating to undyed kerosene sold from a blocked pump or sold for blending with heating oil to be used during periods of extreme or unseasonable cold are also made by registered ultimate vendors. Special rules apply with respect to aviation-grade kerosene.

The Code also provides for a refund of tax for tax-paid fuel sold to a subsequent manufacturer or producer if the subsequent manufacturer or producer uses the fuel, for nonfuel purposes, as a material in the manufacture or production of any other article manufactured or produced by him.

HOUSE BILL

No provision.

SENATE AMENDMENT

Gasoline blend stocks

The Senate amendment partially repeals exemptions provided in Treas. Reg. sec. 48.4081-4, which, under certain conditions, exempts from tax gasoline blend stocks that are not used to produce finished gasoline or that are received at an approved terminal or refinery. Under the Senate amendment, tax is imposed on all nonbulk entries and removals of gasoline blend stocks, regardless of whether they will be used to produce finished gasoline or received at an approved terminal or refinery. The Senate amendment does not change the exemption for bulk transfers to registered industrial users.

Kerosene and mineral spirits

The Senate amendment requires that with respect to fuel entered or removed after September 30, 2005, the Secretary shall not exclude mineral spirits from the definition of kerosene. Thus, for entries and removals after September 30, 2005, mineral spirits are taxed and exempt from tax in the same manner as kerosene.

Effective date.—The provision is effective for fuel removed or entered after September 30, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

9. Nonapplication of export exemption to delivery of fuel to motor vehicles removed from United States (sec. 1569 of the Senate amendment)

PRESENT LAW

A "taxable fuel" is gasoline, diesel fuel (including any liquid, other than gasoline, which is suitable for use as a fuel in a diesel-powered highway vehicle or train), and kerosene. An excise tax is imposed upon (1) the removal of any taxable fuel from a refinery or terminal, (2) the entry of any taxable fuel into the United States, or (3) the sale of any taxable fuel to any person who is not registered with the IRS to receive untaxed fuel, unless there was a prior taxable removal or entry. The tax does not apply to any removal or entry of taxable fuel transferred in bulk to a terminal or refinery if the person removing or entering the taxable fuel, the operator of such pipeline or vessel, and the operator of such terminal or refinery are registered with the Secretary.

Special provisions under the Code provide for a refund of tax to any person who sells gasoline to another for exportation. Section 6421(c) provides "If gasoline is sold to any person for any purpose described in paragraph (2), (3), (4), or (5) of section 4221(a), the Secretary shall pay (without interest) to such person an amount equal to the product of the number of gallons so sold multiplied by the rate at which tax was imposed on such gasoline by section 4081." Section 4221 provides, in pertinent part, "Under regulations prescribed by the Secretary, no tax shall be imposed under this chapter . . . on the sale by the manufacturer. . . of an article . . . for export, or for resale by the purchaser to a second purchaser for export. . . but only if such exportation or use is to occur before any other use . . ."

It is the IRS administrative position that the exemption from manufacturers excise tax by reason of exportation does not apply to the sale of motor fuel pumped into a fuel tank of a vehicle that is to be driven, or shipped, directly out of the United States.

A duty-free sales facility that meets certain conditions may sell and deliver for export from the customs territory of the United States duty-free merchandise. Duty-free merchandise is merchandise sold by a duty-free sales facility on which neither Federal duty nor Federal tax has been assessed pending exportation from the customs territory of the United States. The statutes covering duty-free facilities do not contain any limitation on what goods may qualify for duty-free treatment.

The issue of whether fuel sold from a duty-free facility and placed into the tank of an automobile that is then driven out of the country is exported fuel has been litigated in the courts. The cases involved the same operator of a duty-free facility seeking a refund of excise tax. The facility is near the Canadian border and is configured in such a way that anyone leaving the facility must depart the United States and enter into Canada. Both the Federal Circuit and the Sixth Circuit Court of Appeals are in accord with the IRS position and ruled that the operator of the duty-free facility did not have standing to pursue a claim for refund.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment reaffirms the longstanding IRS position taken in Rev. Rul. 69-150 and restates present law by amending the Code definition of export to exclude the delivery of a taxable fuel into a fuel tank of a motor vehicle that is shipped or driven out of the United States. It also imposes a tax on the sale of taxable fuel at a duty-free sales enterprise unless there was a prior taxable removal, or entry of such fuel.

Effective date.—The provision applies to sales or deliveries made after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

10. Impose assessable penalty on dealers of adulterated fuel (sec. 1570 of the Senate amendment)

PRESENT LAW

Diesel fuel, gasoline, and kerosene are taxable fuels. Diesel fuel is defined as (1) any liquid (other than gasoline) which is suitable for use as a fuel in a diesel-powered highway vehicle or a diesel powered train, (2) transmix, and (3) diesel fuel blend stocks identified by the Secretary. As a defense to Federal and State excise tax liability, some taxpayers have contended that certain diesel fuel mixtures or additives do not meet the requirements of (1) above because they are not approved as additives or mixtures by the EPA. In addition, under present law, untaxed fuel additives, including certain contaminants, may displace taxed diesel fuel in a mixture.

The Code provides that any person who, in connection with a sale or lease (or offer for sale or lease) of an article, knowingly makes any false statement ascribing a particular part of the price of the article to a tax imposed by the United States, or intended to lead any person to believe that any part of the price consists of such a tax, is guilty of a misdemeanor. Another Code provision provides that any person who has in his custody or possession any article on which taxes are imposed by law, for the purpose of selling the article in fraud of the internal revenue laws or with design to avoid payment of the taxes thereon, is liable for "a penalty of $500 or not less than double the amount of taxes fraudulently attempted to be evaded."

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment adds a new assessable penalty. Any person other than a retailer who knowingly transfers for resale, sells for resale, or holds out for resale for use in a diesel-powered highway vehicle (or train) any liquid that does not meet applicable EPA regulations (as defined in section 45H(c)(3)) is subject to a penalty of $10,000 for each such transfer, sale or holding out for resale, in addition to the tax on such liquid, if any. Any retailer who knowingly holds out for sale (other than for resale) any such liquid, is subject to a $10,000 penalty for each such holding out for sale, in addition to the tax on such liquid, if any.

The penalty is dedicated to the Highway Trust Fund.

Effective date.—The provision is effective for any transfer, sale, or holding out for sale or resale occurring after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

11. Oil Spill Liability Trust Fund (sec. 1571 of the Senate amendment, sec. 1361 of the conference agreement, and sec. 4611 of the Code)

PRESENT LAW

Between December 31, 1989, and January 1, 1995, a five-cent-per-barrel tax was imposed on crude oil received at a United States refinery and imported petroleum products received for consumption, use, or warehousing, and any domestically produced crude oil that is exported from the United States if, before exportation, no taxes were imposed on the crude oil. The tax was effective only if the unobligated balance in the Fund was less than $1 billion. Taxes received were credited to the Oil Spill Liability Trust Fund. The Oil Spill Liability Trust Fund is used for several purposes, including the payment of costs for responding to and removing oil spills.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment reinstates the Oil Spill Liability Trust Fund tax. The tax applies on April 1, 2006, or if later, the last day of any calendar quarter for which the Secretary estimates that, as of the close of that quarter, the unobligated balance in the Oil Spill Liability Trust Fund is less than $2 billion.

The tax will be suspended during a calendar quarter if the Secretary estimates that, as of the close of the preceding calendar quarter, the unobligated balance in the Oil Spill Liability Trust Fund exceeds $3 billion. The tax terminates after December 31, 2014.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with the following modification. The tax will be suspended during a calendar quarter if the Secretary estimates that, as of the close of the preceding calendar quarter, the unobligated balance in the Oil Spill Liability Trust Fund exceeds $2.7 billion.

12. Leaking Underground Storage Tank Trust Fund (sec. 1562 of the Senate amendment, sec. 1362 of the conference agreement, secs. 4041, 4081(d), 4082, 9508, and new sec. 6430 of the Code)

PRESENT LAW

The Code imposes an excise tax, generally at a rate of 0.1 cents per gallon, on gasoline, diesel, kerosene, and special motor fuels (other than liquefied petroleum gas and liquefied natural gas). The taxes are deposited in the Leaking Underground Storage Tank ("LUST") Trust Fund. The tax expires on October 1, 2005.

Diesel fuel and kerosene that is to be used for a nontaxable purpose will not be taxed upon removal from the terminal if it is dyed to indicate its nontaxable purpose.

The Code requires the LUST Trust Fund to reimburse the General Fund for certain refund and credit claims related to the nontaxable use of fuel (only to the extent attributable to the LUST Trust fund financing rate).

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, the LUST Trust Fund tax is extended at the current rate through September 30, 2011. Further, all fuel, including dyed fuel, is subject to the LUST tax and no refund or claim for payment in the case of otherwise nontaxable use (other than exports) is permitted for such fuel. Under the provision, the LUST Trust Fund is no longer required to reimburse the General Fund for claims and credits related to the nontaxable use of fuel.

Effective date.—The provision is generally effective for fuel entered, removed or sold after September 30, 2005. The extension of the trust fund tax is effective October 1, 2005.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

13. Clarification of tire excise tax (sec. 1573 of the Senate amendment, sec. 1364 of the conference agreement, and sec. 4072(e) of the Code)

PRESENT LAW

The Code imposes an excise tax on highway tires with a rated load capacity exceeding 3,500 pounds, generally at a rate of 9.45 cents per 10 pounds of excess. Biasply tires and super single tires are taxed at a rate of 4.725 cents for each 10 pounds of rated load capacity exceeding 3,500 pounds. A super single tire is a single tire greater than 13 inches in cross section width designed to replace two tires in a dual fitment.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment subjects super single tires to a tax of 8 cents per 10 pounds of excess rated load capacity over 3,500 pounds. It redefines super single tire to be a single tire greater than 17.5 inches in cross section width designed to replace two tires in a dual fitment.

Effective date.—The provision is effective for sales after September 30, 2005.

CONFERENCE AGREEMENT

The conference agreement clarifies that the definition of super single tire does not include tires designed to serve as steering tires. It is understood that steering axles are not equipped with a dual fitment. Therefore, tires classified as steering tires are not "designed to replace two tires in a dual fitment." To the extent there is any perceived ambiguity in the present law definition, the conferees wish to clarify that steering tires are not included within the definition of super single tire eligible for the special rate of tax. Under the conference agreement, a "super single tire" is a single tire greater than 13 inches in cross section width designed to replace two tires in a dual fitment, but such term does not include any tire designed for steering.

With respect to the one-year period beginning on January 1, 2006, the IRS is required to report to the Congress on the amount of tax collected during such period for each class of taxable tire (e.g. biasply, super single, or other) and the number of tires in each such class on which tax is imposed during such period. The report must be submitted no later than July 1, 2007. The IRS is directed to revise the Form 720, Quarterly Federal Excise Tax Return, to collect the information necessary to prepare the report. The report is also to include total tire tax collections for an equivalent one-year period preceding the date of enactment of the American Jobs Creation Act of 2004.

Effective date.—The provision regarding the definition of a super single tire is effective as if included in section 869 of the American Jobs Creation Act of 2004. The study requirement is effective on the date of enactment.

14. Modify recapture of section 197 amortization (sec. 1363 of the conference agreement and sec. 1245 of the Code)

PRESENT LAW

Taxpayers are entitled to recover the cost of amortizable section 197 intangibles using the straight-line method of amortization over a uniform life of fifteen years. With certain exceptions, amortizable section 197 intangibles generally are purchased intangibles held by a taxpayer in the conduct of a business.

Gain on the sale of depreciable property must be recaptured as ordinary income to the extent of depreciation deductions previously claimed, and the recapture amount is computed separately for each item of property. Section 197 intangibles, because they are treated as property of a character subject to the allowance for depreciation, are subject to these recapture rules.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Under the conference agreement, if multiple section 197 intangibles are sold (or otherwise disposed of) in a single transaction or series of transactions, the seller must calculate recapture as if all of the section 197 intangibles were a single asset. Thus, any gain on the sale (or other disposition) of the intangibles is recaptured as ordinary income to the extent of ordinary depreciation deductions previously claimed on any of the section 197 intangibles.

The following example illustrates present law and the conference agreement:

Example.—In year 1, a taxpayer acquires two section 197 intangible assets for a total of $45. Asset A is assigned a cost basis of $15 and asset B is assigned a cost basis of $30. The allocation is irrelevant for amortization purposes, as the taxpayer will be entitled to a total of $3 per year ($45 divided by 15 years).

In year 6, the basis of A is $10 and the basis of B is $20. Taxpayer sells the assets for an aggregate sale price of $45, resulting in gain of $15. The character of this gain depends on the recapture amount, which depends in turn on the relative sales prices of the individual assets. Taxpayer has claimed $5 of amortization, and therefore has $5 of recapture potential, with respect to A. Taxpayer has claimed $10 of amortization, and therefore has $10 of recapture potential, with respect to B.

Under present law, if the sale proceeds are allocated $15 to A and $30 to B, the gain on assets A and B will be $5 and $10, respectively. These amounts match the recapture potential for each asset, so the full amount of the gain will be recaptured as ordinary income. However, if the sale proceeds instead are allocated $25 to A and $20 to B, the full $15 gain will be recognized with respect to A, and only $5 (full recapture potential with respect to A) will be recaptured as ordinary income. The remaining $10 of gain attributable to A will be treated as capital gain. No gain (and thus no recapture) will be recognized with respect to Asset B, and only $5 of the $15 recapture potential is recognized.

Under the conference agreement, the taxpayer calculates recapture as if assets A and B were a single asset. For purposes of the calculation, the proceeds are $45 and the gain is $15. Because a total of $15 of amortization has been claimed with respect to assets A and B, the full $15 gain is recaptured as ordinary income.

Effective date.—The conference agreement is effective for dispositions of property after the date of enactment.

F. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code (the "Code") and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that have "widespread applicability" to individuals or small businesses.

HONORING OUR ARMED FORCES

STAFF SERGEANT JASON MONTEFERING

Mr. JOHNSON. Mr. President, I rise today to pay tribute to Army SSG Jason Montefering, who died on July 24, 2005, while serving in Operation Iraqi Freedom. He was a member of the 3rd Armored Cavalry Division, and was killed when an improvised explosive device, IED, detonated near his military vehicle in Baghdad.

A graduate of Parkston High School, Staff Sergeant Montefering was serving his second tour of duty in Iraq. He will be remembered as a hard worker who was always ready to get his hands dirty, according to his former employer. While in high school, Jason worked part time at Murtha Repair in Parkston. Owner John Murtha remarked that Jason "would sweep up and then help the mechanics. All of the guys liked working with him. He was a real good kid."

Staff Sergeant Montefering is the 11th servicemember from South Dakota killed during hostilities in Iraq. He served our country with honor and died a hero defending it. My thoughts and prayers are with his family during this difficult time, as well as all those who have loved ones serving overseas.

I commend Staff Sergeant Montefering's commitment to his family, his Nation, and his community. Without question, his dedication to helping others will serve as his greatest legacy, and our Nation is a far better place because of Staff Sergeant Montefering's contributions.

I join all South Dakotans in expressing my sympathies to the friends and family of Staff Sergeant Montefering. I know he will be deeply missed, but his service to our Nation will never be forgotten.

SERGEANT JASON T. PALMERTON

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of SGT Jason T. Palmerton of Auburn, NE, a Green Beret in the U.S. Army. Sergeant Palmerton was killed by small arms fire while on foot patrol on July 23 in Qal'eh-Yegaz, Afghanistan. He was 25 years old.

Sergeant Palmerton was born in Hamburg, IA, and grew up in Nebraska. He graduated from Auburn High School in 1998 and enlisted in the Army in 2002. Sergeant Palmerton was assigned to the 1st Battalion, 3rd Special Forces Group based in Fort Bragg, NC, and had been in Afghanistan for 6 weeks. He had learned Arabic and was working as a communications specialist. Sergeant Palmerton will be remembered as a loyal soldier who had a strong sense of duty, honor, and love of country. Thousands of brave Americans like Sergeant Palmerton are currently serving in Afghanistan.

Sergeant Palmerton is survived by his mother Denise Brown, of Auburn; father Steve Palmerton of Norman, OK; sisters, Elizabeth Schlange of Auburn, Amanda Palmerton of Omaha and Chelsea Palmerton of Norman; grandparents, Herman and Alice Moenning of Lincoln, and Thomas Palmerton of Brownville; and fiance Shelley Austin of North Carolina. Our thoughts and prayers are with them at this difficult time. America is proud of Sergeant Palmerton's heroic service and mourns his loss.

I ask my colleagues to join me and all Americans in honoring SGT Jason T. Palmerton.

STRIKING THE PRESIDENTIAL WAIVER AUTHORITY IN AMENDMENT NO. 1556

Mr. McCAIN. Mr. President, on Monday I offered an amendment that would prohibit cruel, inhuman, or degrading treatment or punishment of persons under the custody or control of the U.S. Government. I was pleased that Senators WARNER, GRAHAM, and COLLINS joined as original cosponsors, and Senators CHAFEE and ALEXANDER have also joined as cosponsors.

After I offered the amendment, I agreed to modify it at the manager's request to include a Presidential waiver—section (b) of the pending amendment. It is now clear, however, that this would be inconsistent with the overall intent of my amendment, which is to ensure that there is full compliance with our treaty obligations, including with the prohibition against cruel, inhuman, and degrading treatment included in the Convention Against Torture, which was signed by President Reagan and ratified by the Senate.

For this reason, I have filed a second-degree amendment to amendment No. 1556 that would strike the waiver. When the Senate resumes consideration of the Defense authorization bill, I will either modify the pending amendment, seek action on the second-degree amendment, or simply file a new amendment without the waiver. In short, I will offer for consideration—and seek passage of—a statutory prohibition against cruel, inhuman, or degrading treatment or punishment, without a Presidential waiver.

SETTING THE RECORD STRAIGHT ON PAWS

Mr. SANTORUM. Mr. President, on May 26, 2005, I introduced with my colleague Senator DURBIN the Pet Animal Welfare Statute of 2005, or PAWS. PAWS amends the Animal Welfare Act to strengthen the Secretary of Agriculture's authority to deal with the problems of substandard animal dealers.

I want to make clear to our colleagues and the public that we believe the vast majority of animal dealers are conscientious persons who make every effort to treat their animals humanely and to comply with the law. But, unfortunately, there are some animal dealers who do not care properly for their animals and who seek to profit at the expense of the animals and the public. They exploit the weaknesses and loopholes in the current law to evade or ignore basic standards for the care and condition of animals. These substandard dealers give the entire pet industry a black eye, all the while preying upon the public. It is these unscrupulous animal dealers at which PAWS is targeted.

PAWS strengthens the Secretary of Agriculture's authority to deal with substandard animal dealers by making four important improvements to the Animal Welfare Act. First, it will bring under coverage of the Animal Welfare Act high volume dealers who are in every respect like those dealers currently regulated, but are evading regulation because they sell animals exclusively at retail. PAWS will continue to exempt real retail pet stores, and will add a new exemption for small dealers and hobby and show breeders. Second, PAWS will help the Secretary of Agriculture identify persons not complying with the law by requiring those who acquire animals for resale to keep records of the source from whom the animals are acquired and make these records available to the Secretary upon request. Third, PAWS will create an incentive for dealers to quickly correct serious problems by giving the Secretary authority to temporarily suspend dealers' licenses for up to 60 days if a violation is placing the health of an animal in imminent danger. Finally, PAWS will strengthen the authority of the Secretary to obtain injunctions to shut down dealers who fail to comply with the law.

The marketplace for animals has changed dramatically since the 1970s when the current animal dealer provisions of the act were written. At that time only retail pet stores and small hobby and show breeders sold pet animals, so regulating wholesale sellers and exempting persons who sold animals at retail and were regulated by the market made some sense. With the advent of the internet, mass national marketing channels, and mass importation of puppies for resale, there are a large number of unregulated dealers who are in every respect identical to the dealers regulated by the act, except that they evade regulation by selling exclusively at retail. By regulating these high volume retail sellers, we will assure that they meet the same standards for the humane care and treatment of animals that breeders and brokers selling at wholesale have been meeting for 30 years.

PAWS defines the term "retail pet store" so that only real retail pet stores are exempt, where customers can see the animals and the conditions where they are kept. PAWS also adds a specific exemption for small dealers and hobby and show breeders. Only persons who sell more than 25 dogs per year would be regulated. In addition, breeders who sell dogs and cats from fewer than 7 litters a year bred or raised on their own premises, or fewer than 25 dogs and cats per year bred or raised on their own premises, which ever is greater, would be exempt. For example, if an irish setter breeder has 6 litters that average 6 puppies each for a total of 36 puppies, they can sell them without being regulated. If a toy breeder has 10 litters that average only 2 puppies each for a total of 20 puppies, they can sell them without being regulated. These breeders could also sell 25 or fewer other dogs a year not bred or raised on their own premises such as stud puppies or puppies from coownerships, without being regulated. I firmly believe that the sport and hobby of breeding and raising dogs and cats should not be a federally regulated activity. PAWS will, for the first time, put an explicit exemption into the Animal Welfare Act to protect small hobby and show breeders from regulation.

Some persons who sell dogs for hunting purposes have expressed a concern that PAWS will bring them under regulation. The current Animal Welfare Act already covers persons who sell hunting dogs, and has for almost 30 years. They are regulated on the same basis as those who sell dogs for pets. PAWS will continue to regulate sellers of hunting dogs on the same basis as those who sell dogs as pets. Only high volume sellers who exceed the exemptions set forth in PAWS will be subject to regulation.

Some rescue and shelter organizations have expressed concern that because they often charge an adoption fee to those who adopt the dogs they place, these organizations will fall within the definition of "dealers" in PAWS and be regulated. True rescue and shelter organizations who do not sell dogs or cats in commerce, for profit, will not be brought under regulation by PAWS, whether or not they are formally incorporated as not for profit organizations.

Some high volume dealers in cats and dogs who will be brought under coverage of the Animal Welfare Act by PAWS, but who are still small enough that they breed and raise dogs or cats in essentially a residential environment, have expressed concern that they will be forced to build kennels and catteries and will no longer be able to raise animals in a residential environment. There is nothing in PAWS, or in the current Animal Welfare Act, that precludes persons from breeding and raising animals in a residential setting, provided the animals are properly housed and cared for. In implementing PAWS, the Secretary of Agriculture will have to assure that the animal care regulations take into account breeders and dealers who conduct their operations in a residential setting.

I want to make clear that PAWS is a very different piece of legislation than the bills that Senator DURBIN and I have introduced in previous Congresses. PAWS does not require or justify creating any new animal care standards, like our previous legislation did. It focuses only on bringing under regulation high volume commercial dealers currently evading regulation and on strengthening the Secretary of Agriculture's ability to identify and bring into compliance high volume dealers who are not in compliance with existing law or, as a last resort, shut them down.

Senator DURBIN and I in the Senate, along with our colleagues Representatives GERLACH and FARR who have introduced PAWS in the House of Representatives, consulted with a broad array of animal interest and animal welfare groups in creating PAWS. We believe that the enactment of PAWS will be a major milestone in the history of animal protection in the United States. We are delighted that it has brought together animal interest groups and animal welfare groups that in the past have often been on opposite sides of animal legislation, including our own past bills. Having said that, no legislation is perfect when introduced. As chairman of the Senate Agriculture Committee's Subcommittee on Research, Nutrition and General Legislation, which has jurisdiction over PAWS, I intend to convene a hearing and mark-up of PAWS shortly after the August recess to make technical corrections, and to clarify some of the bill's language to better reflect our intentions as set forth in this statement.

PAWS is not intended to restrict breeding or impose a hardship on rescue and shelter organizations. PAWS specifically recognizes the importance of protecting small breeders and the noncommercial purebred dog and cat fancy from Federal regulation. My family and I purchased our beloved German shepherd dog Schatzie from a small breeder. We and Schatzie raised a litter of puppies in our own home last year, and fully understand the hard work and commitment that it requires. I also know that most commercial breeders are dedicated to their profession and to their animals. I believe that PAWS will protect small hobby and show breeders and the vast majority of compliant commercial breeders as well as the public from those breeders and brokers who evade or fail to comply with the law. And, most importantly, it will protect the animals themselves. I urge my colleagues and all those in the animal welfare community to join us in this effort.

DEPARTMENT OF VETERANS AFFAIRS 75TH ANNIVERSARY

Mr. AKAKA. Mr. President, I rise today with great joy to congratulate the Department of Veterans Affairs, VA, on its 75th anniversary. Through its tireless work on behalf of this Nation's veterans, VA has certainly lived up to the words of the great President Abraham Lincoln, "To care for him who shall have borne the battle and his widow, and his orphan." During its first 75 years, VA has done much to benefit not only veterans and their families but also the nation as a whole.

On June 22, 1944, President Franklin Delano Roosevelt signed the Montgomery GI bill into public law. Since then, the GI bill has been updated and modernized several times. This far-reaching legislation has helped improve the lives of over 20 million veterans through educational programs, home loan guarantees, unemployment compensation, and other benefits. It is estimated that over the lifetime of the average veteran, the U.S. Treasury receives two to eight times the income tax from the average veteran than was spent on the veteran's GI bill benefits. The GI bill is undoubtedly one of the most important pieces of legislation in this Nation's great history.

VA has also established a legacy of first rate health care for our veterans. A recent study by the RAND Corporation found that VA outpaces private health care systems in delivering care to patients. RAND observed that VA patients were more likely to receive recommended health services than patients using a private provider. The study also concluded that VA patients consistently receive better care across the board, including screening, diagnosis, treatment and follow-up.

Additionally, VA's Medical and Prosthetics Research Program has led to substantial advances in prosthetics, traumatic injury, post traumatic stress disorder, as well as many other areas that have helped our veterans over the years. This research has also led to discoveries in medicine that effect both veterans and the general population, such as cancer, aging, mental illness, and heart disease. In fact, past VA research projects have resulted in the first successful kidney transplant performed in the U.S., as well as the development of the cardiac pacemaker, a vaccine for hepatitis, and the CAT and MRI scans.

Another function of VA is overseeing our National Cemetery System. VA has helped create and manage a network of Federal and State cemeteries that provides deceased veterans with a respectful and peaceful final resting place.

The far-reaching accomplishments that I briefly highlighted are just a few cornerstones of the Department's legacy. With the current military operations in Iraq and Afghanistan, we appreciate even more the quality work that VA does for our veterans. And the current operations should also be a reminder to VA and Congress of the burdens our veterans face because of their sacrifices to protect our freedoms and liberties.

I am extremely proud of the work VA has done, and I hope that through greater cooperation between Congress and the administration, we can expand upon VA's legacy and address the current needs of our veterans. I must also highlight the dedication of the staff that has worked at VA over the years. An agency as massive as VA would cease to function without quality leadership and staff. Many of VA's staff have a deep and passionate commitment to providing quality health care and benefits for our veterans.

Our Nation's veterans and servicemembers deserve nothing less than top quality health care and benefits. I am sure that Congress and VA can work together to fulfill this obligation. Once again, I congratulate VA on 75 years of service to our veterans.

HONORING THE LIFE OF ELVIN OREN CRAIG

Mr. CRAPO. Mr. President, I would like to honor the life of a special Idahoan who is also the father of my colleague from Idaho, Senator LARRY CRAIG. Elvin Oren Craig, who passed away last week, left many legacies and will be missed by many people. In Idaho, he served as a lifelong advocate for Idaho agriculture, and a leader in Washington County, Midvale and Weiser. He also was very active in his local VFW Post in Midvale, ID. At 87 years old, he had remained active despite a diagnosis of prostate cancer. In fact, he worked until only about 6 months ago when he decided it might be time to let up a little bit. Elvin Craig's legacy also lives on in my colleague and in Senator CRAIG's consistent and honorable service to Idahoans over his years in public office. I know that Elvin was proud of his son's service to Idaho and the country—first in the Idaho State Senate, then in the U.S. House of Representatives, and now in the U.S. Senate.

Elvin's family and friends know of his community service and his persistent commitment over many years to Idaho's farmers and ranchers and his own family. He worked hard while maintaining his sense of humor. His full life was an outstanding example of what it means to be an Idahoan. I am pleased to pay tribute to a remarkable man, Elvin Oren Craig, and to share my condolences to my friend, LARRY CRAIG, and his family upon the passing of a great man.

SECOND AMENDMENT PROTECTION ACT OF 2005

Mr. VITTER. Mr. President, I rise today to introduce a bill that would withhold United States contributions to the United Nations if the U.N. interferes with the second amendment rights guaranteed by our Constitution.

The U.N. has no business interfering with the second amendment rights guaranteed by our Constitution. That is why I am introducing legislation to safeguard our citizens against any potential infringement of their second amendment rights.

In July, 2001, the U.N. convened a conference, known as the "Conference on the Illicit Trade of Small Arms and Light Weapons in All Its Aspects in July 2001." One outcome of the conference was a resolution entitled, "The United Nations Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects." This resolution calls for actions that could abridge the second amendment rights of individuals in the United States, including: (1) national registries and tracking lists of legal firearms; (2) the establishment of an international tracking certificate, which could be used to ensure U.N. monitoring of the export, import, transit, stocking, and storage of legal small arms and light weapons; and (3) worldwide record keeping for an indefinite amount of time on the manufacture, holding, and transfer of small arms and light weapons.

The U.N. also wishes to establish a system for tracking small arms and light weapons. How would they do this? It would be done by forcing legal, licensed gun manufacturer's to create identifiable marks for each nation. The gun manufacturer's lists would then be provided to international authorities on behalf of the U.N.

Who would maintain these intrusive lists? Would it be the World Customs Organization, which the U.N. has suggested as a possible vehicle? That organization counts Iran, Syria, China, and Cuba among its membership. Would all World Customs Organization members have access to such lists? In the event that those with access to such information abuse or misuse it, what would be the remedy? How would we prevent unauthorized persons, perhaps criminals and terrorists, from acquiring such information from rogue nations who have declared the United States an enemy?

Some at the U.N. have suggested that tracing certain financial transactions of a legal and law abiding gun industry could be a useful tool in tracking firearms. What would such tracing entail? Does the U.N. expect to receive private U.S. banking records of a legal and law abiding industry?

Furthermore, the U.N. has encouraged member States to integrate measures to control ammunition with regard to small arms, and some members have expressed a desire to tax international arms sales. The U.N. has no legal right or authority to collect a tax from American citizens to further any agenda, especially gun control measures.

The U.S. Constitution has guaranteed our citizens the right to keep and bear arms. I intend to help protect that right with this legislation. I urge my colleagues to support the Second Amendment Protection Act of 2005.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

Last year, an African-American transgender woman was brutally beaten, raped, and strangled in a San Francisco hotel. The murder is under investigation and anti-transgender bias has been looked into as a motive.

I believe that the government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

CONGRESSMAN JOHN LEWIS AND THE VOTING RIGHTS ACT

Mr. LEAHY. Mr. President, last month, the debate over the nomination of Judge William Pryor to the Fourth Circuit Court of Appeals included a discussion of Judge Pryor's call to repeal section 5 of the Voting Rights Act—the centerpiece of that landmark statute—because, as he asserted in congressional testimony, it "is an affront to federalism and an expensive burden that has far outlived its usefulness." His testimony demonstrated that Judge Pryor is more concerned with preventing an "affront" to the States' dignity than with guaranteeing all citizens the right to cast an equal vote.

In the Republican defense of Judge Pryor, it was suggested that Congressman JOHN LEWIS, a stalwart leader of the civil rights movement, somehow agreed with Judge Pryor's opposition to section 5 of the Voting Rights Act because of a statement Congressman LEWIS had made about a specific redistricting plan.

Congressman LEWIS has made clear many times, most recently in a July 14 letter to me, his disagreement with the views of Judge Pryor and his strong support for the Voting Rights Act—and particularly section 5. Congressman LEWIS wrote:

> Section 5 of the Voting Rights Act must be renewed. There is a continued, proven need for the pre-clearance provisions of the Voting Rights Act, which ensure that local and state jurisdiction do not develop laws that intentionally or unintentionally discriminate against groups who may have little or no voice in the establishment of those laws.

His statements of support for one particular redistricting plan in no way diminish his commitment to the Voting Rights Act.

Congressman LEWIS believes, as do I, that the Voting Rights Act is our most important protection guaranteeing that no individuals or groups are without a voice in this democracy. As he so eloquently noted:

> The history of the right to vote in America is a history of conflict, of struggling for the right to vote. Many people died trying to protect that right. I was beaten and jailed because I stood up for it. For millions like me, the struggle for the right to vote is not mere history; it is experience. The experience of the last two presidential elections tells us that the struggle is not over and that the special provisions of the Voting Rights Act are still necessary.

I ask unanimous consent that Congressman LEWIS's letter be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. In contrast, Judge Pryor's statements about section 5 reflect a long-discredited view of the Voting Rights Act. Since the enactment of the statute in 1965, every Supreme Court case to address the question has rejected the claim that section 5 is an "affront" to our system of federalism. Whether under Earl Warren, Warren Burger, or William Rehnquist, the U.S. Supreme Court has recognized that guaranteeing all citizens the right to cast an equal vote is essential to our democracy—no a "burden" that has "outlived its usefulness."

Indeed, Congressman LEWIS sponsored a resolution, which is being considered on the floor of the House today, commemorating the passage of the Voting Rights Act 40 years ago this summer. The resolution recalls the struggle for the act's landmark protections—from the brutal suppression of marchers on the Edmund Pettus Bridge in Selma, AL, on "Bloody Sunday" in March 1965, to the passage of the bill by a bipartisan Congress months later—and reaffirms its importance. Forty years after President Johnson signed the Voting Rights Act into law, Congressman LEWIS and I remain committed to this essential piece of legislation.

EXHIBIT 1

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 14, 2005.

Senator PATRICK J. LEAHY,
Ranking Member, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: During the Senate debate on the nomination of Judge William Pryor to the 11th Circuit Court of Appeals, Senator Saxby Chambliss quoted a few words of my testimony in the case of the State of Georgia v. John Ashcroft, and implied that I agree with Judge Pryor's assessment of Section 5 of the Voting Rights Act. I take issue with Senator Chambliss's remarks and want to make clear that his reference to my remarks were taken out of context.

I regret that my colleague, the senior Senator from Georgia, would use my support of a Georgia redistricting plan to justify the confirmation of Justice William Pryor to the 11th Circuit Court of Appeals. I strongly disagree with the views of Judge Pryor and do not think he is fit to serve.

I further regret that Senator Chambliss would use my very general statements to suggest that I am not in favor of renewing Section 5 of the Voting Rights Act. Section 5 of the Voting Rights Act must be renewed. There is a continued, proven need for the pre-clearance provisions of the Voting Rights Act, which ensure that local and state jurisdictions do not develop laws that intentionally or unintentionally discriminate against groups who may have little or no voice in the establishment of those laws.

We have come a long way in the last two decades, and certainly have come a long way since the 1960's, however, voting obstacles and disparities still exist for far too many minorities. In Florida in 2000, voters were confused by their ballots, polling equipment broke down, and polls did not open as scheduled. In Ohio in 2004, many people stood in what appeared to be unmovable lines for eight and nine hours trying to exercise their right to vote. There were an inadequate number of voting machines and in some instances, bogus officials were sent to polling stations and were found disseminating misinformation and questioning the choices of voters.

As a result of these problems, many Americans were denied the right to vote. These truths continue to demonstrate the importance of the Voting Rights Act to prevent discrimination and to ensure that people are not denied the right to vote. The vote is the most powerful, nonviolent tool that our citizens have in a democratic society, and nothing but nothing should discourage, hamper or interfere with the right of every citizen to cast a vote for the person of their choice.

The history of the right to vote in America is a history of conflict, of struggling for the right to vote. Many people died trying to protect that right. I was beaten, and jailed because I stood up for it. For millions like me, the struggle for the right to vote is not mere history; it is experience. The experience of the last two presidential elections tells us that the struggle is not over and that the special provisions of the Voting Rights Act are still necessary. We should not take a step backward, when there is still much to be done to ensure every vote and every voter counts.

As we work toward reauthorizing the Voting Rights Act, we must move in a deliberative manner, conduct open and adequate hearings, and ensure that we create the appropriate legislative history and factual findings. I look forward to working with you to protect the voting rights of all Americans, by reauthorizing and strengthening the provisions of the Voting Rights Act.

Sincerely,

JOHN LEWIS,
Member of Congress.

AIR FORCE ACADEMY'S 50TH ANNIVERSARY AND NASA'S RETURN TO FLIGHT

Mr. SALAZAR. Mr. President, I today observe two momentous occasions: the Space Shuttle's Return to Flight and the 50th anniversary of the U.S. Air Force Academy.

Yesterday, at 10:39 a.m. eastern daylight time, the Space Shuttle *Discovery* safely lifted off from its launch pad at Cape Canaveral, FL. It blasted into orbit carrying seven of our Nation's finest, on a mission to resupply the International Space Station, test the Shuttle, and resume America's manned exploration of the cosmos.

I want to thank NASA's Administrator, Michael Griffin, and the thousands of men and women who have worked tirelessly in the wake of the *Columbia* tragedy to upgrade the safety of our space mission. Their commitment and courage have helped turn our Nation's dreams to the heavens and stars once again.

Also this month, we celebrate the 50th anniversary of the entrance of the first class of cadets to the Air Force Academy.

It is fitting that NASA's return to flight occurs at a moment when we are reflecting on the Air Force Academy's first half century of service, because the Academy and NASA are two institutions that attract the best men and women in our country. Due to their shared focus on flight, the two institutions are forever linked. In fact, two of the astronauts guiding the *Discovery* in orbit overhead right now come from the Air Force Academy.

LTC Eileen Collins, a former professor in the Air Force Academy's Mathematics Department, is currently soaring 122 miles above us as the commander of the Shuttle's return to flight. Raised in public housing in upstate New York, Eileen Collins broke through every barrier laid before her to become the first woman to pilot a Shuttle. When she came to the Air Force Academy in 1986 she helped usher in a new era at the Academy, an era where women were allowed to compete and succeed on an equal playing field. We in Colorado are very proud that Lieutenant Colonel Collins' journey to space brought her to the Air Force Academy.

Sitting next to Lieutenant Colonel Collins today in the Space Shuttle is *Discovery's* pilot, James Kelly, Air Force Academy class of 1986.

James Kelly grew up in the small town of Burlington, IA, where the sounds of passing airplanes inspired dreams of spaceflight. The Air Force Academy gave James Kelly the tools, training, and opportunity to take to the skies. It gave him, and the thousands of other young men and women who have passed through its gates, a mission to serve our country and the greater good.

Astronauts Collins and Kelly represent the best of the Academy they represent the best of its students and the best of its faculty. They remind us that the Academy's proud mission continues to be of immeasurable value to our nation.

Yesterday's successful Space Shuttle launch reminds us that despite the challenges that still face the Academy, the institution has, for half a century, produced some of our finest leaders.

The 360 civilians who took the oath on July 12, 1955, to become the first Air Force Academy cadets built a legacy of leadership that is at the foundation of the institution's mission. Three generations of young people have passed through the Academy and have learned to lead our nation in times of war and peace.

They live by the Academy's core values, "integrity first, service beyond self, and excellence in all we do." They inspire us all.

They inspire us because they are American pioneers like Eileen Collins, first in her field.

They inspire us because they are represented by the cadet who told me he chose the Academy because, quote, "the country needs me—our freedoms need my protection."

And the Academy's cadets inspire us because they are leading our Return to Flight, lifting our thoughts from tragedy to the triumphant possibilities of space exploration.

I congratulate the Air Force Academy, its cadets, staff, and graduates for 50 years of excellence.

And along with millions of Americans, I also wish our astronauts a safe voyage and a speedy return.

Our prayers are with you.

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THE HOWRIGAN FAMILY OF FAIRFIELD, VERMONT

Mr. LEAHY. Mr. President, I rise today to acknowledge the Howrigan family of Fairfield, VT, who recently celebrated their annual family reunion.

The Howrigan family is a bedrock of Franklin County and Vermont agriculture, and has done much to carry on our State's agricultural stewardship tradition.

I have known many members of the Howrigan family for years and have come to appreciate the sound counsel on dairy issues and other aspects of farm policy.

Mr. President, I thank the Howrigan family for their service to Vermont agriculture and their communities, for they represent the finest tradition of our rural State.

I ask unanimous consent that a July 24, 2005, Burlington Free Press article featuring and honoring this wonderful Vermont family be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Burlington Free Press, July 24, 2005]

HOWRIGANS: A DYNASTY OF DAIRYING

(By Candace Page)

FAIRFIELD.—When Harold Howrigan's four grandsons crammed into the back seat of their aunt's pickup truck for a road trip last week, Tim Howrigan, 12, couldn't wait to tell the others what he'd heard about a breakthrough in mastitis research.

"The cows that get the new treatment, their calves produce more enzymes" to prevent the udder infection in dairy cows, he told them. He explained to his 10- and 11-year-old cousins how it's better to keep cows healthy than to have to cure them after they've become sick.

In the Howrigan clan, you are never too young to learn the family business.

"It's in the blood," says W. Robert Howrigan, 86.

Howrigans have been milking cows in Fairfield since their arrival from Ireland's County Tipperary in 1849. One Howrigan, William, and his wife, Margaret, reared 10 children on a 35-cow hill farm in the Depression days. Today, 32 of their children, grandchildren and great-grandchildren work farms in Franklin County—a dairy dynasty unique in Vermont.

The descendants of William and Margaret milk more than 3,000 cows and produce maple syrup from nearly 40,000 taps; their fields, pastures and woods cover 10,000 acres in Fairfield and neighboring towns.

More farms—38 of them—ship milk from Fairfield than from any other Vermont town, in part because of the community's high Howrigan count. The family has provided two of Vermont's most influential voices in state and national dairy policy: William's sons, the late state Sen. Francis Howrigan and Harold, 81, a longtime leader of the St. Albans Co-operative Creamery.

Howrigans have graduated from Harvard; become nurses, doctors, teachers and lawyers; left Fairfield or Vermont for good. But an extraordinary number of the men, and some of the women, have chosen a farm life like their parents'.

They constitute a one-clan countertrend to Vermont's annual loss of family farms in the face of low milk prices, the flight of young people and the attraction of less back-breaking work.

"Saddam Hussein couldn't drive these people off their farms," Vermont Agriculture Secretary Steve Kerr says. "They love farming. You can see that in their faces. And it's not just that they love what they do; they are making money at it."

The sprawling but tight-knit family network has proven fertile ground for growing both success and love of the farming life. Dozens of pairs of Howrigan hands will materialize to help build an uncle's barn, move a cousin's herd or teach the finer points of farming to a sister's child.

Kerr could not think of another Vermont farm clan as big and long-lasting as the Howrigans. "I don't see why what they've got isn't sustainable forever and ever," he said.

Twelve-year-old Tim Howrigan, for one, knows just what he'll do when he grows up: "I'll be a cow farmer," he said.

A FARM EDUCATION

Margaret McCarthy Howrigan bore a child every 18 to 24 months between 1915 and 1933. She made sure 10 children were fed, clothed and washed in a house not reached by electric lines until 1939.

A teacher before her marriage to William, she put as high a value on education as her husband put on improving his farmland and tiny herd. Margaret's children would go to high school. Her girls, all five of them, would go to college if they wanted and every one of them did.

William's boys were a different case. Yes, they were needed as workers on the farm, but in the Howigran family, farming meant more than the endless repetition of milking cows and cutting hay. A farm was for problem-solving today and improving for tomorrow.

As children, the Howrigans helped their father transplant lines of maples along Howrigan Road, build drainage on the roads in their sugarbush to prevent erosion, and turn the piles of stone hauled from their fields into the foundation of an all-weather road.

Decades later, Francis, the oldest boy, would put this lesson into words his children still repeat: "Live as though you're going to die tomorrow, farm as though you're going to live forever."

He and his brothers found challenges for the brain and plenty of stimulation for their entrepreneurial instincts right on the farm. They grew up in a narrow, hill-edged valley but didn't see the farm as confining or constraining.

At 17 or 18, Harold built what he thinks was the first mechanical gutter cleaner in Vermont, on assemblage of chains and pulleys and a 5-horsepower motor to haul manure out of the barn.

"I just got tired of shoveling," he said last week.

In his teens, Francis acquired a drag saw to cut firewood for neighbors. He bought a truck and began hauling milk and hay for other farmers. In his 20s, he rented a nearby place "on halves" from a neighboring farmer, paying half the expenses and taxes, keeping half the income. By 32, he owned his first farm. Ultimately, he would accumulate 10 farms and more than 4,000 acres.

When Robert, Francis' younger brother, couldn't persuade his father to buy the farm next-door, he borrowed the money to buy it himself. He, too, would acquire additional farms—five in all—to pass on to his sons.

Even Tom, who did go to college in his 30s and became a surgeon, continues to live in the house where he was born. At 84, he still spends many of his days cutting brush and improving the family woodlot. "I consider myself a longtime surgeon but a lifetime farmer," he said.

Some Howrigan sons still prefer to get their education on the farm. The family tells the story of Michael Howrigan, Francis' grandson, who enrolled in college after high school.

"He called home every night. He wasn't homesick. He just couldn't stand not knowing what was happening on the farm," said his father, also named Michael. The younger Michael soon quit school and went into partnership with his father in the family business.

There's no farming without family among the Howrigans. William's children started at 5 or 6, hauling wood for the stove, feeding calves, scraping the barn, picking bugs off potato plants that yielded 300 bushels a year in the cold valley.

A big family also means constant companions—siblings to share chores, play baseball in the pasture or climb the maples on the hill. Most Howrigans grow up sociable, and the pleasures of sociability help make farming attractive.

"It's pretty magical. I have cousins and siblings that are my best friends," said Kate Howrigan Baldwin of Burlington, one of 12 children of Francis Howrigan. "There's an allegiance that is unspoken. You know you are going to help one another and be there for one another. It's not a mandate—it's what you want to do."

Family is the first thing Brendan Schreindorfer mentions when he is explaining how a village boy ended up buying his own milking herd at the age of 24. His mother is a Howrigan—William was his great-grandfather—but his parents did not farm.

Instead, Brendan spent his youth tagging along behind his grandfather, Robert, and his uncles and cousins on their big farm north of Fairfield Center.

He was determined to become a dairy farmer since he was a child, he said.

"I think it was the fact that everyone was always working together to get something done. People pull together and it pulls you along. It's a family thing, and it never leaves your system once it's there," he said.

Five years ago, his parents co-signed a note to help him buy his herd. This winter, he borrowed money on his own to purchase a 625-acre farm in Sheldon. (He'd built up equity, but the Howrigan pedigree might have helped him get the loan, he said.)

His new place was run down—his cousins helped him with repairs through the winter. He needed to move his herd this spring—a small squadron of Howrigans showed up with trucks and trailers to help.

Howrigans help one another bring in hay, harvest corn, fix equipment and build barns. Patrick Howrigan, 54, of Sheldon, raised the rafters of his 200-stall barn in a day, thanks to volunteers led by his brothers and cousins.

"A lot of neighbors helped, but family was the driving force," he said.

LOVE OF THE LAND

Harold Howrigan's air-conditioned pickup truck bounced down a dirt track through one of his fields last week, between rows of corn taller than the cab. He nodded toward a nearby woods. The landowner, he said, had subdivided the land and put in five or six houses.

There was the slightest hint of disappointment or disapproval in his tone. Since he bought his first farm in 1968, he has acquired more than 1,000 acres, a rolling green landscape of maple woods and productive fields with million-dollar views.

"I've never sold an inch of land. I just don't want to do that," he said.

If the Howrigan clan has a leader and role model, Harold, at 81, fills the bill. His square face is topped by a puff of white hair, his ruddy complexion crinkled by the weather. It's a face that would look equally at home in a Tipperary pub, a testament to his purely Irish ancestry.

Like many of the Howrigan men, he seems gruff and a bit standoffish at first meeting. Howrigans have the "quiet gene," says his niece Kate Baldwin.

Over the kitchen table in the farmhouse he shares with his wife, Anne, or on a tour of the land they farm with their three sons, he expands. The gruffness melts into stories of childhood on the farm. He shows a visitor field after hillside field, not saying much, apparently for the pure pleasure of looking at the land and the results of a lifetime's work.

Land was "a treasure," he said, to the Irish farmers who immigrated to Fairfield from a country where land ownership was all but impossible for them. That fierce allegiance to one's own acres also runs in the Howrigan line.

Even in the hardscrabble days of the Depression, his father treated the land well—planting trees, combing stones from the rocky fields, preventing erosion. "He never cut a live maple," he said.

Harold and his sons use the latest technology in their sugarhouse, but they collect sap the way Harold's father did, with hanging buckets and sled-top tanks pulled by five teams of horses.

Horses don't require new roads to be cut and are easier on the land. "There's no substitute for horses gathering sap. They're nicer to work with, they come to you and stop. A tractor won't do that," he said.

With the other farmers of Fairfield, the Howrigans have created a town perhaps more pastoral than any other in Vermont. From many of Howrigan's hillsides, the view of corn and hayfields and grazing heifers seems to have changed not at all in a hundred years.

But does he value his land for its worth in bushels of corn alone? Or does he find it beautiful, as well?

"I think it is beautiful, and I work to keep it that way," he said, looking back toward the home farm. "I treasure it for its value as working land and for its beauty, too."

ADDITIONAL STATEMENTS

IN RECOGNITION OF DR. H. WESLEY TOWERS, JR.

• Mr. CARPER. Mr. President, today I wish to recognize Dr. H. Wesley Towers Jr. upon his retirement as State Veterinarian after 37 years of dedicated service. He is a man with a kind heart, diverse interests and great abilities. Wesley embodies the best of Delaware.

"Doc," as he was fondly known, was born on August 15, 1942 in Wilmington, DE. He spent much of his youth with his grandfather, the farm manager on E.E. du Pont's Greenville, DE, estate, "Dogwood." He loved the country, the farm work, and the animals. When the local veterinarian came to tend the livestock, Doc knew what he wanted to be.

Doc graduated high school in 1960 from P.S. Dupont, and went on to study animal and poultry science at the University of Delaware, graduating with honors and distinction in 1964. He spent the next four years at the University of Pennsylvania veterinary school, graduating in 1968, and went on to become Delaware's vet almost by chance.

After veterinary school, Doc took a job in Kent County as an apprentice to the State veterinarian. At the same time, Harrington and Georgetown racetracks offered him a temporary night job overseeing racehorses. Several weeks later, the track vet had a stroke, leaving him unable to resume race work. The temporary job became a full-time, second job for Doc. The following year in 1969, the State vet retired and Doc was appointed in his place.

Doc has the Nation's fourth largest poultry industry to protect, a rabies epidemic to police, and race courses to regulate. Containing and excluding contagious and infectious animal and poultry diseases is his priority, with public enemy No. 1 being avian flu, a virulent respiratory ailment that devastates poultry. Doc and his team work hard at their jobs to ensure that any outbreaks of avian flu are contained.

During his time as State vet, Doc has received the Department of Agriculture's Employee of the Year award, the University of Delaware's Worrilow Award for service to agriculture and Delaware's coveted Award for Excellence and Commitment to State Service. At the University of Delaware, Doc is a part of the Agricultural Alumni Association, the Alumni Association board, the Career Planning and Placement advisory committee, the phone-a-thons, and the "Alumni in the Classroom" program.

Doc spends much of his free time championing causes in which he believes. He testifies in SPCA cases, including revelations over local "puppy mills." He is involved with the racing commissions, the State Fair Board and the Tri-State Bird Rescue group. In addition, Doc enjoys gardening, traveling, hunting, cooking and taking trips to the beach.

Doc is married to his college sweetheart, Sarah. The two met in a chemistry laboratory at the University of Delaware, and were married on June 25, 1966. They have two children, Laura and David, and four grandchildren, Mark, Annie, Matthew and Davey. Sarah describes her husband over almost forty years as a patient, kind and loving man who loves to be around people. He is fortunate to wake up every morning and go to a job that he loves.

After retirement, Doc plans to spend his time pursuing his hobbies, volunteering, and most importantly, continuing to raise his beloved Delaware blue hens. I rise today to honor Doc and to thank him for the friendship that we share. Through his tireless efforts, Doc has made a profound difference in the lives of thousands and enhanced the quality of life for an entire State. Upon his retirement, he will leave behind a legacy of commitment to public service for both his children and grandchildren and for the generations that will follow. I congratulate him on a truly remarkable and distinguished career. I wish him and his family only the very best in all that lies ahead for each of them.●

THE VALUE OF RURAL HEALTH CARE

• Mr. DORGAN. Mr. President, I will take a few minutes to pay tribute to a group of people whose tireless, dedicated service to those in need too often goes unnoticed—North Dakota's and our Nation's health care providers. As I travel around North Dakota, I frequently stop in to visit hospitals, clinics, and nursing homes. I am continually impressed by the quality, compassionate care that I see being provided by doctors, nurses, allied health professionals, and other medical staff, as well as by the administrative and support staff.

Rural America depends on its small town hospitals, its tertiary hospitals, on physicians and nurses, nursing homes, those who provide emergency ambulance services, and many others to provide a seamless system of care. There are a range of challenges facing rural health systems, from difficulty recruiting and retaining staff and inadequate reimbursement to rising costs and reams of paperwork to fill out. Despite these challenges, our health care providers do an admirable job remaining focused on providing quality care.

Our hospitals, nursing homes, and clinics are also important engines driving North Dakota's economy. Health services account for 8 percent of North Dakota's gross State product. And health care providers are often among the largest employers in a rural community, representing about 15 percent of direct and secondary employment.

In short, a strong health care system is an important part of our rural infrastructure, and the people who make up that system have my deep respect and thanks. Over the years, we have determined that rural electric service, rural telephone service, an interstate highway system through rural areas, and rural mail delivery, to name a few services, make us a better, more unified nation. The same is true of rural health care, and I will continue fighting for policies that reflect rural health care as a strong national priority.●

COMMENDING HOME DEPOT

• Mr. ISAKSON. Mr. President, today I pay tribute to the Home Depot for the support, employment, and assistance it provides to the men and women of our active duty Armed Forces, Reserves and National Guard and their families.

Beginning with its founding by Bernie Marcus and Arthur Blank and continuing under CEO and President Bob Nardelli, the Home Depot has always been a great corporate citizen. Nothing exemplifies the company's commitment more than its support of our veterans and their families.

In the years 2003 and 2004 combined the Home Depot hired 25,000 veterans, and was recognized by G. I. Jobs magazine as America's No. 1 military-friendly employer. In 2004, the company launched Operation Career Front with the departments of Defense, Labor, and Veterans Affairs to provide career opportunities to military personnel and their spouses.

Since the tragic terrorist attacks of September 11, 2001, our Nation has depended on our military Reserves and National Guard in waging the war on terror, and no American company has been a bigger supporter of the Reserves and Guard than the Home Depot. In March of 2003 the company enhanced its military leave policy to provide active duty associates with full pay and an extension of their health benefits.

In April 2003 the Home Depot launched Project Homefront, donating more than 1 million hours of volunteer service and $1 million to help repair the homes of deployed military families. In September of 2004 the National Committee for Employer Support of the Guard and Reserves presented the Home Depot with its Freedom Award.

In June of this year the company established a program for returning veterans to provide associates with the critical resources needed for a smooth transition back to work.

For all these reasons and so many more, Home Depot was recognized this year by the Marine Corps Law Enforcement Foundation and the Partnership for Public Service with awards for leadership and distinguished service to America's veterans.

I am very proud to recognize CEO Bob Nardelli and the men and women of Home Depot for their leadership in employing and assisting America's active duty and veteran military personnel and their families.●

TRIBUTE TO JOHN WALTON

• Mrs. LINCOLN. Mr. President, today I wish to pay tribute to Mr. John Walton, 58, an Arkansas native and Wal-Mart heir who on June 28, was killed when his aircraft crashed on landing outside of Jackson, WY.

John lived a varied and interesting life. John was born on October 8, 1946, the second oldest son of Sam and Helen Walton of Bentonville, AR. He attended high school in Bentonville and began his undergraduate studies at the College of Wooster in Wooster, OH.

As a young college student during the Vietnam era, John enlisted in the Army and volunteered for combat as a medic with the Green Berets. During his time in Vietnam, he was often in firefights with the enemy and performed heroically as a part of his special operations unit. He was awarded the Silver Star for saving the lives of several members of his unit while under enemy fire.

After returning from Vietnam, John pursued a variety of interests, including working as a crop duster in the 1970s and building boats in the 1980s. He had a passion for all things mechanical and was an avid motorcyclist and pilot.

More recently, John took a great interest in education. He took $67 million of Walton Foundation money and founded the Children's Scholarship Fund. Scholarships from the fund have benefitted 67,000 children. He, along with his family, also made the largest contribution to a public college when they gave a $300 million gift to the University of Arkansas.

Our condolences and prayers go out to John's wife Christy of Jackson Hole, WY; to his son, Luke, and to his mother Helen; as well as to his siblings Rob, Jim, and Alice.

John's life exhibited his commitment to his country in so many ways. He defended his country on the battlefields of Vietnam and he invested in his country by funding a better education for thousands of children. I am sure the entire Senate will join with me to honor the life of John Walton.•

HONORING THE RETIREMENT OF GARY L. NEALE

• Mr. LUGAR. Mr. President, today I call to the attention of my colleagues the retirement of a pillar of the energy industry for many years in my home State of Indiana, Mr. Gary L. Neale. On June 30, 2005, Mr. Neale stepped down from his post of chief executive officer of NiSource Inc.

Prior to bringing his talents and dedicated work ethic to Northwest Indiana, Mr. Neale earned both his B.A. and M.B.A. from the University of Washington. In addition to this impressive education, he also took time to broaden his experiences by serving his country as an officer in the U.S. Navy. Mr. Neale remains not only an astute student but also a valued teacher contributing articles to Business Week, Harvard Business Review, and Public Utilities Fortnightly.

Supplementing his impressive academic and military careers, Mr. Neale became a consistent force in the energy industry in Indiana and nationally. Before joining NiSource in 1989, Mr. Neale was chairman, president and executive officer of Planmetrics Inc., an energy industry management consulting firm, for 17 years. Additionally, he held management positions at Wells Fargo Bank and Kaiser Industries.

Mr. Neale has displayed tremendous leadership in multiple capacities. He has served as chairman of both the American Gas Association and the North American Electric Reliability Council. He was appointed to the U.S. Department of Energy's National Petroleum Council and also the Department's Electricity Advisory Board. Mr. Neale graciously accepted the appointment of the Governor of Indiana to serve on our State's Economic Development Council, Energy Policy Forum and Clean Air Advisory Committee. He headed the Northwest Indiana Americans with Disabilities Act Advisory Board and the Lake Area United Way Campaign. Mr. Neale also sits on the boards of directors of Associated Electric & Gas Insurance Services Limited, AEGIS, Modine Manufacturing Company, Chicago Bridge and Iron Company, and Valparaiso University.

As he begins this new chapter in his life, I simply wanted to highlight a few of Mr. Neale's extensive accomplishments. I am pleased to have this opportunity to join his wife Sandy, two children, five grandchildren, and many friends and colleagues in congratulating him on a fine career.•

TRIBUTE TO JACKSON T. STEPHENS

• Mr. PRYOR. Mr. President, today I wish to pay tribute to a legendary Arkansan. Jackson "Jack" Stephens was a businessman, financier, and philanthropist whose work has touched the lives of countless individuals in and outside of Arkansas, and his contributions to the state will live on for generations to come.

Described by Scott Ford, CEO of Alltel Corporation, as "the most brilliant businessperson that the state has ever produced," Jack Stephens has many accomplishments and accolades to his credit. Jack grew up on a farm in Grant County, AR. He attended the U.S. Naval Academy, and soon thereafter he joined his brother Witt's investment firm, which became the financial vehicle for his success over the years. Jack's good business instincts and fabled work ethic led Stephens, Inc. to the forefront of Arkansas business. The financial clout that the Stephens brothers were able to amass allowed Jack to play an essential role in the development of some of Arkansas' most successful businesses, including Wal-Mart, Tyson Foods, and Alltel Corporation. The Stephens name is virtually inseparable from economic development in Arkansas over the last half century, and rightfully so.

Jack Stephens was also a philanthropist who truly believed in the values of charity and community service. His love for the people of Arkansas led him to invest not only in for-profit ventures to contribute to our State's economic well-being but also in many nonprofit causes for the benefit of the people of Arkansas. He helped build the distinguished Jackson T. Stephens Spine and Neurosciences Institute at the University of Arkansas for Medical Sciences. Jack's support of the arts, health and education also made a notable difference in lives of so many Arkansans.

Perhaps one of the best known causes that Jack promoted was related to one of his lifetime passions: golf. In 1991 Jack was chosen to be chairman of the Augusta National Golf Club, home of the Masters tournament, where he served until 1997. It is here that Jack developed the idea of extending his favorite pastime to underprivileged youths. Thanks to his generous support, the First Tee program, with locations in Little Rock and Fort Smith, promotes, character development and life-enhancing values through the game of golf.

Jack Stephens' giving spirit will live on in the many institutions he has supported over the years, and his legacy will continue to influence the State of Arkansas for a long time to come. I join all Arkansans in giving thanks for the life of a pioneer businessman and an eternal friend of his fellowman.•

THE 90TH ANNIVERSARY OF THE LINCOLN HIGHWAY

• Mr. SARBANES. Mr. President, I am pleased to commemorate the 90th anniversary of the Lincoln Highway, which was officially routed through Washington, DC, on July 27, 1915, making it a true national highway. The construction of the highway was not only an important milestone in our Nation's history, but it has also served as a significant link in the development of Maryland's highway system.

The highway was first conceived in 1912, when most roads were little more than deeply rutted wagon trails. But with the rise of the automobile, the need for a transcontinental road had become increasingly apparent and ambitious plans were laid for this enormous undertaking.

The original proposed route for the highway ran from New York to California, but did not pass through Maryland or the Nation's Capital. COL Robert Harper, who at the time was President of the DC Chamber of Commerce and chairman of the Lincoln Highway Feeder Committee, lead a campaign to have the route altered to pass by the Lincoln Memorial. He approached Maryland Senator Blair Lee, whose seat I am proud to occupy, asking for help in the rerouting of the thoroughfare. Senator Lee wrote to President Woodrow Wilson and arranged a meeting between the President and Colonel Harper. That meeting led President Wilson to lobby on behalf of the proposed change in the route.

Through the efforts of President Wilson, Senator Lee, and Colonel Harper, the President of the Lincoln Highway Association was convinced to change the course of the highway so that it could pass through the Nation's Capital. This change brought additional visitors to both the State of Maryland and Washington, DC. In addition, the change preserved the spirit of President Abraham Lincoln and united the west and east coasts of the United States of America.

I am pleased to commemorate the 90th anniversary of the Lincoln Highway a "Road of Character" and a "Perpetual Memorial" to President Lincoln which both commemorated a great leader and paved the way for the future of transportation in America.•

TRIBUTE IN HONOR OF MR. DARYL E. HARMS

• Mr. SHELBY. Mr. President, today I wish to pay tribute to a great entrepreneur, Mr. Daryl E. Harms. Daryl, who passed away on July 9, 2005, led a life of great purpose, from his childhood days in Illinois to his time as a businessman in Birmingham, AL. As the son of a farmer, Daryl learned the values of hard work, dedication and commitment, and he utilized these qualities throughout his life to dream big, conquer challenging tasks, and carry out innovative ideas.

He began his distinguished career, along with his business partner Terry W. Johnson, as an industry pioneer in cable television, cellular communication and home security in the 1980s and 1990s. At the time of his death, he was the chief executive officer of Birmingham-based Masada Resource Group. This most recent business venture developed, patented and applied new technologies to convert solid wastes to renewable biofuels.

Daryl was featured as the Door-to-Door Billionaire in Fortune Small Business magazine for his keen business sense and ability to transform a risky venture into success. His fearlessness in business was recognized by all who knew him.

While Daryl was focused on his business ventures, he was deeply committed to his community as well. He served at various times on the boards of the Alabama Republican Party, the American Cancer Society, Magic Moments, and Prescott House. He had a generous spirit and was determined to help others not only in his community but throughout the State of Alabama.

I should also say that Daryl distinguished himself in yet another way. He was a devoted family man who cherished his wife and children. He is survived by his wife Clarissa Busby Harms of Birmingham; his daughters Hannah Katherine Harms and Emily Elizabeth Harms of Birmingham; his father Walter Edward Harms of Quincy, IL; and his brothers, Don Harms of Ursa, IL and Ken Harms of Sutter, IL. He was preceded in death by his mother Pauline Eshom Harms of Quincy, IL.

I ask my colleagues to join me in paying special tribute to Mr. Daryl E. Harms. Daryl's entrepreneurial spirit and innovative mind distinguishes him as one of American's great businessmen. He will be greatly missed by all who knew him.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:17 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 22. An act to reform the postal laws of the United States.

H.R. 525. An act to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

H.R. 2894. An act to designate the facility of the United States Postal Service located at 102 South Walters Avenue in Hodgenville, Kentucky, as the "Abraham Lincoln Birthplace Post Office Building".

H.R. 2977. An act to designate the facility of the United States Postal Service located at 306 2nd Avenue in Brockway, Montana, as the "Paul Kasten Post Office Building".

H.R. 3200. An act to amend title 38, United States Code, to enhance the Servicemembers' Group Life Insurance program, and for other purposes.

H.R. 3339. An act to designate the facility of the United States Postal Service located at 2061 South Park Avenue in Buffalo, New York, as the "James T. Molloy Post Office Building".

H.R. 3423. An act to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees.

The message also announced that the House has passed the following bills, without amendment:

S. 45. An act to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes.

S. 544. An act to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely effect patient safety.

S. 1395. An act to amend the Controlled Substances Import and Export Act to provide authority for the Attorney General to authorize the export of controlled substances from the United States to another country for subsequent export from that country to a second country, if certain conditions and safeguards are satisfied.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 38. An act to designate a portion of the White Salmon River as a component of the National Wild and Scenic Rivers System.

H.R. 481. An act to further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000.

H.R. 541. An act to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries.

H.R. 794. An act to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes.

H.R. 1046. An act to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming.

At 6:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 544. An act to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely effect patient safety.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 525. An act to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees; to the Committee on Health, Education, Labor, and Pensions.

H.R. 2894. An act to designate the facility of the United States Postal Service located at 102 South Walters Avenue in Hodgenville, Kentucky, as the "Abraham Lincoln Birthplace Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 2977. An act to designate the facility of the United States Postal Service located at 306 2nd Avenue in Brockway, Montana, as the "Paul Kasten Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3200. An act to amend title 38, United States Code, to enhance the Servicemembers' Group Life Insurance program, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 3339. An act to designate the facility of the United States Postal Service located at 2061 South Park Avenue in Buffalo, New York, as the "James T. Molloy Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 1797. An act to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 22. An act to reform the postal laws of the United States.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-3221. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "2,4–D; Pesticide Tolerance" (FRL No. 7726–8) received July 25, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3222. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Lignosulfonates; Exemptions from the Requirement of a Tolerance" (FRL No. 7720–3) received July 25 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3223. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pinoxaden; Pesticide Tolerance" (FRL No. 7725–5) received July 25, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3224. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Propiconazole; Pesticide Tolerances for Emergency Exemptions" (FRL No. 7727–1) received July 25, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3225. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pymetrozine; Pesticide Tolerance" (FRL No. 7724–5) received July 25, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3226. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Spiromesifen; Pesticide Tolerance; Technical Correction" (FRL No 7727–7) received July 25, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3227. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Indiana" (FRL No. 7930–9) received July 25, 2005; to the Committee on Environment and Public Works.

EC–3228. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (9 subjects on 1 disc beginning with "COBRA Runs for Oceana-Cannon-Moody-Seymour Johnson") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3229. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (4 subjects on 1 disc beginning with "Inquiry Response Regarding C–130 Squadron Size") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3230. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (4 subjects on 1 disc beginning with "Inquiry Response Regarding NAS Brunswick") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3231. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, the Semiannual Report of the Inspector General of NASA for the period ending March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–3232. A communication from the Deputy Director for Government Relations and Special Projects, Office of Government Ethics, transmitting, a proposal "To amend the Ethics in Government Act of 1978 to reauthorize the Office of Government Ethics" received on July 25, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–3233. A communication from the Secretary of Labor and the Secretary of Housing and Urban Development, transmitting, the report of a draft bill entitled "Youthbuild Transfer Act of 2005" received on July 25, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3234. A communication from the Assistant Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Rulemaking for EDGAR System" (RIN3235–AH79) received on July 25, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3235. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Amendment to the Interim Final Regulation for Mental Health Parity" (RIN0938–AN22) received on July 25, 2005; to the Committee on Finance.

EC–3236. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 457(b) Plans and Federal Credit Unions" (Notice 2005–58) received on July 25, 2005; to the Committee on Finance.

EC–3237. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Security Zones; Port of Port Lavaca-Point Comfort, Point Comfort, TX and Port of Corpus Christi Inner Harbor, Corpus Christi, TX" (RIN1625–AA87) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3238. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Anchorage Grounds and Safety Zone; Delaware River" (RIN1625–AA00) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3239. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Security Zone; Cleveland Harbor, Cleveland, Ohio, Change of Location" (RIN1625–AA87) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3240. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Area; Chicago Sanitary and Ship Canal, Romeoville, IL" (RIN1625–AA11) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3241. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations (including 3 regulations)" (RIN1625–AA08) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3242. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zones (including 3 regulations)" ((RIN1625–AA00)(RIN1625–AA87)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3243. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Locomotive Event Recorders" (RIN2130–AB34) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3244. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Area Navigation Routes; AK" ((RIN2120–AA66)(2005–0150)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3245. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Area Navigation Routes; AK" ((RIN2120–AA66)(2005–0151)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3246. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Area Navigation Routes; AK" ((RIN2120–AA66)(2005–0152)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3247. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E2 Airspace; Bar Harbor, ME" ((RIN2120–AA66)(2005–0148)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3248. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Valentine, NE" ((RIN2120–AA66)(2005–0163)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3249. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Surface Area Airspace, South Lake Tahoe CA" ((RIN2120–AA66)(2005–0137)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3250. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Federal Airways V-2, V-257, and, V-343; MT" ((RIN2120-AA66)(2005-0138)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3251. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Jet Route 94" ((RIN2120-AA66)(2005-0154)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3252. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (67)" ((RIN2120-AA65)(2005-0019)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3253. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification and Revocation of Federal Airways; AK" ((RIN2120-AA66)(2005-0161)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3254. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Parsons, KS" ((RIN2120-AA66)(2005-0162)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3255. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Columbus, NE" ((RIN2120-AA66)(2005-0141)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3256. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Muskegon, MI" ((RIN2120-AA66)(2005-0139)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3257. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; McCook, NE" ((RIN2120-AA66)(2005-0140)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3258. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Mountain Grove, MO" ((RIN2120-AA66)(2005-0159)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3259. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Neosho, MO" ((RIN2120-AA66)(2005-0156)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3260. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Macon, MO" ((RIN2120-AA66)(2005-0158)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3261. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Emmonak, AK" ((RIN2120-AA66)(2005-0145)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3262. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Shishmaref, AK" ((RIN2120-AA66)(2005-0147)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3263. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Kalskag, AK" ((RIN2120-AA66)(2005-0155)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3264. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; St. Michael, AK" ((RIN2120-AA66)(2005-0157)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3265. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Mifflintown, PA; CORRECTION" ((RIN2120-AA66)(2005-0136)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3266. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Bob Baker Memorial Airport, Kiana, AK" ((RIN2120-AA66)(2005-0142)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3267. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Chalkyitsik, AK" ((RIN2120-AA66)(2005-0143)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 172. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes (Rept. No. 109-110).

S. 1418. A bill to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States (Rept. No. 109-111).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. FRIST (for himself, Mr. McConnell, Mr. Gregg, Mr. Enzi, Ms. Murkowski, Mr. DeMint, Mr. Coburn, and Mr. Cornyn):

S. 4. A bill to reduce healthcare costs, expand access to affordable healthcare coverage, and improve healthcare and strengthen the healthcare safety net, and for other purposes; to the Committee on Finance.

By Mr. ENSIGN (for himself and Mr. McCain):

S. 1504. A bill to establish a market driven telecommunications marketplace, to eliminate government managed competition of existing communication service, and to provide parity between functionally equivalent services; to the Committee on Commerce, Science, and Transportation.

By Mr. COBURN (for himself and Mr. Inhofe):

S. 1505. A bill to amend the Shawnee Tribe Status Act of 2000 to the Committee on Indian Affairs.

By Mrs. CLINTON (for herself and Mr. Schumer):

S. 1506. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to include certain former nuclear weapons program workers in the Special Exposure Cohort under the energy employees occupational illness compensation program; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. LINCOLN (for herself, Mr. Carper, Mr. Pryor, Ms. Landrieu, Mr. Lieberman, Mr. Salazar, Ms. Stabenow, Mr. Bayh, and Mr. Conrad):

S. 1507. A bill to protect children from Internet pornography and support law enforcement and other efforts to combat Internet and pornography-related crimes against children; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Mr. McCain, and Mr. Cochran):

S. 1508. A bill to require Senate candidates to file designations, statements, and reports in electronic form; to the Committee on Rules and Administration.

By Mr. JEFFORDS (for himself, Mr. Chafee, Mr. Lieberman, and Mr. Lautenberg):

S. 1509. A bill to amend the Lacey Act Amendments of 1981 to add non-human primates to the definition of prohibited wildlife species; to the Committee on Environment and Public Works.

By Mr. SALAZAR:

S. 1510. A bill to designate as wilderness certain lands within the Rocky Mountain National Park in the State of Colorado; to the Committee on Energy and Natural Resources.

By Mr. SALAZAR:

S. 1511. A bill to provide for a study of options for protecting the open space characteristics of certain land in and adjacent to the Arapaho and Roosevelt National Forests in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SARBANES (for himself, Ms. Mikulski, Mr. Biden, Mrs. Clinton, Ms. Murkowski, Mrs. Murray, Mr. Wyden, Mr. Lautenberg, Mr. Schumer, and Mr. Durbin):

S. 1512. A bill to grant a Federal charter to Korean War Veterans Association, Incorporated; to the Committee on the Judiciary.

By Ms. MIKULSKI (for herself, Mr. BOND, Mr. REED, and Mr. SARBANES):

S. 1513. A bill to reauthorize the HOPE VI program for revitalization of severely distressed public housing, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DEMINT (for himself, Mr. NELSON of Florida, Mr. ISAKSON, Mr. DAYTON, Ms. MURKOWSKI, and Mr. ENZI):

S. 1514. A bill to amend the Internal Revenue Code of 1986 to repeal the medicine and drugs limitation on the deduction for medical care; to the Committee on Finance.

By Mr. INOUYE:

S. 1515. A bill to amend title XIX of the Social Security Act to improve access to advanced practice nurses and physician assistants under the Medicaid Program; to the Committee on Finance.

By Mr. LOTT (for himself, Mr. LAUTENBERG, Mr. STEVENS, Mr. INOUYE, and Mrs. HUTCHISON):

S. 1516. A bill to reauthorize Amtrak, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. DOMENICI, Mr. COLEMAN, and Mr. PRYOR):

S. 1517. A bill to permit Women's Business Centers to re-compete for sustainability grants; considered and passed.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. 1518. A bill to amend the Indian Gaming Regulatory Act to modify a provision relating to the locations in which class III gaming is lawful; to the Committee on Indian Affairs.

By Ms. SNOWE (for herself, Mr. LIEBERMAN, and Mr. THUNE):

S. 1519. A bill to provide for an economic analysis of the impact in small business concerns and small governmental jurisdictions of agency and other decisions that result in a net loss of at least 1,000 jobs, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mrs. FEINSTEIN (for herself, Mr. HATCH, Mr. KENNEDY, Mr. SPECTER, Mr. HARKIN, Ms. SNOWE, Mrs. BOXER, Ms. COLLINS, Mrs. CLINTON, Mr. CHAFEE, Mr. LAUTENBERG, Mr. STEVENS, Mr. DURBIN, Mr. LIEBERMAN, Mr. KERRY, Mrs. MURRAY, Mr. SALAZAR, Ms. STABENOW, Ms. MIKULSKI, Mr. JEFFORDS, Mr. INOUYE, and Ms. CANTWELL):

S. 1520. A bill to prohibit human cloning; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SMITH (for himself, Mr. WYDEN, Mrs. MURRAY, Mrs. FEINSTEIN, and Mrs. BOXER):

S. Res. 215. A resolution designating December 2005 as "National Pear Month"; to the Committee on the Judiciary.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. Res. 216. A resolution expressing gratitude and appreciation to the men and women of the United States Armed Forces who served in World War II, commending the acts of heroism displayed by those servicemembers, and recognizing the "Greatest Generation Homecoming Weekend" to be held in Pittsburgh, Pennsylvania; considered and agreed to.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. Res. 217. A resolution designating August 13, 2005, as "National Marina Day"; considered and agreed to.

By Mr. DURBIN (for himself and Mr. CORNYN):

S. Con. Res. 48. A concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued to promote public awareness of Down syndrome; to the Committee on Homeland Security and Governmental Affairs.

ADDITIONAL COSPONSORS

S. 65

At the request of Mr. INHOFE, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 65, a bill to amend the age restrictions for pilots.

S. 147

At the request of Mr. AKAKA, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 147, a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

S. 392

At the request of Mr. LEVIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 397

At the request of Mr. CONRAD, his name was added as a cosponsor of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 619

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 619, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 705

At the request of Mr. SARBANES, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 705, a bill to establish the Interagency Council on Meeting the Housing and Service Needs of Seniors, and for other purposes.

S. 709

At the request of Mr. DEWINE, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 709, a bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals, and for other purposes.

S. 781

At the request of Mr. CRAPO, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 781, a bill to preserve the use and access of pack and saddle stock animals on land administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service on which there is a historical tradition of the use of pack and saddle stock animals, and for other purposes.

S. 811

At the request of Mr. DURBIN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 811, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln.

S. 895

At the request of Mr. DOMENICI, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 895, a bill to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe affordable, and reliable water supply to rural residents.

S. 935

At the request of Mrs. FEINSTEIN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 935, a bill to regulate .50 caliber sniper weapons designed for the taking of human life and the destruction of materiel, including armored vehicles and components of the Nation's critical infrastructure.

S. 963

At the request of Mr. THUNE, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 963, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans' health care, to direct the Secretary of Veterans Affairs to conduct a pilot program to improve access to health care for rural veterans, and for other purposes.

S. 1002

At the request of Mr. BAUCUS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1002, a bill to amend title XVIII of the Social Security Act to make improvements in payments to hospitals under the medicare program, and for other purposes.

S. 1013

At the request of Mrs. FEINSTEIN, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1013, a bill to improve the allocation of grants through the Department of Homeland Security, and for other purposes.

S. 1047

At the request of Mr. SUNUNU, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 1047, a bill to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively to improve circulation of the $1 coin, to create a new bullion coin, and for other purposes.

S. 1076

At the request of Mrs. LINCOLN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1076, a bill to amend the Internal Revenue Code of 1986 to extend the excise tax and income tax credits for the production of biodiesel.

S. 1081

At the request of Mr. KYL, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1081, a bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007.

S. 1112

At the request of Mr. GRASSLEY, the names of the Senator from Ohio (Mr. VOINOVICH), the Senator from Nevada (Mr. ENSIGN) and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1129

At the request of Mr. LUGAR, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1129, a bill to provide authorizations of appropriations for certain development banks, and for other purposes.

S. 1139

At the request of Mr. SANTORUM, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 1139, a bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

S. 1172

At the request of Mr. SPECTER, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1197

At the request of Mr. BIDEN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1197, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1249

At the request of Mr. CORZINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1249, a bill to require the Secretary of Education to rebate the amount of Federal Pell Grant aid lost as a result of the update to the tables for State and other taxes used in the Federal student aid need analysis for award year 2005–2006.

S. 1260

At the request of Mr. VITTER, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1260, a bill to make technical corrections to the Indian Gaming Regulatory Act, and for other purposes.

S. 1265

At the request of Mr. VOINOVICH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1265, a bill to make grants and loans available to States and other organizations to strengthen the economy, public health, and environment of the United States by reducing emissions from diesel engines.

S. 1304

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1304, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to protect pension benefits of employees in defined benefit plans and to direct the Secretary of the Treasury to enforce the age discrimination requirements of the Internal Revenue Code of 1986.

S. 1325

At the request of Mr. FRIST, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1325, a bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity and eating disorder prevention, and for other purposes.

S. 1356

At the request of Mr. BAUCUS, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1356, a bill to amend title XVIII of the Social Security Act to provide incentives for the provision of high quality care under the medicare program.

S. 1417

At the request of Mr. CRAIG, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1417, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 1429

At the request of Mrs. MURRAY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1429, a bill to amend the Higher Education Act of 1965 to assist homeless students in obtaining postsecondary education, and for other purposes.

S. 1490

At the request of Mr. SARBANES, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1490, a bill to amend the Federal Water Pollution Control Act to require environmental accountability and reporting and to reauthorize the Chesapeake Bay Program.

S. 1491

At the request of Mr. SARBANES, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1491, a bill to amend the Federal Water Pollution Control Act to provide assistance for nutrient removal technologies to States in the Chesapeake Bay watershed.

S. 1492

At the request of Mr. SARBANES, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1492, a bill to amend the Elementary and Secondary Education Act of 1965 to establish a pilot program to make grants to eligible institutions to develop, demonstrate, or disseminate information on practices, methods, or techniques relating to environmental education and training in the Chesapeake Bay Watershed.

S. 1493

At the request of Mr. SARBANES, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1493, a bill to require the Secretary of Agriculture to establish a program to expand and strengthen cooperative efforts to restore and protect forests in the Chesapeake Bay watershed, and for other purposes.

S. 1494

At the request of Mr. SARBANES, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1494, a bill to amend the National Oceanic and Atmospheric Administration Authorization Act of 1992 to establish programs to enhance protection of the Chesapeake Bay, and for other purposes.

S.J. RES. 21

At the request of Mr. SPECTER, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S.J. Res. 21, a joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy.

S. RES. 158

At the request of Mr. GRAHAM, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. Res. 158, a resolution expressing the sense of the Senate that the President should designate the week beginning September 11, 2005, as "National Historically Black Colleges and Universities Week".

At the request of Mr. MARTINEZ, his name was added as a cosponsor of S. Res. 158, supra.

S. RES. 201

At the request of Mr. DURBIN, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from Washington (Ms. CANTWELL), the Senator from Indiana (Mr. BAYH) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. Res. 204, a resolution recognizing the 75th anniversary of the American Academy of Pediatrics and supporting the mission and goals of the organization.

AMENDMENT NO. 1337

At the request of Mr. REID, the names of the Senator from Colorado (Mr. SALAZAR) and the Senator from Florida (Mr. NELSON) were added as cosponsors of amendment No. 1337 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1363

At the request of Mr. GRAHAM, the names of the Senator from South Dakota (Mr. THUNE) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of amendment No. 1363 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1505

At the request of Mr. GRAHAM, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 1505 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1548

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of amendment No. 1548 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1553

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of amendment No. 1553 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1554

At the request of Mr. CONRAD, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Florida (Mr. NELSON) were added as cosponsors of amendment No. 1554 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1556

At the request of Mr. MCCAIN, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of amendment No. 1556 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1557

At the request of Mr. MCCAIN, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of amendment No. 1557 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FRIST (for himself, Mr. MCCONNELL, Mr. GREGG, Mr. ENZI, Ms. MURKOWSKI, Mr. DEMINT, Mr. COBURN, and Mr. CORNYN):

S. 4. A bill to reduce healthcare costs, expand access to affordable healthcare coverage, and improve healthcare and strengthen the healthcare safety net, and for other purposes; to the Committee on Finance.

Mr. FRIST. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Healthy America Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—MAKING HEALTH CARE MORE AFFORDABLE

Subtitle A—Medical Liability Reform

Sec. 101. Short title.
Sec. 102. Findings and purpose.
Sec. 103. Encouraging speedy resolution of claims.
Sec. 104. Compensating patient injury.
Sec. 105. Maximizing patient recovery.
Sec. 106. Additional health benefits.
Sec. 107. Punitive damages.
Sec. 108. Authorization of payment of future damages to claimants in health care lawsuits.
Sec. 109. Definitions.
Sec. 110. Effect on other laws.
Sec. 111. State flexibility and protection of States' rights.
Sec. 112. Applicability; effective date.

Subtitle B—Health Information Technology

CHAPTER 1—GENERAL PROVISIONS

Sec. 121. Improving health care, quality, safety, and efficiency.
Sec. 122. HIPAA report.
Sec. 123. Study of reimbursement incentives.
Sec. 124. Reauthorization of incentive grants regarding telemedicine.
Sec. 125. Sense of the Senate on physician payment.
Sec. 126. Establishment of quality measurement systems for medicare value-based purchasing programs.
Sec. 127. Exception to Federal anti-kickback and physician self referral laws for the provision of permitted support.

CHAPTER 2—VALUE BASED PURCHASING

Sec. 131. Value based purchasing programs.

Subtitle C—Patient Safety and Quality Improvement

Sec. 141. Short title.
Sec. 142. Findings and purposes.
Sec. 143. Amendments to Public Health Service Act.
Sec. 144. Studies and reports.

Subtitle D—Fraud and Abuse

Sec. 151. National expansion of the medicare-medicaid data match pilot program.

Subtitle E—Miscellaneous Provisions

Sec. 161. Sense of the Senate on establishing a mandated benefits commission.
Sec. 162. Enforcement of reimbursement provisions by fiduciaries.

TITLE II—EXPANDING ACCESS TO AFFORDABLE HEALTH COVERAGE THROUGH TAX INCENTIVES AND OTHER INITIATIVES

Subtitle A—Refundable Health Insurance Credit

Sec. 201. Refundable health insurance costs credit.
Sec. 202. Advance payment of credit to issuers of qualified health insurance.

Subtitle B—High Deductible Health Plans and Health Savings Accounts

Sec. 211. Deduction of premiums for high deductible health plans.
Sec. 212. Refundable credit for contributions to health savings accounts of small business employees.

Subtitle C—Improvement of the Health Coverage Tax Credit

Sec. 221. Change in State-based coverage rules related to preexisting conditions.
Sec. 222. Eligibility of spouse of certain individuals entitled to medicare.
Sec. 223. Eligible PBGC pension recipient.
Sec. 224. Application of option to offer State-based coverage to Puerto Rico, Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.
Sec. 225. Clarification of disclosure rules.
Sec. 226. Clarification that State-based COBRA continuation coverage is subject to same rules as Federal COBRA.
Sec. 227. Application of rules for other specified coverage to eligible alternative TAA recipients consistent with rules for other eligible individuals.

Subtitle D—Long-Term Care Insurance

Sec. 231. Sense of the Senate concerning long-term care.

Subtitle E—Other Provisions

Sec. 241. Disposition of unused health benefits in cafeteria plans and flexible spending arrangements.
Sec. 242. Microentrepreneurs.
Sec. 243. Study on access to affordable health insurance for full-time college and university students.
Sec. 244. Extension of funding for operation of State high risk health insurance pools.
Sec. 245. Sense of the senate on affordable health coverage for small employers.

Subtitle F—Covering Kids

Sec. 251. Short title.
Sec. 252. Grants to promote innovative outreach and enrollment under medicaid and SCHIP.
Sec. 253. State option to provide for simplified determinations of a child's financial eligibility for medical assistance under medicaid or child health assistance under SCHIP.

TITLE III—IMPROVING CARE AND STRENGTHENING THE SAFETY NET

Subtitle A—High Needs Areas

Sec. 301. Purpose.
Sec. 302. High need community health centers.
Sec. 303. Grant application process.

Subtitle B—Qualified Integrated Health Care systems

Sec. 321. Grants to qualified integrated health care systems.

Subtitle C—Miscellaneous Provisions

Sec. 331. Community health center collaborative access expansion.
Sec. 332. Improvements to section 340B program.
Sec. 333. Forbearance for student loans for physicians providing services in free clinics.
Sec. 334. Amendments to the Public Health Service Act relating to liability.
Sec. 335. Sense of the Senate concerning health disparities.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Health care costs are growing rapidly, putting health insurance and needed care out of reach for too many Americans.

(2) Rapidly growing health care costs pose a threat to the United States economy, as they make American businesses less competitive and make it more difficult to create new jobs.

(3) Growing health care costs are compromising the stability of health care safety net and entitlement programs.

(4) There are a series of steps Congress can and should take to slow the growth of health care costs, expand access to health coverage, and improve access to quality health care for millions of Americans.

TITLE I—MAKING HEALTH CARE MORE AFFORDABLE

Subtitle A—Medical Liability Reform

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Patients First Act of 2005".

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the current health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this subtitle to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of "defensive medicine" and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals;

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

SEC. 103. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

The time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years after the date of manifestation of injury unless tolled for any of the following:

(1) Upon proof of fraud;

(2) Intentional concealment; or

(3) The presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

Actions by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that actions by a minor under the full age of 6 years shall be commenced within 3 years of manifestation of injury or prior to the minor's 8th birthday, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

SEC. 104. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, the full amount of a claimant's economic loss may be fully recovered without limitation.

(b) ADDITIONAL NONECONOMIC DAMAGES.—In any health care lawsuit, the amount of noneconomic damages recovered may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—In any health care lawsuit, an award for future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic damages. An award for noneconomic damages in excess of $250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed $250,000, the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. A separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. 105. MAXIMIZING PATIENT RECOVERY.

(a) Court Supervision of Share of Damages Actually Paid to Claimants.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

(1) 40 percent of the first $50,000 recovered by the claimant(s).

(2) 33⅓ percent of the next $50,000 recovered by the claimant(s).

(3) 25 percent of the next $500,000 recovered by the claimant(s).

(4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) Applicability.—The limitations in subsection (a) shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section.

(c) Expert Witnesses.—

(1) Requirement.—No individual shall be qualified to testify as an expert witness concerning issues of negligence in any health care lawsuit against a defendant unless such individual—

(A) except as required under paragraph (2), is a health care professional who—

(i) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(ii) typically treats the diagnosis or condition or provides the type of treatment under review; and

(B) can demonstrate by competent evidence that, as a result of training, education, knowledge, and experience in the evaluation, diagnosis, and treatment of the disease or injury which is the subject matter of the lawsuit against the defendant, the individual was substantially familiar with applicable standards of care and practice as they relate to the act or omission which is the subject of the lawsuit on the date of the incident.

(2) Physician review.—In a health care lawsuit, if the claim of the plaintiff involved treatment that is recommended or provided by a physician (allopathic or osteopathic), an individual shall not be qualified to be an expert witness under this subsection with respect to issues of negligence concerning such treatment unless such individual is a physician.

(3) Specialties and subspecialties.—With respect to a lawsuit described in paragraph (1), a court shall not permit an expert in one medical specialty or subspecialty to testify against a defendant in another medical specialty or subspecialty unless, in addition to a showing of substantial familiarity in accordance with paragraph (1)(B), there is a showing that the standards of care and practice in the two specialty or subspecialty fields are similar.

(4) Limitation.—The limitations in this subsection shall not apply to expert witnesses testifying as to the degree or permanency of medical or physical impairment.

SEC. 106. ADDITIONAL HEALTH BENEFITS.

(a) In General.—The amount of any damages received by a claimant in any health care lawsuit shall be reduced by the court by the amount of any collateral source benefits to which the claimant is entitled, less any insurance premiums or other payments made by the claimant (or by the spouse, parent, child, or legal guardian of the claimant) to obtain or secure such benefits.

(b) Preservation of Current Law.—Where a payor of collateral source benefits has a right of recovery by reimbursement or subrogation and such right is permitted under Federal or State law, subsection (a) shall not apply.

(c) Application of Provision.—This section shall apply to any health care lawsuit that is settled or resolved by a fact finder.

SEC. 107. PUNITIVE DAMAGES.

(a) In General.—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability.

If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) Determining Amount of Punitive Damages.—

(1) Factors considered.—In determining the amount of punitive damages, if awarded, in a health care lawsuit, the trier of fact shall consider only the following:

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) Maximum award.—The amount of punitive damages, if awarded, in a health care lawsuit may be as much as $250,000 or as much as two times the amount of economic damages awarded, whichever is greater. The jury shall not be informed of this limitation.

(c) No Penalties for Providers in Compliance With FDA Standards.—A health care provider who prescribes a medical product approved or cleared by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such product and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or seller of such product.

SEC. 108. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) In General.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) Applicability.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this Act.

SEC. 109. DEFINITIONS.

In this subtitle:

(1) Alternative dispute resolution system; ADR.—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) Claimant.—The term "claimant" means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) Collateral source benefits.—The term "collateral source benefits" means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) Compensatory damages.—The term "compensatory damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment

opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term "compensatory damages" includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term "contingent fee" includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term "economic damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE LAWSUIT.—The term "health care lawsuit" means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim.

(8) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) HEALTH CARE ORGANIZATION.—The term "health care organization" means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) HEALTH CARE PROVIDER.—The term "health care provider" means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) HEALTH CARE GOODS OR SERVICES.—The term "health care goods or services" means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(13) MALICIOUS INTENT TO INJURE.—The term "malicious intent to injure" means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) MEDICAL PRODUCT.—The term "medical product" means a drug or device intended for humans, and the terms "drug" and "device" have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321), respectively, including any component or raw material used therein, but excluding health care services.

(15) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages are neither economic nor noneconomic damages.

(17) RECOVERY.—The term "recovery" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 110. EFFECT ON OTHER LAWS.

(a) VACCINE INJURY.—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this subtitle does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this subtitle in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this subtitle or otherwise applicable law (as determined under this subtitle) will apply to such aspect of such action.

(b) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this subtitle shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

SEC. 111. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this subtitle preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this subtitle. The provisions governing health care lawsuits set forth in this subtitle supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this subtitle; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) PROTECTION OF STATES' RIGHTS.—Any issue that is not governed by any provision of law established by or under this subtitle (including State standards of negligence) shall be governed by otherwise applicable State or Federal law. This subtitle does not preempt or supersede any law that imposes greater protections (such as a shorter statute of limitations) for health care providers and health care organizations from liability, loss, or damages than those provided by this subtitle.

(c) STATE FLEXIBILITY.—No provision of this subtitle shall be construed to preempt—

(1) any State law (whether effective before, on, or after the date of the enactment of this subtitle) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this subtitle, notwithstanding section 104(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

SEC. 112. APPLICABILITY; EFFECTIVE DATE.

This subtitle shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

Subtitle B—Health Information Technology

CHAPTER 1—GENERAL PROVISIONS

SEC. 121. IMPROVING HEALTH CARE, QUALITY, SAFETY, AND EFFICIENCY.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

"TITLE XXIX—HEALTH INFORMATION TECHNOLOGY

"SEC. 2901. DEFINITIONS.

"In this title:

“(1) Health care provider.—The term ‘health care provider’ means a hospital, skilled nursing facility, home health entity, health care clinic, federally qualified health center, group practice (as defined in section 1877(h)(4) of the Social Security Act), a pharmacist, a pharmacy, a laboratory, a physician (as defined in section 1861(r) of the Social Security Act), a health facility operated by or pursuant to a contract with the Indian Health Service, a rural health clinic, and any other category of facility or clinician determined appropriate by the Secretary.

“(2) Health information.—The term ‘health information’ has the meaning given such term in section 1171(4) of the Social Security Act.

“(3) Health insurance plan.—The term ‘health insurance plan’ means—

“(A) a health insurance issuer (as defined in section 2791(b)(2));

“(B) a group health plan (as defined in section 2791(a)(1)); and

“(C) a health maintenance organization (as defined in section 2791(b)(3)).

“(4) Laboratory.—The term ‘laboratory’ has the meaning given that term in section 353.

“(5) Pharmacist.—The term ‘pharmacist’ has the meaning given that term in section 804 of the Federal Food, Drug, and Cosmetic Act.

“(6) State.—The term ‘State’ means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

“SEC. 2902. OFFICE OF THE NATIONAL COORDINATOR OF HEALTH INFORMATION TECHNOLOGY.

“(a) Office of National Health Information Technology.—There is established within the Office of the Secretary an Office of the National Coordinator of Health Information Technology (referred to in this section as the ‘Office’). The Office shall be headed by a National Coordinator who shall be appointed by the Secretary, in consultation with the President, and shall report directly to the Secretary.

“(b) Purpose.—It shall be the purpose of the Office to coordinate with relevant Federal agencies and oversee programs and activities to develop a nationwide interoperable health information technology infrastructure that—

“(1) ensures that patients' individually identifiable health information is secure and protected;

“(2) improves health care quality, reduces medical errors, and advances the delivery of patient-centered medical care;

“(3) reduces health care costs resulting from inefficiency, medical errors, inappropriate care, and incomplete information;

“(4) ensures that appropriate information to help guide medical decisions is available at the time and place of care;

“(5) promotes a more effective marketplace, greater competition, and increased choice through the wider availability of accurate information on health care costs, quality, and outcomes; and

“(6) improves the coordination of care and information among hospitals, laboratories, physician offices, and other entities through an effective infrastructure for the secure and authorized exchange of health care information.

“(c) Duties of the National Coordinator.—The National Coordinator shall—

“(1) provide support to the public-private American Health Information Collaborative established under section 2903;

“(2) serve as the principal advisor to the Secretary concerning the development, application, and use of health information technology, and coordinate and oversee the health information technology programs of the Department;

“(3) facilitate the adoption of a nationwide, interoperable system for the electronic exchange of health information;

“(4) ensure the adoption and implementation of standards for the electronic exchange of health information to reduce cost and improve health care quality;

“(5) ensure that health information technology policy and programs of the Department are coordinated with those of relevant executive branch agencies (including Federal commissions) with a goal of avoiding duplication of efforts and of helping to ensure that each agency undertakes health information technology activities primarily within the areas of its greatest expertise and technical capability;

“(6) to the extent permitted by law, coordinate outreach and consultation by the relevant executive branch agencies (including Federal commissions) with public and private parties of interest, including consumers, payers, employers, hospitals and other health care providers, physicians, community health centers, laboratories, vendors and other stakeholders;

“(7) advise the President regarding specific Federal health information technology programs; and

“(8) submit the reports described under section 2903(i) (excluding paragraph (4) of such section).

“(d) Rule of Construction.—Nothing in this section shall be construed to require the duplication of Federal efforts with respect to the establishment of the Office, regardless of whether such efforts were carried out prior to or after the enactment of this title.

“SEC. 2903. AMERICAN HEALTH INFORMATION COLLABORATIVE.

“(a) Purpose.—The Secretary shall establish the public-private American Health Information Collaborative (referred to in this section as the ‘Collaborative’) to—

“(1) advise the Secretary and recommend specific actions to achieve a nationwide interoperable health information technology infrastructure;

“(2) serve as a forum for the participation of a broad range of stakeholders to provide input on achieving the interoperability of health information technology; and

“(3) recommend standards (including content, communication, and security standards) for the electronic exchange of health information for adoption by the Federal Government and voluntary adoption by private entities.

“(b) Composition.—

“(1) In general.—The Collaborative shall be composed of—

“(A) the Secretary, who shall serve as the chairperson of the Collaborative;

“(B) the Secretary of Defense, or his or her designee;

“(C) the Secretary of Veterans Affairs, or his or her designee;

“(D) the Secretary of Commerce, or his or her designee;

“(E) representatives of other relevant Federal agencies, as determined appropriate by the Secretary; and

“(F) representatives from among the following categories to be appointed by the Secretary from nominations submitted by the public—

“(i) consumer and patient organizations;

“(ii) experts in health information privacy and security;

“(iii) health care providers;

“(iv) health insurance plans or other third party payors;

“(v) standards development organizations;

“(vi) information technology vendors;

“(vii) purchasers or employers; and

“(viii) State or local government agencies or Indian tribe or tribal organizations.

“(2) Considerations.—In appointing members under paragraph (1)(F), the Secretary shall select individuals with expertise in—

“(A) health information privacy;

“(B) health information security;

“(C) health care quality and patient safety, including those individuals with experience in utilizing health information technology to improve health care quality and patient safety;

“(D) data exchange; and

“(E) developing health information technology standards and new health information technology.

“(3) Terms.—Members appointed under paragraph (1)(G) shall serve for 2 year terms, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve for not to exceed 180 days after the expiration of such member's term or until a successor has been appointed.

“(c) Recommendations and Policies.—The Collaborative shall make recommendations to identify uniform national policies for adoption by the Federal Government and voluntary adoption by private entities to support the widespread adoption of health information technology, including—

“(1) protection of individually identifiable health information through privacy and security practices;

“(2) measures to prevent unauthorized access to health information;

“(3) methods to facilitate secure patient access to health information;

“(4) the ongoing harmonization of industry-wide health information technology standards;

“(5) recommendations for a nationwide interoperable health information technology infrastructure;

“(6) the identification and prioritization of specific use cases for which health information technology is valuable, beneficial, and feasible;

“(7) recommendations for the establishment of an entity to ensure the continuation of the functions of the Collaborative; and

“(8) other policies determined to be necessary by the Collaborative.

“(d) Standards.—

“(1) Existing standards.—The standards adopted by the Consolidated Health Informatics Initiative shall be deemed to have been recommended by the Collaborative under this section.

“(2) First year review.—Not later than 1 year after the date of enactment of this title, the Collaborative shall—

“(A) review existing standards (including content, communication, and security standards) for the electronic exchange of health information, including such standards adopted by the Secretary under paragraph (2)(A);

“(B) identify deficiencies and omissions in such existing standards; and

“(C) identify duplication and overlap in such existing standards;

and recommend modifications to such standards as necessary.

“(3) Ongoing review.—Beginning 1 year after the date of enactment of this title, and annually thereafter, the Collaborative shall—

"(A) review existing standards (including content, communication, and security standards) for the electronic exchange of health information, including such standards adopted by the Secretary under paragraph (2)(A);

"(B) identify deficiencies and omissions in such existing standards; and

"(C) identify duplication and overlap in such existing standards;

and recommend modifications to such standards as necessary.

"(4) LIMITATION.—The standards described in this section shall be consistent with any standards developed pursuant to the Health Insurance Portability and Accountability Act of 1996.

"(e) FEDERAL ACTION.—Not later than 60 days after the issuance of a recommendation from the Collaborative under subsection (d)(2), the Secretary of Health and Human Services, in consultation with the Secretary of Veterans Affairs, the Secretary of Defense, and representatives of other relevant Federal agencies, as determined appropriate by the Secretary, shall review such recommendations. The Secretary shall provide for the adoption by the Federal Government of any standard or standards contained in such recommendation.

"(f) COORDINATION OF FEDERAL SPENDING.—Not later than 1 year after the adoption by the Federal Government of a recommendation as provided for in subsection (e), and in compliance with chapter 113 of title 40, United States Code, no Federal agency shall expend Federal funds for the purchase of any form of health information technology or health information technology system for clinical care or for the electronic retrieval, storage, or exchange of health information that is not consistent with applicable standards adopted by the Federal Government under subsection (e).

"(g) COORDINATION OF FEDERAL DATA COLLECTION.—Not later than 3 years after the adoption by the Federal Government of a recommendation as provided for in subsection (e), all Federal agencies collecting health data for the purposes of surveillance, epidemiology, adverse event reporting, research, or for other purposes determined appropriate by the Secretary shall comply with standards adopted under subsection (e).

"(h) VOLUNTARY ADOPTION.—

"(1) IN GENERAL.—Any standards adopted by the Federal Government under subsection (e) shall be voluntary with respect to private entities.

"(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require that a private entity that enters into a contract with the Federal Government adopt the standards adopted by the Federal Government under section 2903 with respect to activities not related to the contract.

"(3) LIMITATION.—Private entities that enter into a contract with the Federal Government shall adopt the standards adopted under section 2903 for the purpose of activities under such Federal contract.

"(i) EFFECT ON OTHER PROVISIONS.—Nothing in this title shall be construed to effect the scope or substance of—

"(1) section 264 of the Health Insurance Portability and Accountability Act of 1996;

"(2) sections 1171 through 1179 of the Social Security Act; and

"(3) any regulation issued pursuant to any such section;

and such sections shall remain in effect and shall apply to the implementation of standards, programs and activities under this title.

"(j) REPORTS.—The Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, on an annual basis, a report that—

"(1) describes the specific actions that have been taken by the Federal Government and private entities to facilitate the adoption of an interoperable nationwide system for the electronic exchange of health information;

"(2) describes barriers to the adoption of such a nationwide system;

"(3) contains recommendations to achieve full implementation of such a nationwide system; and

"(4) contains a plan and progress toward the establishment of an entity to ensure the continuation of the functions of the Collaborative.

"(k) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Collaborative, except that the term provided for under section 14(a)(2) shall be 5 years.

"(l) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the duplication of Federal efforts with respect to the establishment of the Collaborative, regardless of whether such efforts were carried out prior to or after the enactment of this title.

"SEC. 2904. IMPLEMENTATION AND CERTIFICATION OF HEALTH INFORMATION STANDARDS.

"(a) IMPLEMENTATION.—

"(1) IN GENERAL.—The Secretary, based upon the recommendations of the Collaborative, shall develop criteria to ensure uniform and consistent implementation of any standards for the electronic exchange of health information voluntarily adopted by private entities in technical conformance with such standards adopted under this title.

"(2) IMPLEMENTATION ASSISTANCE.—The Secretary may recognize a private entity or entities to assist private entities in the implementation of the standards adopted under this title using the criteria developed by the Secretary under this section.

"(b) CERTIFICATION.—

"(1) IN GENERAL.—The Secretary, based upon the recommendations of the Collaborative, shall develop criteria to ensure and certify that hardware, software, and support services that claim to be in compliance with any standard for the electronic exchange of health information adopted under this title have established and maintained such compliance in technical conformance with such standards.

"(2) CERTIFICATION ASSISTANCE.—The Secretary may recognize a private entity or entities to assist in the certification described under paragraph (1) using the criteria developed by the Secretary under this section.

"(c) DELEGATION AUTHORITY.—The Secretary, through consultation with the Collaborative, may delegate the development of the criteria under subsections (a) and (b) to a private entity.

"SEC. 2905. STUDY OF STATE HEALTH INFORMATION LAWS AND PRACTICES.

"(a) IN GENERAL.—The Secretary shall carry out, or contract with a private entity to carry out, a study that examines—

"(1) the variation among State laws and practices that relate to the privacy, confidentiality, and security of health information;

"(2) how such variation among State laws and practices may impact the electronic exchange of health information—

"(A) among the States;

"(B) between the States and the Federal Government; and

"(C) among private entities; and

"(3) how such laws and practices may be harmonized to permit the secure electronic exchange of health information.

"(b) REPORT AND RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary shall submit to Congress a report that—

"(1) describes the results of the study carried out under subsection (a); and

"(2) makes recommendations based on the results of such study.

"SEC. 2906. SECURE EXCHANGE OF HEALTH INFORMATION; INCENTIVE GRANTS.

"(a) IN GENERAL.—The Secretary may make grants to States to carry out programs under which such States cooperate with other States to develop and implement State policies that will facilitate the secure electronic exchange of health information utilizing the standards adopted under section 2903—

"(1) among the States;

"(2) between the States and the Federal Government; and

"(3) among private entities.

"(b) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to States that provide assurance that any funding awarded under such a grant shall be used to harmonize privacy laws and practices between the States, the States and the Federal Government, and among private entities related to the privacy, confidentiality, and security of health information.

"(c) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information regarding the efficacy of efforts of a recipient of a grant under this section.

"(d) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to recipients of a grant under this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010.

"SEC. 2907. LICENSURE AND THE ELECTRONIC EXCHANGE OF HEALTH INFORMATION.

"(a) IN GENERAL.—The Secretary shall carry out, or contract with a private entity to carry out, a study that examines—

"(1) the variation among State laws that relate to the licensure, registration, and certification of medical professionals; and

"(2) how such variation among State laws impacts the secure electronic exchange of health information—

"(A) among the States; and

"(B) between the States and the Federal Government.

"(b) REPORT AND RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary shall publish a report that—

"(1) describes the results of the study carried out under subsection (a); and

"(2) makes recommendations to States regarding the harmonization of State laws based on the results of such study.

"SEC. 2908. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this title, there is authorized to be appropriated $125,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007 through 2010.

"(b) AVAILABILITY.—Amounts appropriated under subsection (a) shall remain available through fiscal year 2010.".

SEC. 122. HIPAA REPORT.

(a) STUDY.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study that examines the integration of the standards adopted under the amendments made by this subtitle with the standards adopted under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191).

(b) PLAN; REPORT.—

(1) PLAN.—Not later than 3 years after the date of enactment of this Act, the Secretary of Health and Human Services shall, based on the results of the study carried out under subsection (a), develop a plan for the integration of the standards described under such subsection and submit a report to Congress describing such plan.

(2) PERIODIC REPORTS.—The Secretary shall submit periodic reports to Congress that describe the progress of the integration described under paragraph (1).

SEC. 123. STUDY OF REIMBURSEMENT INCENTIVES.

The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study that examines methods to create efficient reimbursement incentives for improving health care quality in Federally qualified health centers, rural health clinics, and free clinics.

SEC. 124. REAUTHORIZATION OF INCENTIVE GRANTS REGARDING TELEMEDICINE.

Section 330L(b) of the Public Health Service Act (42 U.S.C. 254c–18(b)) is amended by striking "2002 through 2006" and inserting "2006 through 2010".

SEC. 125. SENSE OF THE SENATE ON PHYSICIAN PAYMENT.

It is the sense of the Senate that modifications to the medicare fee schedule for physicians' services under section 1848 of the Social Security Act (42 U.S.C. 1394w–4) should include provisions based on the reporting of quality measures pursuant to those adopted in section 2909 of the Public Health Service Act (as added by section 121) and the overall improvement of healthcare quality through the use of the electronic exchange of health information pursuant to the standards adopted under section 2903 of such Act (as added by section 121).

SEC. 126. ESTABLISHMENT OF QUALITY MEASUREMENT SYSTEMS FOR MEDICARE VALUE-BASED PURCHASING PROGRAMS.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.) is amended—

(1) by redesignating part E as part F; and

(2) by inserting after part D the following new part:

"PART E—VALUE-BASED PURCHASING

"QUALITY MEASUREMENT SYSTEMS FOR VALUE-BASED PURCHASING PROGRAMS

"SEC. 1860E–1. (a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall develop quality measurement systems for purposes of providing value-based payments to—

"(A) hospitals pursuant to section 1860E–2;

"(B) physicians and practitioners pursuant to section 1860E–3;

"(C) plans pursuant to section 1860E–4;

"(D) end stage renal disease providers and facilities pursuant to section 1860E–5; and

"(E) home health agencies pursuant to section 1860E–6.

"(2) QUALITY.—The systems developed under paragraph (1) shall measure the quality of the care furnished by the provider involved.

"(3) HIGH QUALITY HEALTH CARE DEFINED.—In this part, the term 'high quality health care' means health care that is safe, effective, patient-centered, timely, equitable, efficient, necessary, and appropriate.

"(b) REQUIREMENTS FOR SYSTEMS.—Under each quality measurement system described in subsection (a)(1), the Secretary shall do the following:

"(1) MEASURES.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall select measures of quality to be used by the Secretary under each system.

"(B) REQUIREMENTS.—In selecting the measures to be used under each system pursuant to subparagraph (A), the Secretary shall, to the extent feasible, ensure that—

"(i) such measures are evidence-based, reliable and valid, and feasible to collect and report;

"(ii) measures of process, structure, outcomes, beneficiary experience, efficiency, and equity are included;

"(iii) measures of overuse and underuse of health care items and services are included;

"(iv)(I) at least 1 measure of health information technology infrastructure that enables the provision of high quality health care and facilitates the exchange of health information, such as the use of one or more elements of a qualified health information system (as defined in subparagraph (E)), is included during the first year each system is implemented; and

"(II) additional measures of health information technology infrastructure are included in subsequent years;

"(v) in the case of the system that is used to provide value-based payments to hospitals under section 1860E–2, by not later than January 1, 2008, at least 5 measures that take into account the unique characteristics of small hospitals located in rural areas and frontier areas are included; and

"(vi) measures that assess the quality of care furnished to frail individuals over the age of 75 and to individuals with multiple complex chronic conditions are included.

"(C) REQUIREMENT FOR COLLECTION OF DATA ON A MEASURE FOR 1 YEAR PRIOR TO USE UNDER THE SYSTEMS.—Data on any measure selected by the Secretary under subparagraph (A) must be collected by the Secretary for at least a 12-month period before such measure may be used to determine whether a provider receives a value-based payment under a program described in subsection (a)(1).

"(D) AUTHORITY TO VARY MEASURES.—

"(i) UNDER SYSTEM APPLICABLE TO HOSPITALS.—In the case of the system applicable to hospitals under section 1860E–2, the Secretary may vary the measures selected under subparagraph (A) by hospital depending on the size of, and the scope of services provided by, the hospital.

"(ii) UNDER SYSTEM APPLICABLE TO PHYSICIANS AND PRACTITIONERS.—In the case of the system applicable to physicians and practitioners under section 1860E–3, the Secretary may vary the measures selected under subparagraph (A) by physician or practitioner depending on the specialty of the physician, the type of practitioner, or the volume of services furnished to beneficiaries by the physician or practitioner.

"(iii) UNDER SYSTEM APPLICABLE TO ESRD PROVIDERS AND FACILITIES.—In the case of the system applicable to providers of services and renal dialysis facilities under section 1860E–5, the Secretary may vary the measures selected under subparagraph (A) by provider or facility depending on the type of, the size of, and the scope of services provided by, the provider or facility.

"(iv) UNDER SYSTEM APPLICABLE TO HOME HEALTH AGENCIES.—In the case of the system applicable to home health agencies under section 1860E–6, the Secretary may vary the measures selected under subparagraph (A) by agency depending on the size of, and the scope of services provided by, the agency.

"(E) QUALIFIED HEALTH INFORMATION SYSTEM DEFINED.—For purposes of subparagraph (B)(iv)(I), the term 'qualified health information system' means a computerized system (including hardware, software, and training) that—

"(i) protects the privacy and security of health information and properly encrypts such health information;

"(ii) maintains and provides access to patients' health records in an electronic format;

"(iii) incorporates decision support software to reduce medical errors and enhance health care quality;

"(iv) is consistent with data standards and certification processes recommended by the Secretary;

"(v) allows for the reporting of quality measures; and

"(vi) includes other features determined appropriate by the Secretary.

"(2) WEIGHTS OF MEASURES.—

"(A) IN GENERAL.—The Secretary shall assign weights to the measures used by the Secretary under each system.

"(B) CONSIDERATION.—If the Secretary determines appropriate, in assigning the weights under subparagraph (A)—

"(i) measures of clinical effectiveness shall be weighted more heavily than measures of beneficiary experience; and

"(ii) measures of risk adjusted outcomes shall be weighted more heavily than measures of process; and

"(3) RISK ADJUSTMENT.—The Secretary shall establish procedures, as appropriate, to control for differences in beneficiary health status and beneficiary characteristics. To the extent feasible, such procedures may be based on existing models for controlling for such differences.

"(4) MAINTENANCE.—

"(A) IN GENERAL.—The Secretary shall, as determined appropriate, but not more often than once each 12-month period, update each system, including through—

"(i) the addition of more accurate and precise measures under the systems and the retirement of existing outdated measures under the system;

"(ii) the refinement of the weights assigned to measures under the system; and

"(iii) the refinement of the risk adjustment procedures established pursuant to paragraph (3) under the system.

"(B) UPDATE SHALL ALLOW FOR COMPARISON OF DATA.—Each update under subparagraph (A) of a quality measurement system shall allow for the comparison of data from one year to the next for purposes of providing value-based payments under the programs described in subsection (a)(1).

"(5) USE OF MOST RECENT QUALITY DATA.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall use the most recent quality data with respect to the provider involved that is available to the Secretary.

"(B) INSUFFICIENT DATA DUE TO LOW VOLUME.—If the Secretary determines that there is insufficient data with respect to a measure or measures because of a low number of services provided, the Secretary may aggregate data across more than 1 fiscal or calendar year, as the case may be.

"(c) REQUIREMENTS FOR DEVELOPING AND UPDATING THE SYSTEMS.—In developing and updating each quality measurement system under this section, the Secretary shall—

"(1) take into account the quality measures developed by nationally recognized quality measurement organizations, researchers, health care provider organizations, and other appropriate groups;

"(2) consult with, and take into account the recommendations of, the entity that the Secretary has an arrangement with under subsection (e);

"(3) consult with provider-based groups and clinical specialty societies;

"(4) take into account existing quality measurement systems that have been developed through a rigorous process of validation and with the involvement of entities and persons described in subsection (e)(2)(B); and

"(5) take into account—

"(A) each of the reports by the Medicare Payment Advisory Commission that are required under the Medicare Value Purchasing Act of 2005;

"(B) the results of—

"(i) the demonstrations required under such Act;

"(ii) the demonstration program under section 1866A;

"(iii) the demonstration program under section 1866C; and

"(iv) any other demonstration or pilot program conducted by the Secretary relating to measuring and rewarding quality and efficiency of care; and

"(C) the report by the Institute of Medicine of the National Academy of Sciences under section 238(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

"(d) Requirements for Implementing the Systems.—In implementing each quality measurement system under this section, the Secretary shall consult with entities—

"(1) that have joined together to develop strategies for quality measurement and reporting, including the feasibility of collecting and reporting meaningful data on quality measures; and

"(2) that involve representatives of health care providers, health plans, consumers, employers, purchasers, quality experts, government agencies, and other individuals and groups that are interested in quality of care.

"(e) Arrangement With an Entity To Provide Advice and Recommendations.—

"(1) Arrangement.—On and after July 1, 2006, the Secretary shall have in place an arrangement with an entity that meets the requirements described in paragraph (2) under which such entity provides the Secretary with advice on, and recommendations with respect to, the development and updating of the quality measurement systems under this section, including the assigning of weights to the measures under subsection (b)(2).

"(2) Requirements described.—The requirements described in this paragraph are the following:

"(A) The entity is a private nonprofit entity governed by an executive director and a board.

"(B) The members of the entity include representatives of—

"(i)(I) health plans and providers receiving reimbursement under this title for the provision of items and services, including health plans and providers with experience in the care of the frail elderly and individuals with multiple complex chronic conditions; or

"(II) groups representing such health plans and providers;

"(ii) groups representing individuals receiving benefits under this title;

"(iii) purchasers and employers or groups representing purchasers or employers;

"(iv) organizations that focus on quality improvement as well as the measurement and reporting of quality measures;

"(v) State government health programs;

"(vi) persons skilled in the conduct and interpretation of biomedical, health services, and health economics research and with expertise in outcomes and effectiveness research and technology assessment; and

"(vii) persons or entities involved in the development and establishment of standards and certification for health information technology systems and clinical data.

"(C) The membership of the entity is representative of individuals with experience with—

"(i) urban health care issues;

"(ii) safety net health care issues; and

"(iii) rural and frontier health care issues.

"(D) The entity does not charge a fee for membership for participation in the work of the entity related to the arrangement with the Secretary under paragraph (1). If the entity does require a fee for membership for participation in other functions of the entity, there shall be no linkage between such fee and participation in the work of the entity related to such arrangement with the Secretary.

"(E) The entity—

"(i) permits any member described in subparagraph (B) to vote on matters of the entity related to the arrangement with the Secretary under paragraph (1); and

"(ii) ensures that such members have an equal vote on such matters.

"(F) With respect to matters related to the arrangement with the Secretary under paragraph (1), the entity conducts its business in an open and transparent manner and provides the opportunity for public comment.

"(G) The entity operates as a voluntary consensus standards setting organization as defined for purposes of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) and Office of Management and Budget Revised Circular A–119 (published in the Federal Register on February 10, 1998).".

(b) Conforming References to Previous Part E.—Any reference in law (in effect before the date of the enactment of this Act) to part E of title XVIII of the Social Security Act is deemed a reference to part F of such title (as in effect after such date).

SEC. 127. EXCEPTION TO FEDERAL ANTI-KICKBACK AND PHYSICIAN SELF REFERRAL LAWS FOR THE PROVISION OF PERMITTED SUPPORT.

(a) Anti-Kickback.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking "and" at the end;

(B) in subparagraph (H), as added by section 237(d) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2213)—

(i) by moving such subparagraph 2 ems to the left; and

(ii) by striking the period at the end and inserting a semicolon;

(C) by redesignating subparagraph (H), as added by section 431(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2287), as subparagraph (I);

(D) in subparagraph (I), as so redesignated—

(i) by moving such subparagraph 2 ems to the left; and

(ii) by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following new:

"(J) during the 5-year period beginning on the date the Secretary issues the interim final rule under section 801(c)(1) of the Medicare Value Purchasing Act of 2005, the provision, with or without charge, of any permitted support (as defined in paragraph (4))."; and

(2) by adding at the end the following new paragraph:

"(4) Permitted support.—

"(A) Definition of permitted support.—Subject to subparagraph (B), in this section, the term 'permitted support' means the provision of any equipment, item, information, right, license, intellectual property, software, training, or service used for developing, implementing, operating, or facilitating the use of systems designed to improve the quality of health care and to promote the electronic exchange of health information.

"(B) Exception.—The term 'permitted support' shall not include the provision of—

"(i) any support that is determined in a manner that is related to the volume or value of any referrals or other business generated between the parties for which payment may be made in whole or in part under a Federal health care program;

"(ii) any support that has more than incidental utility or value to the recipient beyond the exchange of health care information; or

"(iii) any health information technology system, product, or service that is not capable of exchanging health care information in compliance with data standards consistent with interoperability.

"(C) Determination.—In establishing regulations with respect to the requirement under subparagraph (B)(iii), the Secretary shall take in account—

"(I) whether the health information technology system, product, or service is widely accepted within the industry and whether there is sufficient industry experience to ensure successful implementation of the system, product, or service; and

"(II) whether the health information technology system, product, or service improves quality of care, enhances patient safety, or provides greater administrative efficiencies.".

(b) Physician Self-Referral.—Section 1877(e) (42 U.S.C. 1395nn(e)) is amended by adding at the end the following new paragraph:

"(9) Permitted support.—During the 5-year period beginning on the date the Secretary issues the interim final rule under section 801(c)(1) of the Medicare Value Purchasing Act of 2005, the provision, with or without charge, of any permitted support (as defined in section 1128B(b)(4)).".

(c) Regulations.—In order to carry out the amendments made by this section—

(1) the Secretary shall issue an interim final rule with comment period by not later than the date that is 180 days after the date of enactment of this Act;

(2) the Secretary shall issue a final rule by not later than the date that is 180 days after the date that the interim final rule under paragraph (1) is issued.

CHAPTER 2—VALUE BASED PURCHASING

SEC. 131. VALUE BASED PURCHASING PROGRAMS; SENSE OF THE SENATE.

(a) Medicare Value Based Purchasing Pilot Program.—

(1) In general.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall establish under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) a value based purchasing pilot program based on the reporting of quality measures pursuant to those adopted in section 1860E-1 of the Social Security Act (as added by section 126). Such pilot program should be based on experience gained

through previous demonstration projects conducted by the Secretary, including demonstration projects conducted under sections 1866A and 1866C of the Social Security Act (42 U.S.C. 1395cc–1; 1395cc–3), section 649 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2322), and other relevant work conducted by private entities.

(2) EXPANSION.—Not later than 2 years after conducting the pilot program under paragraph (1), the Secretary shall transition and implement such program on a national basis.

(3) INFORMATION TECHNOLOGY.—Providers reporting quality measurement data electronically under this section shall report such data pursuant to the standards adopted under title XXIX of the Public Health Service Act (as added by section 121).

(4) FUNDING.—The Secretary shall ensure that the total amount of expenditures under this Act in a year does not exceed the total amount of expenditures that would have been expended in such year under this Act if this subsection had not been enacted.

(b) MEDICAID VALUE BASED PURCHASING PROGRAMS.—

(1) IN GENERAL.—The Secretary shall authorize waivers under section 1115 of the Social Security Act (42 U.S.C. 1315) for States to establish value based purchasing programs for State medicaid programs established under title XIX of such Act (42 U.S.C. 1396 et seq.). Such programs shall be based on the reporting of quality measures pursuant to those adopted in section 1860E-1 of the Social Security Act (as added by section 126).

(2) INFORMATION TECHNOLOGY.—Providers reporting quality measurement data electronically under this section shall report such data pursuant to the standards adopted under title XXIX of the Public Health Service Act (as added by section 121).

(3) WAIVER.—In authorizing such waivers, the Secretary shall waive any provisions of title XI or XIX of the Social Security Act that would otherwise prevent a State from establishing a value based purchasing program in accordance with paragraph (1).

Subtitle C—Patient Safety and Quality Improvement

SEC. 141. SHORT TITLE.

This subtitle may be cited as the "Patient Safety and Quality Improvement Act of 2005".

SEC. 142. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) In 1999, the Institute of Medicine released a report entitled To Err is Human that described medical errors as the eighth leading cause of death in the United States, with as many as 98,000 people dying as a result of medical errors each year.

(2) To address these deaths and injuries due to medical errors, the health care system must identify and learn from such errors so that systems of care can be improved.

(3) In their report, the Institute of Medicine called on Congress to provide legal protections with respect to information reported for the purposes of quality improvement and patient safety.

(4) The Health, Education, Labor, and Pensions Committee of the Senate held 4 hearings in the 106th Congress and 1 hearing in the 107th Congress on patient safety where experts in the field supported the recommendation of the Institute of Medicine for congressional action.

(5) Myriad public and private patient safety initiatives have begun. The Quality Interagency Coordination Taskforce has recommended steps to improve patient safety that may be taken by each Federal agency involved in health care and activities relating to these steps are ongoing.

(6) The research on patient safety unequivocally calls for a learning environment, rather than a punitive environment, in order to improve patient safety.

(7) Voluntary data gathering systems are more supportive than mandatory systems in creating the learning environment referred to in paragraph (6) as stated in the Institute of Medicine's report.

(8) Promising patient safety reporting systems have been established throughout the United States and the best ways to structure and use these systems are currently being determined, largely through projects funded by the Agency for Healthcare Research and Quality.

(9) Many organizations currently collecting patient safety data have expressed a need for legal protections that will allow them to review protected information and collaborate in the development and implementation of patient safety improvement strategies. Currently, the State peer review protections are inadequate to allow the sharing of information to promote patient safety.

(b) PURPOSES.—It is the purpose of this subtitle to—

(1) encourage a culture of safety and quality in the United States health care system by providing for legal protection of information reported voluntarily for the purposes of quality improvement and patient safety; and

(2) ensure accountability by raising standards and expectations for continuous quality improvements in patient safety.

SEC. 143. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(1) in section 912(c), by inserting ", in accordance with part C," after "The Director shall";

(2) by redesignating part C as part D;

(3) by redesignating sections 921 through 928, as sections 931 through 938, respectively;

(4) in 934(d) (as so redesignated), by striking the second sentence and inserting the following: "Penalties provided for under this section shall be imposed and collected by the Secretary using the administrative and procedural processes used to impose and collect civil money penalties under section 1128A of the Social Security Act (other than subsections (a) and (b), the second sentence of subsection (f), and subsections (i), (m), and (n)), unless the Secretary determines that a modification of procedures would be more suitable or reasonable to carry out this subsection and provides for such modification by regulation.";

(5) in section 938(1) (as so redesignated), by striking "921" and inserting "931"; and

(6) by inserting after part B the following:

"PART C—PATIENT SAFETY IMPROVEMENT

"SEC. 921. DEFINITIONS.

"In this part:

"(1) NON-IDENTIFIABLE INFORMATION.—

"(A) IN GENERAL.—The term 'non-identifiable information' means, with respect to information, that the information is presented in a form and manner that prevents the identification of a provider, a patient, or a reporter of patient safety data.

"(B) IDENTIFIABILITY OF PATIENT.—For purposes of subparagraph (A), the term 'presented in a form and manner that prevents the identification of a patient' means, with respect to information that has been subject to rules promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note), that the information has been de-identified so that it is no longer individually identifiable health information as defined in such rules.

"(2) PATIENT SAFETY DATA.—

"(A) IN GENERAL.—The term 'patient safety data' means—

"(i) any data, reports, records, memoranda, analyses (such as root cause analyses), or written or oral statements that are—

"(I) collected or developed by a provider for reporting to a patient safety organization, provided that they are reported to the patient safety organization within 60 days;

"(II) requested by a patient safety organization (including the contents of such request), if they are reported to the patient safety organization within 60 days;

"(III) reported to a provider by a patient safety organization; or

"(IV) collected by a patient safety organization from another patient safety organization, or developed by a patient safety organization;

that could result in improved patient safety, health care quality, or health care outcomes; or

"(ii) any deliberative work or process with respect to any patient safety data described in clause (i).

"(B) LIMITATION.—

"(i) COLLECTION.—If the original material from which any data, reports, records, memoranda, analyses (such as root case analyses), or written or oral statements referred to in subclause (I) or (IV) of subparagraph (A)(i) are collected and is not patient safety data, the act of such collection shall not make such original material patient safety data for purposes of this part.

"(ii) SEPARATE DATA.—The term 'patient safety data' shall not include information (including a patient's medical record, billing and discharge information or any other patient or provider record) that is collected or developed separately from and that exists separately from patient safety data. Such separate information or a copy thereof submitted to a patient safety organization shall not itself be considered as patient safety data. Nothing in this part, except for section 922(f)(1), shall be construed to limit—

"(I) the discovery of or admissibility of information described in this subparagraph in a criminal, civil, or administrative proceeding;

"(II) the reporting of information described in this subparagraph to a Federal, State, or local governmental agency for public health surveillance, investigation, or other public health purposes or health oversight purposes; or

"(III) a provider's recordkeeping obligation with respect to information described in this subparagraph under Federal, State, or local law.

"(3) PATIENT SAFETY ORGANIZATION.—The term 'patient safety organization' means a private or public entity or component thereof that is currently listed by the Secretary pursuant to section 924(c).

"(4) PATIENT SAFETY ORGANIZATION ACTIVITIES.—The term 'patient safety organization activities' means the following activities, which are deemed to be necessary for the proper management and administration of a patient safety organization:

"(A) The conduct, as its primary activity, of efforts to improve patient safety and the quality of health care delivery.

“(B) The collection and analysis of patient safety data that are submitted by more than one provider.

“(C) The development and dissemination of information to providers with respect to improving patient safety, such as recommendations, protocols, or information regarding best practices.

“(D) The utilization of patient safety data for the purposes of encouraging a culture of safety and of providing direct feedback and assistance to providers to effectively minimize patient risk.

“(E) The maintenance of procedures to preserve confidentiality with respect to patient safety data.

“(F) The provision of appropriate security measures with respect to patient safety data.

“(G) The utilization of qualified staff.

“(5) PERSON.—The term ‘person’ includes Federal, State, and local government agencies.

“(6) PROVIDER.—The term ‘provider’ means—

“(A) a person licensed or otherwise authorized under State law to provide health care services, including—

“(i) a hospital, nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, renal dialysis facility, ambulatory surgical center, pharmacy, physician or health care practitioner's office, long term care facility, behavior health residential treatment facility, clinical laboratory, or health center; or

“(ii) a physician, physician assistant, nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, psychologist, certified social worker, registered dietitian or nutrition professional, physical or occupational therapist, pharmacist, or other individual health care practitioner; or

“(B) any other person specified in regulations promulgated by the Secretary.

“SEC. 922. PRIVILEGE AND CONFIDENTIALITY PROTECTIONS.

“(a) PRIVILEGE.—Notwithstanding any other provision of Federal, State, or local law, patient safety data shall be privileged and, subject to the provisions of subsection (c)(1), shall not be—

“(1) subject to a Federal, State, or local civil, criminal, or administrative subpoena;

“(2) subject to discovery in connection with a Federal, State, or local civil, criminal, or administrative proceeding;

“(3) disclosed pursuant to section 552 of title 5, United States Code (commonly known as the Freedom of Information Act) or any other similar Federal, State, or local law;

“(4) admitted as evidence or otherwise disclosed in any Federal, State, or local civil, criminal, or administrative proceeding; or

“(5) utilized in a disciplinary proceeding against a provider.

“(b) CONFIDENTIALITY.—Notwithstanding any other provision of Federal, State, or local law, and subject to the provisions of subsections (c) and (d), patient safety data shall be confidential and shall not be disclosed.

“(c) EXCEPTIONS TO PRIVILEGE AND CONFIDENTIALITY.—Nothing in this section shall be construed to prohibit one or more of the following uses or disclosures:

“(1) Disclosure by a provider or patient safety organization of relevant patient safety data for use in a criminal proceeding only after a court makes an in camera determination that such patient safety data contains evidence of a wanton and criminal act to directly harm the patient.

“(2) Voluntary disclosure of non-identifiable patient safety data by a provider or a patient safety organization.

“(d) PROTECTED DISCLOSURE AND USE OF INFORMATION.—Nothing in this section shall be construed to prohibit one or more of the following uses or disclosures:

“(1) Disclosure of patient safety data by a person that is a provider, a patient safety organization, or a contractor of a provider or patient safety organization, to another such person, to carry out patient safety organization activities.

“(2) Disclosure of patient safety data by a provider or patient safety organization to grantees or contractors carrying out patient safety research, evaluation, or demonstration projects authorized by the Director.

“(3) Disclosure of patient safety data by a provider to an accrediting body that accredits that provider.

“(4) Voluntary disclosure of patient safety data by a patient safety organization to the Secretary for public health surveillance if the consent of each provider identified in, or providing, such data is obtained prior to such disclosure. Nothing in the preceding sentence shall be construed to prevent the release of patient safety data that is provided by, or that relates solely to, a provider from which the consent described in such sentence is obtained because one or more other providers do not provide such consent with respect to the disclosure of patient safety date that relates to such nonconsenting providers. Consent for the future release of patient safety data for such purposes may be requested by the patient safety organization at the time the data is submitted.

“(5) Voluntary disclosure of patient safety data by a patient safety organization to State of local government agencies for public health surveillance if the consent of each provider identified in, or providing, such data is obtained prior to such disclosure. Nothing in the preceding sentence shall be construed to prevent the release of patient safety data that is provided by, or that relates solely to, a provider from which the consent described in such sentence is obtained because one or more other providers do not provide such consent with respect to the disclosure of patient safety date that relates to such nonconsenting providers. Consent for the future release of patient safety data for such purposes may be requested by the patient safety organization at the time the data is submitted.

“(e) CONTINUED PROTECTION OF INFORMATION AFTER DISCLOSURE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), patient safety data that is used or disclosed shall continue to be privileged and confidential as provided for in subsections (a) and (b), and the provisions of such subsections shall apply to such data in the possession or control of—

“(A) a provider or patient safety organization that possessed such data before the use or disclosure; or

“(B) a person to whom such data was disclosed.

“(2) EXCEPTION.—Notwithstanding paragraph (1), and subject to paragraph (3)—

“(A) if patient safety data is used or disclosed as provided for in subsection (c)(1), and such use or disclosure is in open court, the confidentiality protections provided for in subsection (b) shall no longer apply to such data; and

“(B) if patient safety data is used or disclosed as provided for in subsection (c)(2), the privilege and confidentiality protections provided for in subsections (a) and (b) shall no longer apply to such data.

“(3) CONSTRUCTION.—Paragraph (2) shall not be construed as terminating or limiting the privilege or confidentiality protections provided for in subsection (a) or (b) with respect to data other than the specific data used or disclosed as provided for in subsection (c).

“(f) LIMITATION ON ACTIONS.—

“(1) PATIENT SAFETY ORGANIZATIONS.—Except to enforce disclosures pursuant to subsection (c)(1), no action may be brought or process served against a patient safety organization to compel disclosure of information collected or developed under this part whether or not such information is patient safety data unless such information is specifically identified, is not patient safety data, and cannot otherwise be obtained.

“(2) PROVIDERS.—An accrediting body shall not take an accrediting action against a provider based on the good faith participation of the provider in the collection, development, reporting, or maintenance of patient safety data in accordance with this part. An accrediting body may not require a provider to reveal its communications with any patient safety organization established in accordance with this part.

“(g) REPORTER PROTECTION.—

“(1) IN GENERAL.—A provider may not take an adverse employment action, as described in paragraph (2), against an individual based upon the fact that the individual in good faith reported information—

“(A) to the provider with the intention of having the information reported to a patient safety organization; or

“(B) directly to a patient safety organization.

“(2) ADVERSE EMPLOYMENT ACTION.—For purposes of this subsection, an ‘adverse employment action’ includes—

“(A) loss of employment, the failure to promote an individual, or the failure to provide any other employment-related benefit for which the individual would otherwise be eligible; or

“(B) an adverse evaluation or decision made in relation to accreditation, certification, credentialing, or licensing of the individual.

“(h) ENFORCEMENT.—

“(1) PROHIBITION.—Except as provided in subsections (c) and (d) and as otherwise provided for in this section, it shall be unlawful for any person to negligently or intentionally disclose any patient safety data, and any such person shall, upon adjudication, be assessed in accordance with section 934(d).

“(2) RELATION TO HIPAA.—The penalty provided for under paragraph (1) shall not apply if the defendant would otherwise be subject to a penalty under the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note) or under section 1176 of the Social Security Act (42 U.S.C. 1320d-5) for the same disclosure.

“(3) EQUITABLE RELIEF.—

“(A) IN GENERAL.—Without limiting remedies available to other parties, a civil action may be brought by any aggrieved individual to enjoin any act or practice that violates subsection (g) and to obtain other appropriate equitable relief (including reinstatement, back pay, and restoration of benefits) to redress such violation.

“(B) AGAINST STATE EMPLOYEES.—An entity that is a State or an agency of a State government may not assert the privilege described in subsection (a) unless before the time of the assertion, the entity or, in the case of and with respect to an agency, the

State has consented to be subject to an action as described by this paragraph, and that consent has remained in effect.

"(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) limit other privileges that are available under Federal, State, or local laws that provide greater confidentiality protections or privileges than the privilege and confidentiality protections provided for in this section;

"(2) limit, alter, or affect the requirements of Federal, State, or local law pertaining to information that is not privileged or confidential under this section;

"(3) alter or affect the implementation of any provision of section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033), section 1176 of the Social Security Act (42 U.S.C. 1320d–5), or any regulation promulgated under such sections;

"(4) limit the authority of any provider, patient safety organization, or other person to enter into a contract requiring greater confidentiality or delegating authority to make a disclosure or use in accordance with subsection (c) or (d); and

"(5) prohibit a provider from reporting a crime to law enforcement authorities, regardless of whether knowledge of the existence of, or the description of, the crime is based on patient safety data, so long as the provider does not disclose patient safety data in making such report.

"SEC. 923. PATIENT SAFETY NETWORK OF DATABASES.

"(a) IN GENERAL.—The Secretary shall maintain a patient safety network of databases that provides an interactive evidence-based management resource for providers, patient safety organizations, and other persons. The network of databases shall have the capacity to accept, aggregate, and analyze nonidentifiable patient safety data voluntarily reported by patient safety organizations, providers, or other persons.

"(b) NETWORK OF DATABASE STANDARDS.—The Secretary may determine common formats for the reporting to the patient safety network of databases maintained under subsection (a) of nonidentifiable patient safety data, including necessary data elements, common and consistent definitions, and a standardized computer interface for the processing of such data. To the extent practicable, such standards shall be consistent with the administrative simplification provisions of Part C of title XI of the Social Security Act.

"SEC. 924. PATIENT SAFETY ORGANIZATION CERTIFICATION AND LISTING.

"(a) CERTIFICATION.—

"(1) INITIAL CERTIFICATION.—Except as provided in paragraph (2), an entity that seeks to be a patient safety organization shall submit an initial certification to the Secretary that the entity intends to perform the patient safety organization activities.

"(2) DELAYED CERTIFICATION OF COLLECTION FROM MORE THAN ONE PROVIDER.—An entity that seeks to be a patient safety organization may—

"(A) submit an initial certification that it intends to perform patient safety organization activities other than the activities described in subparagraph (B) of section 921(4); and

"(B) within 2 years of submitting the initial certification under subparagraph (A), submit a supplemental certification that it performs the patient safety organization activities described in subparagraphs (A) through (F) of section 921(4).

"(3) EXPIRATION AND RENEWAL.—

"(A) EXPIRATION.—An initial certification under paragraph (1) or (2)(A) shall expire on the date that is 3 years after it is submitted.

"(B) RENEWAL.—

"(i) IN GENERAL.—An entity that seeks to remain a patient safety organization after the expiration of an initial certification under paragraph (1) or (2)(A) shall, within the 3-year period described in subparagraph (A), submit a renewal certification to the Secretary that the entity performs the patient safety organization activities described in section 921(4).

"(ii) TERM OF RENEWAL.—A renewal certification under clause (i) shall expire on the date that is 3 years after the date on which it is submitted, and may be renewed in the same manner as an initial certification.

"(b) ACCEPTANCE OF CERTIFICATION.—Upon the submission by an organization of an initial certification pursuant to subsection (a)(1) or (a)(2)(A), a supplemental certification pursuant to subsection (a)(2)(B), or a renewal certification pursuant to subsection (a)(3)(B), the Secretary shall review such certification and—

"(1) if such certification meets the requirements of subsection (a)(1), (a)(2)(A), (a)(2)(B), or (a)(3)(B), as applicable, the Secretary shall notify the organization that such certification is accepted; or

"(2) if such certification does not meet such requirements, as applicable, the Secretary shall notify the organization that such certification is not accepted and the reasons therefor.

"(c) LISTING.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall compile and maintain a current listing of patient safety organizations with respect to which the Secretary has accepted a certification pursuant to subsection (b).

"(2) REMOVAL FROM LISTING.—The Secretary shall remove from the listing under paragraph (1)—

"(A) an entity with respect to which the Secretary has accepted an initial certification pursuant to subsection (a)(2)(A) and which does not submit a supplemental certification pursuant to subsection (a)(2)(B) that is accepted by the Secretary;

"(B) an entity whose certification expires and which does not submit a renewal application that is accepted by the Secretary; and

"(C) an entity with respect to which the Secretary revokes the Secretary's acceptance of the entity's certification, pursuant to subsection (d).

"(d) REVOCATION OF ACCEPTANCE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if the Secretary determines (through a review of patient safety organization activities) that a patient safety organization does not perform one of the patient safety organization activities described in subparagraph (A) through (F) of section 921(4), the Secretary may, after notice and an opportunity for a hearing, revoke the Secretary's acceptance of the certification of such organization.

"(2) DELAYED CERTIFICATION OF COLLECTION FROM MORE THAN ONE PROVIDER.—A revocation under paragraph (1) may not be based on a determination that the organization does not perform the activity described in section 921(4)(B) if—

"(A) the listing of the organization is based on its submittal of an initial certification under subsection (a)(2)(A);

"(B) the organization has not submitted a supplemental certification under subsection (a)(2)(B); and

"(C) the 2-year period described in subsection (a)(2)(B) has not expired.

"(e) NOTIFICATION OF REVOCATION OR REMOVAL FROM LISTING.—

"(1) SUPPLYING CONFIRMATION OF NOTIFICATION TO PROVIDERS.—Within 15 days of a revocation under subsection (d)(1), a patient safety organization shall submit to the Secretary a confirmation that the organization has taken all reasonable actions to notify each provider whose patient safety data is collected or analyzed by the organization of such revocation.

"(2) PUBLICATION.—Upon the revocation of an acceptance of an organization's certification under subsection (d)(1), or upon the removal of an organization from the listing under subsection (c)(2), the Secretary shall publish notice of the revocation or removal in the Federal Register.

"(f) STATUS OF DATA AFTER REMOVAL FROM LISTING.—

"(1) NEW DATA.—With respect to the privilege and confidentiality protections described in section 922, data submitted to an organization within 30 days after the organization is removed from the listing under subsection (c)(2) shall have the same status as data submitted while the organization was still listed.

"(2) PROTECTION TO CONTINUE TO APPLY.—If the privilege and confidentiality protections described in section 922 applied to data while an organization was listed, or during the 30-day period described in paragraph (1), such protections shall continue to apply to such data after the organization is removed from the listing under subsection (c)(2).

"(g) DISPOSITION OF DATA.—If the Secretary removes an organization from the listing as provided for in subsection (c)(2), with respect to the patient safety data that the organization received from providers, the organization shall—

"(1) with the approval of the provider and another patient safety organization, transfer such data to such other organization;

"(2) return such data to the person that submitted the data; or

"(3) if returning such data to such person is not practicable, destroy such data.

"SEC. 925. TECHNICAL ASSISTANCE.

"The Secretary, acting through the Director, may provide technical assistance to patient safety organizations, including convening annual meetings for patient safety organizations to discuss methodology, communication, data collection, or privacy concerns.

"SEC. 926. PROMOTING THE INTEROPERABILITY OF HEALTH CARE INFORMATION TECHNOLOGY SYSTEMS.

"(a) DEVELOPMENT.—Not later than 36 months after the date of enactment of the Patient Safety and Quality Improvement Act of 2005, the Secretary shall develop or adopt voluntary standards that promote the electronic exchange of health care information.

"(b) UPDATES.—The Secretary shall provide for the ongoing review and periodic updating of the standards developed under subsection (a).

"(c) DISSEMINATION.—The Secretary shall provide for the dissemination of the standards developed and updated under this section.

"SEC. 927. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated such sums as may be necessary to carry out this part.".

SEC. 144. STUDIES AND REPORTS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall enter into a contract (based upon a competitive contracting process) with an appropriate research organization for the conduct of a study to assess the impact of medical technologies and therapies on patient safety, patient benefit, health care quality, and the costs of care as well as productivity growth. Such study shall examine—

(1) the extent to which factors, such as the use of labor and technological advances, have contributed to increases in the share of the gross domestic product that is devoted to health care and the impact of medical technologies and therapies on such increases;

(2) the extent to which early and appropriate introduction and integration of innovative medical technologies and therapies may affect the overall productivity and quality of the health care delivery systems of the United States; and

(3) the relationship of such medical technologies and therapies to patient safety, patient benefit, health care quality, and cost of care.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report containing the results of the study conducted under subsection (a).

Subtitle D—Fraud and Abuse

SEC. 151. NATIONAL EXPANSION OF THE MEDICARE-MEDICAID DATA MATCH PILOT PROGRAM.

(a) REQUIREMENT OF THE MEDICARE INTEGRITY PROGRAM.—Section 1893 of the Social Security Act (42 U.S.C. 1395ddd) is amended—

(1) in subsection (b), by adding at the end the following:

"(6) The Medicare-Medicaid data match program in accordance with subsection (g).";
and

(2) by adding at the end the following:

"(g) MEDICARE-MEDICAID DATA MATCH PROGRAM.—

"(1) EXPANSION OF PROGRAM.—

"(A) IN GENERAL.—The Secretary shall enter into contracts with eligible entities for the purpose of ensuring that, beginning with 2006, the Medicare-Medicaid data match program (commonly referred to as the 'Medi-Medi Program') is conducted with respect to the program established under this title and the applicable number of State Medicaid programs under title XIX for the purpose of—

"(i) identifying vulnerabilities in both such programs;

"(ii) assisting States, as appropriate, to take action to protect the Federal share of expenditures under the Medicaid program; and

"(iii) increasing the effectiveness and efficiency of both such programs through cost avoidance, savings, and recoupments of fraudulent, wasteful, or abusive expenditures.

"(B) APPLICABLE NUMBER.—For purposes of subparagraph (A), the term 'applicable number' means—

"(i) in the case of fiscal year 2006, 10 State Medicaid programs;

"(ii) in the case of fiscal year 2007, 12 State Medicaid programs; and

"(iii) in the case of fiscal year 2008, 15 State Medicaid programs.

"(2) LIMITED WAIVER AUTHORITY.—The Secretary shall waive only such requirements of this section and of titles XI and XIX as are necessary to carry out paragraph (1).".

(b) FUNDING.—Section 1817(k)(4) of the Social Security Act (42 U.S.C. 1395i(k)(4)) is amended—

(1) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)"; and

(2) by adding at the end the following:

"(C) EXPANSION OF THE MEDICARE-MEDICAID DATA MATCH PROGRAM.—Of the amount appropriated under subparagraph (A) for a fiscal year, the following amounts shall be used to carry out section 1893(b)(6) for that year:

"(i) $10,000,000 of the amount appropriated for fiscal year 2006.

"(ii) $12,200,000 of the amount appropriated for fiscal year 2007.

"(iii) $15,800,000 of the amount appropriated for fiscal year 2008.".

Subtitle E—Miscellaneous Provisions

SEC. 161. SENSE OF THE SENATE ON ESTABLISHING A MANDATED BENEFITS COMMISSION.

It is the Sense of the Senate that—

(1) there should be established an independent Federal entity to study and provide advice to Congress on existing and proposed federally mandated health insurance benefits offered by employer-sponsored health plans and insurance issuers; and

(2) advice provided under paragraph (1) should be evidence- and actuarially-based, and take into consideration the population costs and benefits, including the health, financial, and social impact on affected populations, safety and medical efficacy, the impact on costs and access to insurance generally, and to different types of insurance products, the impact on labor costs and jobs, and any other relevant factors.

SEC. 162. ENFORCEMENT OF REIMBURSEMENT PROVISIONS BY FIDUCIARIES.

Section 502(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)(3)) is amended by inserting before the semicolon the following: "(which may include the recovery of amounts on behalf of the plan by a fiduciary enforcing the terms of the plan that provide a right of recovery by reimbursement or subrogation with respect to benefits provided to a participant or beneficiary)".

TITLE II—EXPANDING ACCESS TO AFFORDABLE HEALTH COVERAGE THROUGH TAX INCENTIVES AND OTHER INITIATIVES

Subtitle A—Refundable Health Insurance Credit

SEC. 201. REFUNDABLE HEALTH INSURANCE COSTS CREDIT.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable personal credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

"SEC. 36. HEALTH INSURANCE COSTS FOR UNINSURED INDIVIDUALS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the amount paid by the taxpayer during such taxable year for qualified health insurance for the taxpayer and the taxpayer's spouse and dependents.

"(b) LIMITATIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount allowed as a credit under subsection (a) to the taxpayer for the taxable year shall not exceed the lesser of—

"(A) 90 percent of the sum of the amounts paid by the taxpayer for qualified health insurance for each individual referred to in subsection (a) for coverage months of the individual during the taxable year, or

"(B) $3,000.

"(2) MONTHLY LIMITATION.—

"(A) IN GENERAL.—For purposes of paragraph (1), amounts paid by the taxpayer for qualified health insurance for an individual for any coverage month of such individual during the taxable year shall not be taken into account to the extent such amounts exceed the amount equal to 1/12 of—

"(i) $1,111 if such individual is the taxpayer,

"(ii) $1,111 if—

"(I) such individual is the spouse of the taxpayer,

"(II) the taxpayer and such spouse are married as of the first day of such month, and

"(III) the taxpayer files a joint return for the taxable year,

"(iii) $1,111 if such individual has attained the age of 24 as of the close of the taxable year and is a dependent of the taxpayer for such taxable year, and

"(iv) one-half of the amount described in clause (i) if such individual has not attained the age of 24 as of the close of the taxable year and is a dependent of the taxpayer for such taxable year.

"(B) LIMITATION TO 2 YOUNG DEPENDENTS.—If there are more than 2 individuals described in subparagraph (A)(iv) with respect to the taxpayer for any coverage month, the aggregate amounts paid by the taxpayer for qualified health insurance for such individuals which may be taken into account under paragraph (1) shall not exceed 1/12 of the dollar amount in effect under subparagraph (A)(i) for the coverage month.

"(C) SPECIAL RULE FOR MARRIED INDIVIDUALS.—In the case of a taxpayer—

"(i) who is married (within the meaning of section 7703) as of the close of the taxable year but does not file a joint return for such year, and

"(ii) who does not live apart from such taxpayer's spouse at all times during the taxable year,

any dollar limitation imposed under this paragraph on amounts paid for qualified health insurance for individuals described in subparagraph (A)(iv) shall be divided equally between the taxpayer and the taxpayer's spouse unless they agree on a different division.

"(3) INCOME PHASEOUT OF CREDIT PERCENTAGE FOR ONE-PERSON COVERAGE.—

"(A) PHASEOUT FOR UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—In the case of an individual (other than a surviving spouse, the head of a household, or a married individual) with one-person coverage, if such individual has modified adjusted gross income—

"(i) in excess of $15,000 for a taxable year but not in excess of $20,000, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 40 percentage points as—

"(I) the excess of modified adjusted gross income in excess of $15,000, bears to

"(II) $5,000, or

"(ii) in excess of $20,000 for a taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the sum of 40 percentage points plus the number of percentage points which bears the same ratio to 50 percentage points as—

"(I) the excess of modified adjusted gross income in excess of $20,000, bears to

"(II) $10,000.

"(B) PHASEOUT FOR OTHER INDIVIDUALS.—In the case of a taxpayer (other than an individual described in subparagraph (A) or (C)) with one-person coverage, if the taxpayer has modified adjusted gross income in excess of $25,000 for a taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

“(i) the excess of modified adjusted gross income in excess of $25,000, bears to

“(ii) $15,000.

“(C) MARRIED FILING SEPARATE RETURN.—In the case of a taxpayer who is married filing a separate return for the taxable year and who has one-person coverage, if the taxpayer has modified adjusted gross income in excess of $12,500 for the taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

“(i) the excess of modified adjusted gross income in excess of $12,500, bears to

“(ii) $7,500.

“(4) INCOME PHASEOUT OF CREDIT PERCENTAGE FOR COVERAGE OF MORE THAN ONE PERSON.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of a taxpayer with coverage of more than one person, if the taxpayer has modified adjusted gross income in excess of $25,000 for a taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

“(i) the excess of modified adjusted gross income in excess of $25,000, bears to

“(ii) $35,000.

“(B) MARRIED FILING SEPARATE RETURN.—In the case of a taxpayer who is married filing a separate return for the taxable year and who has coverage of more than one person, if the taxpayer has modified adjusted gross income in excess of $12,500 for the taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

“(i) the excess of modified adjusted gross income in excess of $12,500, bears to

“(ii) $17,500.

“(5) ROUNDING.—Any percentage resulting from a reduction under paragraphs (3) and (4) shall be rounded to the nearest one-tenth of a percent.

“(6) MODIFIED ADJUSTED GROSS INCOME.—The term ‘modified adjusted gross income’ means adjusted gross income determined—

“(A) without regard to this section and sections 911, 931, and 933, and

“(B) after application of sections 86, 135, 137, 219, 221, and 469.

“(c) COVERAGE MONTH.—For purposes of this section—

“(1) IN GENERAL.—The term ‘coverage month’ means, with respect to an individual, any month if—

“(A) as of the first day of such month such individual is covered by qualified health insurance, and

“(B) the premium for coverage under such insurance for such month is paid by the taxpayer.

“(2) GROUP HEALTH PLAN COVERAGE.—

“(A) IN GENERAL.—The term ‘coverage month’ shall not include any month for which if, as of the first day of the month, the individual participates in any group health plan (within the meaning of section 5000 without regard to section 5000(d)).

“(B) EXCEPTION FOR CERTAIN PERMITTED COVERAGE.—Subparagraph (A) shall not apply to an individual if the individual's only coverage for a month is coverage described in clause (i) or (ii) of section 223(c)(1)(B).

“(3) EMPLOYER-PROVIDED COVERAGE.—The term ‘coverage month’ shall not include any month during a taxable year if any amount is not includible in the gross income of the taxpayer for such year under section 106 (other than coverage described in clause (i) or (ii) of section 223(c)(1)(B)).

“(4) MEDICARE, MEDICAID, AND SCHIP.—The term ‘coverage month’ shall not include any month with respect to an individual if, as of the first day of such month, such individual—

“(A) is entitled to any benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

“(B) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928 of such Act).

“(5) CERTAIN OTHER COVERAGE.—The term ‘coverage month’ shall not include any month during a taxable year with respect to an individual if, as of the first day of such month at any time during such month, such individual is enrolled in a program under—

“(A) chapter 89 of title 5, United States Code, or

“(B) chapter 55 of title 10, United States Code.

“(6) PRISONERS.—The term ‘coverage month’ shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

“(7) INSUFFICIENT PRESENCE IN UNITED STATES.—The term ‘coverage month’ shall not include any month during a taxable year with respect to an individual if such individual is present in the United States on fewer than 183 days during such year (determined in accordance with section 7701(b)(7)).

“(d) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified health insurance’ means health insurance coverage (as defined in section 9832(b)(1)) which—

“(A) is coverage described in paragraph (2), and

“(B) meets the requirements of paragraph (3).

“(2) ELIGIBLE COVERAGE.—Coverage described in this paragraph is the following:

“(A) Coverage under individual health insurance.

“(B) Coverage through a private sector health care coverage purchasing pool.

“(C) Coverage through a State care coverage purchasing pool.

“(D) Coverage under a State high-risk pool described in subparagraph (C) of section 35(e)(1).

“(E) Coverage after December 31, 2006, under an eligible State buy in program.

“(3) REQUIREMENTS.—The requirements of this paragraph are as follows:

“(A) COST LIMITS.—The coverage meets the requirements of section 223(c)(2)(A)(ii).

“(B) MAXIMUM BENEFITS.—Under the coverage, the annual and lifetime maximum benefits are not less than $700,000.

“(C) BROAD COVERAGE.—The coverage includes inpatient and outpatient care, emergency benefits, and physician care.

“(D) GUARANTEED RENEWABILITY.—Such coverage is guaranteed renewable by the provider.

“(4) ELIGIBLE STATE BUY IN PROGRAM.—For purposes of paragraph (2)(E)—

“(A) IN GENERAL.—The term ‘eligible State buy in program’ means a State program under which an individual who—

“(i) is not eligible for assistance under the State medicaid program under title XIX of the Social Security Act,

“(ii) is not eligible for assistance under the State children's health insurance program under title XXI of such Act, or

“(iii) is not a State employee,

is able to buy health insurance coverage through a purchasing arrangement entered into between the State and a private sector health care purchasing group or health plan.

“(B) REQUIREMENTS.—Subparagraph (A) shall only apply to a State program if—

“(i) the program uses private sector health care purchasing groups or health plans, and

“(ii) the State maintains separate risk pools for participants under the State buy in program and other participants.

“(C) SUBSIDIES.—

“(i) IN GENERAL.—A State program shall not fail to be treated as an eligible State buy in program merely because the State subsidizes the costs of an individual in buying health insurance coverage under the program.

“(ii) EXCEPTION.—Clause (i) shall not apply if the State subsidy under the program for any adult for any consecutive 12-month period exceeds the applicable dollar amount.

“(iii) APPLICABLE DOLLAR AMOUNT.—

“(I) IN GENERAL.—For purposes of clause (ii), the applicable dollar amount is $2,000.

“(II) REDUCTION.—In the case of a family with annual income in excess of 133 percent of the applicable poverty line (as determined in accordance with criteria established by the Director of the Office of Management and Budget) but not in excess of 200 percent of such line, the dollar amount under clause (i) shall be ratably reduced (but not below zero) for each dollar of such excess. In the case of a family with annual income in excess of 200 percent of such line, the applicable dollar amount shall be zero.

“(e) ARRANGEMENTS UNDER WHICH INSURERS CONTRIBUTE TO HSA.—

“(1) IN GENERAL.—For purposes of this section, health insurance shall not be treated as qualified health insurance if the insurer makes contributions to a health savings account of the taxpayer unless such insurance is provided under an arrangement described in paragraph (2).

“(2) ARRANGEMENTS DESCRIBED.—

“(A) AMOUNTS PAID FOR COVERAGE EXCEED MONTHLY LIMITATION.—In the case of amounts paid under an arrangement for health insurance for a coverage month in excess of the amount in effect under subsection (b)(2)(A) for such month, an arrangement is described in this subparagraph if under the arrangement—

“(i) the aggregate amount contributed by the insurer to any health savings account of the taxpayer does not exceed 90 percent of the excess of—

“(I) the amount paid by the taxpayer for qualified health insurance under such arrangement for such month, over

“(II) the amount in effect under subsection (b)(2)(A) for such month, and

“(ii) the amount contributed by the insurer to a qualified health savings account of the taxpayer, reduced by the amount of the excess under clause (i), does not exceed 27 percent of the amount in effect under subsection (b)(2)(A) for such month.

“(B) AMOUNTS PAID FOR COVERAGE LESS THAN MONTHLY LIMITATION.—In the case of an arrangement under which the amount paid for qualified health insurance for a coverage month does not exceed the amount in effect under subsection (b)(2)(A) for such month, an arrangement is described in this subparagraph if—

“(i) under the arrangement the value of the insured benefits (excluding overhead) exceeds 65 percent of the amount paid for qualified health insurance for such month, and "(ii) the amount contributed by the insurer to a qualified health savings account of the taxpayer does not exceed 27 percent of the amount in effect under subsection (b)(2)(A) for such month.

"(3) QUALIFIED HEALTH SAVINGS ACCOUNT.—

"(A) IN GENERAL.—The term 'qualified health savings account' means a health savings account (as defined in section 223(d))—

"(i) which is designated (in such form as the Secretary may prescribe) as a qualified account for purposes of this section,

"(ii) which may not include any amount other than contributions described in this subsection and earnings on such contributions, and

"(iii) with respect to which section 223(f)(4)(A) is applied by substituting '100 percent' for '10 percent'.

"(B) SUBACCOUNTS AND SEPARATE ACCOUNTING.—The Secretary may prescribe rules under which a subaccount within a health savings account, or separate accounting with respect to contributions and earnings described in subparagraph (A)(ii), may be treated in the same manner as a qualified health savings account.

"(C) ROLLOVERS.—A contribution of a distribution from a qualified health savings account to another health savings account shall be treated as a rollover contribution for purposes of section 223(f)(5) only if the other account is a qualified health savings account.

"(f) DEPENDENTS.—For purposes of this section—

"(1) DEPENDENT DEFINED.—The term 'dependent' has the meaning given such term by section 152 (determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof).

"(2) SPECIAL RULE FOR DEPENDENT CHILD OF DIVORCED PARENTS.—An individual who is a child to whom section 152(e) applies shall be treated as a dependent of the custodial parent for a coverage month unless the custodial and noncustodial parent provide otherwise.

"(3) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151(c) is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(g) INFLATION ADJUSTMENTS.—

"(1) CREDIT AND HEALTH INSURANCE AMOUNTS.—In the case of any taxable year beginning after 2006, each dollar amount referred to in subsections (b)(1)(B), (b)(2)(A), (d)(3)(B), and (d)(4)(C)(iii)(I) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 213(d)(10)(B)(ii) for the calendar year in which the taxable year begins, determined by substituting '2005' for '1996' in subclause (II) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10.

"(2) INCOME PHASEOUT AMOUNTS.—In the case of any taxable year beginning after 2006, each dollar amount referred to in paragraph (3) and (4) of subsection (b) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"(h) ARCHER MSA CONTRIBUTIONS; HSA CONTRIBUTIONS.—If a deduction would be allowed under section 220 to the taxpayer for a payment for the taxable year to the Archer MSA of an individual or under section 223 to the taxpayer for a payment for the taxable year to the Health Savings Account of such individual, subsection (a) shall not apply to the taxpayer for any month during such taxable year for which the taxpayer, spouse, or dependent is an eligible individual for purposes of either such section.

"(i) OTHER RULES.—For purposes of this section—

"(1) COORDINATION WITH MEDICAL EXPENSE AND PREMIUM DEDUCTIONS FOR HIGH DEDUCTIBLE HEALTH PLANS.—The amount which would (but for this paragraph) be taken into account by the taxpayer under section 213 or 224 for the taxable year shall be reduced by the credit (if any) allowed by this section to the taxpayer for such year.

"(2) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—No credit shall be allowable under this section for a taxable year if a deduction is allowed under section 162(l) for the taxable year.

"(3) COORDINATION WITH ADVANCE PAYMENT.—Rules similar to the rules of section 35(g)(1) shall apply to any credit to which this section applies.

"(4) COORDINATION WITH SECTION 35.—If a taxpayer is eligible for the credit allowed under this section and section 35 for any taxable year, the taxpayer shall elect which credit is to be allowed.

"(j) EXPENSES MUST BE SUBSTANTIATED.—A payment for insurance to which subsection (a) applies may be taken into account under this section only if the taxpayer substantiates such payment in such form as the Secretary may prescribe.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050T the following:

"SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR QUALIFIED HEALTH INSURANCE.

"(a) IN GENERAL.—Any person who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under creditable health insurance, shall make the return described in subsection (b) (at such time as the Secretary may by regulations prescribe) with respect to each individual from whom such payments were received.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe, and

"(2) contains—

"(A) the name, address, and TIN of the individual from whom payments described in subsection (a) were received,

"(B) the name, address, and TIN of each individual who was provided by such person with coverage under creditable health insurance by reason of such payments and the period of such coverage,

"(C) the aggregate amount of payments described in subsection (a), and

"(D) such other information as the Secretary may reasonably prescribe.

"(c) CREDITABLE HEALTH INSURANCE.—For purposes of this section, the term 'creditable health insurance' means qualified health insurance (as defined in section 36(d)).

"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required under subsection (b)(2)(A) to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return and the phone number of the information contact for such person,

"(2) the aggregate amount of payments described in subsection (a) received by the person required to make such return from the individual to whom the statement is required to be furnished, and

"(3) the information required under subsection (b)(2)(B) with respect to such payments.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

"(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).".

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xiii) through (xviii) as clauses (xiv) through (xix), respectively, and by inserting after clause (xii) the following:

"(xiii) section 6050U (relating to returns relating to payments for qualified health insurance),".

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking "or" at the end of subparagraph (AA), by striking the period at the end of the subparagraph (BB) and inserting ", or", and by adding at the end the following:

"(CC) section 6050U(d) (relating to returns relating to payments for qualified health insurance).".

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050T the following:

"Sec. 6050U. Returns relating to payments for qualified health insurance.".

(c) CRIMINAL PENALTY FOR FRAUD.—Subchapter B of chapter 75 of the Internal Revenue Code of 1986 (relating to other offenses) is amended by adding at the end the following:

"SEC. 7276. PENALTIES FOR OFFENSES RELATING TO HEALTH INSURANCE TAX CREDIT.

"Any person who knowingly misuses Department of the Treasury names, symbols, titles, or initials to convey the false impression of association with, or approval or endorsement by, the Department of the Treasury of any insurance products or group health coverage in connection with the credit for health insurance costs under section 36 shall on conviction thereof be fined not more than $10,000, or imprisoned not more than 1 year, or both.".

(d) CONFORMING AMENDMENTS.—

(1) Section 162(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(6) ELECTION TO HAVE SUBSECTION APPLY.—No deduction shall be allowed under paragraph (1) for a taxable year unless the taxpayer elects to have this subsection apply for such year.".

(2) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 36 of such Code".

(3) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking "35" and inserting "36" and by inserting after the item relating to section 35 the following:

"Sec. 36. Health insurance costs for uninsured individuals.".

(4) The table of sections for subchapter B of chapter 75 of such Code is amended by adding at the end the following:

"Sec. 7276. Penalties for offenses relating to health insurance tax credit.".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2005.

(2) PENALTIES.—The amendments made by subsections (c) and (d)(4) shall take effect on the date of the enactment of this Act.

SEC. 202. ADVANCE PAYMENT OF CREDIT TO ISSUERS OF QUALIFIED HEALTH INSURANCE.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following:

"SEC. 7529. ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

"Not later than July 1, 2007, the Secretary shall establish a program for making payments to providers of qualified health insurance (as defined in section 36(d)) on behalf of individuals eligible for the credit under section 36. Such payments shall be made on the basis of modified adjusted gross income of eligible individuals for the preceding taxable year.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Sec. 7529. Advance payment of health insurance credit for purchasers of qualified health insurance.".

Subtitle B—High Deductible Health Plans and Health Savings Accounts

SEC. 211. DEDUCTION OF PREMIUMS FOR HIGH DEDUCTIBLE HEALTH PLANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

"SEC. 224. PREMIUMS FOR HIGH DEDUCTIBLE HEALTH PLANS.

"(a) DEDUCTION ALLOWED.—In the case of an individual, there shall be allowed as a deduction for the taxable year the aggregate amount paid by or on behalf of such individual as premiums under a high deductible health plan with respect to months during such year for which such individual is an eligible individual with respect to such health plan.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' has the meaning given such term by section 223(c)(1).

"(2) HIGH DEDUCTIBLE HEALTH PLAN.—The term 'high deductible health plan' has the meaning given such term by section 223(c)(2).

"(c) SPECIAL RULES.—

"(1) DEDUCTION ALLOWABLE FOR ONLY 1 PLAN.—For purposes of this section, in the case of an individual covered by more than 1 high deductible health plan for any month, the individual may only take into account amounts paid for 1 of such plans for such month.

"(2) GROUP HEALTH PLAN COVERAGE.—

"(A) IN GENERAL.—No deduction shall be allowed to an individual under subsection (a) for any amount paid for coverage under a high deductible health plan for a month if, as of the first day of that month, that individual participates in any coverage under a group health plan (within the meaning of section 5000 without regard to section 5000(d)).

"(B) EXCEPTION FOR CERTAIN PERMITTED COVERAGE.—Subparagraph (A) shall not apply to an individual if the individual's only coverage under a group health plan for a month is coverage described in clause (i) or (ii) of section 223(c)(1)(B).

"(3) MEDICARE ELIGIBLE INDIVIDUALS.—No deduction shall be allowed under subsection (a) with respect to any individual for any month if the individual is entitled to benefits under title XVIII of the Social Security Act for the month.

"(4) HEALTH SAVINGS ACCOUNT REQUIRED.—A deduction shall not be allowed under subsection (a) for a taxable year with respect to an individual unless the individual is an account beneficiary of a health savings account during a portion of the taxable year.

"(5) MEDICAL AND HEALTH SAVINGS ACCOUNTS.—Subsection (a) shall not apply with respect to any amount which is paid or distributed out of an Archer MSA or a health savings account which is not included in gross income under section 220(f) or 223(f), as the case may be.

"(6) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE OF SELF-EMPLOYED INDIVIDUALS.—The amount taken into account by the taxpayer in computing the deduction under section 162(l) shall not be taken into account under this section.

"(7) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amount taken into account by the taxpayer in computing the deduction under this section shall not be taken into account under section 213.".

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by inserting before the last sentence at the end the following new paragraph:

"(21) PREMIUMS FOR HIGH DEDUCTIBLE HEALTH PLANS.—The deduction allowed by section 224.".

(c) COORDINATION WITH HEALTH INSURANCE COSTS CREDIT.—Section 35(g)(2) of the Internal Revenue Code of 1986 is amended by striking "or 213" and inserting ",213, or 224".

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 224 as section 225 and by inserting before such item the following new item:

"Sec. 224. Premiums for high deductible health plans.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 212. REFUNDABLE CREDIT FOR CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS OF SMALL BUSINESS EMPLOYEES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by subtitle A, is amended by inserting after section 36 the following new section:

"SEC. 36A. SMALL EMPLOYER CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS.

"(a) GENERAL RULE.—In the case of an eligible employer, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to the lesser of—

"(1) the amount contributed by such employer to any qualified health savings account of any employee who is an eligible individual (as defined in section 223(c)(1)) during the taxable year, or

"(2) an amount equal to the product of—

"(A) $200 ($500 if coverage for all months described in subparagraph (B)(i) is family coverage), and

"(B) a fraction—

"(i) the numerator of which is the number of months that the employee was covered under a high deductible health plan maintained by the employer, and

"(ii) the denominator of which is the number of months in the taxable year.

"(b) ELIGIBLE EMPLOYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible employer' means, with respect to any taxable year, an employer which—

"(A) is a small employer, and

"(B) maintains a high deductible health plan under which all employees of the employer reasonably expected to receive at least $5,000 of compensation during the taxable year are eligible to participate.

An employer may exclude from consideration under subparagraph (B) employees who are covered by an agreement described in section 410(b)(3)(A) if there is evidence that health benefits were the subject of good faith bargaining.

"(2) EXCEPTION FOR GOVERNMENTAL AND TAX-EXEMPT EMPLOYERS.—The term 'eligible employer' shall not include the Federal Government or any employer described in section 457(e)(1).

"(3) SMALL EMPLOYER.—

"(A) IN GENERAL.—The term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of 100 or fewer employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

"(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under subparagraph (A) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(C) SPECIAL RULE.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

"(c) DEFINITIONS.—For purposes of this section—

"(1) HIGH DEDUCTIBLE HEALTH PLAN.—The term 'high deductible health plan' has the meaning given such term by section 223(c)(2).

"(2) QUALIFIED HEALTH SAVINGS ACCOUNT.—

"(A) IN GENERAL.—The term 'qualified health savings account' means a health savings account (as defined in section 223(d))—

"(i) which is designated (in such form as the Secretary may prescribe) as a qualified account for purposes of this section,

"(ii) which may not include any amount other than contributions described in subsection (a) and earnings on such contributions, and

"(iii) with respect to which section 223(f)(4)(A) is applied by substituting '100 percent' for '10 percent'.

"(B) SUBACCOUNTS AND SEPARATE ACCOUNTING.—The Secretary may prescribe rules under which a subaccount within a health savings account, or separate accounting with respect to contributions and earnings described in subparagraph (A)(ii), may be treated in the same manner as a qualified health savings account.

"(C) ROLLOVERS.—A contribution of a distribution from a qualified health savings account to another health savings account shall be treated as a rollover contribution for purposes of section 223(f)(5) only if the other account is a qualified health savings account.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person.

"(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed for that portion of contributions to any health savings accounts for the taxable year which is equal to the credit determined under subsection (a).

"(3) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 36A of such Code".

(2) The table of sections for subpart C of part IV of chapter 1 of the Internal Revenue Code of 1986, as amended by subtitle A, is amended by inserting after the item relating to section 36 the following new item:

"Sec. 36A. Small employer contributions to health savings accounts.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

Subtitle C—Improvement of the Health Coverage Tax Credit

SEC. 221. CHANGE IN STATE-BASED COVERAGE RULES RELATED TO PREEXISTING CONDITIONS.

(a) IN GENERAL.—Section 35(e)(2) of the Internal Revenue Code of 1986 (relating to requirements for State-based coverage) is amended by adding at the end the following:

"(C) LIMITATION ON PREEXISTING CONDITION EXCLUSION PERIOD.—The term 'qualified health insurance' does not include any coverage described in subparagraphs (C) through (H) of paragraph (1) that imposes a pre-existing condition exclusion with respect to any individual unless—

"(i) such exclusion relates to a physical or mental condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the date the individual seeks to enroll in the coverage,

"(ii) such exclusion extends for a period of not more than 12 months after the individual seeks to enroll in the coverage,

"(iii) the period of any such preexisting condition exclusion is reduced by the length of the aggregate of the periods of creditable coverage (as defined in section 9801(c)) applicable to the individual as of the enrollment date, and

"(iv) such exclusion is not an exclusion described in section 9801(d).".

(b) CONFORMING AMENDMENTS.—

(1) INTERNAL REVENUE CODE OF 1986.—Subparagraph (A) of section 35(e)(2) of such Code is amended—

(A) by striking clause (ii); and

(B) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(2) WORKFORCE INVESTMENT ACT OF 1998 AMENDMENTS.—Section 173(f)(2)(B) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)) is amended—

(A) in clause (i)—

(i) by striking subclause (II); and

(ii) by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively; and

(B) by adding at the end the following:

"(iii) LIMITATION ON PREEXISTING CONDITION EXCLUSION PERIOD.—The term 'qualified health insurance' does not include any coverage described in clauses (iii) through (ix) of subparagraph (A) that imposes a pre-existing condition exclusion with respect to any individual unless—

"(I) such exclusion relates to a physical or mental condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the date the individual seeks to enroll in the coverage;

"(II) such exclusion extends for a period of not more than 12 months after the individual seeks to enroll in the coverage;

"(III) the period of any such preexisting condition exclusion is reduced by the length of the aggregate of the periods of creditable coverage (as defined in section 9801(c) of the Internal Revenue Code of 1986) applicable to the individual as of the enrollment date; and

"(IV) such exclusion is not an exclusion described in section 9801(d) of such Code.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2005.

SEC. 222. ELIGIBILITY OF SPOUSE OF CERTAIN INDIVIDUALS ENTITLED TO MEDICARE.

(a) IN GENERAL.—Subsection (b) of section 35 of such Code (defining eligible coverage month) is amended by adding at the end the following:

"(3) SPECIAL RULE FOR SPOUSE OF INDIVIDUAL ENTITLED TO MEDICARE.—Any month which would be an eligible coverage month with respect to a taxpayer (determined without regard to subsection (f)(2)(A)) shall be an eligible coverage month for any spouse of such taxpayer, provided the spouse has attained age 55 and meets the requirements of clauses (ii), (iii), and (iv) of paragraph (1)(A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to taxable years beginning after December 31, 2005.

SEC. 223. ELIGIBLE PBGC PENSION RECIPIENT.

(a) IN GENERAL.—Subparagraph (B) of section 35(c)(4) of such Code (relating to eligible PBGC pension recipients) is amended by inserting before the period the following ", or, after August 6, 2002, received from such Corporation a one-time single-sum pension payment in lieu of an annuity".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 201 of the Trade Act of 2002 (Public Law 107–210, 116 Stat. 954).

SEC. 224. APPLICATION OF OPTION TO OFFER STATE-BASED COVERAGE TO PUERTO RICO, NORTHERN MARIANA ISLANDS, AMERICAN SAMOA, GUAM, AND THE UNITED STATES VIRGIN ISLANDS.

(a) IN GENERAL.—Section 35(e) of such Code (relating to requirements for qualified health insurance) is amended by adding at the end the following:

"(4) APPLICATION TO PUERTO RICO, NORTHERN MARIANA ISLANDS, AMERICAN SAMOA, GUAM, AND THE UNITED STATES VIRGIN ISLANDS.—For purposes of this section, Puerto Rico, Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands shall be considered States.".

(b) CONFORMING AMENDMENT.—Section 173(f)(2) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)) is amended by adding at the end the following:

"(D) APPLICATION TO NORTHERN MARIANA ISLANDS, AMERICAN SAMOA, GUAM, AND THE UNITED STATES VIRGIN ISLANDS.—For purposes of subsection (a)(4)(A) and this subsection, the term 'State' shall include the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2005.

SEC. 225. CLARIFICATION OF DISCLOSURE RULES.

(a) IN GENERAL.—Subsection (k) of section 6103 of such Code (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end the following:

"(10) DISCLOSURE OF CERTAIN RETURN INFORMATION FOR PURPOSES OF CARRYING OUT A PROGRAM FOR ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.—The Secretary may disclose to providers of health insurance, administrators of health plans, or contractors of such providers or administrators, for any certified individual (as defined in section 7527(c)) the taxpayer identity and health insurance member and group numbers of the certified individual (and any qualifying family member as defined in section 35(d), if applicable) and the amount and period of the payment, to the extent the Secretary deems necessary for the administration of the program established by section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals).".

(b) CONFORMING AMENDMENTS.—

(1) Section 6103 of such Code (relating to confidentiality and disclosure of returns and return information) is amended—

(A) in subsection (a)(3), by inserting "(k)(10)," after "(e)(1)(D)(iii),";

(B) in subsection (l), by striking paragraph (18); and

(C) in subsection (p)—

(i) in paragraph (3)(A)—

(I) by striking "or (9)" and inserting "(9), or (10)"; and

(II) by striking "(17), or (18)" and inserting "or (17)"; and

(ii) in paragraph (4), by striking "(18)" after "(l)(16)" each place it appears.

(2) Section 7213(a)(2) of such Code (relating to unauthorized disclosure of information) is amended by inserting "(k)(10)" before "(l)(6)".

(3) Section 7213A(a)(1)(B) of such Code (relating to unauthorized inspection of returns or return information) is amended by striking "subsection (l)(18) or (n) of section 6103" and inserting "section 6103(n)".

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2005.

SEC. 226. CLARIFICATION THAT STATE-BASED COBRA CONTINUATION COVERAGE IS SUBJECT TO SAME RULES AS FEDERAL COBRA.

(a) IN GENERAL.—Section 35(e)(2) of such Code (relating to state-based coverage requirements) is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking "(B)" and inserting "(C)"; and

(2) in subparagraph(B)(i), by striking "(B)" and inserting "(C)".

(b) CONFORMING AMENDMENTS.—Section 173(f)(2)(B) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)) is amended—

(1) in clause (i), in the matter preceding subclause (I), by striking "(ii)" and inserting "(iii)"; and

(2) in clause (ii)(I), by striking "(ii)" and inserting "(iii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of sections 201 and 203, respectively, of the Trade Act of 2002 (Public Law 107–210, 116 Stat. 954).

SEC. 227. APPLICATION OF RULES FOR OTHER SPECIFIED COVERAGE TO ELIGIBLE ALTERNATIVE TAA RECIPIENTS CONSISTENT WITH RULES FOR OTHER ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Section 35(f)(1) of such Code (relating to subsidized coverage) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(b) CONFORMING AMENDMENTS.—Section 173(f)(7)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(7)(A)) is amended by striking clause (ii) and redesignating clause (iii) as clause (ii).

Subtitle D—Long-Term Care Insurance

SEC. 231. SENSE OF THE SENATE CONCERNING LONG-TERM CARE.

It is the sense of the Senate that Congress should take steps to make long-term care more affordable by providing tax incentives for the purchase of long-term care insurance, support for family caregivers, and making necessary public program reforms.

Subtitle E—Other Provisions

SEC. 241. DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following:

"(h) CONTRIBUTIONS OF CERTAIN UNUSED HEALTH BENEFITS.—

"(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a cafeteria plan solely because qualified benefits under such plan include a health flexible spending arrangement under which not more than $500 of unused health benefits may be—

"(A) carried forward to the succeeding plan year of such health flexible spending arrangement, or

"(B) to the extent permitted by section 106(c), contributed by the employer to a health savings account (as defined in section 223(d)) maintained for the benefit of the employee.

"(2) HEALTH FLEXIBLE SPENDING ARRANGEMENT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'health flexible spending arrangement' means a flexible spending arrangement (as defined in section 106(c)) that is a qualified benefit and only permits reimbursement for expenses for medical care (as defined in section 213(d)(1), without regard to subparagraphs (C) and (D) thereof).

"(B) FLEXIBLE SPENDING ARRANGEMENT.—A flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(i) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(ii) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage.

"(3) UNUSED HEALTH BENEFITS.—For purposes of this subsection, with respect to an employee, the term 'unused health benefits' means the excess of—

"(A) the maximum amount of reimbursement allowable to the employee for a plan year under a health flexible spending arrangement, over

"(B) the actual amount of reimbursement for such year under such arrangement.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2004.

SEC. 242. MICROENTREPRENEURS.

(Section 404(8) of the Assets for Independence Act (42 U.S.C. 604 note) is amended by adding at the end the following:

"(F) HIGH DEDUCTIBLE HEALTH INSURANCE.—

"(i) IN GENERAL.—The eligible individual's contribution (as an employer or employee) for coverage under a high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986).

"(ii) DEFINITION OF EMPLOYEE.—For purposes of clause (i), the term 'employee' includes an individual described in section 401(c)(1) of the Internal Revenue Code of 1986.".

SEC. 243. STUDY ON ACCESS TO AFFORDABLE HEALTH INSURANCE FOR FULL-TIME COLLEGE AND UNIVERSITY STUDENTS.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that, because a considerable number of the United States' uninsured population are young adults who are enrolled full-time at an institution of higher education, Congress should determine whether health care coverage proposals targeting this population would be effective.

(b) STUDY REQUIRED.—The Government Accountability Office shall provide for the conduct of a study to evaluate existing and potential sources of affordable health insurance coverage for graduate and undergraduate students enrolled at an institution of higher education (as defined in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)).

(c) REQUIRED ELEMENTS OF STUDY.—In conducting the study under subsection (b), the Government Accountability Office shall, at a minimum, examine the following:

(1) STUDENT DEMOGRAPHICS.—

(A) IN GENERAL.—The size and characteristics of the insured and uninsured population of undergraduate and graduate students enrolled at institutions of higher education. Such data shall be differentiated as provided for in subparagraphs (B) and (C).

(B) STATISTICAL BREAKDOWN.—The data concerning the uninsured student population collected under subparagraph (A) shall be differentiated by—

(i) the full-time, full-time equivalent, and part-time enrollment status of the students involved;

(ii) the type of institution involved (such as a public, private, non-profit, or community institution);

(iii) the length and type of educational program involved (such as a certificate or diploma program, a 2-year or 4-year degree program, a masters degree program, or a doctoral degree program); and

(iv) the undergraduate and graduate student populations involved.

(C) COVERAGE.—The data concerning the insured student population collected under subparagraph (A) shall be differentiated by the sources of coverage for such students, including the number and percentage of such insured students who lose parental (or other) coverage during the course of their enrollment at such institutions and the age at which such coverage is lost.

(2) IMPACT ANALYSIS.—The financial and other impact of uninsured students at such institutions, as compared to insured students, on—

(A) the health of students;

(B) the student's family;

(C) the student's educational progress; and

(D) education and health care institutions and facilities.

(3) ASSESSMENT OF EXISTING PROGRAMS.—The effect of mandatory and voluntary programs on the access of students to health insurance coverage, including—

(A) the level and type of coverage provided through mandatory and voluntary State and institutionally-sponsored health care programs currently providing health care insurance coverage to students;

(B) the average premium paid with respect to students covered under such plans;

(C) the extent to which any State or institutional health insurance plan may serve as a model for the expansion of access to health insurance for all full-time undergraduate and graduate students attending an institution of higher education; and

(D) whether such programs targeted to the student population would be more effective in reducing the overall rate of uninsured relative to proposals targeted to broader populations.

(4) INCENTIVES AND DISINCENTIVES.—The existence of incentives and disincentives offered to institutions of higher education to expand access to health care coverage for students, including—

(A) an assessment of the types of incentives and disincentives that may be used to encourage or require an institution of higher education to include health care coverage for all of its students on a mandatory basis, including financial, regulatory, administrative, and other incentives or disincentives;

(B) a list of burdensome regulatory or administrative reporting and other requirements (from the Department of Education or other governmental agencies) that could be waived without compromising program integrity as a means of encouraging institutions of higher education to provide uninsured students with access to health care coverage;

(C) other incentives or disincentives that would increase the level of institutional participation in health care coverage programs; and

(D) an analysis of the costs and effectiveness (to reduce the number of uninsured students) of including the cost of health insurance as an allowable cost of attendance under the Higher Education Act of 1965, and the impact of such inclusion on the student's financial aid package.

(e) Consultation with Congress.—In carrying out the study under subsection (b), the Government Accountability Office shall consult on a regular basis with the Secretary of Education, the Secretary of Health and Human Services, the Committee on the Budget of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives.

(f) Report.—Not later than 1 year after the date of enactment of this Act, the Government Accountability Office shall prepare and submit to the Committee on the Budget and the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives, a report concerning the results of the study conducted under this section.

SEC. 244. EXTENSION OF FUNDING FOR OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.

Section 2745 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended to read as follows:

"SEC. 2745. PROMOTION OF QUALIFIED HIGH RISK POOLS.

"(a) Extension of Seed Grants to States.—The Secretary shall provide from the funds appropriated under subsection (d)(1)(A) a grant of up to $1,000,000 to each State that has not created a qualified high risk pool as of the date of enactment of this section for the State's costs of creation and initial operation of such a pool.

"(b) Grants for Operational Losses.—

"(1) In general.—In the case of a State that has established a qualified high risk pool that—

"(A) restricts premiums charged under the pool to no more than 150 percent of the premium for applicable standard risk rates;

"(B) offers a choice of two or more coverage options through the pool; and

"(C) has in effect a mechanism reasonably designed to ensure continued funding of losses incurred by the State after the end of fiscal year 2004 in connection with operation of the pool;

the Secretary shall provide, from the funds appropriated under subsection (d)(1)(B)(i) and allotted to the State under paragraph (2), a grant for the losses incurred by the State in connection with the operation of the pool.

"(2) Allotment.—The amounts appropriated under subsection (d)(1)(B)(i) for a fiscal year shall be made available to the States (or the entities that operate the high risk pool under applicable State law) as follows:

"(A) An amount equal to 50 percent of the appropriated amount for the fiscal year shall be allocated in equal amounts among each eligible State that applies for assistance under this subsection.

"(B) An amount equal to 25 percent of the appropriated amount for the fiscal year shall be allocated among the States so that the amount provided to a State bears the same ratio to such available amount as the number of uninsured individuals in the State bears to the total number of uninsured individuals in all States (as determined by the Secretary).

"(C) An amount equal to 25 percent of the appropriated amount for the fiscal year shall be allocated among the States so that the amount provided to a State bears the same ratio to such available amount as the number of individuals enrolled in health care coverage through the qualified high risk pool of the State bears to the total number of individuals so enrolled through qualified high risk pools in all States (as determined by the Secretary).

"(c) Bonus Grants for Supplemental Consumer Benefits.—

"(1) In general.—In the case of a State that has established a qualified high risk pool, the Secretary shall provide, from the funds appropriated under subsection (d)(1)(B)(ii) and allotted to the State under paragraph (3), a grant to be used to provide supplemental consumer benefits to enrollees or potential enrollees (or defined subsets of such enrollees or potential enrollees) in qualified high risk pools.

"(2) Benefits.—A State shall use amounts received under a grant under this subsection to provide one or more of the following benefits:

"(A) Low-income premium subsidies.

"(B) A reduction in premium trends, actual premiums, or other cost-sharing requirements.

"(C) An expansion or broadening of the pool of individuals eligible for coverage, including eliminating waiting lists, increasing enrollment caps, or providing flexibility in enrollment rules.

"(D) Less stringent rules, or additional waiver authority, with respect to coverage of pre-existing conditions.

"(E) Increased benefits.

"(F) The establishment of disease management programs.

"(3) Limitation.—In allotting amounts under this subsection, the Secretary shall ensure that no State receives an amount that exceeds 10 percent of the amount appropriated for the fiscal year involved under subsection (d)(1)(B)(ii).

"(4) Rule of construction.—Nothing in this subsection shall be construed to prohibit States that, on the date of enactment of the State High Risk Pool Funding Extension Act of 2005, are in the process of implementing programs to provide benefits of the type described in paragraph (2), from being eligible for a grant under this subsection.

"(d) Funding.—

"(1) In general.—Out of any money in the Treasury of the United States not otherwise appropriated, there are authorized and appropriated—

"(A) $15,000,000 for the period of fiscal years 2005 and 2006 to carry out subsection (a); and

"(B) $75,000,000 for each of fiscal years 2005 through 2009, of which—

"(i) two-thirds of the amount appropriated for a fiscal year shall be made available for allotments under subsection (b)(2); and

"(ii) one-third of the amount appropriated for a fiscal year shall be made available for allotments under subsection (c)(2).

"(2) Availability.—Funds appropriated under this subsection for a fiscal year shall remain available for obligation through the end of the following fiscal year.

"(3) Reallotment.—If, on June 30 of each fiscal year, the Secretary determines that all amounts appropriated under paragraph (1)(B)(ii) for the fiscal year are not allotted, such remaining amounts shall be allotted among States receiving grants under subsection (b) for the fiscal year in amounts determined appropriate by the Secretary.

"(4) No entitlement.—Nothing in this section shall be construed as providing a State with an entitlement to a grant under this section.

"(e) Applications.—To be eligible for a grant under this section, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(f) Definitions.—In this section:

"(1) Qualified high risk pool.—

"(A) In general.—The term 'qualified high risk pool' has the meaning given such term in section 2744(c)(2), except that with respect to subparagraph (A) of such section a State may elect to provide for the enrollment of eligible individuals through—

"(i) a combination of a qualified high risk pool and an acceptable alternative mechanism; or

"(ii) other health insurance coverage described in subparagraph (B).

"(B) Health insurance coverage.—Health insurance coverage described in this subparagraph is individual health insurance coverage—

"(i) that meets the requirements of section 2741;

"(ii) that is subject to limits on the rates charged to individuals;

"(iii) that is available to all individuals eligible for health insurance coverage under this title who are not able to participate in a qualified high risk pool; and

"(iv) the defined rate limit of which does not exceed the limit allowed for a qualified risk pool that is otherwise eligible to receive assistance under a grant under this section.

"(C) Other coverage.—In addition to coverage described in subparagraph (B), a State may provide for the offering of health insurance coverage that provides first dollar coverage, limits on cost-sharing, and comprehensive medical, hospital and surgical coverage, if the limits on rates for such coverage do not exceed 125 percent of the limit described in subparagraph (B)(iv).

"(2) Standard risk rate.—The term 'standard risk rate' means a rate—

"(A) determined under the State high risk pool by considering the premium rates charged by other health insurers offering health insurance coverage to individuals in the insurance market served;

"(B) that is established using reasonable actuarial techniques; and

"(C) that reflects anticipated claims experience and expenses for the coverage involved.

"(3) State.—The term 'State' means any of the 50 States and the District of Columbia.".

SEC. 245. SENSE OF THE SENATE ON AFFORDABLE HEALTH COVERAGE FOR SMALL EMPLOYERS.

It is the sense of the Senate that Congress should pass legislation to support expanded, affordable health coverage options for individuals, particularly those who work for small businesses, by streamlining and reducing regulations and expanding the role of associations and other group purchasing arrangements.

Subtitle F—Covering Kids

SEC. 251. SHORT TITLE.

This subtitle may be cited as the "Covering Kids Act of 2005".

SEC. 252. GRANTS TO PROMOTE INNOVATIVE OUTREACH AND ENROLLMENT UNDER MEDICAID AND SCHIP.

(a) Grants for Expanded Outreach Activities.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

"SEC. 2111. EXPANDED OUTREACH ACTIVITIES.

"(a) GRANTS TO CONDUCT INNOVATIVE OUTREACH AND ENROLLMENT EFFORTS.—

"(1) IN GENERAL.—The Secretary shall award grants to eligible entities to—

"(A) conduct innovative outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX; and

"(B) promote understanding of the importance of health insurance coverage for prenatal care and children.

"(2) PERFORMANCE BONUSES.—The Secretary may reserve a portion of the funds appropriated under subsection (g) for a fiscal year for the purpose of awarding performance bonuses during the succeeding fiscal year to eligible entities that meet enrollment goals or other criteria established by the Secretary.

"(b) PRIORITY FOR AWARD OF GRANTS.—

"(1) IN GENERAL.—In making grants under subsection (a)(1), the Secretary shall give priority to—

"(A) eligible entities that propose to target geographic areas with high rates of—

"(i) eligible but unenrolled children, including such children who reside in rural areas; or

"(ii) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

"(B) eligible entities that plan to engage in outreach efforts with respect to individuals described in subparagraph (A) and that are—

"(i) Federal health safety net organizations; or

"(ii) faith-based organizations or consortia.

"(2) 10 PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (g) for a fiscal year shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

"(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a)(1) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

"(1) quality and outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section to ensure that the activities are meeting their goals; and

"(2) an assurance that the entity shall—

"(A) conduct an assessment of the effectiveness of such activities against such performance measures; and

"(B) cooperate with the collection and reporting of enrollment data and other information determined as a result of conducting such assessments to the Secretary, in such form and manner as the Secretary shall require.

"(d) DISSEMINATION OF ENROLLMENT DATA AND INFORMATION DETERMINED FROM EFFECTIVENESS ASSESSMENTS; ANNUAL REPORT.—The Secretary shall—

"(1) disseminate to eligible entities and make publicly available the enrollment data and information collected and reported in accordance with subsection (c)(2)(B); and

"(2) submit an annual report to Congress on the outreach activities funded by grants awarded under this section.

"(e) SUPPLEMENT, NOT SUPPLANT.—Federal funds awarded under this section shall be used to supplement, not supplant, non-Federal funds that are otherwise available for activities funded under this section.

"(f) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

"(A) A State or local government.

"(B) A Federal health safety net organization.

"(C) A national, local, or community-based public or nonprofit private organization.

"(D) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x 65) relating to a grant award to non-governmental entities.

"(E) An elementary or secondary school.

"(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

"(A) an Indian tribe, tribal organization, or an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider;

"(B) a Federally-qualified health center (as defined in section 1905(l)(2)(B));

"(C) a hospital defined as a disproportionate share hospital for purposes of section 1923;

"(D) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

"(E) any other entity or a consortium that serves children under a federally-funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the head start and early head start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

"(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

"(g) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $50,000,000 for each of fiscal years 2006 and 2007 for the purpose of awarding grants under this section. Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsection (a)(1)(D)(iii) of that section.".

(b) EXTENDING USE OF OUTSTATIONED WORKERS TO ACCEPT TITLE XXI APPLICATIONS.—Section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) is amended by striking "or (a)(10)(A)(ii)(IX)" and inserting "(a)(10)(A)(ii)(IX), or (a)(10)(A)(ii)(XIV), and applications for child health assistance under title XXI".

SEC. 253. STATE OPTION TO PROVIDE FOR SIMPLIFIED DETERMINATIONS OF A CHILD'S FINANCIAL ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER MEDICAID OR CHILD HEALTH ASSISTANCE UNDER SCHIP.

(a) MEDICAID.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

"(13)(A) At the option of the State, the plan may provide that financial eligibility requirements for medical assistance are met for a child who is under an age specified by the State (not to exceed 21 years of age) by using a determination made within a reasonable period (as determined by the State) before its use for this purpose, of the child's family or household income, or if applicable for purposes of determining eligibility under this title or title XXI, assets or resources, by a Federal or State agency, or a public or private entity making such determination on behalf of such agency, specified by the plan, including (but not limited to) an agency administering the State program funded under part A of title IV, the Food Stamp Act of 1977, the Richard B. Russell National School Lunch Act, or the Child Nutrition Act of 1966, notwithstanding any differences in budget unit, disregard, deeming, or other methodology, but only if—

"(i) the agency has fiscal liabilities or responsibilities affected or potentially affected by such determination; and

"(ii) any information furnished by the agency pursuant to this subparagraph is used solely for purposes of determining financial eligibility for medical assistance under this title or for child health assistance under title XXI.

"(B) Nothing in subparagraph (A) shall be construed—

"(i) to authorize the denial of medical assistance under this title or of child health assistance under title XXI to a child who, without the application of this paragraph, would qualify for such assistance;

"(ii) to relieve a State of the obligation under subsection (a)(8) to furnish medical assistance with reasonable promptness after the submission of an initial application that is evaluated or for which evaluation is requested pursuant to this paragraph;

"(iii) to relieve a State of the obligation to determine eligibility for medical assistance under this title or for child health assistance under title XXI on a basis other than family or household income (or, if applicable, assets or resources) if a child is determined ineligible for such assistance on the basis of information furnished pursuant to this paragraph; or

"(iv) as affecting the applicability of any non-financial requirements for eligibility for medical assistance under this title or child health assistance under title XXI.".

(b) SCHIP.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended by adding at the end the following:

"(E) Section 1902(e)(13) (relating to the State option to base a determination of child's financial eligibility for assistance on financial determinations made by a program providing nutrition or other public assistance).".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2005.

TITLE III—IMPROVING CARE AND STRENGTHENING THE SAFETY NET

Subtitle A—High Needs Areas

SEC. 301. PURPOSE.

It is the purpose of this subtitle to enhance the quality of life of residents of high need areas by increasing their access to the preventive and primary healthcare services provided by community health centers and rural health centers.

SEC. 302. HIGH NEED COMMUNITY HEALTH CENTERS.

Section 330 of the Public Health Service Act (42 U.S.C. 254b) is amended—

(1) by redesignating subsections (k) through (r) as subsections (l) through (s), respectively;

(2) by inserting after subsection (j), the following:

"(k) PRIORITY FOR RESIDENTS OF HIGH NEED AREAS.—

"(1) IN GENERAL.—In awarding grants under this section, the Secretary shall give priority to eligible health centers in high need areas.

"(2) ELIGIBLE HEALTH CENTERS.—A health center is described in this paragraph if such health center—

"(A) is a health center as defined under subsection (a) or a rural health clinic that receives funds under section 330A;

"(B) agrees to use grant funds to provide preventive and primary healthcare services to residents of high need areas;

"(C) specifically requests such priority in the grant application;

"(D) describes how the community to be served meets the definition of high need area; and

"(E) otherwise meets all other grant requirements.

"(3) HIGH NEED AREA.—

"(A) IN GENERAL.—In this subsection, the term 'high need area' means a county or a regional area identified by the Secretary pursuant to the regulations promulgated under subparagraph (B).

"(B) REGULATIONS.—The Secretary shall promulgate regulations that define the term 'high need area' for purposes of this subsection. Such regulations shall specify procedures that the Department shall follow in determining estimates on a periodic basis in the United States of the number of medically uninsured persons and the national percentage of medically uninsured persons served by health centers (referred to in this subsection as the 'ENP') and for the designation of an area as a 'high need area' if the estimated percentage of medically uninsured individuals in the area is higher than the national average and the estimated percentage of medically uninsured individuals in the area served by health centers in the area is below the ENP.

"(C) MEDICALLY UNDERSERVED AREA.—The Secretary shall designate residents of high need areas as medically underserved for purposes of this section.

"(4) FUNDING PREFERENCE.—The Secretary may limit the amount of grants awarded to applicants from high need areas as provided for in this subsection to not less than 25 percent of the total amount of grants awarded under this subsection for each grant category for each grant period.";

(3) in subsection (e)(1)(B), by striking "subsection (k)(3)" and inserting "subsection (l)(3)";

(4) in subsection (l)(3)(H)(iii) (as so redesignated), by striking "or (p)" and inserting "or (q)";

(5) in subsection (m) (as so redesignated), by striking "subsection (k)(3)" and inserting "subsection (l)(3)";

(6) in subsection (q) (as so redesignated), by striking "subsection (k)(3)(G)" and inserting "subsection (l)(3)(G)"; and

(7) in subsection (s)(2)(A) (as so redesignated), by striking "subsection (k)" each place that such appears and inserting "subsection (l)".

SEC. 303. GRANT APPLICATION PROCESS.

Section 330(k) of the Public Health Service Act (42 U.S.C. 254b(k)) is amended by adding at the end the following:

"(5) ECONOMIC VIABILITY OF APPLICANTS.—

"(A) IN GENERAL.—In considering applications under this section, the Secretary shall ensure that an application that demonstrates economic viability, consistent with funding guidelines established by the Secretary for purposes of this section, is not disadvantaged in the evaluation process on the basis that it relies solely on Federal funding.

"(B) QUALIFICATION OF INDIVIDUALS REVIEWING APPLICATIONS.—The Secretary shall require verification that all individuals who are evaluating community health center grant applications have completed within the 3-year period ending on the date on which the application is being evaluated a training course on the community health center program which addresses the purposes served by community health centers, the critical role of community health centers in the safety net, expectations for the evaluation of applications, and the criteria for awarding grant funding.

"(C) MEDICALLY UNDERSERVED DESIGNATIONS.—Not later than 6 months after the date of enactment of this paragraph, the Administrator of the Health Resources and Services Administration shall submit to the appropriate committees of Congress a report concerning the process for designating an area or population as medically underserved. Such report shall contain recommendations for ensuring that such designations are current within the last 3 years. The report shall also detail plans for ensuring subsequent review to maintain an accurate reflection of community needs in areas and populations designated as medically underserved. Not later than 1 year after such date of enactment, the Secretary shall promulgate regulations based on the recommendations contained in the report.".

Subtitle B—Qualified Integrated Health Care Systems

SEC. 321. GRANTS TO QUALIFIED INTEGRATED HEALTH CARE SYSTEMS.

(a) ELIGIBILITY FOR GRANTS UNDER PHSA.—Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following new subpart:

"Subpart XI—Promotion of Integrated Health Care Systems Serving Medically Underserved Populations

"SEC. 340H. GRANTS TO QUALIFIED INTEGRATED HEALTH CARE SYSTEMS.

"(a) DEFINITIONS.—For purposes of this section:

"(1) QUALIFIED INTEGRATED HEALTH CARE SYSTEM.—The term 'qualified integrated health care system' means an integrated health care system that—

"(A) has a demonstrated capacity and commitment to provide a full range of primary, specialty, and hospital care to a medically underserved population in both inpatient and outpatient settings, as appropriate;

"(B) is organized to provide such care in a coordinated fashion;

"(C) operates one or more integrated health centers meeting the requirements of section 340I;

"(D) meets the requirements of subsection (c)(3); and

"(E) agrees to use any funds received under this section to supplement and not to supplant amounts received from other sources for the provision of such care.

"(2) MEDICALLY UNDERSERVED POPULATION.—The term 'medically underserved population' has the meaning given such term in section 330(b)(3).

"(b) OPERATING GRANTS.—

"(1) AUTHORITY.—The Secretary may make grants to private nonprofit entities for the costs of the operation of qualified integrated health care systems that provide primary, specialty, and hospital care to medically underserved populations.

"(2) AMOUNT.—

"(A) IN GENERAL.—The amount of any grant made in any fiscal year under paragraph (1) to an integrated health care system shall be determined by the Secretary (taking into account the full range of care, including specialty services, provided by the system), but may not exceed the amount by which the costs of operation of the system in such fiscal year exceed the total of—

"(i) State, local, and other operational funding provided to the system; and

"(ii) the fees, premiums, and third-party reimbursements which the system may reasonably be expected to receive for its operations in such fiscal year.

"(B) PAYMENTS.—Payments under grants under paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments.

"(C) USE OF NONGRANT FUNDS.—Nongrant funds described in clauses (i) and (ii) of subparagraph (A), including any such funds in excess of those originally expected, shall be used as permitted under this section, and may be used for such other purposes as are not specifically prohibited under this section if such use furthers the objectives of the project.

"(c) APPLICATIONS.—

"(1) SUBMISSION.—No grant may be made under this section unless an application therefore is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

"(2) DESCRIPTION OF NEED.—

"(A) IN GENERAL.—An application for a grant under subsection (b)(1) for an integrated health care system shall include—

"(i) a description of the need for health care services in the area served by the integrated health care system;

"(ii) a demonstration by the applicant that the area or the population group to be served by the applicant has a shortage of personal health services; and

"(iii) a demonstration that the health care system will be located so that it will provide services to the greatest number of individuals residing in such area or included in such population group.

"(B) DEMONSTRATIONS.—A demonstration shall be made under clauses (ii) or (iii) of subparagraph (A) on the basis of the criteria prescribed by the Secretary under section 330(b)(3) or on the basis of any other criteria which the Secretary may prescribe to determine if the area or population group to be served by the applicant has a shortage of personal health services.

"(C) CONDITION OF APPROVAL.—In considering an application for a grant under subsection (b)(1), the Secretary may require as a condition to the approval of such application an assurance that any integrated health center operated by the applicant will provide any required primary health services and any additional health services (as defined in section 340I) that the Secretary finds are needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided to the applicant.

"(3) REQUIREMENTS.—The Secretary shall approve an application for a grant under subsection (b)(1) if the Secretary determines that the entity for which the application is submitted is an integrated health care system (within the meaning of subsection (a)) and that—

“(A) the primary, specialty, and hospital care provided by the system will be available and accessible in the service area of the system promptly, as appropriate, and in a manner which assures continuity;

“(B) the system is participating (or will participate) in a community consortium of safety net providers serving such area (unless other such safety net providers do not exist in a community, decline or refuse to participate, or place unreasonable conditions on their participation);

“(C) all of the centers operated by the system are accredited by a national accreditation body recognized by the Secretary;

“(D) the system will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

“(E) the system provides or will provide services to individuals who are eligible for medical assistance under title XIX of the Social Security Act and to individuals who are eligible for assistance under title XXI of such Act;

“(F) the system—

“(i) has prepared a schedule of fees or payments for the provision of its services consistent with locally prevailing rates or charges and designed to cover its reasonable costs of operation and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments, and which discounts are adjusted on the basis of the patient's ability to pay;

“(ii)(I) will assure that no patient will be denied health care services due to an individual's inability to pay for such services; and

“(II) will assure that any fees or payments required by the system for such services will be reduced or waived to enable the system to fulfill the assurance described in subclause (I); and

“(iii) has submitted to the Secretary such reports as the Secretary may require to determine compliance with this subparagraph;

“(G) the system has established a governing board that selects the services to be provided by the center, approves the center's annual budget, approves the selection of a director for the center, and establishes general policies for the center;

“(H) the system has developed—

“(i) an overall plan and budget that meets the requirements of the Secretary; and

“(ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to—

“(I) the costs of its operations;

“(II) the patterns of use of its services;

“(III) the availability, accessibility, and acceptability of its services; and

“(IV) such other matters relating to operations of the applicant as the Secretary may require;

“(I) the system will review periodically its service area to—

“(i) ensure that the size of such area is such that the services to be provided through the system (including any satellite) are available and accessible to the residents of the area promptly and as appropriate;

“(ii) ensure that the boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs; and

“(iii) ensure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the system, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social grouping, and available transportation;

“(J) in the case of a system which serves a substantial proportion of individuals of limited English-speaking ability, the system has—

“(i) developed a plan and made arrangements for providing services, to the extent practicable, in the predominant language or languages of such individuals and in the cultural context most appropriate to such individuals; and

“(ii) identified one or more individuals on its staff who are fluent in such predominant language or languages and in English and whose responsibilities shall include providing guidance to such individuals and to other appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences;

“(K) the system maintains appropriate referral relationships between its hospitals, its physicians with hospital privileges, and any integrated health center operated by the system so that primary, specialty care, and hospital care is provided in a continuous and coordinated way; and

“(L) the system encourages persons receiving or seeking health services from the system to participate in any public or private (including employer-offered) health programs or plans for which the persons are eligible, so long as the center, in complying with this paragraph, does not violate the requirements of subparagraph (F)(ii)(I).

“(d) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2010.

“(2) FUNDING REPORT.—The Secretary shall annually prepare and submit to the appropriate committees of Congress a report concerning the distribution of funds under this section that are provided to meet the health care needs of medically underserved populations, and the appropriateness of the delivery systems involved in responding to the needs of the particular populations. Such report shall include an assessment of the relative health care access needs of the targeted populations and the rationale for any substantial changes in the distribution of funds.

“(e) RECORDS.—

“(1) IN GENERAL.—Each entity which receives a grant under subsection (b)(1) shall establish and maintain such records as the Secretary shall require.

“(2) AVAILABILITY.—Each entity which is required to establish and maintain records under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

“(f) AUDITS.—

“(1) IN GENERAL.—Each entity which receives a grant under this section shall provide for an independent annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant and such other funds received by or allocated to the project for which such grant was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with generally accepted accounting principles. Each audit shall evaluate—

“(A) the entity's implementation of the guidelines established by the Secretary respecting cost accounting;

“(B) the processes used by the entity to meet the financial and program reporting requirements of the Secretary; and

“(C) the billing and collection procedures of the entity and the relation of the procedures to its fee schedule and schedule of discounts and to the availability of health insurance and public programs to pay for the health services it provides.

A report of each such audit shall be filed with the Secretary at such time and in such manner as the Secretary may require.

“(2) RECORDS.—Each entity which receives a grant under this section shall establish and maintain such records as the Secretary shall by regulation require to facilitate the audit required by paragraph (1). The Secretary may specify by regulation the form and manner in which such records shall be established and maintained.

“(3) AVAILABILITY OF RECORDS.—Each entity which is required to establish and maintain records or to provide for an audit under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

“(4) WAIVER.—The Secretary may, under appropriate circumstances, waive the application of all or part of the requirements of this subsection with respect to an entity.

“SEC. 340I. INTEGRATED HEALTH CENTER.

“(a) INTEGRATED HEALTH CENTER .—The term ‘integrated health center’ means an health center that is operated by an integrated health care system and that serves a medically underserved population (as defined for purposes of section 330(b)(3)) by providing, either through the staff and supporting resources of the center or through contracts or cooperative arrangements—

“(1) required primary health services (as defined in subsection (b)(1)); and

“(2) as may be appropriate for particular centers additional health services (as defined in subsection (b)(2)) necessary for the adequate support of the primary health services required under paragraph (1);

for all residents of the area served by the center.

“(b) DEFINITIONS.—For purposes of this section:

“(1) REQUIRED PRIMARY HEALTH SERVICES.—The term ‘required primary health services’ means—

“(A) basic health services which, for purposes of this section, shall consist of—

“(i) health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and where appropriate, physician assistants, nurse practitioners, and nurse midwives;

“(ii) diagnostic laboratory and radiologic services;

"(iii) preventive health services, including—

"(I) prenatal and perinatal services;

"(II) appropriate cancer screening;

"(III) well-child services;

"(IV) immunizations against vaccine-preventable diseases;

"(V) screenings for elevated blood lead levels, communicable diseases, and cholesterol;

"(VI) pediatric eye, ear, and dental screenings to determine the need for vision and hearing correction and dental care;

"(VII) voluntary family planning services; and

"(VIII) preventive dental services;

"(iv) emergency medical services; and

"(v) pharmaceutical services and medication therapy management services as may be appropriate for particular centers;

"(B) referrals to providers of medical services (including specialty and hospital care referrals when medically indicated) and other health-related services (including substance abuse and mental health services);

"(C) patient case management services (including counseling, referral, and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to Federal, State, and local programs that provide or financially support the provision of medical, social, housing, educational, or other related services;

"(D) services that enable individuals to use the services of the center (including outreach and transportation services and, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the languages spoken by a predominant number of such individuals); and

"(E) education of patients and the general population served by the center regarding the availability and proper use of health services.

"(2) ADDITIONAL HEALTH SERVICES.—The term 'additional health services' means services that are not included as required primary health services and that are appropriate to meet the health needs of the population served by the center involved. Such term may include—

"(A) behavioral and mental health and substance abuse services;

"(B) recuperative care services; and

"(C) environmental health services.

(b) COVERAGE UNDER THE MEDICARE PROGRAM.—

(1) PART B BENEFIT.—Section 1861(s)(2)(E) of the Social Security Act (42 U.S.C. 1395x(s)(2)(E)) is amended—

(A) by striking "services and" and inserting "services,"; and

(B) by striking "services" the second place it appears and inserting "services, and integrated health center services".

(2) DEFINITIONS.—Section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)) is amended—

(A) in the heading—

(i) by striking "SERVICES AND" and inserting "SERVICES,"; and

(ii) by striking "SERVICES" the second place it appears and inserting "SERVICES, AND INTEGRATED HEALTH CENTER SERVICES";

(B) in paragraph (1)(B), by striking "paragraph (5))" and inserting "paragraph (7));

(C) by redesignating paragraphs (5), (6), and (7) as paragraphs (7), (8), and (9), respectively; and

(D) by inserting after paragraph (4) the following new paragraph:

"(5) The term 'integrated health center services' means—

"(A) services of the type described in subparagraphs (A) through (C) of paragraph (1); and

"(B) preventive primary health services that a center is required to provide under section 340I of the Public Health Service Act, when furnished to an individual as an outpatient of an integrated health center, and for this purpose, any reference to a rural health clinic or a physician described in paragraph (2)(B) is deemed a reference to an integrated health center or a physician at the center, respectively.

"(6) The term 'integrated health center' means a center that is operated by a qualified integrated health care system (as defined in section 340H(a)(1) of the Public Health Service Act that—

"(A) is receiving a grant under section 340H of such Act; or

"(B) is determined by the Secretary to meet the requirements for receiving such a grant.".

(3) PAYMENT.—

(A) IN GENERAL.—Section 1832(a)(2)(D) of the Social Security Act (42 U.S.C. 1395k(a)(2)(D)) is amended—

(i) by striking "and (ii)" and inserting ", (ii)"; and

(ii) by striking "services" the second place it appears and inserting "services, and (iii) integrated health center services.".

(B) PART B DEDUCTIBLE DOES NOT APPLY.—Section 1833(b)(4) of the Social Security Act (42 U.S.C. 1395l(b)(4)) is amended by inserting "or integrated health center services" after "Federally qualified health center services".

(C) EXCLUSION FROM PAYMENT REMOVED.—The second sentence of section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended by inserting "or integrated health center services described in section 1861(aa)(5)(B)" after "section 1861(aa)(3)(B)".

(D) WAIVER OF ANTI-KICKBACK RESTRICTION.—Section 1128B(b)(3)(D) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)(D)) is amended by inserting "or by an integrated health center" after "Federally qualified health center".

(4) CONFORMING AMENDMENTS.—(A) Clauses (ii) and (iv) of section 1834(a)(1)(E) of the Social Security Act (42 U.S.C. 1395m(a)(1)(E)) are each amended by striking "section 1861(aa)(5)" and inserting "section 1861(aa)(7)".

(B) Section 1842(b)(18)(C)(i) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)(i)) is amended by striking "section 1861(aa)(5)" and inserting "section 1861(aa)(7)".

(C) Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(i) in subparagraph (H)(i), by striking "subsection (aa)(5)" and inserting "subsection (aa)(7)"; and

(ii) in subparagraph (K)—

(I) by striking "subsection (aa)(5)" each place it appears and inserting "subsection (aa)(7)"; and

(II) by striking "subsection (aa)(6)" and inserting "subsection (aa)(8)".

(D) Section 1861(dd)(3)(B) of the Social Security Act (42 U.S.C. 1395x(dd)(3)(B)) is amended by striking "subsection (aa)(5)" and inserting "subsection (aa)(7)".

(c) RECOGNITION UNDER MEDICAID.—

(1) COVERAGE.—Section 1905(a)(2) of the Social Security Act (42 U.S.C. 1396d(a)(2)) is amended—

(A) by striking "and (C)" and inserting ", (C)"; and

(B) by inserting ", and

"(D) integrated health center services (as defined in subsection (l)(3)(A)) and any other ambulatory services offered by the integrated health center and which are otherwise included in the plan." after "included in the plan" the second place it appears.

(2) DEFINITIONS.—Section 1905(l) of such Act (42 U.S.C. 1396d(l)) is amended by adding at the end the following:

"(3)(A) The term 'integrated health center services' means services of the type described in subparagraphs (A) through (C) of section 1861(aa) when furnished to an individual as a patient of an integrated health center and, for this purpose, any reference to a rural health clinic or a physician described in section 1861(aa)(2)(B) is deemed a reference to an integrated health center or a physician at the center, respectively.

"(B) The term 'integrated health center' means a center that is operated by a qualified integrated health care system that—

"(i) is receiving a grant under section 340H of the Public Health Service Act; or

"(ii) is determined by the Secretary, based on the recommendations of the Administrator of the Centers for Medicare & Medicaid Services, to meet the requirements for receiving such a grant.".

(3) PAYMENT.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (15), by inserting "and for services described in clause (D) of section 1905(a)(2) in accordance with the provisions of subsection (cc)" after "subsection (bb)"; and

(B) by adding at the end the following:

"(cc) PAYMENT FOR SERVICES PROVIDED BY INTEGRATED HEALTH CENTERS.—

"(1) IN GENERAL.—Beginning with fiscal year 2006 with respect to services furnished on or after January 1, 2006, and each succeeding fiscal year, the State plan shall provide for payment for services described in section 1905(a)(2)(D) furnished by an integrated health center in accordance with the provisions of this subsection.

"(2) FISCAL YEAR 2006.—Subject to paragraph (4), for services furnished on and after January 1, 2006, during fiscal year 2006, the State plan shall provide for payment for such services in an amount (calculated on a per visit basis) that is equal to 100 percent of the average of the costs of the center of furnishing such services during fiscal years 2004 and 2005 which are reasonable and related to the cost of furnishing such services, or based on such other tests of reasonableness as the Secretary prescribes in regulations under section 1833(a)(3), or, in the case of services to which such regulations do not apply, the same methodology used under section 1833(a)(3), adjusted to take into account any increase or decrease in the scope of such services furnished by the center during fiscal years 2004 and 2005.

"(3) FISCAL YEAR 2007 AND SUCCEEDING FISCAL YEARS.—Subject to paragraph (4), for services furnished during fiscal year 2007 or a succeeding fiscal year, the State plan shall provide for payment for such services in an amount (calculated on a per visit basis) that is equal to the amount calculated for such services under this subsection for the preceding fiscal year—

"(A) increased by the percentage increase in the MEI (as defined in section 1842(i)(3)) for that fiscal year; and

"(B) adjusted to take into account any increase or decrease in the scope of such services furnished by the center during that fiscal year.

"(4) ESTABLISHMENT OF INITIAL YEAR PAYMENT AMOUNT FOR NEW CENTERS.—In any case in which an entity first qualifies as an integrated health center after fiscal year 2006, the State plan shall provide for payment for services described in section 1905(a)(2)(D) furnished by the center in the first fiscal year in which the center so qualifies in an amount (calculated on a per visit basis) that is equal to 100 percent of the costs of furnishing such services during such fiscal year based on the rates established under this subsection for the fiscal year for other such centers located in the same or adjacent area with a similar case load or, in the absence of such a center, in accordance with the regulations and methodology referred to in paragraph (2) or based on such other tests of reasonableness as the Secretary may specify. For each fiscal year following the fiscal year in which the entity first qualifies as an integrated health center, the State plan shall provide for the payment amount to be calculated in accordance with paragraph (3).

“(5) ADMINISTRATION IN THE CASE OF MANAGED CARE.—

“(A) IN GENERAL.—In the case of services furnished by an integrated health center pursuant to a contract between the center and a managed care entity (as defined in section 1932(a)(1)(B)), the State plan shall provide for payment to the center by the State of a supplemental payment equal to the amount (if any) by which the amount determined under paragraphs (2), (3), and (4) exceeds the amount of the payments provided under the contract.

“(B) PAYMENT SCHEDULE.—The supplemental payment required under subparagraph (A) shall be made pursuant to a payment schedule agreed to by the State and the integrated health center, but in no case less frequently than every 4 months.

“(6) ALTERNATIVE PAYMENT METHODOLOGIES.—Notwithstanding any other provision of this section, the State plan may provide for payment in any fiscal year to an integrated health center for services described in section 1905(a)(2)(D) in an amount which is determined under an alternative payment methodology that—

“(A) is agreed to by the State and the center; and

“(B) results in payment to the center of an amount which is at least equal to the amount otherwise required to be paid to the center under this section.”.

(4) WAIVER PROHIBITED.—Section 1915(b) of the Social Security Act (42 U.S.C.1396n(b)) is amended in the matter preceding paragraph (1), by inserting “1902(cc),” after “1902(bb),”.

(d) PROTECTION AGAINST LIABILITY.—Section 224(g) of the Public Health Service Act (42 U.S.C. 233(g)) is amended—

(1) In paragraph (4), by striking “An entity” and inserting “Subject to paragraph (6), an entity”; and

(2) by adding at the end the following:

“(6) For purposes of this section—

“(A) a qualified integrated health care system receiving a grant under section 340H and any integrated health center operated by such system shall be considered to be an entity described in paragraph (4); and

“(B) the provisions of this section shall apply to such system and centers in the same manner as such provisions apply to an entity described in such paragraph (4), except that—

“(i) notwithstanding paragraph (1)(B), the deeming of any system or center, or of an officer, governing board member, employee, or contractor of such system or center, to be an employee of the Public Health Service for purposes of this section shall apply only with respect to items and services that are furnished to a member of the underserved population served by the entity;

“(ii) notwithstanding paragraph (3), this paragraph shall apply only with respect to causes of action arising from acts or omissions that occur on or after January 1, 2006; and

“(iii) the Secretary shall make separate estimates under subsection (k)(1) with respect to such systems and centers and entities described in paragraph (4) (other than such systems and centers), establish separate funds under subsection (k)(2) with respect to such groups of entities, and any appropriations under this subsection for such systems and centers shall be separate from the amounts authorized by subsection (k)(2).”.

(e) EFFECTIVE DATE.—The amendments made subsections (b) and (c) shall apply to items and services furnished on or after October 1, 2005.

Subtitle C—Miscellaneous Provisions

SEC. 331. COMMUNITY HEALTH CENTER COLLABORATIVE ACCESS EXPANSION.

Section 330 of the Public Health Service Act (42 U.S.C. 254b) is amended by adding at the end the following:

“(s) MISCELLANEOUS PROVISIONS.—

“(1) RULE OF CONSTRUCTION WITH RESPECT TO RURAL HEALTH CLINICS.—

“(A) IN GENERAL.—Nothing in this section shall be construed to prevent a community health center from contracting with a federally certified rural health clinic (as defined by section 1861(aa)(2) of the Social Security Act) for the delivery of primary health care services that are available at the rural health clinic to individuals who would otherwise be eligible for free or reduced cost care if that individual were able to obtain that care at the community health center. Such services may be limited in scope to those primary health care services available in that rural health clinic.

“(B) ASSURANCES.—In order for a rural health clinic to receive funds under this section through a contract with a community health center under paragraph (1), such rural health clinic shall establish policies to ensure—

“(i) nondiscrimination based upon the ability of a patient to pay; and

“(ii) the establishment of a sliding fee scale for low-income patients.”.

SEC. 332. IMPROVEMENTS TO SECTION 340B PROGRAM.

(a) ELIMINATION OF GROUP PURCHASING PROHIBITION FOR CERTAIN HOSPITALS.—Section 340B(a)(4)(L) of the Public Health Service Act (42 U.S.C. 256b(a)(4)(L)) is amended—

(1) in clause (i), by adding “and” at the end;

(2) in clause (ii), by striking “; and” and inserting a period; and

(3) by striking clause (iii).

(b) PERMITTING USE OF MULTIPLE CONTRACT PHARMACIES.—Section 340B f the Public Health Service Act (42 U.S.C. 256b) is amended by adding at the end the following:

“(e) PERMITTING USE OF MULTIPLE CONTRACT PHARMACIES.—Nothing in this section shall be construed as prohibiting a covered entity from entering into contracts with more than one pharmacy for the provision of covered drugs, including a contract that—

“(1) supplements the use of an in-house pharmacy arrangement; or

“(2) requires the approval of the Secretary.”.

(c) IMPROVEMENTS IN PROGRAM ADMINISTRATION.—Section 340B of the Public Health Service Act (42 U.S.C. 256b), as amended by subsection (b), is further amended by adding at the end the following:

“(f) IMPROVEMENTS IN PROGRAM ADMINISTRATION.—

“(1) IN GENERAL.—The Secretary shall provide, from funds appropriated under paragraph (2), for improvements in the integrity and administration of the program under this section in order to prevent abuse and misuse of discounted prices made available under this section. Such improvements shall include the following:

“(A) The development of a system to verify the accuracy of information regarding covered entities that is listed on the Internet website of the Department of Health and Human Services relating to this section.

“(B) The establishment of a third-party auditing system by which covered entities and manufacturers are regularly audited to ensure compliance with the requirements of this section.

“(C) The conduct of such audits under subsection (a)(5)(C) that supplement the audits conducted under subparagraph (B) as the Secretary determines appropriate and the implementation of dispute resolution guidelines and other compliance programs.

“(D) The development of more detailed guidance regarding the definition of section 340B patients and describing options for billing under the medicaid program under title XIX of the Social Security Act in order to avoid duplicative discounts.

“(E) The issuance of advisory opinions within defined time periods in response to questions from manufacturers or covered entities regarding the application of the requirements of this section in specific factual circumstances.

“(F) Insofar as the Secretary determines feasible, providing access through the Internet website of the Department of Health and Human Services on the prices for covered drugs made available under this section, but only in a manner (such as through the use of password protection) that limits such access to covered entities.

“(G) The improved dissemination of educational materials regarding the program under this section to covered entities that are not currently participating in such programs including regional educational sessions.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for fiscal year 2006 and each succeeding fiscal year.”.

SEC. 333. FORBEARANCE FOR STUDENT LOANS FOR PHYSICIANS PROVIDING SERVICES IN FREE CLINICS.

(a) IN GENERAL.—Section 428(c)(3)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(3)(A)) is amended—

(1) in clause (i)—

(A) in subclause (III), by striking “or” at the end;

(B) in subclause (V), by adding “or” at the end; and

(C) by adding at the end the following:

“(V) is volunteering without pay for at least 80 hours per month at a free clinic as defined under section 224 of the Public Health Service Act;”; and

(2) in clause (ii)(III), by inserting “or (i)(V)” after “clause (i)(III)”.

(b) PERKINS PROGRAM.—Section 464(e) of the Higher Education Act of 1965 (20 U.S.C. 1087dd(e)) is amended—

(1) in paragraph (1), by striking “or” at the end;

(2) in paragraph (2), by striking the period and inserting “; or”; and

(3) by adding at the end the following:

“(3) the borrower is volunteering without pay for at least 80 hours per month at a free clinic as defined under section 224 of the Public Health Service Act.”.

SEC. 334. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO LIABILITY.

Section 224 of the Public Health Service Act (42 U.S.C. 233) is amended—

(1) in subsection (g)(1)—

(A) in subparagraph (A)—

(i) in the first sentence, by striking "or employee" and inserting "employee, or (subject to subsection (k)(4)) volunteer practitioner"; and

(ii) in the second sentence, by inserting "and subsection (k)(4)" after "subject to paragraph (5)"; and

(B) by adding at the end the following:

"(I) For purposes of this subsection, the term 'employee' shall include a health professional who volunteers to provide health-related services for an entity described in paragraph (4).";

(2) in subsection (k), by adding at the end the following:

"(4)(A) Subsections (g) through (m) apply with respect to volunteer practitioners beginning with the first fiscal year for which an appropriations Act provides that amounts in the fund under paragraph (2) are available with respect to such practitioners.

"(B) For purposes of subsections (g) through (m), the term 'volunteer practitioner' means a practitioner who, with respect to an entity described in subsection (g)(4), meets the following conditions:

"(i) The practitioner is a licensed physician or a licensed clinical psychologist.

"(ii) At the request of such entity, the practitioner provides services to patients of the entity, at a site at which the entity operates or at a site designated by the entity. The weekly number of hours of services provided to the patients by the practitioner is not a factor with respect to meeting conditions under this subparagraph.

"(iii) The practitioner does not for the provision of such services receive any compensation from such patients, from the entity, or from third-party payors (including reimbursement under any insurance policy or health plan, or under any Federal or State health benefits program).";

(3) in subsection (o)(2)—

(A) in subparagraph (D), by striking clause (i) and inserting the following:

"(i) The health care practitioner may provide the services involved as an employee of the free clinic, or may receive repayment from the free clinic only for reasonable expenses incurred by the health care practitioner in the provision of the services to the individual."; and

(B) by adding at the end the following:

"(G) The health care practitioner is providing the services involved as a paid employee of the free clinic."; and

(4) in each of subsections (g), (i), (j), (k), (l), and (m), by striking "employee, or contractor" each place such term appears and inserting "employee, volunteer practitioner, or contractor";

SEC. 335. SENSE OF THE SENATE CONCERNING HEALTH DISPARITIES.

It is the sense of the Senate that additional measures are needed to reduce or eliminate disparities in health care related to race, ethnicity, socioeconomic status, and geography that affect access to quality health care.

By Mr. FEINGOLD (for himself, Mr. MCCAIN, and Mr. COCHRAN):

S. 1508. A bill to require Senate candidates to file designations, statements, and reports in electronic form; to the Committee on Rules and Administration.

Mr. FEINGOLD. Mr. President, today I will once again introduce with the Senator from Arizona, Mr. MCCAIN, a bill to bring Senate campaigns into the 21st century by requiring that Senate candidates file their campaign finance disclosure reports electronically and that those reports be promptly made available to the public. We are very pleased to be joined in our effort in this Congress by the distinguished senior Senator from Mississippi, Mr. COCHRAN. This step is long overdue, and I hope the Senate will act quickly on this legislation.

A series of reports by the Campaign Finance Institute have highlighted the anomaly in the election laws that makes it nearly impossible for the public to get access to Senate campaign finance reports while most other reports are available on the Internet within 24 hours of their filing with the Federal Election Commission (FEC). The Campaign Finance Institute asks a rhetorical question: "What makes the Senate so special that it exempts itself from a key requirement of campaign finance disclosure that applies to everyone else, including candidates for the House of Representatives and Political Action Committees?"

The answer, of course, is nothing. The United States Senate is special in many ways. I am proud to serve here. But there is no justification for not making our campaign finance information as readily accessible to the public as the information filed by House candidates or others.

My bill amends the section of the election laws dealing with electronic filing to require reports filed with the Secretary of the Senate to be filed electronically and forwarded to the FEC within 24 hours. The FEC is required to make available on the Internet within 24 hours any filing it receives electronically. So if this bill is enacted, electronic versions of Senate reports should be available to the public within 48 hours of their filing. That will be a vast improvement over the current situation, which, according to CFI, requires journalists and interested members of the public to review computer images of paper-filed copies of reports, and involves a completely wasteful expenditure of hundreds of thousands of dollars to re-enter information into databases that almost every campaign has available in electronic format.

The current filing system also means that the detailed coding that the FEC does, which allows for more sophisticated searches and analysis, is completed over a week later for Senate reports than for House reports. This means that the final disclosure reports covering the first two weeks of October are often not susceptible to detailed scrutiny before the election.

It is time for the Senate to relinquish its backward attitude toward campaign finance disclosure. I urge the enactment of this simple bill that will make our reports subject to the same prompt, public scrutiny as those filed by PACs and candidates for the other body.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senate Campaign Disclosure Parity Act".

SEC. 2. SENATE CANDIDATES REQUIRED TO FILE ELECTION REPORTS IN ELECTRONIC FORM.

(a) IN GENERAL.—Section 304(a)(11)(D) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(D)) is amended to read as follows:

"(D) As used in this paragraph, the terms 'designation', 'statement', or 'report' mean a designation, statement or report, respectively, which—

"(i) is required by this Act to be filed with the Commission, or

"(ii) is required under section 302(g) to be filed with the Secretary of the Senate and forwarded by the Secretary to the Commission."

(b) CONFORMING AMENDMENTS.—

(1) Section 302(g)(2) of such Act (2 U.S.C. 432(g)(2)) is amended by inserting "or 1 working day in the case of a designation, statement, or report filed electronically" after "2 working days".

(2) Section 304(a)(11)(B) of such Act (2 U.S.C. 434(a)(11)(B)) is amended by inserting "or filed with the Secretary of the Senate under section 302(g)(1) and forwarded to the Commission" after "Act".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any designation, statement, or report required to be filed after the date of enactment of this Act.

Mr. MCCAIN. Mr. President, once again, I am proud to join my friend Senator FEINGOLD as a co-sponsor of legislation that will require Senate candidates to file campaign finance reports in electronic form. This bill will finally remove the exemption the Senate has given itself from an important requirement of campaign finance disclosure laws that apply to everyone else, including candidates for the U.S. House of Representatives and Political Action Committees (PACs).

Political committees active in Federal elections must submit their quarterly financial reports for disclosure by the Federal Election Commission (FEC). Anyone interested can nearly instantaneously download the reports from the FEC website and conduct computer searches to learn about the contributions and expenditures of individual candidates for the House, non-Senate national party committees and PACs. The current problem is that they cannot do the same for Senate candidates and parties because of the Senate's insistence on paper rather than electronic filing. The FEC must do more processing of Senate paper reports than of House electronic ones. This involves printing or copying the Senate reports, up to 10,000 pages a day at times, hand-coding transactions that cannot be automatically processed, the keypunching the data into the electronic database. House electronic reports do not need the same treatment. The end result is that in contrast to the House, information from the Senate paper reports are often not available until well after the election has occurred.

Because of this problem, it is impossible for voters to be well-informed about the campaign finance information of their Senators and Senate candidates. If a voter wants to consider the nature of the campaign finance support received by a Senate candidate and compare that support to Senate legislative votes as a factor in deciding for whom they will cast a vote, they simply cannot do so due to the antiquated nature of the reporting system.

To address this problem, our legislation requires Senate candidates to file their campaign finance reports electronically with the Secretary of the Senate. Within 24 hours of receipt of those reports, the Secretary is required to forward those reports to the FEC. The FEC, in turn is required to make those reports available on the Internet within 24 hours as they do other reports. Therefore, electronic versions of Senate reports will be available to the public within 48 hours of their filing.

Electronic reports are not only transmitted instantly but are more accurate than paper submissions because software can easily correct mistakes. On the other hand, hand entering of data is always prone to error. Furthermore, the data in electronic reports can be rapidly searched via the Internet for answers to specific questions. Voters will no longer have to go through the time consuming process of reading pages and pages filed by Senate candidates or Senate party committees to figure out the major donors and their employers, and the major recipients of campaign spending. Instead, they can downlown a filed report from the FEC website onto their personal computers and quickly locate the information they need. This creates effective public disclosure.

The Senate's current failure to provide its constituents with electronically disclosed, timely information is unconscionable. Senate filings should follow the same criteria as other campaign finance reports. There must not be a separate standard for the Senate. Ironically, while they do not currently file electronically, Senators and Senate candidates already use electronic software in compiling their paper reports. If Senators and Senate candidates can use technology to run their offices and websites, why can't they use it to better inform their own constituents about how their campaigns are funded? Our constituents have a right to that information.

By Mr. JEFFORDS (for himself, Mr. CHAFEE, Mr. LIEBERMAN, and Mr. LAUTENBERG):

S. 1509. A bill to amend the Lacey Act Amendments of 1981 to add non-human primates to the definition of prohibited wildlife species; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Mr. President, I rise today to introduce the "Captive Primate Safety Act of 2005". I am joined by Senators CHAFEE, LIEBERMAN and LAUTENBURG.

Non-human primates in homes and communities pose serious risks to public health and safety. An attack in March of this year on a California man by chimpanzees who escaped their confinement is only one example of how dangerous these animals can be. A 13-year-old girl was attacked in West Virginia in May and on July 12th a 20-year-old man was attacked by two monkeys in Ohio.

Not only can non-human primates cause serious injury, they can spread potentially life-threatening illnesses. Since 1975, Federal regulations have forbidden the import of monkeys and other non-human primates as pets due to Centers for Disease Control (CDC) concerns about diseases such as monkeypox, yellow fever, Marburg/Ebola disease, tuberculosis, and other diseases not yet known or recognized.

Nevertheless, there is still a vigorous trade in these animals, with as many as 15,000 primates held in private hands across America according to some estimates. State laws that seek to regulate primates as pets are undermined by the interstate commerce of these animals. Federal legislation is needed to better support safety regulations of the CDC and the states.

Infant primates may seem cute and cooperative, but they inevitably grow larger, stronger, and more aggressive. They may become many times stronger than humans and extremely difficult to handle. They can inflict serious harm by biting and scratching. Removing their teeth, as many pet owners do, is cruel and not a safeguard against injury. About 100 people reportedly have been injured by non-human primates over the past ten years, including 29 children.

This legislation amends the Lacey Act to prohibit transporting monkeys, great apes, (including chimpanzees and orangutans), marmosets, lemurs, and other non-human primates across State lines for the pet trade, much like the Captive Wildlife Safety Act, which passed unanimously in 2003, did for tigers and other big cats.

The legislation is narrowly crafted to get at the heart of the dangerous problem of keeping primates as pets. It has no impact on the trade or transportation of animals for federally licensed facilities, universities or accredited wildlife sanctuaries. It will not affect zoos or research facilities. Federal licenses or registration are required for all commercial activity, such as breeders, dealers, research institutions, exhibitors, and transporters, therefore, they are exempt. The prohibitions in the Lacey Act only apply in other situations, that is, in the pet trade.

This legislation is supported by more than 40 groups, including the Humane Society of the United States, the American Zoo and Aquarium Association, the American Veterinary Medical Association, Defenders of Wildlife and the International Fund for Animal Welfare.

I urge my colleagues to support this legislation and will work our partners in the House to enact the Captives Primate Safety Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1509

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Captive Primate Safety Act of 2005".

SEC. 2. ADDITION OF NON-HUMAN PRIMATES TO THE DEFINITION OF PROHIBITED WILDLIFE SPECIES.

Section 2(g) of the Lacey Act Amendments of 1981 (16 U.S.C. 3371(g)) is amended by inserting "or any non-human primate" before the period at the end.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. BIDEN, Mrs. CLINTON, Ms. MURKOWSKI, Mrs. MURRAY, Mr. WYDEN, Mr. LAUTENBERG, Mr. SCHUMER, and Mr. DURBIN):

S. 1512. A bill to grant a Federal charter to Korean War Veterans Association, Incorporated; to the Committee on the Judiciary.

Mr. SARBANES. Mr. President, today I am once again introducing legislation together with Senators MIKULSKI, BIDEN, CLINTON, MURKOWSKI, MURRAY, WYDEN, LAUTENBERG, SCHUMER, and DURBIN which would grant a Federal charter to the Korean War Veterans Association, Incorporated. This legislation, which has passed the Senate in each of the past three Congresses, recognizes the 5.7 million Americans who fought and served during the Korean War and honors their sacrifices on behalf of freedom and the principles and ideals of our Nation.

Today marks the 52nd Anniversary of the signing of the Military Armistice Agreement which officially ended armed hostilities on the Korean Peninsula. By the time the fighting ended, 8.177 Americans were listed as missing or prisoners of war some of whom are still missing and more than 36,000 Americans had died. One hundred and thirty-one Korean War Veterans were awarded the Nation's highest commendation for combat bravery. the Medal of Honor. Ninety-four of these soldiers gave their lives in the process.

When the North Korea People's Army swept across the 38th Parallel to occupy Seoul. South Korea in June of 1950. members of our Armed Forces including many from the State of Maryland immediately answered the call of the U.N. to repel this forceful invasion. Without hesitation. these soldiers traveled to an unfamiliar corner of the world to join an unprecedented multinational force comprised of 22 countries, and risked their lives to protect freedom. The Americans who led this international effort were true patriots who fought with remarkable courage. In battles such as Pork Chop Hill, the Inchon Landing, and the frozen Chosin Reservoir. which was fought in temperatures as low as fifty-seven degrees below zero. they faced some of the most brutal combat in history.

The sacrifices made by these brave individuals are well described by an engraving on the Korean War Veterans Memorial. which reads: "Freedom is not Free." Yet. as a Nation. we have done little more than establish this memorial to publicly acknowledge the bravery of those who fought in the Korean War. The Korean War has been termed by many as the "Forgotten War." Freedom is not free. We owe our Korean War Veterans a debt of gratitude. Granting this Federal charter—at no cost to the government—is a small expression of appreciation that we as a Nation can offer to these men and women. one which will enable them to work as a unified front to ensure that the "Forgotten War" is forgotten no more.

The Korean War Veterans Association was originally incorporated on June 25. 1985. Since its first annual reunion and memorial service in Arlington. VA. where its members decided to develop a national focus and strong commitment to service, the association has grown substantially to a membership of over 17.000. A Federal charter would allow the Association to continue to grow its mission and further its charitable and benevolent causes. Specifically, it will afford the Korean War Veterans' Association the same status as other major veterans' organizations and allow it to participate as part of select committees with other congressionally chartered veterans and military groups. A Federal charter will also accelerate the Association's "accreditation" with the Department of Veterans Affairs which will enable its members to assist in processing veterans' claims.

The Korean War Veterans have asked for very little in return for their service and sacrifice. I urge my colleagues to join me in supporting this legislation and ask that the text of the measure be printed in the RECORD.

There being no objection. the bill was ordered to be printed in the RECORD, as follows:

S. 1512

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

"CHAPTER 1201—[RESERVED]";

and

(2) by inserting after chapter 1103 the following new chapter:

"CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED

"Sec.
"120101. Organization.
"120102. Purposes.
"120103. Membership.
"120104. Governing body.
"120105. Powers.
"120106. Restrictions.
"120107. Tax-exempt status required as condition of charter..
"120108. Records and inspection.
"120109. Service of process.
"120110. Liability for acts of officers and agents.
"120111. Annual report.
"120112. Definition.

"§ 120101. Organization

"(a) FEDERAL CHARTER.—Korean War Veterans Association. Incorporated (in this chapter, the 'corporation'), a nonprofit organization that meets the requirements for a veterans service organization under section 501(c)(19) of the Internal Revenue Code of 1986 and that is organized under the laws of the State of New York. is a federally chartered corporation.

"(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions of this chapter. the charter granted by subsection (a) expires.

"§ 120102. Purposes

"The purposes of the corporation are those provided in its articles of incorporation and shall include the following:

"(1) Organize as a veterans service organization in order to maintain a continuing interest in the welfare of veterans of the Korean War, and rehabilitation of the disabled veterans of the Korean War to include all that served during active hostilities and subsequently in defense of the Republic of Korea, and their families.

"(2) To establish facilities for the assistance of all veterans and to represent them in their claims before the Department of Veterans Affairs and other organizations without charge.

"(3) To perpetuate and preserve the comradeship and friendships born on the field of battle and nurtured by the common experience of service to our nation during the time of war and peace.

"(4) To honor the memory of those men and women who gave their lives that a free America and a free world might live by the creation of living memorial, monuments, and other forms of additional educational, cultural, and recreational facilities.

"(5) To preserve for ourselves and our posterity the great and basic truths and enduring principles upon which this nation was founded.

"§ 120103. Membership

"Eligibility for membership in the corporation. and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

"§ 120104. Governing body

"(a) BOARD OF DIRECTORS.—The composition of the board of directors of the corporation. and the responsibilities of the board, are as provided in the articles of incorporation of the corporation.

"(b) OFFICERS.—The positions of officers of the corporation, and the election of the officers. are as provided in the articles of incorporation.

"§ 120105. Powers

"The corporation has only those powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§ 120106. Restrictions

"(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

"(b) POLITICAL ACTIVITIES.—The corporation, or a director or officer of the corporation as such. may not contribute to. support, or participate in any political activity or in any manner attempt to influence legislation.

"(c) LOAN.—The corporation may not make a loan to a director. officer. or employee of the corporation.

"(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval. or the authority of the United States, for any of its activities.

"(e) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

"§ 120107. Tax-exempt status required as condition of charter

"If the corporation fails to maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986. the charter granted under this chapter shall terminate.

"§ 120108. Records and inspection

"(a) RECORDS.—The corporation shall keep—

"(1) correct and complete records of account;

"(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

"(3) at its principal office, a record of the names and addresses of its members entitled to vote on matters relating to the corporation.

"(b) INSPECTION.—A member entitled to vote on matters relating to the corporation, or an agent or attorney of the member. may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§ 120109. Service of process

"The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the Corporation.

"§ 120110. Liability for acts of officers and agents

"The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

"§ 120111. Annual report

"The corporation shall submit to Congress an annual report on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101(b) of this title. The report may not be printed as a public document.

"§ 120112. Definition

"For purposes of this chapter, the term 'State' includes the District of Columbia and the territories and possessions of the United States.".

(b) CLERICAL AMENDMENT.—The item relating to chapter 1201 in the table of chapters at the beginning of subtitle II of title 36, United States Code, is amended to read as follows:

"1201. Korean War Veterans Association, Incorporated .... **120101**".

By Mr. DEMINT (for himself, Mr. NELSON of Florida, Mr. ISAKSON, Mr. DAYTON, Ms. MURKOWSKI, and Mr. ENZI):

S. 1514. A bill to amend the Internal Revenue Code of 1986 to repeal the medicine and drugs limitation on the deduction for medical care; to the Committee on Finance.

Mr. DEMINT. I rise today to offer a bill that would amend the medical and dental expense income tax deduction so that nonprescription or over-the-counter drugs would be allowed as a deductible expense for taxpayers who itemize their deductions.

Currently, the IRS list of qualifying medical expenses does not include OTCs; this bill makes them a qualifying medical expense. The bill does this by striking the subsection that limits the deduction for drug expenses to prescription drugs and insulin. It also makes it easier for people to reach and exceed the 7.5 percent threshold.

I believe this bill will be particularly helpful for low income taxpayers and those with high healthcare expenses. Over 5 percent of tax filers currently claim the deduction for medical and dental expenses. Additionally, individual taxpayers can also claim the medical expenses of their spouses and dependent children—so pediatric cough syrup bought by parents for their children would be deductible if OTC medical expenses allowed.

This bill recognizes that over-the-counter drugs may be a big cost for some individuals and families. In addition, Americans using a Flexible Spending Account or Health Savings Account get preferred tax treatment for OTCs, but Americans without them do not. Tax treatment of prescription and non-prescription drugs should be equal in this area.

I am grateful to Senator BILL NELSON for joining me as a lead sponsor of this bill. I am also pleased that Representatives MELISSA HART and MIKE ROSS have introduced companion legislation in the House. These individuals understand that reducing the cost of medicine is a goal we should all support. I urge my Senate colleagues to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1514

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "OTC Medicine Tax Fairness Act of 2005".

SEC. 2. REPEAL OF MEDICINE AND DRUGS LIMITATION ON DEDUCTION FOR MEDICAL CARE.

(a) IN GENERAL.—Section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by striking subsection (b).

(b) CONFORMING AMENDMENT.—Section 213(d) of such Code is amended by striking paragraph (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Mr. NELSON of Florida. Mr. President, I am pleased to join my colleague Senator JIM DEMINT as we introduce the OTC Medicine Tax Fairness Act of 2005.

Health care costs are continuing to climb across America and the medical expense deduction is becoming increasingly popular as Americans spend more out-of-pocket for health care. The OTC Medicine Tax Fairness Act of 2005 is designed to help make medicine more affordable by allowing consumers to include over-the-counter, OTC, drugs as a deductible expense for people who itemize their deductions.

Under the OTC Medicine Tax Fairness Act of 2005, OTC medicines would be allowed as tax deductible medical expenses. Under current law, taxpayers who itemize income tax deductions may deduct out-of-pocket expenses for medical care not reimbursed by health insurance, provided it exceeds 7.5 percent of their adjusted gross income. Eligible expenses under the tax code currently include non-reimbursed costs for doctor visits, bandages, crutches, acupuncture, chiropractic care, hearing aids, and eyeglasses. The code also allows the costs of drugs, but only prescription drugs and insulin; OTCs are not included in the deduction currently. This legislation recognizes that OTC medicines may be a big cost for some individuals and families and that tax treatment of prescription and nonprescription drugs should be equal in this area.

The medical expense deduction is particularly helpful for low income taxpayers with high health care expenses. Taxpayers in the lower income brackets use the medical expense deduction more frequently than higher income earners. According to the IRS website, over 3 million taxpayers with incomes of $20,000 or less used the medical expense deduction in 2001. This bill would help low income people with high medical expenses by allowing them to deduct the cost of OTCs.

This legislation would also provide much needed fiscal relief for many seniors. According to U.S. Department of Labor statistics, seniors purchase more OTC drugs than any other age group. This bill would help those elderly Floridians, as well as all elderly Americans, who use OTCs and take the medical expense deduction.

American consumers are currently paying extraordinary prices for their medications. It is time for Congress to help make medicine more affordable. One thing we can do is to make sure that as more drugs become available without prescriptions that their costs can still be included in tax- deductible health care expenses. If we can do that, we will have done a great deal.

Mr. President, I request unanimous consent that my statement be included in the RECORD.

By Mr. INOUYE:

S. 1515. A bill to amend title XIX of the Social Security Act to improve access to advanced practice nurses and physician assistants under the Medicaid Program; to the committee on Finance.

Mr. INOUYE. Mr. President, today I introduce the "Medicaid Advanced Practice Nurse and Physician Assistants Access Act of 2005." This legislation would change Federal law to expand fee-for-service Medicaid to include direct payment for services provided by all nurse practitioners, clinical nurse specialists, and physician assistants. It would ensure all nurse practitioners, certified nurse midwives, and physician assistants are recognized as primary care case managers, and require Medicaid panels to include advanced practice nurses on their managed care panels.

Advanced practice nurses are registered nurses who have attained additional expertise in the clinical management of health conditions. Typically, an advanced practice nurse holds a master's degree with didactic and clinical preparation beyond that of the registered nurse. They are employed in clinics, hospitals, and private practices. While there are many titles given to these advanced practice nurses, such as pediatric nurse practitioners, family nurse practitioners, certified nurse midwives, certified registered nurse anesthetists, and clinical nurse specialists, our current Medicaid law has not kept up with the multiple specialties and titles of these advanced practitioners, nor has it recognized the critical role physician assistants play in the delivery of primary care.

I have been a long-time advocate of advanced practice nurses and their ability to extend health care services to our most rural and underserved communities. They have improved access to health care in Hawaii and throughout the United States by their willingness to practice in what some providers might see as undesirable locations—the extremely rural, frontier, or urban areas. This legislation ensures they are recognized and reimbursed for providing the necessary health care services patients need, and it gives those patients the choice of selecting advanced practice nurses and physician assistants as their primary care providers.

In 1986, the Congressional Office of Technology Assessment released a report requested by the Senate Appropriations Committee. This report, "Nurse Practitioners, Physician Assistants, and Certified Nurse Midwives: A Policy Analysis," found the quality of nurse practitioner care to be as good as or better than care provided by physicians. By passing this legislation, we honor the commitment of these front-line health care professionals by ensuring they receive the respect and reimbursement they have earned.

I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1515

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Advanced Practice Nurses and Physician Assistants Access Act of 2005".

SEC. 2. IMPROVED ACCESS TO SERVICES OF ADVANCED PRACTICE NURSES AND PHYSICIAN ASSISTANTS UNDER STATE MEDICAID PROGRAMS.

(a) Primary Care Case Management.—Section 1905(t)(2) of the Social Security Act (42 U.S.C. 1396d(t)(2)) is amended by striking subparagraph (B) and inserting the following:

"(B) A nurse practitioner (as defined in section 1861(aa)(5)(A)).

"(C) A certified nurse-midwife (as defined in section 1861(gg)).

"(D) A physician assistant (as defined in section 1861(aa)(5)(A)).".

(b) Fee-for-service Program.—Section 1905(a)(21) of such Act (42 U.S.C. 1396d(a)(21)) is amended—

(1) by inserting "(A)" after "(21)";

(2) by striking "services furnished by a certified pediatric nurse practitioner or certified family nurse practitioner (as defined by the Secretary) which the certified pediatric nurse practitioner or certified family nurse practitioner" and inserting "services furnished by a nurse practitioner (as defined in section 1861(aa)(5)(A)) or by a clinical nurse specialist (as defined in section 1861(aa)(5)(B)) which the nurse practitioner or clinical nurse specialist";

(3) by striking "the certified pediatric nurse practitioner or certified family nurse practitioner" and inserting "the nurse practitioner or clinical nurse specialist"; and

(4) by inserting before the semicolon at the end the following: "and (B) services furnished by a physician assistant (as defined in section 1861(aa)(5)) with the supervision of a physician which the physician assistant is legally authorized to perform under State law".

(c) Including in Mix of Service Providers Under Medicaid Managed Care Organizations.—Section 1932(b)(5)(B) of such Act (42 U.S.C. 1396u-2(b)(5)(B)) is amended by inserting ", with such mix including nurse practitioners, clinical nurse specialists, physician assistants, certified nurse midwives, and certified registered nurse anesthetists (as defined in section 1861(bb)(2))" after "services".

(d) Effective Date.—The amendments made by this section shall apply to items and services furnished in calendar quarters beginning on or after 90 days after the date of the enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

By Mr. VOINOVICH (for himself and Mr. DeWine):

S. 1518. A bill to amend the Indian Gaming Regulatory Act to modify a provision relating to the locations in which class III gaming is lawful; to the Committee on Indian Affairs.

Mr. VOINOVICH. Mr. President, I rise today to introduce legislation with Senator DeWine which will close a loophole in the Indian Gaming Regulatory Act (IGRA). By clarifying this statute, a State's right to prevent unwanted forms of gambling in the State will be protected.

The current laws governing Indian gambling are ambiguous . when outlining which types of gambling are allowed. The provision in the Indian Gaming Regulatory Act, IGRA, that determines permitted gambling activities defines casino-style gambling as Class III, including slot machines, blackjack, craps, roulette, some lotteries and pari-mutuel racing. This class of gambling activity on Indian lands can only be, and I quote, "located in a State that permits such gaming for any purpose by any person, organization or entity."

It is unclear whether this means that the statutory language should be read and applied in a class-wide or categorical sense or whether it should be read and applied on an activity-by-activity basis.

District and circuit Federal courts have both considered this question. In 1991, a District Court in Wisconsin ruled that if a State permits one type of class III gaming, then all other types of class III gaming can be conducted in that State under the IGRA.

On the other hand, in 1993 and 1994, the Eighth and Ninth Circuit Courts of Appeals construed the language of the IGRA to mean that class III gaming in a particular State is limited under the Federal law to the specific activities that are permitted under that State's laws.

In July 2005, the Tenth Circuit Court of Appeals revealed that these uncertainties continue when it ruled in favor of the Northern Arapaho tribe in their efforts to build a casino, with "Vegas Style" gambling in Wyoming. In this instance, the tribe argued that it is entitled to offer full Class III gambling because the State allows casino style activities for social or nonprofit purposes.

In Ohio, gambling for commercial purposes is prohibited by the State Constitution. However, pari-mutuel racing and lottery are both permitted as well as charitable gambling on a very limited and controlled basis.

The bill I am introducing today will clarify that Class III gambling under IGRA applies only on an activity-by-activity basis, rather than in a class-wide sense.

I have been a long time supporter of a ban on casino gambling and have taken steps to keep casino gambling out of Ohio. As Mayor of Cleveland and as Governor of Ohio, I worked to inform Ohioans of the negative impact casino gambling has on our families and our economy, leading to gambling's defeat at the polls. These initiatives proved to be successful and have kept legalized gambling under control in Ohio.

My introduction of this legislation comes at a time when the progress we've made is in danger of being compromised. Across the country, Indian tribes are looking to expand gambling and even looking at a State like Ohio where gambling is illegal. The distinction in my bill is necessary to help control the explosive growth of tribal casinos nationwide.

I call on my colleagues to join us in cosponsoring this bill.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLASS III GAMING ACTIVITIES.

(a) Definitions.—Section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703) is amended by adding at the end the following:

"(11) Commercial purpose.—

"(A) In general.—The term 'commercial purpose', with respect to a gaming activity under this Act, means a gaming activity operated on a for-profit basis.

"(B) Exclusion.—The term 'commercial purpose', with respect to a gaming activity under this Act, does not include any gaming activity operated on a charitable or nonprofit basis.".

(b) Gaming Activities.—Section 11(d) of the Indian Gaming Regulatory Act (25 U.S.C. 2710(d)) is amended by striking paragraph (1) and inserting the following:

"(1) Class III gaming activities.—

"(A) In general.—A class III gaming activity shall be lawful on Indian land only if the activity is—

"(i) authorized by an ordinance or resolution that—

"(I) is adopted by the governing body of the Indian tribe that has jurisdiction over the Indian land on which the activity is proposed to be conducted;

"(II) meets the requirements of subsection (b); and

"(III) is approved by the Chairman;

"(ii) subject to subparagraph (B), located in a State that expressly permits the activity for any commercial purpose by any person, organization, or entity in the constitution of the State or any law of the State; and

"(iii) conducted in accordance with a Tribal-State compact entered into by the Indian tribe and the State under paragraph (3) that is in effect on the date on which the ordinance or resolution relating to the activity is submitted to the Chairman under paragraph (2).

"(B) CERTAIN STATES.—A class III gaming activity conducted under subparagraph (A)(ii) shall be conducted in accordance with the applicable laws (including regulations) of the State in which the activity is located, including restrictions on the timing or frequency of the gaming activity.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 215—DESIGNATING DECEMBER 2005 AS "NATIONAL PEAR MONTH"

Mr. SMITH (for himself, Mr. WYDEN, Mrs. MURRAY, Mrs. FEINSTEIN, and Mrs. BOXER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 215

Whereas pear trees imported to Oregon, Washington, and California by pioneers in the 1800s thrived in the unique agricultural conditions found in the Pacific States;

Whereas the Pacific States are internationally renowned for producing varieties of delicious, sweet, and juicy pears;

Whereas the Pacific States form the only geographic region in the United States with the ideal combination of climate and geography needed to produce high-quality, delicious summer and winter pear varieties;

Whereas the rich pear-growing region stretches from the Central Valley of California, through the Rogue River Valley in southern Oregon, and to the banks of the Columbia River in Oregon and Washington;

Whereas pears are a high-quality source of vitamin C, potassium, and dietary fiber, have no cholesterol, are low in calories, and complement an active lifestyle;

Whereas Oregon, Washington, and California are world-renowned for providing beautiful and delicious pears;

Whereas the United States does not have an official pear month; and

Whereas designating December 2005 as "National Pear Month" would be a suitable recognition of the affection the people of the United States hold for pears and the healthful benefits of pears: Now, therefore, be it

Resolved, That the Senate—

(1) designates December 2005 as "National Pear Month"; and

(2) encourages the people of the United States to observe the month with appropriate ceremonies, activities, and consumption.

SENATE RESOLUTION 216—EXPRESSING GRATITUDE AND APPRECIATION TO THE MEN AND WOMEN OF THE UNITED STATES ARMED FORCES WHO SERVED IN WORLD WAR II, COMMENDING THE ACTS OF HEROISM DISPLAYED BY THOSE SERVICEMEMBERS, AND RECOGNIZING THE "GREATEST GENERATION HOMECOMING WEEKEND" TO BE HELD IN PITTSBURGH, PENNSYLVANIA

Mr. SANTORUM (for himself and Mr. SPECTER) submitted the following resolution; which was considered and agreed to:

S. RES. 216

Whereas World War II began on September 1, 1939, when Nazi Germany invaded Poland without a declaration of war and then moved, following the surrender of Poland, to invade and occupy Denmark, Norway, Luxembourg, the Netherlands, and Belgium;

Whereas following the premeditated invasion by Japan on the United States at Pearl Harbor, Hawaii, on December 7, 1941, the United States declared war on Japan and entered World War II on the side of freedom and democracy;

Whereas when the fate of the free world was in jeopardy as a direct result of the desire of Adolf Hitler and the Nazi regime for world conquest, the servicemembers of the United States Armed Forces known as the "Greatest Generation" assumed the task of freeing the world of Nazism, fascism, and tyranny;

Whereas more than 16,000,000 Americans served in the United States Armed Forces during World War II, and millions more supported the war effort at home;

Whereas more than 400,000 brave Americans made the ultimate sacrifice during World War II in the name of freedom and in defense of the ideals that the people of the United States hold dear;

Whereas units of the United States Army, such as the 1st Infantry Division known as the "Big Red One", the 3rd Infantry Division known as the "Rock of the Marne", the 10th Armored Division known as the "Tiger Division", and the "Flying Tigers" of the 14th Air Force, valiantly fought to defeat the oppression and tyranny of the Axis Powers;

Whereas the great tragedy of World War II was the defining event of the 20th century, when the brave men and women of the United States Armed Forces fought for the common defense of the United States and for the broader causes of peace and freedom from tyranny throughout the world; and

Whereas the members of the United States Armed Forces, including the "Greatest Generation" of World War II, made sacrifices and displayed bravery and heroism in the name of freedom and democracy throughout the world: Now, therefore, be it

Resolved, That the Senate—

(1) expresses appreciation to the members of the United States Armed Forces who served during World War II, for—

(A) the selfless service of those servicemembers to the United States;

(B) restoring freedom to the world; and

(C) defeating the elements of evil and oppression;

(2) commends the heroism and bravery displayed by the members of the United States Armed Forces who served during World War II, known as the "Greatest Generation", in the face of death and severe hardship, and honors those servicemembers who made the ultimate sacrifice;

(3) proudly honors the members of the "Greatest Generation" on the occasion of the forthcoming 60th anniversary of the end of World War II, and in conjunction with the "Greatest Generation Homecoming Weekend" in Pittsburgh, Pennsylvania;

(4) proudly honors all members of the United States Armed Forces, past and present, who defend the freedom of the United States in times of both war and peace; and

(5) commends the participants of the "Greatest Generation Homecoming Weekend" that takes place from September 2, 2005 through September 5, 2005 in Pittsburgh, Pennsylvania.

SENATE RESOLUTION 217—DESIGNATING AUGUST 13, 2005, AS "NATIONAL MARINA DAY"

Mrs. MURRAY (for herself and Ms. CANTWELL) submitted the following resolution; which was considered and agreed to:

S. RES. 217

Whereas the people of the United States value highly recreational time and the ability to access the waterways of the United States, one of the country's greatest natural resources;

Whereas in 1928, the National Association of Engine and Boat Manufacturers first used the word "marina" to describe a recreational boating facility;

Whereas the United States is home to more than 12,000 marinas that contribute substantially to local communities by providing safe and reliable gateways to boating;

Whereas the marinas of the United States serve as stewards of the environment and actively seek to protect surrounding waterways for the enjoyment of this generation and generations to come;

Whereas the marinas of the United States provide communities and visitors with a place where friends and families, united by a passion for the water, can come together for recreation, rest, and relaxation; and

Whereas the Association of Marina Industries has designated August 13, 2005 as "National Marina Day" to increase awareness among citizens, policymakers, and elected officials about the many contributions that marinas make to communities: Now, therefore, be it

Resolved, That the Senate—

(1) designates August 13, 2005 as "National Marina Day";

(2) encourages the people of the United States to observe "National Marina Day" with appropriate programs and activities; and

(3) urges the marinas of the United States to continue to provide environmentally friendly gateways to boating for the people of the United States.

SENATE CONCURRENT RESOLUTION 48—EXPRESSING THE SENSE OF CONGRESS THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED TO PROMOTE PUBLIC AWARENESS OF DOWN SYNDROME

Mr. DURBIN (for himself and Mr. CORNYN) submitted the following concurrent resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. CON. RES. 48

Whereas Down syndrome affects people of all races and economic levels;

Whereas Down syndrome is the most frequently occurring chromosomal abnormality;

Whereas 1 in every 800 to 1,000 children is born with Down syndrome;

Whereas more than 350,000 people in the United States have Down syndrome;

Whereas 5,000 children with Down syndrome are born each year;

Whereas as the mortality rate associated with Down syndrome in the United States decreases, the prevalence of individuals with Down syndrome in the United States will increase;

Whereas some experts project that the number of people with Down syndrome will double by 2013;

Whereas individuals with Down syndrome are becoming increasingly integrated into society and community organizations, such as schools, health care systems, work forces, and social and recreational activities;

Whereas more and more people in the United States interact with individuals with Down syndrome, increasing the need for widespread public acceptance and education; and

Whereas a greater understanding of Down syndrome and advancements in treatment of Down syndrome-related health problems have allowed people with Down syndrome to enjoy fuller and more active lives: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the United States Postal Service should issue a commemorative postage stamp to promote public awareness of Down syndrome; and

(2) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued.

Mr. DURBIN. Mr. President, today I am pleased to submit a resolution expressing the sense of the Congress that a commemorative United States postage stamp should be issued to promote public awareness of Down syndrome and the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued. I am honored to be joined by Senator CORNYN in this effort.

Down syndrome is a genetic condition usually caused by an error in cell division called non-disjunction. Regardless of the type of Down syndrome a person may have, all people with Down syndrome have an extra, critical portion of the number 21 chromosome present in all, or some, of their cells. This additional genetic material alters the course of development and causes the characteristics associated with the syndrome.

Down syndrome affects people of all races and economic levels. It is the most frequently occurring chromosomal abnormality, occurring once out of every 800 to 1,000 births. In the United States, more than 350,000 people have Down syndrome. Nearly 5,000 children with Down syndrome are born each year. Because the mortality rate connected with Down syndrome is decreasing, the number of individuals with Down syndrome in our society is increasing. Some experts predict that the prevalence of individuals with Down syndrome will double in the next 10 years, further increasing the need for public acceptance and education about this genetic condition.

I encourage my colleagues to cosponsor this meaningful resolution and assist our efforts to convince the Citizens' Stamp Advisory Committee to recommend the issuance of a postage stamp promoting public awareness of Down syndrome.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1605. Mr. FRIST (for Mr. CRAIG) proposed an amendment to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

SA 1606. Mr. FRIST proposed an amendment to amendment SA 1605 proposed by Mr. FRIST (for Mr. CRAIG) to the bill S. 397, supra.

SA 1607. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1608. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1609. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1610. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1611. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1612. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1613. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1614. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1615. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1616. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 397, supra; which was ordered to lie on the table.

SA 1617. Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. SCHUMER, Mrs. CLINTON, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1618. Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. SCHUMER, Mrs. CLINTON, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1619. Mr. CORZINE (for himself, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. KENNEDY, Mrs. CLINTON, and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1620. Mr. LAUTENBERG (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1621. Mrs. FEINSTEIN (for herself, Mr. CORZINE, Mr. DURBIN, Mrs. CLINTON, Mr. JEFFORDS, Mr. LEVIN, Mrs. BOXER, Ms. MIKULSKI, and Mr. KENNEDY) submitted an amendment intended to be proposed by her to the bill S. 397, supra; which was ordered to lie on the table.

SA 1622. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 397, supra; which was ordered to lie on the table.

SA 1623. Mr. LEVIN (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1624. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1625. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1626. Mr. REED (for Mr. KOHL) proposed an amendment to the bill S. 397, supra.

SA 1627. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 1516, to reauthorize Amtrak, and for other purposes; which was referred to the Committee on Commerce, Science, and Transportation.

SA 1628. Mr. MCCONNELL (for Mr. HAGEL) proposed an amendment to the resolution S. Res. 86, designating August 16, 2005, as "National Airborne Day".

SA 1629. Mr. MCCONNELL (for Mr. FEINGOLD) proposed an amendment to the resolution S. Res. 104, expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities.

SA 1630. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table.

SA 1631. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1632. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1605. Mr. FRIST (for Mr. CRAIG) proposed an amendment to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; as follows:

On page 10, line 5, strike "or" and all that follows through line 16 and insert the following:

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

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SA 1606. Mr. FRIST proposed an amendment to amendment SA 1605 proposed by Mr. FRIST (for Mr. CRAIG) to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; as follows:

At the end, insert the following:

(vi) an action or proceeding commenced by the Attorney General to enforce the provisions of chapter 44 of title 18, United States Code, or chapter 53 of the Internal Revenue Code of 1986.

SA 1607. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 6, strike lines 10 through 19 and insert the following:

SEC. 3. PROHIBITION ON BRINGING OF QUALIFIED CIVIL LIABILITY ACTIONS IN FEDERAL OR STATE COURT.

A qualified civil liability action may not be brought in any Federal or State court.

SA 1608. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing or having reasonable cause to believe, that the actual buyer of the qualified product was on the "Most Wanted Terrorists List" or the "Ten Most Wanted Fugitives List" published by the Federal Bureau of Investigation.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term "negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi)

SA 1609. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing or having reasonable cause to believe, that the actual buyer of the qualified product was a representative of an organization designated as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term "negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi)

SA 1610. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 8, strike lines 2 through 12 and insert the following:

(A) IN GENERAL.—The term "qualified civil liability action" means a civil action brought by any person against a manufacturer of a qualified product for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines or penalties, or other relief resulting from the criminal or unlawful misuse of a qualified product by the person or a third party, but shall not include—

SA 1611. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 8, strike lines 2 through 12 and insert the following:

(A) IN GENERAL.—The term "qualified civil liability action" means a civil action brought by any person against a manufacturer or seller of a qualified product for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines or penalties, or other relief resulting from the criminal or unlawful misuse of a qualified product by the person or a third party, but shall not include—

SA 1612. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case in which a manufacturer or seller of a qualified product failed to perform employee background checks or knew, or had reasonable cause to believe, that employees were engaging in actions that are grossly negligent or that constitute willful misconduct.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term "negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi)

SA 1613. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case in which a manufacturer or seller of a qualified product failed to report the theft or loss of a firearm from the inventory or collection of the manufacturer or seller, as required under section 923(g)(6) of title 18, United States Code.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term "negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi)

SA 1614. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case in which a manufacturer or seller of a qualified product failed to maintain theft prevention measures.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term "negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi)

SA 1615. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 13, after line 4, insert the following:

SEC. 5. ARMOR PIERCING AMMUNITION.

(a) EXPANSION OF DEFINITION OF ARMOR PIERCING AMMUNITION.—Section 921(a)(17)(B) of title 18, United States Code, is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(iii) a projectile that may be used in a handgun and that the Attorney General determines, under section 926(d), to be capable of penetrating body armor; or

"(iv) a projectile for a center-fire rifle, designed or marketed as having armor piercing capability, that the Attorney General determines, under section 926(d), to be more likely to penetrate body armor than standard ammunition of the same caliber.".

(b) DETERMINATION OF THE CAPABILITY OF PROJECTILES TO PENETRATE BODY ARMOR.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

"(d)(1) Not later than 1 year after the date of enactment of this subsection, the Attorney General shall promulgate standards for the uniform testing of projectiles against Body Armor Exemplar.

"(2) The standards promulgated under paragraph (1) shall take into account, among other factors, variations in performance that are related to the length of the barrel of the handgun or center-fire rifle from which the projectile is fired and the amount and kind of powder used to propel the projectile.

"(3) As used in paragraph (1), the term 'Body Armor Exemplar' means body armor that the Attorney General determines meets minimum standards for the protection of law enforcement officers.".

SA 1616. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 13, after line 4, insert the following:

SEC. 5. PROHIBITION ON SALE OF VIOLENT VIDEO GAMES TO MINORS.

(a) IN GENERAL.—No business shall sell or rent, or permit the sale or rental of any video game with a Mature, Adults-Only, or Ratings Pending rating from the Entertainment Software Ratings Board to any individual who has not attained the age of 17 years.

(b) AFFIRMATIVE DEFENSE.—It shall be a defense to any prosecution for a violation of the prohibition under subsection (a) that a business was shown an identification document, which the business reasonably believed to be valid, indicating that the individual purchasing or renting the video game had attained the age of 17 years or older.

(c) PENALTY.—The manager or agent of the manager of a business found to be in violation of the prohibition under subsection (a) shall be subject to a fine, community service, or both not to exceed—

(1) $1,000 or 100 hours of community service for the first violation; and

(2) $5,000 or 500 hours of community service for each subsequent violation.

(d) DEFINITIONS.—In this section, the following definitions shall apply:

(1) BUSINESS.—The term "business" means any lawful activity, except a farm operation, that is conducted—

(A) primarily for the purchase, sale, lease, or rental of personal or real property, or for the manufacture, processing, or marketing of products, commodities, or any other personal property; or

(B) primarily for the sale of services to the public.

(2) ENTERTAINMENT SOFTWARE RATINGS BOARD.—The term "Entertainment Software Ratings Board" means the independent rating system, or any successor ratings system—

(A) established by the Interactive Digital Software Association; and

(B) developed to provide information to consumers regarding the content of video and computer games.

(3) VIDEO GAME.—The term "video game" means an electronic object or device that—

(A) stores recorded data or instructions;

(B) receives data or instructions generated by the person who uses it; and

(C) by processing such data or instructions, creates an interactive game capable of being played, viewed, or experienced on or through a computer, gaming system, console, or other technology.

SA 1617. Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. SCHUMER, Mrs. CLINTON, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 13, after line 4, add the following:

SEC. 5. FIVE-SEVEN PISTOL.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds the following:

(A) Law enforcement is facing a new threat from handguns and accompanying ammunition, which are designed to penetrate police body armor, being marketed and sold to civilians.

(B) A Five-seven Pistol and accompanying ammunition, manufactured by FN Herstal of Belgium as the "5.7 x 28 mm System", has recently been recovered by law enforcement on the streets. The Five-seven Pistol and 5.7 x 28mm SS192 cartridges are legally available for purchase by civilians under current law.

(C) The Five-seven Pistol and 5.7 x 28mm SS192 cartridges are capable of penetrating level IIA armor. The manufacturer advertises that ammunition fired from the Five-seven will perforate 48 layers of Kevlar up to 200 meters and that the ammunition travels at 2100 feet per second.

(D) The Five-seven Pistol, and similar handguns designed to use ammunition capable of penetrating body armor, pose a devastating threat to law enforcement.

(2) Purpose.—The purpose of this section is to protect the Nation's law enforcement officers by—

(A) testing handguns and ammunition for capability to penetrate body armor; and

(B) prohibiting the manufacture, importation, sale, or purchase by civilians of the Five-seven Pistol, ammunition for such pistol, or any other handgun that uses ammunition found to be capable of penetrating body armor.

(b) Armor Piercing Ammunition.—

(1) Expansion of definition of armor piercing ammunition.—Section 921(a)(17)(B) of title 18, United States Code, is amended—

(A) in clause (i), by striking "or" at the end;

(B) in clause (ii), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(iii) a projectile that—

"(I) may be used in a handgun; and

"(II) the Attorney General determines, pursuant to section 926(d), to be capable of penetrating body armor."

(2) Determination of capability of projectiles to penetrate body armor.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

"(d)(1) Not later than 1 year after the date of enactment of this subsection, the Attorney General shall promulgate standards for the uniform testing of projectiles against Body Armor Exemplar.

"(2) The standards promulgated under paragraph (1) shall take into account, among other factors, variations in performance that are related to the type of handgun used, the length of the barrel of the handgun, the amount and kind of powder used to propel the projectile, and the design of the projectile.

"(3) As used in paragraph (1), the term 'Body Armor Exemplar' means body armor that the Attorney General determines meets minimum standards for the protection of law enforcement officers.".

(c) Armor Piercing Handguns and Ammunition.—

(1) In general.—Section 922 of title 18, United States Code, is amended by adding after subsection (y) the following:

"(z) Five-seven Pistol.—

"(1) In general.—It shall be unlawful for any person to manufacture, import, market, sell, ship, deliver, possess, transfer, or receive—

"(A) the Fabrique Nationale Herstal Five-Seven Pistol;

"(B) 5.7 x 28mm SS190 and SS192 cartridges; or

"(C) any other handgun that uses armor piercing ammunition.

"(2) Exceptions.—This subsection shall not apply to—

"(A) any firearm or armor piercing ammunition manufactured for, and sold exclusively to, military, law enforcement, or intelligence agencies of the United States; and

"(B) the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm or armor piercing ammunition by a licensed manufacturer, or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm or ammunition to determine whether paragraph (1) applies to such firearm.".

(2) Penalties.—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking "or (q)" and inserting "(q), or (z)".

SA 1618. Mr. CORZINE (for himself, Mr. Lautenberg, Mr. Schumer, Mrs. Clinton, and Mr. Kennedy) submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others: which was ordered to lie on the table: as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case against a manufacturer or seller for an injury caused by—

(I) a Fabrique Nationale Herstal Five-Seven Pistol;

(II) the use of a 5.7 x 28mm SS190 or SS192 cartridge; or

(III) the use of any other handgun using armor piercing ammunition, as defined in section 921(a)(17)(B) of title 18, United States Code.

(B) Negligent entrustment.—As used in subparagraph (A)(ii), the term "negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) Rule of construction.—The exceptions enumerated under clauses (i) through (vi)

SA 1619. Mr. CORZINE (for himself, Mr. Lautenberg, Ms. Mikulski, Mr. Kennedy, Mrs. Clinton, and Mrs. Boxer) submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others: which was ordered to lie on the table: as follows:

On page 13, after line 4, add the following:

SEC. 5. LAW ENFORCEMENT EXCEPTION.

Nothing in this Act shall be construed as limiting the right of an officer or employee of any Federal, State, or local law enforcement agency to recover damages authorized under Federal or State law.

SA 1620. Mr. LAUTENBERG (for himself and Mr. Corzine) submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others: which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case against a manufacturer or seller involving an injury to or the death of a person under 17 years of age.

(B) Negligent entrustment.—As used in subparagraph (A)(ii), the term "negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) Rule of construction.—The exceptions enumerated under clauses (i) through (vi)

SA 1621. Mrs. FEINSTEIN (for herself, Mr. Corzine, Mr. Durbin, Mrs. Clinton, Mr. Jeffords, Mr. Levin, Mrs. Boxer, Ms. Mikulski, and Mr. Kennedy) submitted an amendment intended to be proposed by her to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table: as follows:

On page 13, after line 4, insert the following:

SEC. 5. FIFTY-CALIBER SNIPER WEAPONS.

(a) Coverage of .50 Caliber Sniper Weapons Under the National Firearms Act.—

(1) In general.—Section 5845(a) of the Internal Revenue Code of 1986 (defining firearm) is amended by striking "(6) a machine

gun; (7) any silencer (as defined in section 921 of title 18, United States Code); and (8) a destructive device." and inserting "(6) a .50 caliber sniper weapon; (7) a machine gun; (8) any silencer (as defined in section 921 of title 18, United States Code); and (9) a destructive device.".

(2) DEFINITIONS.—

(A) IN GENERAL.—Section 5845 the Internal Revenue Code of 1986 (defining terms relating to firearms) is amended by adding at the end the following:

"(n) FIFTY CALIBER SNIPER WEAPON.—The term '.50 caliber sniper weapon' means a rifle capable of firing a center-fire cartridge in .50 caliber, .50 BMG caliber, any other variant of .50 caliber, or any metric equivalent of such calibers.".

(B) MODIFICATION TO DEFINITION OF RIFLE.—Section 5845(c) of the Internal Revenue Code of 1986 (defining rifle) is amended by inserting "or from a bipod or other support" after "shoulder".

(b) EFFECTIVE DATE.—The amendments made by this section shall only apply to a .50 caliber sniper weapon made or transferred after the date of enactment of this Act.

SA 1622. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 7, line 25, after "foreign commerce" insert the following: ", but does not include a rifle capable of firing a center-fire cartridge in .50 caliber, .50 BMG caliber, any other variant of .50 caliber, or any metric equivalent of such calibers."

SA 1623. Mr. LEVIN (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 13, after line 4, add the following:

SEC. 5. GROSS NEGLIGENCE OR RECKLESS CONDUCT.

(a) IN GENERAL.—Nothing in this Act shall be construed to prohibit a civil liability action from being brought or continued against a person if the gross negligence or reckless conduct of that person was a proximate cause of death or injury.

(b) DEFINITIONS.—As used in this section—

(1) the term "gross negligence" has the meaning given that term under subsection (b)(7) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(7)); and

(2) the term "reckless" has the meaning given that term under section 2A1.4 of the Federal Sentencing Guidelines Manual.

SA 1624. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 12, after line 24, add the following:

SEC. 5. CHILD SAFETY LOCKS.

(a) SHORT TITLE.—This section may be cited as the "Child Safety Lock Act of 2005".

(b) PURPOSES.—The purposes of this section are—

(1) to promote the safe storage and use of handguns by consumers;

(2) to prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun; and

(3) to avoid hindering industry from supplying firearms to law abiding citizens for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(c) FIREARMS SAFETY.—

(1) MANDATORY TRANSFER OF SECURE GUN STORAGE OR SAFETY DEVICE.—Section 922 of title 18, United States Code, is amended by inserting at the end the following:

"(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

"(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

"(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

"(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

"(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

"(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

"(3) LIABILITY FOR USE.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

"(B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any Federal or State court.

"(C) DEFINED TERM.—As used in this paragraph, the term 'qualified civil liability action'—

"(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—

"(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

"(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

"(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.".

(2) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(A) in subsection (a)(1), by striking "or (f)" and inserting "(f), or (p)"; and

(B) by adding at the end the following:

"(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

"(1) IN GENERAL.—

"(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

"(i) suspend for not more than 6 months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

"(ii) subject the licensee to a civil penalty in an amount equal to not more than $2,500.

"(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided under section 923(f).

"(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) shall not preclude any administrative remedy that is otherwise available to the Secretary.".

(3) LIABILITY; EVIDENCE.—

(A) LIABILITY.—Nothing in this section shall be construed to—

(i) create a cause of action against any Federal firearms licensee or any other person for any civil liability; or

(ii) establish any standard of care.

(B) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action relating to section 922(z) of title 18, United States Code, as added by this subsection.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SA 1625. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others;

which was ordered to lie on the table; as follows:

On page 8, line 21, before the semicolon, insert the following: "or an action against a seller that has an established history of qualified products being lost or stolen, under such criteria as shall be established by the Attorney General by regulation, for an injury or death caused by a qualified product that was in the possession of the seller, but subsequently lost or stolen".

SA 1626. Mr. REED (for Mr. KOHL) proposed an amendment to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; as follows:

At the end of the bill, add the following:

SEC. 5. CHILD SAFETY LOCKS.

(a) SHORT TITLE.—This section may be cited as the "Child Safety Lock Act of 2005".

(b) PURPOSES.—The purposes of this section are—

(1) to promote the safe storage and use of handguns by consumers;

(2) to prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun; and

(3) to avoid hindering industry from supplying firearms to law abiding citizens for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(c) FIREARMS SAFETY.—

(1) MANDATORY TRANSFER OF SECURE GUN STORAGE OR SAFETY DEVICE.—Section 922 of title 18, United States Code, is amended by inserting at the end the following:

"(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

"(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

"(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

"(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

"(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

"(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

"(3) LIABILITY FOR USE.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

"(B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any Federal or State court.

"(C) DEFINED TERM.—As used in this paragraph, the term 'qualified civil liability action'—

"(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—

"(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

"(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

"(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.".

(2) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(A) in subsection (a)(1), by striking "or (f)" and inserting "(f), or (p)"; and

(B) by adding at the end the following:

"(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

"(1) IN GENERAL.—

"(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

"(i) suspend for not more than 6 months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

"(ii) subject the licensee to a civil penalty in an amount equal to not more than $2,500.

"(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided under section 923(f).

"(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) shall not preclude any administrative remedy that is otherwise available to the Secretary.".

(3) LIABILITY; EVIDENCE.—

(A) LIABILITY.—Nothing in this section shall be construed to—

(i) create a cause of action against any Federal firearms licensee or any other person for any civil liability; or

(ii) establish any standard of care.

(B) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action relating to section 922(z) of title 18, United States Code, as added by this subsection.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SA 1627. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 1516, to reauthorize Amtrak, and for other purposes; which was referred to the Committee on Commerce, Science, and Transportation; as follows:

At the end of the bill, add the following:

TITLE VI—RAIL INFRASTRUCTURE BONDS

SEC. 601. SHORT TITLE.

This title may be cited as the "Passenger Rail Investment and Improvement Financing Act of 2005".

SEC. 602. TAX CREDIT TO HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart H—Nonrefundable Credit for Holders of Qualified Rail Infrastructure Bonds

"Sec. 54. Credit to holders of qualified rail infrastructure bonds.

"SEC. 54. CREDIT TO HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.

"(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified rail infrastructure bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified rail infrastructure bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified rail infrastructure bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined under regulations prescribed by the Secretary).

"(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15

Such term includes the last day on which the bond is outstanding.

"(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

"(c) Limitation Based on Amount of Tax.—

"(1) In general.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

"(2) Carryover of unused credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) Credit Included in Gross Income.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(e) Credits May Be Stripped.—Under regulations prescribed by the Secretary—

"(1) In general.—There may be a separation (including at issuance) of the ownership of a qualified rail infrastructure bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

"(2) Certain rules to apply.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified rail infrastructure bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

"(f) Qualified Rail Infrastructure Bond.—For purposes of this part, the term 'qualified rail infrastructure bond' means any bond issued as part of an issue if—

"(1) the issuer certifies that the Secretary of Transportation has designated the bond for purposes of this section under section 26106(a) of title 49, United States Code, as in effect on the date of the enactment of this section,

"(2) 95 percent or more of the proceeds from the sale of such issue are to be used for expenditures incurred after the date of the enactment of this section for any project described in section 26106(a)(2) of title 49, United States Code,

"(3) the term of each bond which is part of such issue does not exceed 20 years,

"(4) the payment of principal with respect to such bond is the obligation solely of the issuer, and

"(5) the issue meets the requirements of subsection (f) (relating to arbitrage).

"(g) Special Rules Relating to Arbitrage.—

"(1) In general.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the issuer reasonably expects—

"(A) to spend at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on such date,

"(B) to incur a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue, or to commence construction, with respect to such projects within the 6-month period beginning on such date, and

"(C) to proceed with due diligence to complete such projects and to spend the proceeds from the sale of the issue.

"(2) Rules regarding continuing compliance after 3-year determination.—If at least 95 percent of the proceeds from the sale of the issue is not expended for 1 or more qualified projects within the 3-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of this subsection if either—

"(A) the issuer uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 3-year period, or

"(B) the following requirements are met:

"(i) The issuer spends at least 75 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on the date of issuance.

"(ii) Either—

"(I) the issuer spends at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 4-year period beginning on the date of issuance, or

"(II) the issuer pays to the Federal Government any earnings on the proceeds from the sale of the issue that accrue after the end of the 3-year period beginning on the date of issuance and uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of the 4-year period beginning on the date of issuance.

"(h) Recapture of Portion of Credit Where Cessation of Compliance.—

"(1) In general.—If any bond which when issued purported to be a qualified rail infrastructure bond ceases to be such a qualified bond, the issuer shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

"(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

"(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

"(2) Failure to pay.—If the issuer fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

"(3) Special rules.—

"(A) Tax benefit rule.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards under subsection (c) shall be appropriately adjusted.

"(B) No credits against tax.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this part, or

"(ii) the amount of the tax imposed by section 55.

"(i) Other Definitions and Special Rules.—For purposes of this section—

"(1) Bond.—The term 'bond' includes any obligation.

"(2) Qualified project.—The term 'qualified project' means any project described in section 26106(a)(2) of title 49, United States Code.

"(3) Treatment of changes in use.—For purposes of subsection (e)(2), the proceeds from the sale of an issue shall not be treated as used for a qualified project to the extent that the issuer takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a qualified rail infrastructure bond.

"(4) Partnership; S corporation; and other pass-thru entities.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

"(5) Bonds held by regulated investment companies.—If any qualified rail infrastructure bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(6) Reporting.—Issuers of qualified rail infrastructure bonds shall submit reports similar to the reports required under section 149(e).".

(b) Amendments to Other Code Sections.—

(1) Reporting.—Subsection (d) of section 6049 of the Internal Revenue Code of 1986 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(8) Reporting of credit on qualified rail infrastructure bonds.—

"(A) In general.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

"(B) Reporting to corporations, etc.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

"(C) Regulatory authority.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(2) Treatment for estimated tax purposes.—

(A) Individual.—Section 6654 of such Code (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Special Rule for Holders of Qualified Rail Infrastructure Bonds.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a qualified rail infrastructure bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(B) CORPORATE.—Section 6655 of such Code (relating to failure by corporation to pay estimated income tax) is amended by adding at the end of subsection (g) the following new paragraph:

''(5) SPECIAL RULE FOR HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a qualified rail infrastructure bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''SUBPART H. NONREFUNDABLE CREDIT FOR HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS''.

(2) Section 6401(b)(1) is amended by striking ''and G'' and inserting ''G, and H''.

(d) ISSUANCE OF REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary of the Treasury shall issue regulations for carrying out this section and the amendments made by this section.

(e) INTERCITY RAIL FACILITIES.—Section 142(i) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(4) ADDITIONAL REQUIREMENTS.—A bond issued as part of an issue described in subsection (a)(11) shall not be considered an exempt facility bond unless the requirements of paragraphs (1) through (4) of section 26106(a) of title 49, United States Code, are met.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SA 1628. Mr. MCCONNELL (for Mr. HAGEL) proposed an amendment to the resolution S. Res. 86, designating August 16, 2005, as ''National Airborne Day''; as follows:

On page 5 strike lines 1 through 5 and insert the following:

(2) requests that the people of the United States observe ''National Airborne Day'' with other appropriate programs, ceremonies and activities.

SA 1629. Mr. MCCONNELL (for Mr. FEINGOLD) proposed an amendment to the resolution S. Res. 104, expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities: as follows:

On page 3, line 8, to page 4, line 1, strike ''in creating an online database that provides'', and insert ''to make readily accessible''.

SA 1630. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case in which a manufacturer or seller of a qualified product caused an injury by means of a qualified product that is involved in illegal interstate firearms trafficking punishable under section 924 of title 18, United States Code.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term ''negligent entrustment'' means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi)

SA 1631. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case in which a manufacturer or seller of a qualified product caused an injury by failing to retain for 30 days the records of a sale to an individual who is required, under regulations prescribed under section 114(h) of title 49, United States Code, to be prevented from boarding an aircraft.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term ''negligent entrustment'' means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi)

SA 1632. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case in which a manufacturer or seller of a qualified product caused an injury by failing to keep adequate records of the sale of a qualified product from the inventory or collection of the manufacturer or seller, as required under section 923(g) of title 18, United States Code.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term ''negligent entrustment'' means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi)

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee On National Parks of the Committee on Energy and Natural Resources has scheduled a field hearing to gather information regarding invasive species. Specific areas of interest include challenges and needs of the National Park Service, existing legislation, legislative solutions, and use of partnerships for managing invasive species in and around National Parks.

The hearing will be held on Tuesday, August 9, 2005, at 10 a.m. in the Kilauea Visitors Center auditorium, Hawaii Volcanoes National Park, Hilo, HI.

Becaue of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Tom Lillie at (202) 224-5161 or Brian Carlstrom at (202) 224–6293.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 27, 2005, at 2:30 p.m., on 1372, the Fair Ratings Act, in SR-253.

The PRESIDING OFFICER Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, July 27, 2005, at 10 a.m., to hear testimony on "Improving Quality in Medicare: The role of Value-Based Purchasing."

The PRESIDING OFFICER Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CORNY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 27, 2005, at 9:30 a.m. to hold a hearing on nominations.

The PRESIDING OFFICER Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, July 27, 2005, at 10 a.m., for a hearing titled "Chemical Facility Security: What Is the Appropriate Federal Role?, Part II."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 27, 2005, at 9:30 a.m., in room 216 of the Hart Senate Office Building to conduct an oversight hearing on lands eligible for gaming pursuant to the Indian Gaming Regulatory Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "FBI Oversight" on Wednesday, July 27, 2005, at 9:30 a.m., in Dirksen Senate Office Building room 226.

Witness List

Panel I: Robert Mueller, Director, Federal Bureau of Investigation, Department of Justice, Washington, DC.

Panel II: Glenn Fine, Inspector General, Department of Justice, Washington, DC; Lee Hamilton, President and Director, Woodrow Wilson International Center for Scholars, Washington, DC; William H. Webster, Partner Milbank, Tweed, Hadley & McCloy LLP, Washington, DC; and John A. Russack, Program Manager, Information Sharing Environment, Director of National Intelligence, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CORNYN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 27, 2005, at 2:30 p.m. to hold a briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. CORNYN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Wednesday, July 27, 2005, from 2:30 p.m. to 5 p.m., in Dirksen 106, for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DISASTER PREVENTION AND PREDICTION

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Disaster Prevention and Prediction be authorized to meet on Wednesday, July 27, 2005, at 10 a.m., on All Hazards Alert Systems, in SR–253.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Energy be authorized to meet during the session of the Senate on Wednesday, July 27, 2005, at 3 p.m. The purpose of the hearing is to receive testimony on recent progress in hydrogen and fuel cell research sponsored by the Department of Energy and by private industry. Testimony will also address the remaining challenges to the development of these technologies.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTRY, CONSERVATION, AND RURAL REVITALIZATION

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Forestry, Conservation, and Rural Revitalization be authorized to conduct a hearing during the session of the Senate on Wednesday, July 27, 2005, at 10 a.m. in SR-328A, Russell Senate Office Building. The purpose of this subcommittee hearing will be to discuss oversight of the Conservation Reserve Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION AND INTERNATIONAL SECURITY

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Wednesday, July 27, 2005, at 2:30 p.m., for a hearing regarding "Who's Watching the Watchdog? Examining Financial Management at the SEC."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL OPERATIONS AND TERRORISM

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on International Operations and Terrorism be authorized to meet during the session of the Senate on Wednesday, July 27, 2005, at 2:30 p.m., to hold a hearing on United Nations Peacekeeping Reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. CRAIG. Mr. President, I ask unanimous consent that Ken Webster, a law clerk in my office, be granted privileges of the floor during the pending S. 397 or any motions related to that bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DAYTON. Mr. President, I ask unanimous consent that Laura Soltis of my office be granted floor privileges for this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that a fellow from my office, Julie Caruthers, be allowed floor privileges for the duration of the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent that Andrew Ginsburg, a fellow on my staff, be granted privileges of the floor during the remainder of the debate on S. 397.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICAL DEVICE USER FEE STABILIZATION ACT OF 2005

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3423 which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3423) to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees.

There being no objection, the Senate proceeded to consider the bill.

Mr. ENZI. Mr. President, I rise today to voice my support for the Medical Device User Fee Stabilization Act of 2005. This legislation preserves a valuable program for the review of innovative medical technologies.

This bill, H.R. 3423, is identical to S. 1420, which was reported last week by the Committee on Health, Education, Labor, and Pensions. It represents a bipartisan, bicameral compromise that had unanimous support when it was reported out of the committee. It keeps an important Government program going, while providing more stability for the industry. We have considered the needs of small and large businesses, all while ensuring that FDA has enough resources to maintain a high level of effectiveness.

This compromise results in an 8.5 percent increase in user fees for each of the next 2 years. This is a significant reduction from the 20 percent annual increases these companies have been seeing. We have also raised the small business threshold more than threefold, from $30 million to $100 million. This means that additional companies will be able to take advantage of reduced fees for the review of new devices. This bill will result in an average increase to FDA of 6 percent in user fee revenues over the next 2 years, which means FDA will be able to continue reviewing new devices and will not be forced to lay off experienced FDA staff or wind down a program that has been successful.

Finally, this compromise clarifies a provision in the 2002 medical device law regarding the marking of reprocessed devices. I know that this provision, and any change to it, is controversial. However, we have found a fair way forward. The bill we are considering today would require reprocessors to mark the device to identify the reprocessor, if the original manufacturer has marked the device. If the original manufacturer has not marked the device, the reprocessor must still mark the device but has more flexibility in how to do so. This is workable, and it is even-handed.

My colleagues, Senators BURR, DEWINE, MIKULSKI, DODD and MURRAY, have had great interest in the medical device user fee program, and I thank them for cosponsoring the Senate bill.

I would also like to thank Senator HATCH for his attention and input into this issue. He is a strong defender of the small, entrepreneurial companies in this industry. We worked together before committee consideration of this bill to address his concerns about the impact of user fees on the innovative companies in his home State of Utah. I welcome his support and cosponsorship of the Senate bill.

Of course, I want to thank our staff for laboring so diligently to find a workable, reasonable compromise and doing so under difficult time constraints. In particular, I want to thank Jennifer Hansen, Abby Kral, Ellen-Marie Whelan, Ben Berwick, Anne Grady, Patricia Knight, and Patricia DeLoatche. I also want to thank my committee staff Amy Muhlberg and Stephen Northrup.

Finally, I must express my deep appreciation and thanks to the ranking member, Senator KENNEDY, and his staff, David Bowen and David Dorsey, for their hard work and support during this process. We have produced a fair deal, and I urge my colleagues to lend it their strong support.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3423) was read the third time and passed.

FOUNDATION FOR THE NATIONAL INSTITUTES OF HEALTH IMPROVEMENT ACT

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 117, S. 302.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 302) to make improvements in the Foundation for the National Institutes of Health.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment.

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 302

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Foundation for the National Institutes of Health Improvement Act".

[SEC. 2. NATIONAL INSTITUTES OF HEALTH ESTABLISHMENT AND DUTIES.

[Section 499 of the Public Health Service Act (42 U.S.C. 290b) is amended—

[(1) in subsection (d)—

[(A) in paragraph (1)—

[(i) by amending subparagraph (D)(ii) to read as follows:

["(ii) Upon the appointment of the appointed members of the Board under clause (i)(II), the terms of service as members of the Board of the ex officio members of the Board described in clauses (i) and (ii) of subparagraph (B) shall terminate. The ex officio members of the Board described in clauses (iii) and (iv) of subparagraph (B) shall continue to serve as ex officio members of the Board."; and

[(ii) in subparagraph (G), by inserting "appointed" after "that the number of";

[(B) by amending paragraph (3)(B) to read as follows:

["(B) Any vacancy in the membership of the appointed members of the Board shall be filled in accordance with the bylaws of the Foundation established in accordance with paragraph (6), and shall not affect the power of the remaining appointed members to execute the duties of the Board."; and

[(C) in paragraph (5), by inserting "appointed" after "majority of the";

[(2) in subsection (j)—

[(A) in paragraph (2), by striking "(d)(2)(B)(i)(II)" and inserting "(d)(6)"; and

[(B) in paragraph (10), by striking "of Health." and inserting "of Health and the National Institutes of Health may accept transfers of funds from the Foundation."; and

[(3) by striking subsection (l) and inserting the following:

["(l) FUNDING.—From amounts appropriated to the National Institutes of Health, for each fiscal year, the Director of NIH shall transfer not less than $500,000 to the Foundation.".]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foundation for the National Institutes of Health Improvement Act".

SEC. 2. NATIONAL INSTITUTES OF HEALTH ESTABLISHMENT AND DUTIES.

Section 499 of the Public Health Service Act (42 U.S.C. 290b) is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) by amending subparagraph (D)(ii) to read as follows:

"(ii) Upon the appointment of the appointed members of the Board under clause (i)(II), the terms of service as members of the Board of the ex officio members of the Board described in clauses (i) and (ii) of subparagraph (B) shall terminate. The ex officio members of the Board described in clauses (iii) and (iv) of subparagraph (B) shall continue to serve as ex officio members of the Board."; and

(ii) in subparagraph (G), by inserting "appointed" after "that the number of";

(B) by amending paragraph (3)(B) to read as follows:

"(B) Any vacancy in the membership of the appointed members of the Board shall be filled in accordance with the bylaws of the Foundation established in accordance with paragraph (6), and shall not affect the power of the remaining appointed members to execute the duties of the Board."; and

(C) in paragraph (5), by inserting "appointed" after "majority of the";

(2) in subsection (j)—

(A) in paragraph (2), by striking "(d)(2)(B)(i)(II)" and inserting "(d)(6)";

(B) in paragraph (4)—

(i) in subparagraph (A), by inserting ", including an accounting of the use of amounts transferred under subsection (l)" before the period at the end; and

(ii) by striking subparagraph (C) and inserting the following:

"(C) The Foundation shall make copies of each report submitted under subparagraph (A) available—

"(i) for public inspection, and shall upon request provide a copy of the report to any individual for a charge that shall not exceed the cost of providing the copy; and

"(ii) to the appropriate committees of Congress."; and

(C) in paragraph (10), by striking "of Health." and inserting "of Health and the National Institutes of Health may accept transfers of funds from the Foundation."; and

(3) by striking subsection (l) and inserting the following:

"(l) FUNDING.—From amounts appropriated to the National Institutes of Health, for each fiscal year, the Director of NIH shall transfer not less than $500,000 and not more than $1,250,000 to the Foundation.".

Mr. KENNEDY. Mr. President, I strongly support the Foundation for the National Institutes of Health Improvement Act.

The bill makes several improvements in the 1990 law that established the Foundation. Most significantly, it assures the Foundation at least $500,000 annually from the NIH to support its administrative and operating expenses. The annual allocation is capped at $1.25 million. These funds will enable the Foundation to use its own resources for the actual support of projects to strengthen NIH programs, rather than raise money for its own expenses. As the bill makes clear, the NIH Director and the Commissioner of Food and Drugs are ex officio members of the Foundation's board of directors.

Congress established the Foundation in 1990 to raise private funds to support the research of the NIH. The Foundation has been a remarkable success. For every dollar the Foundation received from the NIH in 2003, it raised $426 in private funds. Since its creation, it has raised $270 million, or $68 in private support for every dollar from the NIH.

The Foundation is currently managing 37 programs supported by $270 million generated from private contributions. As one important example, the Edmond J. Safra Family Lodge on the NIH campus gives families of patients receiving in-patient treatment at the NIH Clinical Center a place to stay, at no cost to them.

In addition, the Foundation has formed partnerships with the NIH to develop new cancer treatments, to identify biochemical signs of osteoarthritis and Alzheimer's Disease, and to build on the promise of genomics. Through a public-private partnership, the Foundation has helped accelerate the sequencing of the mouse genome. It is also collecting private funds to study drugs in children. In 2003, Bill Gates announced a gift to the Foundation of $200 million over the next 10 years to support research on global health priorities. Clearly, the Foundation's partnership with the NIH will grow productively in the coming years.

I urge my Senate colleagues to support this legislation, which will enable the Foundation to continue its effective support of the work and mission of the NIH.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the committee reported amendment be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 302), as amended, was read the third time and passed.

PUBLIC HEALTH SERVICE ACT AMENDMENTS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 140, S. 655.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 655) to amend the Public Health Service Act with respect to the National Foundation for the Centers for Disease Control and Prevention, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment.

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 655

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL AND PREVENTION; ACCEPTANCE OF VOLUNTARY SERVICES; FEDERAL FUNDING.

[(a) AUTHORITY FOR ACCEPTANCE OF VOLUNTARY SERVICES; STRIKING TWO-YEAR LIMIT PER INDIVIDUAL.—Section 399G(h)(2)(A) of the Public Health Service Act (42 U.S.C. 280e–11(h)(2)(A)) is amended by striking the second sentence and inserting the following: "In the case of an individual, such Director may accept the services provided under the preceding sentence by the individual until such time as the private funding for such individual ends.".

[(b) FEDERAL FUNDING.—Section 399G(i) of the Public Health Service Act (42 U.S.C. 280e–11(i)) is amended—

[(1) in paragraph (2)—

[(A) in subparagraph (A), by striking "$500,000", and inserting "$1,500,000"; and

[(B) in subparagraph (B), by striking "not more than $500,000" and inserting "not less than $500,000, and not more than $1,500,000"; and

[(2) by adding at the end the following:

"[(4) SUPPORT SERVICES.—The Director of the Centers for Disease Control and Prevention may provide facilities, utilities, and support services to the Foundation if it is determined by the Director to be advantageous to the programs of such Centers.".]

SECTION 1. NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL AND PREVENTION; ACCEPTANCE OF VOLUNTARY SERVICES; FEDERAL FUNDING.

(a) AUTHORITY FOR ACCEPTANCE OF VOLUNTARY SERVICES; STRIKING TWO-YEAR LIMIT PER INDIVIDUAL.—Section 399G(h)(2)(A) of the Public Health Service Act (42 U.S.C. 280e–11(h)(2)(A)) is amended by striking the second sentence and inserting the following: "In the case of an individual, such Director may accept the services provided under the preceding sentence by the individual until such time as the private funding for such individual ends.".

(b) REPORTS.—Section 399G(h)(7) of the Public Health Service Act (42 U.S.C. 280e–11(h)(7)) is amended—

(1) in subparagraph (A), by inserting ", including an accounting of the use of amounts provided for under subsection (i)" before the period; and

(2) by striking subparagraph (C) and inserting the following:

"(C) The Foundation shall make copies of each report submitted under subparagraph (A) available—

"(i) for public inspection, and shall upon request provide a copy of the report to any individual for a charge not to exceed the cost of providing the copy; and

"(ii) to the appropriate committees of Congress.".

(c) FEDERAL FUNDING.—Section 399G(i) of the Public Health Service Act (42 U.S.C. 280e–11(i)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking "$500,000", and inserting "$1,250,000"; and

(B) in subparagraph (B), by striking "not more than $500,000" and inserting "not less than $500,000, and not more than $1,250,000"; and

(2) by adding at the end the following:

"(4) SUPPORT SERVICES.—The Director of the Centers for Disease Control and Prevention may provide facilities, utilities, and support services to the Foundation if it is determined by the Director to be advantageous to the programs of such Centers.".

Mr. McCONNELL. Mr. President, I ask unanimous consent that the committee-reported amendment be agreed to, the bill, as amended, be read the third time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 655), as amended, was read the third time and passed.

AUTHORIZING THE CONVEYANCE OF CERTAIN FEDERAL LAND IN NEW MEXICO

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of S. 447 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 447) to authorize the conveyance of certain Federal land in the State of New Mexico.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. Mr. President, I ask unanimous consent that bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 447) was read the third time and passed, as follows:

S. 447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jornada Experimental Range Transfer Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) Board.—The term "Board" means the Chihuahuan Desert Nature Park Board.

(2) Secretary.—The term "Secretary" means the Secretary of Agriculture.

SEC. 3. CONVEYANCE OF LAND TO CHIHUAHUAN DESERT NATURE PARK BOARD.

(a) Conveyance.—The Secretary may convey to the Board, by quitclaim deed, for no consideration, all right, title, and interest of the United States in and to the land described in subsection (b).

(b) Description of Land.—The parcel of land referred to in subsection (a) consists of not more than 1000 acres of land selected by the Secretary—

(1) that is located in the Jornada Experimental Range in the State of New Mexico; and

(2) that is subject to an easement granted by the Agricultural Research Service to the Board.

(c) Conditions.—The conveyance of land under subsection (a) shall be subject to—

(1) the condition that the Board pay—

(A) the cost of any surveys of the land; and

(B) any other costs relating to the conveyance;

(2) any rights-of-way to the land reserved by the Secretary;

(3) a covenant or restriction in the deed to the land described in subsection (b) requiring that—

(A) the land may be used only for educational purposes;

(B) if the land is no longer used for the purposes described in subparagraph (A), the land shall, at the discretion of the Secretary, revert to the United States; and

(C) if the land is determined by the Secretary to be environmentally contaminated under subsection (d)(2)(A), the Board shall remediate the contamination; and

(4) any other terms and conditions that the Secretary determines to be appropriate.

(d) Reversion.—If the land conveyed under subsection (a) is no longer used for the purposes described in subsection (c)(3)(A)—

(1) the land shall, at the discretion of the Secretary, revert to the United States; and

(2) if the Secretary chooses to have the land revert to the United States, the Secretary shall—

(A) determine whether the land is environmentally contaminated, including contamination from hazardous wastes, hazardous substances, pollutants, contaminants, petroleum, or petroleum by-products; and

(B) if the Secretary determines that the land is environmentally contaminated, the Board or any other person responsible for the contamination shall remediate the contamination.

PERMITTING WOMEN'S BUSINESS CENTERS TO RE-COMPETE FOR SUSTAINABILITY GRANTS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1517, which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1517) to permit Women's Business Centers to re-compete for sustainability grants.

There being no objection, the Senate proceeded to consider the bill.

Ms. SNOWE. Mr. President, I rise today in support of this bill that would provide critical funding that is needed to preserve the operations of existing Women's Business Centers that currently serve women entrepreneurs in almost every State and territory.

Women-owned businesses breathe new life into our economy, grow at twice the rate of all firms, and create jobs with pace-setting results. With 10.6 million women-owned businesses across the Nation, employing more than 19 million Americans, and generating nearly $2.5 trillion in revenue—indeed, they are nothing short of an economic powerhouse!

Part of our job is to make sure that Government programs continue to help small and women-owned businesses. We can't afford to ignore, or reduce, the extraordinary contributions America's business women are making to our economy, our society, and our future.

The Small Business Administration's Women's Business Center has been a tremendous resource to women-owned businesses across the Nation. Since the program was introduced through the Small Business Ownership Act of 1988, and made permanent in 1997, Congress has agreed seven times that this program is critical for women business owners. In fact, the program's unique training and counseling helped clients generate more than $235 million in revenue and create or retain over 6,500 jobs in 2003. This program clearly has a record of success, fostering job growth and providing American small businesses with the opportunity to thrive.

If we look at the centers that are achieving the greatest impact, it is the established centers. The results of their outreach and one-on-one assistance has made it possible for the Small Business Administration to achieve its goals as it measures the success of the products and programs offered by these centers.

However, 11 of our longest standing Women's Business Centers located in California, Colorado, Maine, Massachusetts, Michigan, Minnesota, New Mexico, Oregon, Pennsylvania and Wisconsin now face the possibility of closing their doors. The Federal Government has invested 10 years helping to establish these centers which, in turn, have helped women-owned businesses start and existing businesses grow.

In accordance with outdated legislation, the SBA plans to award 92 competitive grants to regular and sustainable women's business centers in September with the fiscal year 2005 appropriations. However, our 11 longest standing centers will not be eligible to compete for these grants. This was not the intent of the Senate. Last Congress, the Senate agreed to transform the women's business center program into a 3-year competitive grant program which is reflected in my bill, S. 1375, The Small Business Administration's 50th Anniversary Reauthorization Act of 2003. While the House failed to pass their version of the bill, limited provisions of the bill were included in the fiscal year 2005 Omnibus package. However, the women's business center provisions, among others, failed to make the omnibus bill and this program now operates under outdated legislation.

This emergency legislation temporarily solves this problem and preserves our investment by simply making the women's sustainability grant funding available for these 11 existing centers only during fiscal year 2005. While we must fix the funding problem in the long-run, we also face a crisis today. With this legislation, existing centers that have been established for the longest period of time would be able to operate without disruption in funding and could continue the programs and services they currently offer. Moreover, this provision does not require any additional appropriations but only reallocates current funds.

As Chair of the Senate Committee on Small Business and Entrepreneurship, I take great pride in the fact that my own State of Maine leads the way for women-owned businesses. Today, there are more than 63,000 women-owned firms in Maine, employing over 75,000 Mainers and generating more than $9 billion in sales. We must all be committed to multiplying that story of success in every State in America.

It is our duty to ensure that Americans have the necessary resources to start, grow and develop a business. I am committed to resolving the temporary funding crisis through this bill and I am committed to working with my colleagues to ensure the long-term viability of the program for today's women entrepreneurs and those of tomorrow.

I ask unanimous consent that the text of the bill be printed in the Record.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1517) was read the third time and passed, as follows:

S. 1517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WOMEN'S BUSINESS CENTERS.

Section 29(k) of the Small Business Act (15 U.S.C. 656(k)) is amended by adding at the end the following:

"(5) PRIOR RECIPIENTS.—Notwithstanding subsection (l)(1), any recipient of a grant under subsection (l) whose 5-year project ended in fiscal year 2004, is eligible to apply to receive the funds for grants to continue Women's Business Centers in sustainability status for fiscal year 2005, made available by Public Law 108-447 (118 Stat. 2911).".

RECOGNIZING THE GREATEST GENERATION HOMECOMING WEEKEND

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 216, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 216) expressing gratitude and appreciation to the men and women of the United States Armed Forces who served in World War II, commending the acts of heroism displayed by those servicemembers, and recognizing the "Greatest Generation Homecoming Weekend" to be held in Pittsburgh, Pennsylvania.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 216) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 216

Whereas World War II began on September 1, 1939, when Nazi Germany invaded Poland without a declaration of war and then moved, following the surrender of Poland, to invade and occupy Denmark, Norway, Luxembourg, the Netherlands, and Belgium;

Whereas following the premeditated invasion by Japan on the United States at Pearl Harbor, Hawaii, on December 7, 1941, the United States declared war on Japan and entered World War II on the side of freedom and democracy;

Whereas when the fate of the free world was in jeopardy as a direct result of the desire of Adolf Hitler and the Nazi regime for world conquest, the servicemembers of the United States Armed Forces known as the "Greatest Generation" assumed the task of freeing the world of Nazism, fascism, and tyranny;

Whereas more than 16,000,000 Americans served in the United States Armed Forces during World War II, and millions more supported the war effort at home;

Whereas more than 400,000 brave Americans made the ultimate sacrifice during World War II in the name of freedom and in defense of the ideals that the people of the United States hold dear;

Whereas units of the United States Army, such as the 1st Infantry Division known as the "Big Red One", the 3rd Infantry Division known as the "Rock of the Marne", the 10th Armored Division known as the "Tiger Division", and the "Flying Tigers" of the 14th Air Force, valiantly fought to defeat the oppression and tyranny of the Axis Powers;

Whereas the great tragedy of World War II was the defining event of the 20th century, when the brave men and women of the United States Armed Forces fought for the common defense of the United States and for the broader causes of peace and freedom from tyranny throughout the world; and

Whereas the members of the United States Armed Forces, including the "Greatest Generation" of World War II, made sacrifices and displayed bravery and heroism in the name of freedom and democracy throughout the world: Now, therefore, be it

Resolved, That the Senate—

(1) expresses appreciation to the members of the United States Armed Forces who served during World War II, for—

(A) the selfless service of those servicemembers to the United States;

(B) restoring freedom to the world; and

(C) defeating the elements of evil and oppression;

(2) commends the heroism and bravery displayed by the members of the United States Armed Forces who served during World War II, known as the "Greatest Generation", in the face of death and severe hardship, and honors those servicemembers who made the ultimate sacrifice;

(3) proudly honors the members of the "Greatest Generation" on the occasion of the forthcoming 60th anniversary of the end of World War II, and in conjunction with the "Greatest Generation Homecoming Weekend" in Pittsburgh, Pennsylvania;

(4) proudly honors all members of the United States Armed Forces, past and present, who defend the freedom of the United States in times of both war and peace; and

(5) commends the participants of the "Greatest Generation Homecoming Weekend" that takes place from September 2, 2005 through September 5, 2005 in Pittsburgh, Pennsylvania.

NATIONAL MARINA DAY

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 217, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 217) designating August 13, 2005 as "National Marina Day".

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 217) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 217

Whereas the people of the United States value highly recreational time and the ability to access the waterways of the United States, one of the country's greatest natural resources;

Whereas in 1928, the National Association of Engine and Boat Manufacturers first used the word "marina" to describe a recreational boating facility;

Whereas the United States is home to more than 12,000 marinas that contribute substantially to local communities by providing safe and reliable gateways to boating;

Whereas the marinas of the United States serve as stewards of the environment and actively seek to protect surrounding waterways for the enjoyment of this generation and generations to come;

Whereas the marinas of the United States provide communities and visitors with a place where friends and families, united by a passion for the water, can come together for recreation, rest, and relaxation; and

Whereas the Association of Marina Industries has designated August 13, 2005 as "National Marina Day" to increase awareness among citizens, policymakers, and elected officials about the many contributions that marinas make to communities: Now, therefore, be it

Resolved, That the Senate—

(1) designates August 13, 2005 as "National Marina Day";

(2) encourages the people of the United States to observe "National Marina Day" with appropriate programs and activities; and

(3) urges the marinas of the United States to continue to provide environmentally friendly gateways to boating for the people of the United States.

NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK

Mr. McCONNELL. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration and the Senate proceed to S. Res. 158.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 158) expressing the sense of the Senate that the President should designate the week beginning September 11, 2005, as "National Historically Black Colleges and Universities Week".

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 158) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 158

Whereas there are 105 historically Black colleges and universities in the United States;

Whereas historically Black colleges and universities provide the quality education essential to full participation in a complex, highly technological society;

Whereas historically Black colleges and universities have a rich heritage and have played a prominent role in the history of the United States;

Whereas historically Black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically Black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate the week beginning September 11, 2005, as "National Historically Black Colleges and Universities Week".

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—

(1) designating the week beginning September 11, 2005, as "National Historically Black Colleges and Universities Week"; and

(2) calling on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically Black colleges and universities in the United States.

NATIONAL AIRBORNE DAY

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate now proceed to S. Res. 86.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 86) designating August 16, 2005, as National Airborne Day.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. I ask unanimous consent that the amendment at the desk be agreed to, the resolution, as amended, be agreed to, the preamble be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1628) was agreed to, as follows:

On page 5 strike lines 1 through 5, and insert the following:

(2) requests that the people of the United States observe "National Airborne Day" with appropriate programs, ceremonies and activities.

The resolution (S. Res. 86), as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

(The resolution will be printed in a future edition of the RECORD.)

PROCLAMATION RECOGNIZING 30TH ANNIVERSARY OF HELSINKI FINAL ACT

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of S.J. Res. 19 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 19) calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. McCONNELL. I ask unanimous consent that the joint resolution be read a third time and passed, the motion to reconsider be laid upon the table and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (S.J. Res. 19) was read the third time and passed, as follows:

(The resolution will be printed in a future edition of the RECORD.)

COMMEMORATING 25TH ANNIVERSARY OF 1980 WORKERS' STRIKE IN POLAND

NATIONAL ATTENTION DEFICIT DISORDER AWARENESS DAY

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged en bloc from further consideration of S. Res. 198 and S. Res. 201 and that the Senate proceed en bloc to their consideration.

The PRESIDING OFFICER. Without objection, the clerk will report the resolutions by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 198) commemorating the 25th anniversary of the 1980 worker's strike in Poland and the birth of the Solidarity Trade Union, the first free and independent trade union established in the Soviet-dominated countries of Europe.

A resolution (S. Res. 201) designating September 14, 2005, as National Attention Deficit Disorder Awareness Day.

There being no objection, the Senate proceeded to consider the resolutions.

Mr. McCONNELL. I ask unanimous consent that the resolutions and preambles be agreed to en bloc, the motions to reconsider be laid upon the table en bloc and that any statements relating thereto be printed in the RECORD, with no intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions (S. Res. 198 and S. Res. 201) were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. RES. 198

Whereas, on May 9, 1945, Europe declared victory over the oppression of the Nazi regime;

Whereas, Poland and other countries in Central, Eastern, and Southern Europe soon fell under the oppressive control of the Soviet Union;

Whereas for decades the people of Poland struggled heroically for freedom and democracy against that oppression;

Whereas, in June 1979, Pope John Paul II, the former Cardinal Karol Wojtyla, returned to Poland, his homeland, and exhorted his countrymen to "be not afraid" of the Communist regime;

Whereas, in 1980, the Solidarity Trade Union (known in Poland as "NSZZ Solidarnosc") was formed in Poland under the leadership of Lech Walesa and during the 1980s the actions of its leadership and members sparked a great social movement committed to promoting fundamental human rights, democracy, and the independence of Poland from the Soviet Union (known as the "Solidarity Movement");

Whereas, in July and August of 1980, workers in Poland in the shipyards of Gdansk and Szczecin, led by Lech Walesa and other leaders of the Solidarity Trade Union, went on strike to demand greater political freedom;

Whereas that strike was carried out in a peaceful and orderly manner;

Whereas, in August 1980, the Communist Government of Poland yielded to the 21 demands of the striking workers, including the release of all political prisoners, the broadcasting of religious services on television and radio, and the right to establish independent trade unions;

Whereas the Communist Government of Poland introduced martial law in December 1981 in an attempt to block the growing influence of the Solidarity Movement;

Whereas the support of the Polish-American community was essential and crucial for the Solidarity Movement to survive and remain active during that difficult time;

Whereas the people of the United States were greatly supportive of the efforts of the people of Poland to rid themselves of an oppressive government and people in the United States lit candles in their homes on Christmas Eve 1981, to show their solidarity with the people of Poland who were suffering under martial law;

Whereas Lech Walesa was awarded the Nobel Peace Prize in 1983 for continuing his struggle for freedom in Poland;

Whereas the Solidarity Movement persisted underground during the period when martial law was imposed in Poland and emerged in April 1989 as a powerful national movement;

Whereas, in February 1989, the Communist Government of Poland agreed to conduct roundtable talks with leaders of the Solidarity Movement;

Whereas such talks led to the holding of elections for the National Assembly of Poland in June 1989 in which nearly all open seats were won by candidates supported by the Solidarity Movement, and led to the election of Poland's first Prime Minister during the post-war era who was not a member of the Communist party, Mr. Tadeusz Mazowiecki;

Whereas, the Solidarity Movement ended communism in Poland without bloodshed and inspired Hungary, Czechoslovakia, and other nations to do the same, and the activities of its leaders and members were part of the historic series of events that led to the fall of the Berlin Wall on November 9, 1989;

Whereas, on November 15, 1989, Lech Walesa's historic speech before a joint session of Congress, beginning with the words "We the people", stirred a standing ovation from the Members of Congress;

Whereas, on December 9, 1989, Lech Walesa was elected President of Poland; and

Whereas there is a bond of friendship between the United States and Poland, which is a close and invaluable United States ally, a contributing partner in the North Atlantic Treaty Organization (NATO), a reliable partner in the war on terrorism, and a key contributor to international efforts in Iraq and Afghanistan: Now, therefore, let it be

Resolved, That the Senate—

(1) declares August 31, 2005, to be Solidarity Day in the United States to recognize the 25th anniversary of the establishment in Poland of the Solidarity Trade Union (known in Poland as the "NSZZ Solidarnosc"), the first free and independent trade union established in the Soviet-dominated countries of Europe;

(2) honors the people of Poland who risked their lives to restore liberty in Poland and to return Poland to the democratic community of nations; and

(3) calls on the people of the United States to remember the struggle and sacrifice of the people of Poland and that the results of that struggle contributed to the fall of communism and the ultimate end of the Cold War.

S. Res. 201

Whereas Attention Deficit/Hyperactivity Disorder (also known as AD/HD or ADD), is a chronic neurobiological disorder, affecting both children and adults, that can significantly interfere with an individual's ability to regulate activity level, inhibit behavior, and attend to tasks in developmentally appropriate ways;

Whereas AD/HD can cause devastating consequences, including failure in school and the workplace, antisocial behavior, encounters with the justice system, interpersonal difficulties, and substance abuse;

Whereas AD/HD, the most extensively studied mental disorder in children, affects an estimated 3 percent to 7 percent (2,000,000) of young school-age children and an estimated 4 percent (8,000,000) of adults across racial, ethnic, and socioeconomic lines;

Whereas scientific studies clearly indicate that AD/HD runs in families and suggest that genetic inheritance is an important risk factor, with between 10 and 35 percent of children with AD/HD having a first-degree relative with past or present AD/HD, and with approximately 50 percent of parents who had AD/HD having a child with the disorder;

Whereas despite the serious consequences that can manifest in the family and life experiences of an individual with AD/HD, studies indicate that less than 85 percent of adults with the disorder are diagnosed and less than one-half of children and adults with the disorder are receiving treatment;

Whereas poor and minority communities are particularly underserved by AD/HD resources;

Whereas the Surgeon General, the American Medical Association (AMA), the American Psychiatric Association, the American Academy of Child and Adolescent Psychiatry (AACAP), the American Psychological Association, the American Academy of Pediatrics (AAP), the Centers for Disease Control and Prevention (CDC), and the National Institute of Mental Health, among others, recognize the need for proper diagnosis, education, and treatment of AD/HD;

Whereas the lack of public knowledge and understanding of the disorder play a significant role in the overwhelming numbers of undiagnosed and untreated cases of AD/HD, and the dissemination of inaccurate, misleading information contributes to the obstacles preventing diagnosis and treatment of the disorder;

Whereas lack of knowledge, combined with the issue of stigma associated with AD/HD, has a particularly detrimental effect on the diagnosis and treatment of AD/HD;

Whereas there is a need to educate health care professionals, employers, and educators about the disorder and a need for well-trained mental health professionals capable of conducting proper diagnosis and treatment activities; and

Whereas studies by the National Institute of Mental Health and others consistently reveal that through proper and comprehensive diagnosis and treatment, the symptoms of AD/HD can be substantially decreased and quality of life for the individual can be improved: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 14, 2005, as "National Attention Deficit Disorder Awareness Day";

(2) recognizes Attention Deficit/Hyperactivity Disorder (AD/HD) as a major public health concern;

(3) encourages all people of the United States to find out more about AD/HD and its supporting mental health services, and to seek the appropriate treatment and support, if necessary;

(4) expresses the sense of the Senate that the Federal Government has a responsibility to—

(A) endeavor to raise public awareness about AD/HD; and

(B) continue to consider ways to improve access to, and the quality of, mental health services dedicated to the purpose of improving the quality of life for children and adults with AD/HD; and

(5) calls on Federal, State and local administrators and the people of the United States to observe the day with appropriate programs and activities.

PEOPLE-TO-PEOPLE ENGAGEMENT IN WORLD AFFAIRS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 104 and that the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 104) expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. I understand there is a Feingold amendment at the desk. I ask the amendment be considered and agreed to, the resolution as amended be agreed to, the preamble be agreed to, the motions to reconsider be laid on the table en bloc, and that any statements be printed in the Record without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1629) was agreed to, as follows:

AMENDMENT NO. 1629

On page 3, line 8 to page 4, line 1, strike "in creating an online database that provides", and insert "to make readily accessible."

The resolution (S. Res. 104), as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

(The resolution will be printed in a future edition of the Record.)

AUTHORITY TO SIGN DULY ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. McCONNELL. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader and the majority whip be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—HIGHWAY EXTENSION

Mr. McCONNELL. Mr. President, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, when the Senate receives from the House a short-term highway extension, the text of which is at the desk, the bill be considered read the third time and passed and the motion to reconsider be laid upon the table, all without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—H.R. 1797

Mr. McCONNELL. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The leader is correct. The clerk will read the title of the bill for a second time.

The assistant legislative clerk read as follows:

A bill (H.R. 1797) to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.

Mr. McCONNELL. In order to place the bill on the calendar under the provisions of rule XIV, I object to further proceeding.

The PRESIDING OFFICER. The objection is heard. The item will be placed on the calendar under rule XIV.

ORDERS FOR THURSDAY, JUNE 28, 2005

Mr. McCONNELL. Mr. President and colleagues in the Senate, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. tomorrow, Thursday, July 28. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate begin a period of morning business for 1 hour, with the first 30 minutes under the control of the Democratic leader or his designee and the second 30 minutes under the control of the majority leader or his designee. I further ask that following morning business, the Senate resume consideration of S. 397, the gun liability bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Tomorrow, the Senate will continue its consideration of the gun liability bill. Under an agreement reached this evening, we will debate and vote on the Kohl amendment on trigger locks. That vote will occur before lunch tomorrow. As a remainder, first-degree amendments must be filed by 1 p.m. tomorrow afternoon. We will have a cloture vote on the pending legislation, and we will announce the exact timing of that vote tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:40 p.m., adjourned until Thursday, July 28, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 27, 2005:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

KEITH E. GOTTFRIED, OF CALIFORNIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, VICE RICHARD A. HAUSER, RESIGNED.

DEPARTMENT OF STATE

ALFRED HOFFMAN, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PORTUGAL.

DEPARTMENT OF EDUCATION

MARK S. SCHNEIDER, OF THE DISTRICT OF COLUMBIA, TO BE COMMISSIONER OF EDUCATION STATISTICS FOR A TERM EXPIRING JUNE 21, 2009, VICE ROBERT LERNER.

EXECUTIVE OFFICE OF THE PRESIDENT

BERTHA K. MADRAS, OF MASSACHUSETTS, TO BE DEPUTY DIRECTOR FOR DEMAND REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY, VICE ANDREA G. BARTHWELL.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

DIANE RIVERS, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2009, VICE JACK E. HIGHTOWER, TERM EXPIRED.

SANDRA FRANCES ASHWORTH, OF IDAHO, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2009. (REAPPOINTMENT)

JAN CELLUCCI, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2009, VICE JOAN CHALLINOR, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. ERROL R. SCHWARTZ, 6130

EXTENSIONS OF REMARKS

A PROCLAMATION RECOGNIZING CAPTAIN CHRISTOPHER COULSON, M.D.

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker: whereas, Captain Christopher Coulson has devoted himself to serving his country through his deployment to Iraq with the Ohio Army National Guard; and

Whereas, Captain Coulson has dedicated 18 years in the Ohio Army National Guard; and

Whereas, Captain Coulson has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Captain Coulson must be commended for the hard work and dedication he continues to put forth in protecting our Nation's freedoms and liberties.

Therefore, I join with the entire 18th Congressional District of Ohio, Chris's family and friends in congratulating Captain Christopher Coulson as he continues to proudly serve our country overseas in Iraq.

RECOGNIZING FLINT HILL ELEMENTARY SCHOOL'S 50TH ANNIVERSARY

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to pay tribute to Flint Hill Elementary School as it prepares to celebrate its 50th anniversary.

Since its establishment in 1955, Flint Hill Elementary School has committed itself to lofty standards of academic and extracurricular excellence. Over the years, as the Vienna area has expanded and diversified, Flint Hill has followed the community's example.

To this day, Flint Hill Elementary School remains a distinguished and greatly lauded school in many respects, from the arts to academics. The school boasts a number of unique programs, from a Cultural Arts Program to the Flint Hill Elementary School Morning News Team to an annual science fair. The garden serves as a living learning environment, which includes a butterfly garden and a greenhouse. The courtyard is a result of collaborative effort and hours of hard work by students, parents, and teachers. Technology continues to be paramount at Flint Hill, and every class is equipped with a computer presentation system and access to the Internet.

The mission of Flint Hill Elementary School is to promote student learning and high academic standards, while providing a respectful learning environment that develops individual academic achievement and supports social and emotional growth.

Mr. Speaker, in closing, I would like to thank Flint Hill Elementary School faculty and staff for the immeasurable contributions they have made to the community by shaping today's youth and tomorrow's future. I congratulate the school on its successes over the last 50 years and I wish it more successful years in the future. I ask that my colleagues join me in applauding this outstanding and distinguished institution.

A PROCLAMATION HONORING PAUL JOHNSON AND CHARLOTTE JOHNSON ON THEIR 80TH BIRTHDAYS

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker, Whereas, Paul Johnson was born on September 4, 1925; and

Whereas, Charlotte Johnson was born on July 29, 1925; and

Whereas, both Paul and Charlotte Johnson are celebrating their 80th Birthdays, on this day, June 25, 2005; and

Whereas, Paul and Charlotte Johnson have exemplified a love for each other, and must be commended on their upcoming 55th Anniversary on December 16, 2005.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in congratulating Paul and Charlotte Johnson as they celebrate their 80th Birthdays.

CONGRATULATING LIEUTENANT GENERAL RICHARD A. HACK

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to congratulate an exceptional officer in the United States Army, Lieutenant General Richard A. Hack, upon his retirement after 33 years of distinguished service.

Throughout his career, Lieutenant General Hack has personified the values of duty, integrity, and selfless service across the many missions the Army has provided in defense of our Nation. As the Chief of Staff and Deputy Commanding General of the United States Army Materiel Command, Lieutenant General Hack has made lasting contributions to the Army Materiel Command; an organization that employs more than 50,000 in 149 locations worldwide to include 43 states and 38 countries. It is my sincere privilege to recognize his many accomplishments. I commend his superb service to the United States Army and this great Nation.

Lieutenant General Hack is a second-generation Army officer, the son of Colonel (Ret) and Mrs. Sidney Hack of Columbia, SC. He graduated from the Virginia Military Institute and was commissioned as a second lieutenant in the Ordnance Corps. Upon completion of the Ordnance Officer Basic Course, he was assigned to Fort Knox, KY, where he served as Platoon Leader and later Shop Officer for the 530th and 514th Maintenance Companies. He was then assigned to Schweinfurt, Germany, as Shop Officer of the 596th and 903rd Maintenance Company and served as Commander, 42nd Maintenance Company in Furth, Germany.

Following the Ordnance Officer Advanced Course, Lieutenant General Hack participated in the Training with Industry program at Sikorsky Aircraft Company in Stratford, CT, and was subsequently assigned to Rock Island Arsenal, IL, as a Materiel Management Staff Officer and later as Aide-de-Camp to the Commanding General, U.S. Army Armament Materiel Command.

After graduation from Command and General Staff College, Lieutenant General Hack was assigned to the 24th Infantry Division (Mechanized), Fort Stewart, GA, where he served as Materiel Officer and Support Operations Officer for the 724th Main Support Battalion, Executive Officer of the 24th Forward Support Battalion, and Chief, Division Materiel Management Center.

Following his Fort Stewart assignments, Lieutenant General Hack served as the U.S. Army Europe Deputy Chief of Staff, Logistics staff in Heidelberg, Germany, and then commanded the 705th Main Support Battalion, 5th Infantry Division (Mechanized) at Fort Polk, LA. After command, he was a staff officer at the Ordnance Center and School at Aberdeen Proving Ground, MD. After graduation from the U.S. Army War College, Lieutenant General Hack returned to 24 Infantry Division where he commanded the 24th Infantry Division Support Command. He then served as the Executive Officer to the Deputy Commanding General, U.S. Army Materiel Command. His subsequent assignments include: Assistant Division Commander for Support of the 4th Infantry Division (Mechanized), Fort Hood, TX; Commanding General, 13th Corps Support Command, Fort Hood, TX; and Commanding General of the 21st Theater Support Command, United States Army Europe, Germany.

Throughout his military career, Lieutenant General Hack has been a sterling example of leadership and professionalism. Special thanks must also be given to Lieutenant General Hack's wife, Rosanne, and their son, 1st Lieutenant Richard J. Hack. First Lieutenant Hack carries on the family tradition as the 3rd

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

generation to serve in our Armed Forces, and is currently serving in Iraq. Mr. Speaker, in closing, I would like to express my gratitude to Lieutenant General Hack for his service to our country. I call upon my colleagues to join me in applauding his past accomplishments and wishing him the best of luck in all future endeavors.

PERSONAL EXPLANATION

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. RAHALL. Mr. Speaker, I was unavoidably detained on official business on Monday, July 25, 2005. Had I been present, I would have voted in the following manner: Rollcall vote No. 417, "yea"; rollcall vote No. 418, "yea"; rollcall vote No. 419, "yea."

A PROCLAMATION THANKING MICHAEL SIMPSON FOR HIS SERVICE TO OUR COUNTRY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker, whereas, Michael Simpson has served the United States in Operation Iraqi Freedom as a member of the United States Army; and

Whereas, Michael Simpson is to be commended for the honor and bravery that he displayed while serving our Nation in this time of war; and

Whereas, Michael Simpson has demonstrated a commitment to meet challenges with enthusiasm, confidence, and outstanding service;

Therefore, I join with the family, friends and the entire 18th Congressional District of Ohio in thanking Michael Simpson of the United States Army for his service to our country. Your service has made us proud.

15TH ANNIVERSARY OF AMERICANS WITH DISABILITIES ACT

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Ms. BALDWIN. Mr. Speaker, I rise today to celebrate the 15th anniversary of the Americans with Disabilities Act, or the ADA. This landmark piece of legislation was the world's first comprehensive declaration of equality for people with disabilities, making it the most significant piece of civil rights legislation since the Civil Rights Act of 1964.

There is no doubt that the ADA has improved the lives of the 54 million Americans with disabilities, including 450,000 disabled adults in Wisconsin, and the evidence of this progress can be seen all around us. Thanks to the ADA, we have curb cuts, wheelchair lifts, Braille signs, accessible transit systems, and perhaps most important, the ADA has begun to change peoples' attitudes towards people with disabilities.

But as part of the recognition of the progress that has been made, it is important for us to remember why the ADA was needed in the first place. Prior to the ADA's passage, the isolation of and discrimination against people with disabilities was staggering. Many disabled Americans were not working, even though they wanted to have a job. Many did not finish high school, and many lived in poverty. The ADA established a comprehensive prohibition of discrimination on the basis of disability in the areas of employment, public accommodations, public services, transportation, and telecommunications.

So while I celebrate the ADA for the progress it has brought about, the fact remains that the promise of the ADA remains unfulfilled for far too many people. According to a 2004 survey done by the National Organization on Disability, only 35 percent of people with disabilities reported being employed full or part time; people with disabilities are three times more likely to live in poverty with household incomes below $15,000 than their non-disabled counterparts; and people with disabilities remain twice as likely to drop out of high school. And I fear that ongoing efforts to cut the Medicaid program and dismantle Social Security will threaten the wellbeing of many more people with disabilities.

I remain committed to the goals and promise of the ADA—equality and opportunity for all Americans, and I am delighted to reaffirm this commitment as we celebrate the ADA's 15th anniversary.

ON THE RETIREMENT OF DOCTOR PORFIRIO LOZANO

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. REYES. Mr. Speaker, I rise today to recognize Dr. Portirio Lozano, a dedicated member of the Department of Veterans Affairs, VA, community in El Paso, Texas.

Dr. Lozano has devoted many years of service to El Paso in many capacities. A distinguished pioneer of El Paso's medical community, Dr. Lozano was responsible for laying the groundwork of today's osteopathic medicine practitioners in West Texas, paving the way for the integration of Medical Doctors and Doctors of Osteopathic Medicine in El Paso's hospitals. His work performing compensation and pension examinations for El Paso's VA ensured that the dispensation of entitlements for our veterans occurred quickly and fairly.

Dr. Lozano's more than 20 years of service is especially important to me because my Congressional District in El Paso is home to nearly 60,000 veterans. These brave men and women have made tremendous sacrifices for our country, and Dr. Lozano has been steadfast in providing the best possible health care for our Nation's veterans.

Mr. Speaker, on behalf of the constituents of the 16th Congressional District and the veterans across America, I would like to thank Dr. Lozano for his selfless service to and advocacy for veterans in El Paso and the Nation.

THE 15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. VAN HOLLEN. Mr. Speaker, it is with great pleasure that I rise as we celebrate the fifteenth anniversary of the passage of the Americans with Disabilities Act.

Most Americans take for granted the ability to enter a restaurant, speak on the telephone, or apply for a job without fear of discrimination. But until the passage of the ADA, tens of millions of Americans with disabilities were denied these basic rights. Over the past decade and a half, the ADA has enabled people with disabilities to realize more fully their place in American society.

But the promise of the ADA remains unfulfilled. Only about one-third of people with disabilities are employed, and those with disabilities are three times more likely to live in poverty.

If we are to honor our commitment to equal rights, we must work tirelessly to open society and the workplace to all Americans. To that end, I sponsored legislation to fully fund the Individuals with Disabilities in Education Act and recently introduced the Federal Employees with Disabilities Protection Act.

Mr. Speaker, I am proud of what the ADA has accomplished so far. I encourage my colleagues to join me in working to honor its promise for all Americans.

OPERATION RED WINGS—AFGHANISTAN

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. SAXTON. Mr. Speaker, on June 28, 2005, a U.S. Military MH–47D Chinook helicopter was hit by enemy fire and crashed near Asadabad, Afghanistan, killing 16 special operations forces operators on board. These special operations forces were attempting to rescue a 4-man SEAL special reconnaissance element which had come under heavy enemy fire. Three members of this SEAL team were killed by enemy fire as they tried to evade a vastly superior enemy force.

The special operations forces were engaged in Operation Red Wings, an effort to defeat terrorists operating in Kunar province. The operation was part of a larger campaign by U.S. and Afghan forces to kill and capture fighters from hideouts in eastern Afghanistan.

On behalf the United States Congress and its people—I extend my sincerest condolences to the families of these brave Navy SEALs and Army Special Operations Aviators. They need to know that the prayers of a nation are with them at this most difficult time.

These men bravely and unselfishly answered the nation's call to defend freedom and protect America and its allies from terrorism. We want the families to know the deaths of their loved ones, their sons, brothers, husbands and fathers, will only strengthen our resolve for ultimate victory in the Global War on Terror.

I would now like to pay tribute to those that paid the ultimate price for our freedom.

Assigned to the Army's 3rd Battalion, 160th Special Operations Aviation Regiment (Airborne), Hunter Army Air Field, GA:

Staff Sgt. Shamus O. Goare, 29, of Danville, OH.

Chief Warrant Officer Corey J. Goodnature, 35, of Clarks Grove, MN.

Sgt. Kip A. Jacoby, 21, of Pompano Beach, FL.

Sgt. 1st Class Marcus V. Muralles, 33, of Shelbyville, IN.

Maj. Stephen C. Reich, 34, of Washington Depot, CN.

Sgt. 1st Class Michael L. Russell, 31, of Stafford, VA.

Chief Warrant Officer Chris J. Scherkenbach, 40, of Jacksonville, FL.

Assigned the Army's Headquarters and Headquarters Company, 160th Special Operations Aviation Regiment (Airborne), Fort Campbell, KY:

Master Sgt. James W. Ponder III, 36, of Franklin, TN.

Assigned to SEAL Team Ten, Virginia Beach, VA:

Chief Petty Officer Jacques J. Fontan, 36, of New Orleans, LA.

Lt. Cmdr. Erik S. Kristensen, 33, of San Diego, CA.

Petty Officer 1st Class Jeffery A. Lucas, 33, of Corbett, OR.

Petty Officer 1st Class Jeffrey S. Taylor, 30, of Midway, WV.

Lt. Michael M. McGreevy, Jr., 30, of Portville, NY.

Assigned to SEAL Delivery Vehicle Team One, Pearl Harbor, HI:

Senior Chief Petty Officer Daniel R. Healy, 36, of Exeter, NH.

Petty Officer 2nd Class James Suh, 28, of Deerfield Beach, FL.

Petty Officer 2nd Class Eric S. Patton, 22, of Boulder City, NV.

Petty Officer 2nd Class Matthew G. Axelson, 29, Cupertino, CA.

Lieutenant Michael P. Murphy, 29, Patchogue, NY.

Assigned to SEAL Delivery Vehicle Team Two, Virginia Beach, VA:

Petty Officer 2nd Class Danny P. Dietz, 25, Littleton, CO.

A grateful Nation salutes you.

A PROCLAMATION RECOGNIZING CHILLICOTHE'S KENWORTH PLANT

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker, whereas, Chillicothe's Kenworth Plant has provided a new milestone truck of which immense pride is accredited; and

Whereas, Chillicothe's Kenworth Plant has celebrated the completion of truck No. 250,000; and

Whereas, Chillicothe's Kenworth Plant employs approximately 1,700 people with great distinction.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in recognizing Chillicothe's Kenworth Plant for its impressive accomplishment.

PERSONAL EXPLANATION

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. GALLEGLY. Mr. Speaker, on Monday, July 25, 2005, I was unable to vote to suspend the rules and pass H.J. Res. 59, sense of Congress with respect to the establishment of an appropriate day for the commemoration of the women's suffragists (rollcall 417); H. Con. Res. 181, supporting the goals and ideals of National Life Insurance Awareness Month (rollcall 418); and H. Res. 376, expressing the sense of the House that the Federal Trade Commission should investigate the publication of the video game "Grand Theft Auto: San Andreas" to determine if the publisher intentionally deceived the Entertainment Software Ratings Board to avoid an "Adults-Only" rating (rollcall 419). Had I been present, I would have voted "yea" on all three measures.

RECOGNIZING DAN SCHAB, MICHIGAN TEACHER OF THE YEAR

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. ROGERS of Michigan. Mr. Speaker, today I rise to pay tribute to Dan Schab on his selection as Michigan's 2005–2006 Teacher of the Year.

Over his 24 year career, Dan Schab has helped to inspire and enlighten students across mid-Michigan. He has worked tirelessly to help his students explore the concept of mathematics and learn both the importance of education and the power of knowledge. In addition to his work in the Williamston School District and at Lansing Catholic Central High School, Mr. Schab has also served on the national level. He assisted in developing meaningful national education strategies through his work as an Einstein Fellow with the U.S. Senate Education Committee in 2003.

Dan Schab has been consistently recognized as one of the best teachers in America. Over his career, he has been recognized time and time again for his dedicated service to his school, his students, and his community. In 2000, he participated in the prestigious Toyota International Teacher Program. In 1987, he received the Excellence in Education Award from the Lansing Regional Chamber of Commerce, and in 1987 he was chosen as Lansing Catholic Central High School's First Teacher of the Year Professional Excellence Award Winner. But despite these many recognitions, Dan still believes that the work he does with his students is his greatest success. His dedication to teaching can be seen on a daily basis when he stays well after school hours to offer additional assistance or develop new ways to show his students the significance of math in daily life.

Mr. Speaker, education is the cornerstone of our economy and great teachers lay the foundation for greater prosperity. I wish to extend my gratitude to Dan Schab for his many years of service to his students. I ask my colleagues to join me in recognizing Mr. Schab for his years of dedication to teaching and his recent selection as Michigan's Teacher of the Year.

PERSONAL EXPLANATION

HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. WELDON of Florida. Mr. Speaker, due to the launch of the Space Shuttle Discovery early Tuesday morning, I was unable to be present for votes on Monday evening. Had I been present, please let the official RECORD reflect that I would have voted in favor of the following three bills: H.J. Res. 59—Sense of Congress with respect to the establishment of an appropriate day for the commemoration of the women suffragists; H. Con. Res. 181—Supporting the goals and ideals of National Life Insurance Awareness Month; and H. Res. 376—Expressing the sense of the House of Representatives that the Federal Trade Commission should investigate the publication of the video game "Grand Theft Auto: San Andreas".

A PROCLAMATION RECOGNIZING JAY BAIRD

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker, whereas, Jay Baird has provided outstanding service and contributions to Licking County serving two terms as County Commissioner; and

Whereas, Jay Baird has served the people of Licking County with dedication, diligence, and goodwill; and

Whereas, Jay Baird is an asset treating everyone with respect and a sense of priority, carrying out his duty to the people; and

Whereas, Jay Baird is greatly appreciated by all who have worked with him. He is to be commended for the help that he provided to the citizens of Pataskala and the residents of Licking County.

Therefore, I join with members of Congress and their staff in recognizing Jay Baird for his exceptional work and immense contributions, and wish him the very best in future endeavors.

CELEBRATING THE BIRTH OF MISS CAMPBELL GRACE HALME

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. WILSON of South Carolina. Mr. Speaker, today, I am happy to congratulate Tracy and Matthew Halme of Tampa, Florida, on the birth of their beautiful baby girl. Campbell Grace Halme was born on July 20, 2005, weighing 7 pounds, 7.5 ounces and measuring 21 inches long. Campbell has been born into a loving home, where she will be raised by parents who are devoted to her well-being and bright future. Her birth is a blessing.

COMMEMORATING THE 15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. OWENS. Mr. Speaker, the Americans with Disabilities Act of 1990 (ADA) profoundly improved the lives of approximately 54 million people with disabilities. Before the ADA, employers routinely denied promotions and jobs to individuals based not on skill, but on discriminatory stereotypes about disabilities. The lack of accommodations in the workplace shut people with disabilities out of the job force, resulting in astounding poverty rates. People with disabilities did not even have the legal tools to fight back because no law recognized their grievances.

On July 26, 1990, George H.W. Bush signed the ADA, transforming America into a more accessible country. The ADA gave people with disabilities the right to be accommodated in the workplace, a fair grievance process for discrimination suits, equal access to public services, transportation and telecommunications. People with disabilities are no longer unnecessarily shut away; they have the ability to counteract discriminatory practices and have a fair chance to become productive members of society.

I enthusiastically support the Hoyer Resolution commemorating the 15th Anniversary of the ADA, the largest civil rights achievement since the Civil Rights Act of 1964. By celebrating and recognizing the 15th Anniversary of the ADA, Congress honors the United States' commitment to equality and justice. I hope that by recommitting Congress to the full enforcement and support of the ADA, all members will work harder to reduce the still-high unemployment rate among people with disabilities with the capacity to work. I urge my colleagues to support this resolution that recognizes the enormous potential impact of this untapped workforce in our global economy.

TRIBUTE TO MRS. AMANDA PEACH SMITH

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor one of my most distinguished constituents, Amanda Peach Smith. Mrs. Smith, who everyone knows as Aunt Sam turned 100 years old today.

Aunt Sam moved to Philadelphia from Elloree, SC in 1925. She lived in West Philadelphia until 1931, when she moved to South Philly. In the 1950s, she returned to my part of the city, West Philadelphia.

Aunt Sam has a close and loving relationship with her community and with her God. She has been a member of the historic Union Baptist Church since 1927, shortly after her arrival in Philadelphia. A long time usher there, she was a part of the congregation that nurtured and supported Marion Anderson, Philadelphia's most famous opera singer.

Mr. Speaker, Mrs. Smith is known for her love of gardening and flowers. In so many ways, she has brought beauty and joy to all of us.

I know that all my colleagues will join me today in wishing her a happy 100th birthday.

SUPPORT FOR JUDGE JOHN ROBERTS

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. SHUSTER. Mr. Speaker, I would like to voice my strong support for the President's Supreme Court nominee Judge John Roberts. His personal qualifications are exemplary and are more than befitting for a Supreme Court Justice.

Judge Robert's educational record speaks for itself. He graduated Summa Cum Laude from Harvard in only 3 years and also received his law degree there with high honors. Additionally, he served as an editor of the Harvard Law Review.

I believe that Judge Roberts will be fair and non-partisan and serve America's highest court well. According to The National Journal, "John Roberts seems a good bet to be the kind of judge we should all want to have—all of us, that is, who are looking less for congenial ideologues than for professionals committed to the impartial application of the law."

Likewise, his personal integrity is unquestionable. For example, in 1995, Judge Roberts argued the case of Barry v. Little in which he represented a class of the neediest welfare recipients free of charge before the DC Court of Appeals.

Republicans and Democrats alike have also acknowledged Judge Roberts' outstanding character. Democratic lawyers Lloyd Cutler and Seth Waxman and former Republic White House Counsel C. Boyden Gray have cited his "unquestioned integrity and fairmindedness."

Mr. Speaker, it is clear that Judge Roberts offers everything we could ask for in a Supreme Court nominee. I therefore urge the Senate to hold fair and speedy hearings in order to fill this vacancy as soon as possible.

A PROCLAMATION CELEBRATING THE ACHIEVEMENTS OF AMBASSADOR ALBERT RAMDIN

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker, whereas, Ambassador Albert Ramdin is well prepared to serve as Assistant Secretary General of the Organization of American States during the 35th Regular Session of the General Assembly; and

Whereas, Ambassador Albert Ramdin has dedicated his life to public service having displayed his vast array of talents in multiple arenas such as Senior Adviser to the Minister of Trade and Industry of Suriname, Chairman and member of several national policy development committees including the "Establishment of the Investment Fund" and "Privatization of State Enterprises" committees, Adviser to the Minister of Foreign Affairs, the Minister of Finance of Suriname, and Suriname's nonresident Ambassador to Costa Rica, among other endeavors; and

Whereas, Ambassador Albert Ramdin has had an extensive history with the Organization of American States including chairing the Permanent Council and the Inter-American Council for Integral Development, and serving as Ambassador Extraordinary and Plenipotentiary and Permanent Representative; and

Whereas, Ambassador Albert Ramdin's distinguished involvement with the Caribbean Community has involved serving as Co-Chair of the Central America High Level Technical Committee and as Assistant Secretary-General for Foreign and Community Relations.

Therefore, I join with the family, friends, and colleagues of Ambassador Albert Ramdin to honor and congratulate him in his new position of Assistant Secretary General of the Organization of American States.

PERSONAL EXPLANATION

HON. TOM COLE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. COLE of Oklahoma. Mr. Speaker, on Monday, July 25, 2005, I was unavoidably detained on official business overseas.

I respectfully request that the CONGRESSIONAL RECORD reflect that had I been present and voting, I would have voted as follows: Rollcall No. 417: "Yes" (On motion to suspend the rules and agree to H.J. Res. 59); Rollcall No. 418: "Yes" (On motion to suspend the rules and agree to H. Con. Res. 181); and Rollcall No. 419: "Yes" (On motion to suspend the rules and agree to H. Res. 376).

15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

HON. WILLIAM J. JEFFERSON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. JEFFERSON. Mr. Speaker, fifteen years ago—on July 26, 1990—our great Nation made a promise to the disabled community that we have a moral obligation to keep. We said no to discrimination. We said no to sanctioned inequality. We said yes to inclusion and equality.

Today marks the 15th Anniversary of the enactment of the Americans with Disabilities Act (ADA), the most sweeping civil rights legislation since the Civil Rights Act.

I am immensely proud to have been a part of reauthorization efforts of this important legislation, and I will never forget all of the advocates for the disabled at the signing ceremony on the South Lawn at the White House,

This landmark law sent an unmistakable message: It is unacceptable to discriminate against someone simply because they have a disability. Moreover, it is illegal—in employment, in transportation, in public accommodations, and in telecommunications.

The ADA recognized that the disabled belong to the American family; that a disability need not be disabling. Disabled Americans can share in all our Nation has to offer—equality of opportunity, full participation, independent living, and economic self-sufficiency.

Over the last 15 years, the ADA has allowed hundreds of thousands of Americans to join the workforce, attend school, travel, or drive a car—many for the first time in their lives. The ramps, curb cuts, Braille signs, and captioned television programs that were once novel are now ubiquitous.

However, the first 15 years of the ADA have not been without challenge. Too often, the intent of the ADA has been misconstrued by our courts, which have given it a narrow construction that its authors never intended.

To date, people with diabetes, heart conditions, cancer and mental illnesses have had their ADA claims kicked out of court because, with improvements in medication, they are considered too functional to be considered disabled.

Together, these decisions represent a dangerous chipping away at the foundation of equality which we poured 15 years ago when the ADA was enacted. And they are a reminder as we commemorate this 15th Anniversary that our work is not done.

This is clearly not what Congress intended when it passed the ADA and the first President Bush signed it into law. We intended the law to be given a broad construction, not a narrow one.

Today, let us renew our commitment to the principles and spirit of the ADA—a law that befits our great Nation, which stands for liberty and freedom. Today, let's commit to keep the promise we made when we enacted the ADA, because while its promise remains unfulfilled, it still is within reach.

Thus, I join my Congressional colleagues and demand that we commit ourselves to expanding opportunities for individuals with disabilities and all Americans. Only then will we live up to the ideals of equality and opportunity.

RECOGNITION OF PETER DERBY

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. TAYLOR of North Carolina. Mr. Speaker, staffers do not often receive proper recognition for the hard work they do in government for either Congress or the agencies. Many of us would like to thank one of those deserving of such recognition. That person is Peter Derby, the Managing Executive for Operations and Management at the Securities and Exchange Commission.

Mr. Derby has announced that he will leave the SEC at the end of July. He will be leaving a legacy of hard work and accomplishment at that agency. Chairman William Donaldson praised Mr. Derby thusly: "Peter has played a critical role as a trusted Member of our senior management team during a critical period at the Commission. He was instrumental in increasing the operational efficiency and effectiveness at the Commission and served with distinction and integrity. Peter will leave a strong and lasting legacy at the Commission."

Prior to joining the SEC, Mr. Derby was involved in a wide array of business and public service ventures which left him well prepared to take over a position of such importance. Peter served as an elected member of the Board of Trustees of the Village of Irvington-on-Hudson, NY. Derby spent a decade in Russia, where at the forefront of democratizing that nation's markets and banking infrastructure. He participated in the founding of DialogBank in 1990, the first private Russian bank to receive an international banking license. He moved rapidly through the ranks and was named Chairman of the Board of this institution in 1997. In addition, Derby founded the first Russian investment firm, Troika Dialog. Prior to Derby's time in Russia, he was a Corporate Finance Officer at National Westminster Bank from 1985–1990 and an Auditor at Chase-Manhattan Bank.

Mr. Derby worked seamlessly with Chairman Donaldson to repair the damaged image of our Nation's corporations and financial markets. In addition to improving the overall efficiency of SEC operations, Derby oversaw the creation of the Risk Management Program to create a more proactive posture. He also produced the first-ever audited financial statements of the SEC as well as leading the development of an implementation program for aligning facilities, technology and organizational systems with the agency's strategic themes.

Mr. Speaker, I know that my colleagues will join me in giving thanks to Peter Derby for his service to our Nation in a time of challenge. It is reassuring to the United States to know that there are people who will give time from their lives to help our country.

A PROCLAMATION RECOGNIZING THE KENYA CANNING COMMITTEE UNDER THE DIRECTION OF KEITH COPE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker, whereas, Keith Cope and the congregation of Leesville Faith Community Chapel began a ministry for the 1,000 members of Pastor John Okinda's church in Migori, Kenya; and

Whereas, the Kenya Canning Committee is committed to collecting two separate shipments of 30,000 jars with the purpose of teaching the Kenyan congregation to properly store food through canning to reduce the repercussions of malnutrition and starvation; and

Whereas, the Kenya Canning Committee has also raised $45,000 to supply the congregation with a tractor and are planning to raise funds to purchase a water tank all to aid in their quest to end starvation in Migori, Kenya; and

Whereas, previous shipments enabled Pastor Okinda's members to successfully can food for the first time in June, 2005.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating the Kenya Canning Committee under the direction of Keith Cope for their outstanding accomplishments and best wishes for all their future endeavors.

PERSONAL EXPLANATION

HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. TIBERI. Mr. Speaker, on Monday July 25, 2005, I was delayed in returning to Washington, DC from Columbus, OH due to inclement weather. As a result, I was unable to record a vote on rollcall No. 41–H.J. Res. 59, No. 418–H. Con. Res. 181, and No. 419–H. Res. 376. I support these measures and had I been present, I would have voted "yea" on rollcall Nos. 417, 418 and 419.

IN MEMORY OF SPECIALIST MICHAEL R. HAYES

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. SESSIONS. Mr. Speaker, I rise today to honor U.S. Army Specialist Michael R. Hayes, an American hero who lost his life in defense of liberty and freedom. He made the ultimate sacrifice so that others might know freedom, and I am humbled by his bravery and selflessness.

Spc. Michael Hayes was killed on June 14, 2005 when a rocket-propelled grenade hit his Humvee while he and four other Marines were providing security around a suspected explosive device near Baghdad. He was 29 years old. Spc. Hayes was assigned to the 617th Military Police Company, Kentucky Army National Guard at Richmond, KY. In addition to his family, fiancee and country, Spc. Hayes loved soccer. He founded the girls' soccer program at Butler County High School of Kentucky six years ago and was a devoted coach. He took this love from the soccer fields to the streets of Iraq where he took particular pride in seeing the children attend their newly built or refurbished schools. He wrote often of the Iraqi children and how their smiles brought him comfort. His leadership, dedication and enthusiasm will be missed.

He is survived by his mother, Barkley Hayes, fiancee, Melissa Allen, sister, Spc. Melissa Stewart, and brother, Spc. James Hayes, both of whom serve in the 617th Military Police Company.

I want to thank his family for raising such a fine man. As the father of two sons, I know their sacrifice is indescribable. Spc. Hayes leaves behind a legacy marked by courage, integrity and character. It is an honor and a privilege to represent his family in Congress. May God bless them, and may I convey to them the many thanks of a grateful Nation.

PERSONAL EXPLANATION

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, on July 25, I was detained in Florida due to a doctor's appointment and as a result, missed the day's votes. I ask that my absence be excused and the CONGRESSIONAL RECORD shows that had I been present: for rollcall No. 417—the motion to suspend the rules and pass H. J. Res. 59, I would have voted "yea"; for rollcall No. 418—the motion to suspend the rules and pass H. Con. Res. 181, I would have voted "yea"; and for rollcall No. 419—the motion to suspend the rules and pass H. Res. 376, I would have voted "yea."

THE STAKES IN CAFTA

HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mrs. BIGGERT. Mr. Speaker, I submit the following article for the RECORD:

[From the Washington Post, July 26, 2005]

THE STAKES IN CAFTA

The House is getting ready to vote on the Central American Free Trade Agreement (CAFTA), a deal that would bind the five nations of Central America plus the Dominican Republic to the U.S. economy. From a commercial standpoint, it's curious that most Democrats in the House resist the agreement: 80 percent of Central American exports already enter the United States without tariffs, so the main effect of the deal will be to open the region to U.S. products. But the political argument for CAFTA is at least as compelling. While the United States has been focusing on terrorism, a new challenge has been brewing in its own hemisphere. House members should consider this challenge before voting to slam the door on Central America's pro-American leaders.

For much of the post-Cold War period, U.S. anxieties in Latin America seemed to be fading. The disintegration of the Soviet Union left Cuba's Fidel Castro without subsidies, undermining his power to buy influence in the region. The peace process in Central America succeeded, ending leftist insurgences in El Salvador and Guatemala and leading to elections in Nicaragua that removed its Marxist leadership. Democracy already had displaced often populist dictatorships across South America; in Mexico, a pro-American, pro-market presidential candidate succeeded against the long-ruling and traditionally leftist Institutional Revolutionary Party. The remaining U.S. problem in Latin America was the drug war. Although the cartels were rich and ruthless, they were not trying to rally Latin Americans behind an anti-Yanqui banner.

In the past few years, however, an attempt has been made to revive the political challenge once represented by Mr. Castro. It centers on Venezuela's Hugo Chavez, who combines Castroite rhetoric with the financial clout of Venezuelan oil. Mr. Chavez has spread his money around the region, sponsoring anti-American and anti-democrative movements and promoting alternatives to U.S. initiatives. To counter the U.S. trade agenda, for example, he has put forward a "Bolivarian Alternative." This has given critics of the United States something to advocate. El Nuevo Diario, a Nicaraguan newspaper that is critical of CAFTA, praised the Bolivarian Alternative recently, asserting that "America is for the Americans, not for the North Americans." In Costa Rica critics of CAFTA who draw inspiration from Mr. Chavez have made no secret of the fact that they oppose the deal because they oppose the United States.

Most House Democrats don't want to hear this; they claim that CAFTA is opposed by "pro-poor" groups in the region. But this claim is troubling on two levels. First, CAFTA would actually help the poor: It would create 300,000 new jobs in shoes, textiles and apparel; it would create a new mechanism for enforcing labor rights; and a World Bank study has found that the vast majority of poor families in the region would gain from the deal. But second, the defeat of CAFTA would help not anti-poverty movements but anti-American demagogues, starting with Mr. Chavez. For them, the retreat of the United States from partnership with Central America would be a major victory.

A PROCLAMATION RECOGNIZING CAPITOL POLICE OFFICER KEITH D. ATKINS

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker, whereas, Officer Keith D. Atkins is an exceptional individual worthy of merit and recognition; and

Whereas, Officer Keith D. Atkins has acted with graciousness and selflessness; and

Whereas, Officer Keith D. Atkins should be commended for his excellence, for his leadership and integrity, and for his ongoing efforts to affect other people's lives in a positive and in a changing way.

Therefore, I join with the family whose time was enhanced by Officer Keith D. Atkins' personal tour of the Capitol, which was beyond his realm of duty, and for his accommodating and courteous attitude while assisting them throughout their day at the Nation's Capitol.

15TH ANNIVERSARY OF AMERICANS WITH DISABILITIES ACT

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. CARDIN. Mr. Speaker, today we celebrate the 15th anniversary of the signing of the American with Disabilities Act (ADA). The ADA extended landmark civil rights protections to an estimated 43 million disabled Americans, which is roughly 1 out of every 7 Americans. It established a comprehensive prohibition of discrimination on the basis of disability in the areas of employment, public services, transportation, and telecommunications.

The ADA seeks to guarantee that every American should have the right to live independently and fully participate in all aspects of our society. The ADA has had its greatest successes in improving physical accessibility, transportation and communications. The ADA has also begun to change society's attitudes toward people with disabilities.

Despite this impressive progress, the promise of the ADA unfortunately remains unfilled for too many disabled Americans. In the area of employment, for example, today only 35 percent of people of working age who have a disability are employed, compared to 78 percent of people without disabilities. Federal courts have also issued rulings interpreting the ADA whereby individuals may be considered too disabled by an employer to get a job, but not disabled enough by the courts to be protected by the ADA. This violates the spirit and intent of the ADA, which was designed to protect employees from discrimination based on real or perceived impairment. Congress should take action to correct these court decisions and strengthen the ADA.

As a member of the House Ways and Means Committee, I was pleased that in 1999 Congress enacted the Ticket to Work Act, which provides Americans receiving disability benefits with greater access to vocational rehabilitation services. This initiative provides tickets to recipients of both Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) that can be used to purchase rehabilitation, employment and other supportive services designed to help them secure and maintain a job. Payments to providers of these services are based on the success individuals using the tickets have in overcoming barriers and ultimately in becoming employed.

The Ticket to Work Act also created state options to eliminate the dilemma faced by many individuals receiving disability benefits—choosing between work and health insurance coverage. The Ticket to Work Act allows States to adopt a Medicaid "buy-in" program to permit individuals to maintain Medicaid coverage while still working. Finally, the measure extended Medicare Part A coverage to working SSDI beneficiaries for a total of 8½ years—4 years beyond the coverage previously provided by Medicare.

As our Nation celebrates the 15th anniversary of the ADA, let us rededicate ourselves to carry out the commitment of that historic legislation.

PERSONAL EXPLANATION

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. ORTIZ. Mr. Speaker, due to important congressional business, I was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated below: rollcall No. 417: yes; rollcall No. 418: yes; and rollcall No. 419: yes.

CONGRATULATIONS TO TOM CLEVELAND

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. BURGESS. Mr. Speaker, I rise today to congratulate the outstanding performance of Officer Tom Cleveland at the World Police and Fire Games in Quebec City, Canada.

The World Police and Fire Games, the second largest international sporting event, has been a longstanding tradition for Law Enforcement Officers and Firefighters in several countries throughout the world. This international event takes place every other year as a chance for them to showcase their athletic abilities.

This year, Tom's determination and drive led him to be one of the best among the 10,000 competitors from 51 countries worldwide. He finished 3rd in the 400 Int. Hurdles, 5th in the 110 High Hurdles and 12th in the Toughest Competitor Alive competition.

I am proud to recognize Officer Tom Cleveland, a fine citizen and athlete. We are proud of his accomplishments and to have him represent and serve the North Richland Hills Community, the 26th District of Texas, and our great Nation.

A PROCLAMATION HONORING JIM CARNES ON THE OCCASION OF HIS RETIREMENT FROM THE OHIO DEPARTMENT OF NATURAL RESOURCES

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker, whereas, Jim Carnes is retiring from the Ohio Department of Natural Resources after years of exemplary service; and

Whereas, Jim Carnes served the people of the State of Ohio as a State Senator from 1995 until 2004 representing the former twentieth Senate district, having over forty pieces of legislation passed into law during his terms in office; and

Whereas, Jim Carnes has been among the most well-liked and well-respected men, noted for his energetic spirit and dedication to his job; and

Whereas, Jim Carnes will be deeply missed by all who have had the privilege to work with him.

Therefore, I join with his fellow colleagues, family, and friends in thanking Jim Carnes for his service to the State of Ohio and wish him the very best on the occasion of his retirement.

PERSONAL EXPLANATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. SHAYS. Mr. Speaker, on July 25, I was returning to Washington from an oversight trip in Iraq and, therefore, missed three recorded votes.

I take my voting responsibility very seriously and would like the CONGRESSIONAL RECORD to reflect that, had I been present, I would have voted yes on recorded vote No. 417, yes on recorded vote No. 418, and yes on recorded vote No. 419.

TRIBUTE TO MAXINE FREEMYER—THE PERFECT OLDER AMERICAN

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mrs. MUSGRAVE. Mr. Speaker, I rise today to honor Maxine Freemyer. Maxine Freemyer is the perfect example of a successful older American. At 93 years young, she refuses to allow her advancing age, failing eyesight or other health problems get her down. She makes every day count.

As a long-standing volunteer at the Bent County HealthCare Center, she has dedicated the past 25 years to helping the elderly. Some of the duties she has willingly performed include serving snacks each day, communicating with family and friends on their behalf, and just spending time listening to the residents reminisce about the past.

She has received several prestigious awards for her volunteerism, including Colorado Volunteer of the Year and the Colorado Cares award, presented by Governor Bill Owens. Serving others is her passion, which helps keep her active and spry.

Maxine Freemyer's gardening abilities are second to none. Her hard work and special skill in tending to her flowers are showcased in a dazzling display of color from early spring until late fall. Her magnificent garden is a gift to her neighbors and community.

Caring, compassionate, hard working and dedicated are all words that describe Maxine. Her zest for life is inspiring to young and old alike. I am proud to represent such an individual in the U.S. Congress.

IN RECOGNITION OF 20 YEARS OF SERVICE BY PASTOR BERNARD YATES TO THE ZION HOPE PRIMITIVE BAPTIST CHURCH

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. MILLER of Florida. Mr. Speaker, it is a great honor for me to rise today to extend my congratulations to Pastor Bernard Yates for having served as the pastor to the Zion Hope Baptist Church in my district for 20 years.

Since 1985, Pastor Yates has led the growth of the Zion Hope congregation from approximately 300 to over 2,000 members, with three Sunday services and a major midweek service as well. Pastor Yates initiated the Zion Hope Centre for Training and Biblical Study, founded the Hope Christian Academy, and launched the Young-at-Heart ministry. These three ministries are just a few examples of the many ministries that he has helped start within the church.

Pastor Yates is joined in much of his work by Vonda Yates, his wife of 23 years. Together, they have worked diligently through Bible studies and writing to help families live Godly lives. Vonda is known for her work with women's conferences as well, while Bernard is called upon to speak at men's conferences and retreats across the Nation.

The selfless contributions of this man are not limited to just one church; Pastor Yates has also been a civic leader, dedicating time to the Boys and Girls Club, the Fellowship of Christian Athletics, a special community advisory board for the county commissioners, advisory for the Escambia County Sheriffs Office, and the Escambia County School District. His wisdom is regarded just as highly at a meeting table as it is at the pulpit.

Mr. Speaker, on behalf of the United States Congress, I would like to offer my sincere congratulations to a man who could serve as a role model to us all. A deep sense of personal service to a congregation for 20 years is something to truly be admired, and I am thankful for his dedication to the Zion Hope Primitive Baptist Church.

NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS OF 2005

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. RAHALL. Mr. Speaker, today I am introducing legislation to reauthorize two important aspects of the National Historic Preservation Act. Specifically, my legislation will extend authorization for deposits into the Historic Preservation Fund through 2011 and will permanently authorize funding for the Advisory Council on Historic Preservation. In effect, we are extending authority for the money and expertise necessary for the Historic Preservation Act to continue fulfilling its purpose.

Allowing the Act to continue fulfilling its purpose is critical. As Americans, we revere our past. The individuals, cultures, institutions and events which precede our arrival at this place and time provide insight not only into who we are today, but also who we aspire to be tomorrow. This is true for the brief 229-year history of this nation, the 513-year history of Europeans in North America, and it is especially true for the tens of thousands of years of Native American history on this land.

Preserving this rich tapestry of cultures and traditions requires coordination of federal, state, local and private efforts. The centerpiece of federal historic preservation is the National Historic Preservation Act. Enacted in 1966, the Act provides an array of tools, as well as a funding source, which are central to preserving that which came before us.

One of those tools is the Advisory Council on Historic Preservation which has two important roles under the Act. One is to assist the Secretary of the Interior in cataloguing and preserving known historic resources through the National Register of Historic Places and other programs. In addition, the Council assists all federal agencies in avoiding damaging or destroying historic resources through consultation under the Act. The Council is not empowered to control agency decision-making or federal property.

Last reauthorized for five years in 2000, the Council is made up of Agency heads and Presidential appointees with diverse backgrounds. My legislation recognizes the critical importance of the Council by providing it permanent authorization while also making several technical changes in the Council's makeup and operation.

In addition, this bill will extend authorization for deposits into the Historic Preservation Fund for the next six years. The Fund is administered by the National Park Service and provides matching grants to states and territories for a variety of historic preservation programs including statewide historic preservation surveys and preservation plans. The Fund also provides matching grants to Indian Tribes, Alaskan Natives, Native Hawaiians and Historically Black Colleges and Universities for cultural heritage projects and the preservation of historic structures.

The source for the Historic Preservation Fund is a small percentage of the enormous revenues generated by oil and gas development in the Outer Continental Shelf. This legislation would allow that funding to continue flowing into the Fund through 2011.

Mr. Speaker, it is my hope that we can move forward quickly on this legislation to allow the Council and the Fund to continue working. This legislation is nearly identical to a companion bill in the Senate as well as legislation introduced in the previous Congress which received the support of the Advisory Council, the National Park Service, and the Historic Preservation Community.

These are vital programs serving to preserve and protect the story of American and its people.

A PROCLAMATION HONORING ROMAN BUHLER AND MARY JABLONICKY BUHLER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker, whereas, Roman and Mary Buhler have dedicated their lives to each other; and

Whereas, Roman and Mary Buhler have shown the love and commitment necessary to live a long and beautiful life together; and

Whereas, Roman and Mary Buhler have chosen share their special day with friends and family.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in congratulating Roman and Mary Buhler on the occasion of their marriage.

COMMENDING THE LAUNCH OF THE SPACE SHUTTLE "DISCOVERY"

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. HENSARLING. Mr. Speaker, today is a truly momentous day in the history of our space program. The liftoff of the Space Shuttle *Discovery* is significant achievement for the National Aeronautics and Space Administration (NASA). It is also a solemn tribute to the astronauts lost in last shuttle mission and the East Texans who helped in the wake of that tragedy.

Two years ago, on a quiet Saturday morning, millions of Americans witnessed the tragic loss of the Space Shuttle *Columbia* and its seven heroic crewmembers in the skies over East Texas. While we will never be able to bring back the crew of Space Shuttle *Columbia*, I am pleased to see our space program reaching for the stars once more by launching the first shuttle since that terrible disaster.

The crew of the *Discovery*, and their support team at NASA, have been working hard to get our shuttle program back on track. To increase the safety of the crew, the scientists at NASA have made multiple improvements on the shuttle. The *Columbia* accident investigation board made 15 recommendations that have been implemented for this flight, as well as 29 other improvements to launch, orbit, and reentry procedures. Commander Eileen Collins and her crew, James Kelly, Andrew Thomas, Wendy Lawrence, Charles Camarda, Stephen Robinson, and Soichi Noguchi are piloting the safest, most sophisticated, and most reliable spacecraft ever built.

This successful lift off, NASA's 114th shuttle mission, is a tremendous event. It is important that we remember the dangerous nature of space flight and exploration. As President Ronald Reagan said after the loss of the Space Shuttle *Challenger*, "We've grown used to the idea of space, and perhaps we forget that we've only just begun."

This week, we congratulate the scientists and technicians who are upholding the greatest traditions of America's space program. We recognize the spirit and courage of the space shuttle's crew. We thank the countless number of East Texans that helped in the search for evidence and answers in the wake of the Space Shuttle *Columbia* tragedy. And finally, we honor the memory of those brave men and women who have gone before in the name of exploration and in the quest for discovery.

HONORING KEVIN BRAGG ON THE COMPLETION OF HIS INTERNSHIP

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. GORDON. Mr. Speaker, I rise today to recognize the many contributions Kevin Bragg has made while interning in my Washington, DC, office. Kevin has been a wonderful addition to the office and a great servant to the constituents of Tennessee's Sixth Congressional District.

But Kevin must return to Murfreesboro, the hometown we share. This fall, Kevin will begin his senior year at the University of Tennessee, where he is a political science major and a member of the Pi Sigma Alpha honor society.

During his internship, Kevin won over the entire staff with his ever-present eagerness and genuine interest in public affairs. He has attended briefings, addressed constituent concerns and served as a friendly and informative tour guide of the U.S. Capitol, providing visitors from Middle Tennessee with a personalized look at a national treasure.

I hope Kevin has enjoyed his internship as much as my staff and I have enjoyed his presence in the office. I wish him all the best in the future.

THE 15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. RANGEL. Mr. Speaker, I rise to recognize the importance of the fifteenth anniversary of the passage of the Americans with Disabilities Act, the ADA. This legislation has played a vital role in ensuring that all Americans are granted the opportunity to fully participate in all aspects of society.

With the bipartisan support of this body and the Senate, President George H.W. Bush signed the Americans with Disabilities Act as a mechanism to ensure that "every man, woman and child with a disability can now pass through once closed doors into a bright new era of equality, independence, and freedom."

Thanks to the ADA, we have taken significant steps towards the achievement of that goal. The Act required educational facilities to become accessible to those in wheelchairs, opening the doors to learning and opportunity for thousands of Americans. It ensured the availability of transit, entertainment, and communications systems to the hearing-impaired and the blind, guaranteeing them an opportunity to participate in cultural events, media events, and public engagements.

The ADA has substantially moved this country forward in terms of our relationship with a group of Americans who had once been unfairly excluded for their physical abilities. We have taken important steps to increase the opportunities and lower the barriers to the equal and just treatment of all Americans. We have opened doors through the ADA for the full participation and contribution of individuals to our society.

Despite the efforts of the last decade and a half, we still have further to go. We still have more work to do to assist our citizens with disabilities. Today, approximately two-thirds of people with disabilities of working age are still unemployed. While many factors influence the high rate of unemployment for the disabled, a third of non-workers with disabilities reported their need for some type of accommodation as a major factor in their unemployment. An interesting aspect of this is their requests are minor accommodations— elevators, closer accessible parking, and special worksite features modifications that are not particularly expensive to make, especially with advance planning.

Likewise, proposed cuts in housing, assistance technology, training, and other assistance programs threaten to undo many of the advances we have made in the last 15 years to help those with disabilities.

Whether it is the costs involved or the unwillingness to reach out to this brave segment of our national workforce, people with disabilities are still discouraged from opening some doors of opportunity. They still need more assistance in their fight for justice.

I encourage the Members of this chamber, as well as citizens and employers across the country, to pursue reinvigorated efforts at ensuring that every man, woman, and child is afforded an opportunity to success. Let us find ways to help every citizen build a better life as we create the conditions for a better America.

THANK YOU, BONNIE RINALDI

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. PORTER. Mr. Speaker, I rise today to recognize the contributions of Bonnie Rinaldi. Bonnie recently retired from the position of Henderson's Assistant City Manager on July 14th, and will be sorely missed by all.

Bonnie's public service spanned almost 30 years, starting as an intern in North Las Vegas. Since her intern days, Bonnie served in many aspects of city government, including assistant city manager for Clark County, before accepting the position of Assistant City Manager for Henderson in 1999.

I have known Bonnie for many years and consider her a good friend. I have also tremendously enjoyed working with her. Her intelligence and personality made her a strong and effective leader throughout Southern Nevada. Those who worked with Bonnie sometimes referred to her as "the little engine that could," skipping from meeting to meeting without missing a beat. Bonnie's life philosophy is that, with some determination and hard work, anything could be accomplished—a quality that will continue to take her far in life.

I wish Bonnie the best of luck in her retirement. It will be hard to imagine the City of Henderson without her.

HONORING CHRISTOPHER TATUM ON THE COMPLETION OF HIS INTERNSHIP

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. GORDON. Mr. Speaker, I rise today to thank Christopher Tatum for his service during his internship this summer. Chris is a resident of Gallatin, Tennessee, and he has been a tremendous help to my constituents in Tennessee's Sixth Congressional District.

Chris is returning home to prepare for his junior year at the University of Mississippi. As he finishes his experience in Washington, he already is looking toward the next adventure—studying in Italy during the fall semester.

Chris's remarkable attitude and eagerness have served him well as he has experienced the many facets of Congress first-hand. He has been very helpful in answering constituent concerns, guiding visitors through the U.S. Capitol and assisting me and my staff with countless projects.

I hope Chris has enjoyed this learning experience as much as we have enjoyed having him in the office. I wish him all the best in his future endeavors.

THE STRUGGLES OF DAMU SMITH

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. RANGEL. Mr. Speaker, I rise to bring to the attention and consciousness of this body the important and significant battles of a courageous warrior for justice, peace, and equality, Mr. Damu Smith. Damu has been a constant and consistent champion of peace and continues his fight for love and justice despite his struggle with cancer. I applaud this simple man, this mighty activist, and this concerned citizen of the world for his tireless struggle to make the world a better place. I encourage him to continue his fight, knowing that others are aware of his struggle and continue to need his leadership.

A passionate believer in peace and global peace movements, Damu has fought to raise the awareness of the world community of the ugliness of apartheid in South America, the brutality of government injustice and gun violence, the need for environmental awareness and justice, and the international fights against racism, injustice, and discrimination. He has advocated peace instead of nuclear arms. He has sought reconciliation rather than violence. He has battled intolerance in lieu of understanding.

A mere perusal of his life story would demonstrate to any of us that Damu has been a consistent champion of peace and justice wherever hatred and injustice reside. His humanitarianism knows few limits and his sense of person responsibility is not bound by social expectations.

Damu, this champion of justice and peace, nonetheless is currently waging a battle with cancer. I wish him well in his persistent fight against the disease.

I hope the struggle of Damu Smith does not go unnoticed by my colleagues in this body. I hope we see the challenges and struggles that face our relentless pursuers of peace, justice, and equality. I hope we take steps to prevent Damu's struggle from being repeated on future generations of Americans. While he is a true fighter to the core, Damu's struggle has not been easy. Yet he continues to persist in his advocacy of peace and justice.

What is more disturbing about Damu's case is that there appears to be both genetic and environmental causes behind his disease: A family history and a location in "Cancer Alley"—a small section of Louisiana with a number of industrial plants and facilities and high rates of cancer, lung conditions, and skin irritations. It would seem that the Congress could do more to address whether there is a correlation between these incidences and the industrial population of the community.

I nonetheless praise the continued struggle of this fighter for justice and warrior for peace. I submit the following article written by Shantella Y. Sherman of the Afro-American highlighting Damu's struggle and his fight. I thank Ms. Sherman for bringing this to the Nation's attention.

FAITH AND DELIVERANCE: DAMU SMITH WAGES WAR ON CANCER

Damu Smith's name bounces around rooms with the same quiet reverence often reserved for more popularly known figures: Nelson Mandela or Desmond Tutu. Sometimes, there's a knowing smile or two. Smith is a kind of modern-day superstar among activists: fierce, passionate, courageous, God-fearing. His celebrity has reached far and beyond Washington, D.C., into the far corners of the Earth. Where there is any semblance of injustice, rest assured, Damu Smith is planning strategic countermoves.

Smith's activism rallied civic consciousness against apartheid in South Africa, gun violence, police brutality and government injustice. He worked to effect peace and a freeze on nuclear weapons, and advocated for environmental justice, both in America and abroad. In fact, Smith was in Palestine, heading up a delegation of protest against unfair treatment suffered by Palestinians at the hands of the Israeli government, when he collapsed, subsequently being diagnosed with colon cancer.

As a result, Smith has always appeared larger than life, particularly to this reporter, who met him more than 20 years ago as a pre-teen. Interviewing Smith became a challenge that 15 years of reporting experience couldn't overcome. I was nervous. I wasn't sure what to expect, so I stood outside his apartment door for a solid five minutes, willing each knock to become just a little more audible to him on the other side. Finally, I entered at his behest. "Come on in, the door is open."

Once I'd taken off my shoes and peered around the corner, I was able to get a full glance at Damu. His eyes were bright, his skin flawless and his smile brighter than ever. He bustled around his apartment with a small contingent of associates: his friend and doctor of more than 30 years, Jewel L. Crawford; a friend from St. Louis; and others who came and went in fluid motions.

There is a handwritten note attached to a hand-carved mirror, one of the many African treasures decorating Damu's home. Above a litany of daily affirmations, is written, "With God All Things Are Possible." All along, Damu answered questions and telephone calls, gave directions to Dulles International Airport, passed out fresh juice and (laughed).

Dr. Crawford answered my question and confusion without me asking: "Damu approached his disease the same as he does everything in his life. He's a fighter, and he's getting stronger because of his faith."

Crawford would know. She was one of the first people Smith spoke with following his hospital admission. While Crawford says she cannot be certain of how cancer struck Smith, she is certain he will beat it.

"Damu has a family predisposition to this type of cancer: His paternal grandmother and his father both had it. It's hard to put a definite on it, because even though Damu is a vegetarian, never smoked [and] never drank, he was in one of the most toxic areas on the planet for an extended period of time. Being in Louisiana all that time could have been the element that pushed him over into being affected," said Crawford.

The area Crawford referred to is known as "Cancer Alley," a small section of Convent, LA., where a smorgasbord of industrial plant run-off brought on cancers, lung conditions and skin irritations among residents. In the early 1990s, Smith led an all-out campaign against the Japanese owners of the Shintech plants, and lived with some of the area's residents.

Smith himself agrees that living in a toxic environment could be the culprit in the development of cancers, including his own, but says the family factor should not be overlooked.

"The air we breathe, the water we drink, the foods we eat and the homes in which we live are toxic. This is a very toxic environment we live in this millennium. I live a healthy lifestyle: I don't drink, don't smoke, never did an illegal drug. I'm a vegetarian and I eat organic food. And yet, I end up with colon cancer. Why? Could be a number of things," he surmised.

"Could be the toxic environment, could be the fact that within my family there's a genetic marker of colon cancer. My father died of it. My grandmother, his mother, had it. She didn't die from it, but she had it. So, according to conventional medical doctors, I'm at greater risk because I have this family marker," said Smith.

Though he says he should have seen a doctor regularly, like most minorities, he didn't make it a top priority, especially since he was so health-conscious.

"I should have been at the doctor every year getting checked. I wasn't. I have to be honest with you, I used to think about going to get a checkup and I'd say to myself, 'I don't want to find out anything bad. I just can't imagine anything bad happening to me because I eat so well.' I used to say that stuff. So, this is one of the things I want to be a poster child for: getting screened and checked for colon cancer," said Smith.

But how does a poster child maintain in the fight for his life? According to Smith, with an unwavering conviction in God.

"First of all, I have to have faith in God—in a higher power, greater than us. And so, that's the most important thing to me, having faith in God and knowing that he can deliver me from this," said Smith.

"I was told by one of the doctors when I was initially diagnosed at the end of March that people in my condition, statistically, have only three to six months to live. And he made it a point of saying to me twice during our conversation, 'Don't hesitate about anything.' That was Easter Sunday morning of this year. I had to really reflect on that."

Doctors also informed Smith that his liver was three-quarters full of tumors—a condition that effectively made the illness terminal. After going through what he called "about 30 minutes of anguish and seeing my whole life race in front of me like a video clip," Smith announced he was fighting it.

"There are a lot of people out there, when they hear that, allegedly, they have only three months, six months, a few days or a few weeks to live, they plan their lives accordingly. I plan to be here for several more years, and I'm thinking in that direction," said Smith.

The reality of death is all the more gripping because he lost a close friend to colon cancer around Christmas. Unlike his friend, who went in for surgery and passed a few days later without a moment to prepare, Smith said he is grateful for the opportunity to fight for his life.

"Here I am. I've been alive three months since I was told, and I'm feeling great right now. Those tumors are shrinking. I'm sitting here with you now doing this interview and drinking this organic kale and carrot juice, and I am drinking it as much as possible because it heals the liver . . . I'm taking chemotherapy, acupuncture, sound healing, breathology, everything in the toolbox of healing. I'm picking up and using on my body right now. And I'm keeping God at the center of everything. So, I don't plan to lose."

Smith is only human, and is clear about what his body is going through. He says that having a clear understanding of his body's day-to-day function and how to improve those functions while his body is under attack is essential. Even this though, he says, takes a back seat to faith.

"I'm also a very practical person. I understand that I have a very serious disease occupying my body, but I'm claiming victory! . . . I am expelling that disease from my body by having faith in God and having faith in my family and the community of angels who have descended upon me and who surround me now," he said.

Still, others wonder why Smith would make such a personal struggle public. The answer for Smith is an echoed sentiment understood by everyone who encounters him. He wouldn't be Damu Smith if he wasn't helping out the next man—even during his own crisis.

"So many people hide what's wrong with them and stuff, and he was open and went public with it so that he could possibly help someone else," said Crawford. "Even facing a life-threatening situation, Damu is [still] organizing and trying to touch someone else's life."

"When I was lying in the bed at Providence Hospital once I returned from Palestine in late March, I decided that I had to, one, walk publicly in this journey of healing [and], two, that I had to organize people to help me and organize people to help others understand that they don't want to go through what I was about to go through.

"There were literally hundreds of people who came to see me at Providence Hospital, and some of my friends were getting upset, saying I needed my rest. But I knew what I was doing. God knew what I was doing. I needed to organize my friends and family first, and I told them that we've got to fight this, because it's not just me. People have to go get checked, and we need to organize around this."

Out of those bedside meetings, Smith was able to establish the Spirit of Hope campaign, which seeks solutions to health disparities among minority and poor Americans. The campaign focuses on universal health care, education about the need for screening measures, addressing astronomical health care costs and promoting general well-being among minority and poor people.

"The whole spectrum of wellness is what the Spirit of Hope campaign is focusing on, and I wouldn't have it any other way. It wouldn't be me if it didn't focus on something other than me," said Smith.

Smith says that despite the cost and fear associated with the procedure, it is imperative that people of color and those living below the poverty line get regular checkups, including colonoscopies.

"What are you going to fear most? [If] you want to live, you cannot fear doing what you have to do to live. Colonoscopies are expensive. They're between $700 to $900 dollars. And if you're not insured, that's a major problem. For Black people, and people of color and poor people, that's a major problem.

"It's very important we organize a campaign that insures that everyone has access to effective, holistic, comprehensive, prevention health care and access to treatment facilities so they get what they need when they need it," he argued.

Smith is also thinking about access for his 12-year-old daughter Asha, who he lovingly refers to as "Asha Boo-Boo" and the "crown jewel of his life." "I don't want her to go through this. I want her and all of her little friends to get screened when the time is right. So, I have to work for them too," said Smith.

As my time with Smith draws to a close, I begin to wonder if maybe he hadn't been misdiagnosed. The wristband, which resembles a hospital clasp, is in fact a tag from the Essence Music Festival that he's simply neglected to remove. Damu Smith is doing life Damu Smith-style: happy, brilliant and winning the fight.

"This has been one of the happiest times in my life, in the midst of this crisis. Now some people might say, 'How is that possible?' It's possible because I have seen the love come to me in such wonderful ways. I cannot begin to describe how profound, how rich and warm and beautiful the love has been from my family and friends and God. I thank God for this moment and for the chance to fight," said Smith.

IN HONOR OF MICKEY OWEN

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. BLUNT. Mr. Speaker, I rise today to honor the life of Mickey Owen, who distinguished himself in southwest Missouri by his 16 years of public service and his commitment to improving the lives of young people.

Mickey Owen began his Major League Baseball career in 1937 when he was drafted by the St. Louis Cardinals. Mickey Owen went on to play 13 seasons as a catcher with the Cardinals, Dodgers, Cubs and Red Sox and was named to the all-star team four times. After Mickey Owen retired from professional baseball in 1954, he started the Mickey Owen Baseball School in Miller, Missouri. Mickey Owen created an environment for young players, focused on improving their skills and enhancing their appreciation for the game he loved. Owen promoted the idea that young players showed more improvement when relaxed and would excel if a non-threatening atmosphere was present. Mickey Owen Baseball School has instructed thousands of young players from around the world since its inception in 1959. Mickey Owen became the sheriff of Greene County, Missouri in 1965, where he honorably served for 16 years.

Mickey Owen's contributions throughout his life and the impact he had on thousands of young lives will not be forgotten.

HONORING AMY TAYLOR ON THE COMPLETION OF HER INTERNSHIP

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. GORDON. Mr. Speaker, I rise today to thank Amy Taylor for her service to Tennessee's Sixth Congressional District while interning in my office. Both Amy and I are proud to call Murfreesboro, Tennessee, home.

Amy will soon begin her senior year at Middle Tennessee State University, where she is an English major. She is a member of the Kappa Delta sorority and a radio personality on the local jazz station.

Amy was a tremendous help and a wonderful addition to my office. She helped address constituent concerns, assisted me and my staff with numerous projects, and served as a friendly and informative tour guide of the U.S. Capitol, providing visitors from middle Tennessee with a personalized look at a national treasure.

I trust that Amy enjoyed her whirlwind internship and her first-hand examination of the workings of Congress. I know I enjoyed her fresh perspective and enthusiasm during her time here. I wish her all the best in the future.

HARLEM WEEK 2005: THE LEGACY CONTINUES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. RANGEL. Mr. Speaker, I rise to commemorate the 31st anniversary of a series of festivities honoring the wonders of Harlem, my home community which I am privileged to represent in the Congress. Harlem Week 2005 is a cultural, educational, and entertaining series of activities designed to highlight the history, traditions, and future of the Harlem community that has grown from its modest beginnings to become a major attraction for the residents of the community and thousands of visitors annually.

A lifelong resident of Harlem, I have long been proud of the many facets of my community. From the music and arts of the Harlem community to the politics and strategies of Harlem's activists and leaders, this is a community that is rich in diversity, entertainment, culture, and love. It is a community that embraces its differences and its commonalities in order to represent the rainbow of beauty and culture that characterizes our great city of New York.

Harlem Week is a celebration of this embrace. It is a time for the community and the families that make up that community to come together, to be exposed to their variety of traditions and customs, and to affirm their individual identities as well as their American consciousness. This community will always, in my mind, represent the essence of America. And, during Harlem Week, we pay tribute to the soul of America.

Harlem Week is not simply a series of festivities and parties. It is an educational experience where individuals are taught to appreciate the arts and the history of the community. This summer, in theatrical performances, dance exhibitions, story-tellings, and other artistic expressions, the Harlem community will come alive in recognizing its rich and beautiful cultural attributes. The accomplishments and history of the African-American cinema will be highlighted alongside a celebration of Jazz and music that has originated in Harlem. Harlem will applaud the history of a diverse community that has struggled with the soul and legacy of generations of Americans.

Harlem Week is also a family event. Children of all ages will be entertained throughout this recognition of the wonder and cultural diversity of Harlem. Petting zoos, story-tellers, fashion shows, and interactive arts—all with an emphasis on achievement and education—will be displayed throughout the events of Harlem.

This year, attendees will also be exposed to the diverse sports and entertainment heritage of Harlem. The National Black Sports & Entertainment Hall of Fame will induct such entertainment luminaries as Phylicia Rashad, Bonnie Raitt, Marian Anderson, Alvin Ailey, Pearl Bailey, Ray Baretto, Donald Byrd, Kenny Gamble, Frankie Crocker, Symphony Sid, and Tito Rodriguez. Sports stars such as John Chaney, Fritz Pollard, Rafer Johnson, Lou Carneseca, Zina Garrison, Jack Johnson, Elston Howard, Johnny Sample, and Al Maguire will also be inducted in the Hall of Fame.

Harlem Week 2005 promises to be one of the best celebrations of the vitality of the Harlem community this year. It will be an important celebration of the soul of America and the community that has long nurtured that soul. This celebration, exposure and education of the community will truly be instrumental in understanding and appreciating the beauty of the Harlem community.

As always, I welcome the Members of this Congress, as well as all citizens of these United States of America, to join me and the Harlem community during Harlem Week 2005. You will not regret your time there. I submit for the RECORD the calendar of events for Harlem Week and I look forward to seeing you in Harlem.

HARLEM WEEK 2005: THE LEGACY CONTINUES

NEW YORK'S PREMIERE FESTIVAL CONTINUES TO CELEBRATE DECADES OF COMMUNITY SERVICE

June 29, 2005 (Harlem, USA)—Back by popular demand, HARLEM WEEK, which celebrates its 31st Anniversary, returns with a spectacular line up of exciting events, outdoor activities, concerts, and fun for the entire family. Themed "The Legacy Continues", the culturally-rich affair swung into gear on Wednesday, July 13, as Mayor Bloomberg and the city of New York paid tribute to HARLEM WEEK, with a special private celebration and concert at Gracie Mansion. The festive affair will include a special harmonious presentation from the hit musical, "Three Mo' Tenors", along with soulful, rhythmic selections from Ron Anderson and the Harlem Jazz & Music Festival All Stars.

On Sunday, July 31st, HARLEM WEEK salutes the grand village of Harlem during its "Great Day in Harlem" celebration at Ulysses S. Grant National Memorial Park, 122nd Street and Riverside Drive. This all-day, three-part affair opens with the "Family Unity Day Cultural Festival" at 1:00 p.m., featuring family-oriented outdoor activities including theatrical excerpts, dance performances, story-telling, spoken word, and more. The celebration continues with the Harlem Jazz & Music Festival's fashion extravaganza, featuring the latest, cutting-edge creations and accessories from emerging and leading urban designers. Runway activities begin at 5:00 p.m. The festive day will end with the annual Concert Under the Stars. The Harlem Jazz & Music Festival and WBLS FM invites the entire family to join them for this enchanting moonlit night of great music as Meli'sa Morgan, Layla Hathaway, Freddie Jackson, the Alvin Ailey Dance Theater and other surprise guests pay homage to Harlem's legacy. This spectacular affair, sponsored by Time Warner and Citibank, runs from 6:00 p.m.–9:00 p.m.

From August 2nd–6th, EBONY Magazine, in concert with HARLEM WEEK, presents Hollywood in Harlem. This annual four day affair, which celebrates the accomplishments and history of African-Americans in cinema, will take place at various venues in the Harlem community. On each evening, there will be a VIP reception, film screenings, and award presentations. With this event, EBONY continues a 60 year tradition of giving recognition to African-American actors, actresses, and filmmakers.

On August 20th and 21st, HARLEM WEEK invites everyone to come to uptown New York and take part in one of the city's most exciting weekends, beginning on Saturday, August 20th, with the annual "Uptown Saturday Nite" music festival. This all-day celebration consists of a plethora of exciting events as attendees take to the streets throughout Harlem, enjoying outdoor cultural arts, crafts, exotic foods and live entertainment from a variety of stages along West 135th Street (between Malcolm X Blvd and St. Nicholas Avenue). The annual "Flava" fashion show burst onto the stage on Uptown Saturday Nite, and concert acts will be provided by stations Power 105, WKTU-FM, and Lite FM. Also taking place on August 20th is The Children's Festival which features such activities as a petting zoos, story-tellers, and interactive arts, all with a strong emphasis on education and achievement, sponsored by

Washington Mutual, The New York Post, and WWRL 1600.

Sunday, August 21st, is HARLEM DAY and the good times continue to roll. The entertainment stages and the Children's Festival remain on 135th Street along with the addition of several exiting events: The Children's Festival adds a fashion show featuring the hottest back-to-school fashions; The 16th Annual Upper Manhattan Auto Show includes a display of cars from antiques to 2005 preview models; students and families discover college options and how to pay for them at The National Historic Black College Fair & Expo; and The NYC Health Fair & Expo features free health information and screenings. Music and other entertainment will be courtesy of Kiss-FM, Hot 97, & CD 101.9.

On August 30th, the National Black Sports & Entertainment Hall of Fame Induction Gala will be held, honoring both live and posthumous luminaries in the fields of sports and entertainment. This year's inductees in the area of entertainment include Donald Byrd, Iman, Kenny Gamble & Leon Huff; Phylicia Rashad, Ray Baretto, Bonnie Raitt, Frankie Crocker, Marian Anderson, Alvin Ailey, Pearl Bailey, Symphony Sid, and Tito Rodriguez. In the area of sports, inductees include John Chaney, Fritz Pollard, Rafer Johnson, Lou Carneseca, Zina Garrison, Jack Johnson, Elston Howard, Johnny Sample and Al Maguire. Vignette tribute for various inductees will air on WNBC–4 throughout the summer.

If HARLEM WEEK only accomplished giving people a sense of pride and enjoyment, that alone would be a worthy feat; however, HARLEM WEEK does that while also addressing other community needs. With the support of sponsors and elected officials, HARLEM WEEK, Inc. has been a proponent for advancing education by giving grants to educational organizations, plus scholarships to thousands of students who have worked diligently inside the classroom and outside in the community. The relationship between those parties and HARLEM WEEK has not only garnered higher enrollment, but also provided internships and careers for students. Scholarships and grants are presented at virtually every HARLEM WEEK, Harlem Jazz & Music Festival, and National Black Sports & Entertainment Hall of Fame event. HARLEM WEEK also hosts events focused on economic development and on the welfare of Senior Citizens. Perhaps this is why mayors, governors, senators, members of congress, foreign leaders, and other inspirational figures, have opted to address HARLEM WEEK audiences over the years.

The HARLEM WEEK's 31st Anniversary is a great celebration of accomplishment through unity. Those unable to attend can still partake in the festivities by listening to live radio broadcasts on stations throughout the New York City area.

HARLEM WEEK invites you to come discover the treasures of a proud community. Discover Harlem. For further information about the excitement and culture that is HARLEM WEEK, log on to www.HarlemDiscover.com

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INTRODUCTION OF THE CURES CAN BE FOUND ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. PAUL. Mr. Speaker, I rise to introduce the Cures Can Be Found Act. This legislation promotes medical research by providing a tax credit for investments and donations to promote adult and umbilical cord blood stem cell research, and provides a $2,000 tax credit to new parents for the donation of umbilical cord blood that can be used to extract stem cells.

Mr. Speaker, stem cell research has the potential to revolutionize medicine. Stem cells could hold the keys to curing many diseases afflicting millions of Americans, such as diabetes and Alzheimer's. Umbilical cord blood stem cells have already been used to treat 67 diseases, including sickle cell disease, leukemia, and osteoporosis. Umbilical cord blood stem cells have also proven useful in treating spinal cord injuries and certain neurological disorders. Adult stem cells have shown promise in treating a wide variety of diseases ranging from brain, breast, testicular, and other types of cancers to multiple sclerosis, Parkinson's, heart damage, and rheumatoid arthritis.

By providing tax incentives for adult and umbilical cord blood stem cell research, the Cures Can Be Found Act will ensure greater resources are devoted to this valuable research. The tax credit for donations of umbilical cord blood will ensure that medical science has a continuous supply of stem cells. Thus, this bill will help scientists discover new cures using stem cells and, hopefully, make routine the use of stem cells to treat formally incurable diseases.

By encouraging private medical research, the Cures Can Be Found Act enhances a tradition of private medical research that is responsible for many medical breakthroughs. For example, Jonas Salk, discoverer of the polio vaccine, did not receive one dollar from the federal government for his efforts. I urge my colleagues to help the American people support the efforts of future Jonas Salks by cosponsoring the Cures Can Be Found Act.

HONORING NATHAN ZIPPER ON THE COMPLETION OF HIS INTERNSHIP

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. GORDON. Mr. Speaker, I rise today to recognize the contributions Nathan Zipper made while interning in my Washington, DC, office. Nathan, a fellow Middle Tennessean, was a wonderful addition to the office and a great servant to the constituents of Tennessee's Sixth Congressional District.

Nathan soon will begin his junior year at the University of Knoxville, where he is majoring in sports management and a member of Phi Alpha Delta.

During his internship, Nathan was a tremendous help to me and my staff as he assisted us in various projects. He attended briefings, addressed constituent concerns and endeared himself to visitors as he guided them through the U.S. Capitol.

I hope Nathan enjoyed his fast-paced internship as much as my staff and I appreciated his hard work and eager attitude. I wish him all the best in the future.

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95 YEARS OF SERVICE AND EMPOWERMENT: THE LEGACY OF THE NATIONAL URBAN LEAGUE CONTINUES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. RANGEL. Mr. Speaker, I rise to bring to the attention of my colleagues and the country an important conference and series of events being held in Washington this week. On Wednesday, July 27, the National Urban League will celebrate its 95th anniversary with a conference-summit on the challenges and advances in the empowerment of our communities to change the daily lives of Americans.

With a broad and exemplary series of panels and discussion sessions, the Urban League will continue its legendary service in support of raising awareness of the limited job opportunities, challenging health care costs, increasing economic and social disparities, and disappointing gaps in educational equality. The Urban League will not only highlight and question the challenges and limitations faced by communities across the county, but they will also propose and examine solutions for those communities.

For almost a century now, the Urban League has championed and advanced solutions to the crippling disparities that exist within our communities. They have long been involved with the struggle for equality and opportunity that faces the Black community, in particular, but economically disadvantaged groups nationwide.

In reaction to the Supreme Court's 1896 Plessy v. Ferguson decision approving segregation in the United States, Black Americans were quickly relegated to the most menial jobs, the poorest conditions of housing and health care, and the least access to quality education. Individuals, such as Mrs. Ruth Standish Brown and Dr. George Edmund Haynes, led the effort to adopt and prepare Black Americans for their economic struggles in urban America. Their efforts led the Committee on Urban Conditions, the Committee for the Improvement of Industrial Conditions Among Negroes, and the National League for the Protection of Colored Women to form the National League on Urban Conditions Among Negroes, later shortened to the National Urban League.

Since that mergence of groups and interests, the National Urban League has been at the forefront of fighting for equal opportunities and treatment of Americans in this country. They have pursued public and private strategies designed to provide training, assistance, development and awareness programs about the struggles for equal treatment and opportunity. Working with Whites, Blacks, Hispanics, and Asians, the National Urban League has been a champion of the economic welfare of the disadvantaged.

Today, the League continues that legacy of championship for economic justice. They continue to provide useful information to policymakers in their evaluation and development of programs to aid the poor. They continue to inform the community of mechanisms to overcome the challenges that lay before them. They continue to be an advocate for the poor, an information-provider for the decision-makers, and a champion of justice and equality for the Nation, and they do all of this at the local community level through its chapters in communities around the Nation.

This week, led by its president, Marc Morial, who is providing superb leadership to the Urban League in the tradition of the great Whitney Young, the League continues its legacy and consciousness-building. I hope my colleagues will be reminded of the importance of this group to our economic development. As they conference in the Nation's Capital, I hope we would reach out and listen to the proposals and solutions the League provides. I hope we would provide them a voice for and an ear to their causes.

Mr. Speaker, I submit the following article written by Zenitha Prince of the Afro-American concerning this week's meeting. I welcome the attendees and conferees of this year's conference to their Nation's Capital, Washington, DC.

URBAN LEAGUE CELEBRATES 95 YEARS

JULY 23, 2005—About 15,000 people are expected to join the National Urban League in "Celebrating 95 Years of Empowering Communities and Changing Lives" during its annual conference, which will convene at the Washington Convention Center in Washington, D.C., from July 27 to 31.

"As we celebrate 95 years of direct service to communities across the nation, we expect the annual conference in Washington, D.C., to be the largest gathering of the Urban League Movement," said Marc H. Morial, National Urban League president and CEO, in a prepared statement.

The annual conference will feature innovative and interactive plenary sessions and events that present some of the Nation's most illustrious and influential leaders. It also gives us a chance to discuss and finds ways to help one another in closing the tremendous gaps that exist in health, education and economics. The annual conference helps bring people together around issues of concern to our community and the Nation.

Among the featured speakers are U.S. Sen. Hillary Clinton (D-N.Y.); hiphop historian and author Kevin Powell; author, activist and comedian Dick Gregory; and Rainbow Coalition/PUSH founder and president the Rev. Jesse Jackson. The conference will also feature performances by India.Arie, Brian McKnight, Doug E. Fresh and Chuck Brown.

Most notably, however, the 2005 conference will feature a new Influencer Summit geared towards engaging, connecting and building young professionals. The list of speakers includes (The Apprentice) star Kwame Jackson, who plans to discuss how he parlayed his reality television experience into opportunities that include a new company, Legacy Holdings, which is even now brokering a $3.8 billion deal to build a real estate development called Rosewood, just miles outside of the District of Columbia, and a lucrative career on the international speakers' circuit.

"I wouldn't be on this phone or have any notoriety if I had stayed on my job [with Wall Street firm Goldman Sachs]," said the 30-year-old D.C. native. Modestly deflecting any praise about his achievements, Jackson advised young entrepreneurs that corporate America is a tough environment for a young Black person, and that it takes tenacity and vision to attain success. "Being an entrepreneur is for people who enjoy getting their teeth kicked," Jackson said. "You have to be the kind of person that will get up and ask for more."

The Influencer Summit will also examine the changing civil rights landscape and the young Black professional's role in it.

"I think we're the up-and-coming leaders. Any civil rights movement from here on out will be carried out by us," said Larry Meadows Jr., president of the Washington National Urban League Young Professionals.

Both Jackson and Meadows agreed that the Black community is moving into the "second generation" of the civil rights struggle, which involves the fight for economic parity.

"We've grown by leaps and bounds, but if you look at it economically, we've not gone very far," Meadows said. "We have a lot of successful individuals, and that creates the perception that we're OK. But overall, we're still struggling."

For more information about the 2005 National Urban League Annual Conference, go to www.nul.org; and for more information about Kwame Jackson, check out his Web site, www.kwamejackson.com.

PAUL KASTEN POST OFFICE BUILDING

HON. DENNIS R. REHBERG

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. REHBERG. Mr. Speaker, I would like to thank the Government Reform Committee and this body for joining me in recognizing one of my constituents, Paul Kasten, an employee of the U.S. Postal Service for the past 57 years.

Before his retirement this spring, at the age of 86, Paul Kasten had spent the last half-century serving eastern Montana. He began his postal career in 1947 riding a saddle horse to the farming community of Watkins.

In 1959, many of the rural routes consolidated expanding Mr. Kasten's route to 93 miles. Despite the immense distances, he would deliver regular mail to 30 families three times a week. His dedication and faithfulness earn him praise above which he will acknowledge. In addition to his mail deliveries, Paul would also deliver groceries, supplies, and anything that was needed by his rural customers. He was and is a valued and dedicated member of those communities.

Paul Kasten is a tribute to the entire U.S. Postal Service and I urge your support for his distinguished career. In honor of all his years of faithful service please join me in recognizing Mr. Kasten's achievements by designating the Brockway Post Office as the "Paul Kasten Post Office Building." Thank you.

HONORING KASSI SCOTT ON THE COMPLETION OF HER INTERNSHIP

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. GORDON. Mr. Speaker, I rise today to recognize the many contributions Kassi Scott made while interning in my Washington, DC, office. Kassi, a native of Moss, Tennessee, was a wonderful addition to the office and a great servant to the constituents of Tennessee's Sixth Congressional District.

Kassi soon will begin her junior year at Tennessee Tech University, where she is a political science major and president of the College Democrats.

Kassi has gained a wealth of congressional experience. She interned in my Cookeville, Tennessee, office prior to her internship in Washington. While in our Nation's capital, she attended briefings, addressed constituent concerns and served as a friendly and informative tour guide of the U.S. Capitol.

I hope Kassi enjoyed her internship as much as my staff and I have enjoyed her presence in the office. I wish her all the best in the future.

HONORING THE MEMORY OF THE HON. L. DICK OWEN, JR.

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. BONNER. Mr. Speaker, Baldwin County, Alabama, and indeed the entire First Congressional District recently lost a dear friend, and I rise today to honor him and pay tribute to his memory.

Senator L. Dick Owen, Jr., was a devoted family man and dedicated public servant throughout his entire life. A native of Bay Minette, Alabama, he was a 1941 graduate of the University of Alabama in Tuscaloosa. Governor George Wallace appointed him to the position of Baldwin County Probate Judge in January 1964 following the death of his predecessor, Judge Ramsey Stuart. One year later, he was elected to the Alabama House of Representatives, where he served two terms before running for and winning two terms in the Alabama Senate. His work in the state legislature was met with wide praise, and he was honored by the Alabama Wildlife Federation as "Legislative Conservationist of the Year," and, in 1976, by the Alabama Press Association as "Most Effective Senator."

Senator Owen was also actively involved in his community and was a charter member of the Bay Minette Rotary Club. He was also honored in 1982 when the performing arts center of Faulkner State Community College—an institution which he helped locate in Bay Minette—was named the "L.D. Owen Performing Arts Center." His devotion to his fellow man was unmatched, and I do not think there will ever be a full accounting of the many people he helped over the course of his lifetime.

Senator Owen was also a proud veteran of the United States Army and served with distinction as a member of the famed 82nd Airborne Division during World War II, where he earned six Bronze Stars. During the Korean War, he returned to active duty, and in 1963 retired from the Army Reserve with the rank of lieutenant colonel.

Mr. Speaker, I ask my colleagues to join me in remembering a dedicated public servant and long-time advocate for Baldwin County, Alabama. Senator Owen will be deeply missed by his family—his wife, Annie Ruth Heidelberg Owen; his son, L.D. Owen, III; his brother, James R. Owen; his sister, Nell Owen Davis; his three grandchildren; and his two great-grandchildren—as well as the countless friends he leaves behind. Our thoughts and prayers are with them all at this difficult time.

GAZA: TEST CASE FOR PEACE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. FRANK of Massachusetts. Mr. Speaker, last week I opposed an amendment to the State Department Authorization Bill that would have put restrictions on the ability of the President to decide on the appropriate flow of aid to the Palestinian Authority, because I believe that a Palestinian Authority both willing and able to confront violent opposition to the peace process with Israel is essential for peace to succeed. Later that day, after our debate, I read—a bit tardily—an excellent article that had been published in the Washington Post, for Wednesday, July 20, by the Israeli Ambassador to the United States, Daniel Ayalon. I believe that Ambassador Ayalon is an extremely able diplomat, who is himself a dedicated supporter of a rational process leading to a genuine two state solution in the Middle East. The article he wrote underlines the importance of a commitment by the Palestinian Authority to take the steps necessary to curtail the activities of those in the Palestinian community who are determined to bring the peace process to a violent halt.

As Ambassador Ayalon notes, Prime Minister Ariel Sharon has confronted those within Israel who are opposed to the peace process in general, and very specifically to the withdrawal of Jewish settlers from Gaza. This is of course, as the Ambassador points out, a cause of great anguish within Israel, and Prime Minister Sharon and his allies ought to be commended for the dedication to peace they are showing in their willingness to confront this opposition. It is entirely reasonable for Israel to ask, as Ambassador Ayalon does, for a comparable level of effort from President Abbas of the Palestinian Authority.

I do not mean by this to equate the opposition faced by President Abbas on the one hand and Prime Minister Sharon on the other. While I disagree strongly with those settlers who are seeking to derail the peace process, they have not in any significant degree resorted to the kind of murderous violence that has been the response of Hamas and others within the Palestinian community seeking to put an end to peace. I say that they are people seeking to put an end to the peace process, Mr. Speaker, because there is no other explanation for the decision to engage in terrorist murders of Israelis within Gaza while the Israeli Government is in fact in the process of withdrawing from Gaza. Individual Israelis are not the only victims of these murders—the peace process is also an intended victim.

I believe it is important for the United States to provide strong support for all those trying to go forward with this difficult peace process, and I think it is fair for Ambassador Ayalon to point out that the effort so far of President Abbas have fallen short of what Israel has a right to expect.

I will continue to oppose, as I did last week, measures that seem to me to undercut President Abbas' ability to go forward with this admittedly difficult task. At the same time, I think it is important for those of us who are strong supporters of the peace process to join in reminding President Abbas of the importance of his being more successful than he has in the past in this regard.

Mr. Speaker, I ask that Daniel Ayalon's article be printed here.

[From the Washington Post, July 20, 2005]

IN GAZA, A TEST CASE FOR PEACE

(By Daniel Ayalon)

Next month thousands of Israelis will be uprooted from their homes in 25 settlements, against the backdrop of widespread political opposition and intensifying Palestinian terrorism. Israel faces difficult days ahead.

Prime Minister Ariel Sharon is boldly determined to move forward with disengagement from Gaza and the northern West Bank out of a deep conviction that it is critical to Israel's future. Unfortunately, the Palestinian leadership has failed to meet him halfway. The Palestinian Authority's refusal to disarm terrorist organizations has enabled the terrorists to regroup and renew deadly attacks against Israelis, compounding the difficulties of this engagement and casting an ominous shadow on the possibility of future progress.

The sharp increase in Palestinian terrorist attacks, particularly in the past week, underscores the precariousness of the situation. While Israel is committed to completing the disengagement as planned, we will not sit idly by while our civilians are under attack. Time is running out for the Palestinian leadership to confront the terrorists. Should it fail to do so, Israel will be forced to take the necessary steps to defend its people. Lest the Palestinians miss another historic opportunity, the world should insist that they crack down on terrorism now.

After numerous failed attempts by Israelis and Palestinians to reach peaceful accommodation over the past 15 years, Sharon decided to embark on a different course. Disengagement is an immense political, strategic and indeed historical undertaking, aimed at reducing friction between Israelis and Palestinians, jump-starting the peace process and providing the Palestinians with a unique opportunity to build institutions of responsible self-governance.

At the same time, it puts a terrible burden on thousands of Israelis called on to leave their homes against their will. Many have lived there for more than three generations. Specially trained, unarmed units will move from house to house as part of a massive logistical operation involving some 50,000 security personnel, accompanied by teams of social workers and psychologists. Living, breathing communities, some more than 30 years old, will simply vanish. Businesses, factories and farms will be shut down. Schools, synagogues and cemeteries will be relocated. The removal of graves, including those of terrorism victims, will be especially heart-wrenching.

The trauma of disengagement has unleashed dangerous rifts in Israeli society. While the withdrawal is supported by most of the public, many Israelis deeply oppose it on moral, religious and security grounds. Sharon has demonstrated steadfast leadership in the face of an unprecedented political backlash from his traditional supporters. Given the intense political opposition and growing civil disobedience, the prospect of violent resistance cannot be ruled out. Regardless of the outcome, the repercussions of disengagement will be felt in Israel for years. At stake is not only the success of disengagement but also the very fabric of Israeli society.

Adding fuel to the fire, public anxiety in Israel has increased because of the resurgence of Palestinian terrorism, including suicide bombings, drive-by shootings and rocket attacks. Rather than confront the terrorist organizations and disarm them, Palestinian President Mahmoud Abbas has invited Hamas into his government, thereby providing a terrorist organization with an official seal of approval. The result has been an emboldened Hamas, a further weakening of the Palestinian Authority and a potentially disastrous perception that disengagement is a victory for terrorism rather than an opportunity for peace.

Abbas must seize the moment and lead the Palestinians toward peace. The terrorist organizations must be disarmed as called for in the "road map" if Palestinian statehood is to be achieved. This is nonnegotiable. Gaza is both the opportunity and the test for the Palestinian leadership. Will that leadership prove itself capable of governing a functioning democratic society, free from terrorism and focused on improving the lives of its citizens, or will it squander yet another opportunity? After leaving Gaza, Israel will no longer provide an easy excuse for Palestinian failure.

The rock-solid, principled and bipartisan support for Israel in the United States has been vital to our ability to overcome terrorism and prepare the ground for a political initiative. The notion of disengagement would have been unthinkable had Israel not prevailed in the latest round of sustained terrorism waged by the Palestinians since September 2000.

The stakes for Israel are enormous. We are a strong but small country facing a largely hostile region roughly 500 times our size. We can ill afford to make mistakes. Iran's nuclear weapons program is imminent, posing an existential threat. Syria and Iran promote and support Palestinian terrorist groups sworn to our destruction. Hezbollah has intensified terrorist attacks against Israel from Lebanon, opening a second front aimed at derailing any progress. Despite these challenges, Israel has shown it is prepared to take difficult steps to achieve President Bush's vision for peace in the Middle East. The world should insist on no less from the Palestinians.

The writer is Israel's ambassador to the United States.

TRIBUTE TO PAUL EDWARD HUGHES

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Ms. ESHOO. Mr. Speaker, I rise today to honor the life of Paul Edward "Ed" Hughes who died Sunday, July 17, 2005, at his home in Sunset Beach, North Carolina.

Mr. Hughes, who retired to Sunset Beach in 1992, was serving his third term on the Sunset Beach City Council. He was born in Pennsboro, West Virginia in 1926 to John and Mary Hughes, and grew up in Baltimore, Maryland. Ed served in the Army Air Corps during the Second World War and later graduated from Loyola College, where he was named an All-American in lacrosse, playing on the All-South team in 1948 and 1949. He later received his master's degree from the University of Pennsylvania.

Ed Hughes moved to Wilmington, Delaware in 1958, where he taught at Tower Hill School for 34 years, chaired the History Department and served as Dean. Over the course of his tenure he introduced anthropology to the school curriculum and headed the summer school program. He wrote a book about his founding of the Junior Humanities program for gifted inner-city students, a model project for which he received the Hollingworth Award. He was a head basketball coach for 14 years, coached football, and started the golf team.

Ed Hughes was a candidate for President of the City Council in Wilmington, Delaware and chaired the Republican City Committee. He was a frequent lecturer on current events and world affairs at Crosslands in Kennett Square, Pennsylvania and was a longtime manager of the Hagley Museum on the Brandywine River. He was a devoted husband, a proud father of five, a golfer, and in later life, a painter. He loved crossword puzzles, his golfing buddies and a good steak.

Ed Hughes is survived by his wife of 54 years, Jody Hughes, his daughters Mary and K.C. Halpern, his sons Paul, John and Mark, as well as seven grandchildren.

Mr. Speaker, I had the pleasure of knowing Ed Hughes. He was a gentle man with a superb intellect and a wonderful wit. He was a man who was content with his life and achievements, most of all his magnificent children and theirs. Ed Hughes loved his family, his community and his country. I ask my colleagues to join me in honoring the life and works of this good man and in extending to his wife and entire family our most sincere sympathy.

PERSONAL EXPLANATION

HON. JOHN LINDER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. LINDER. Mr. Speaker, I was unable to cast rollcall votes 415 and 416 on July 22, 2005, because I was unavoidably detained on official business with President George W. Bush in Atlanta, Georgia, at a roundtable discussion on retirement security for future generations of Americans. I was also unable to cast rollcall votes 417, 418, and 419 on July 25, 2005, as I was traveling on official legislative/policy business. Had I been present I would have cast the following votes: On rollcall No. 415, I would have voted "no"; on rollcall No. 416, I would have voted "yes"; on rollcall No. 417, I would have voted "yes"; on rollcall No. 418, I would have voted "yes"; and on rollcall No. 419, I would have voted "yes."

IN HONOR OF JAMES FLANNERY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of James Flannery, a statesman dedicated to his family, his church, his community and his country. Named Cleveland's "Man of the Year" in 1981, his life of service continued for more than two decades and will be carried on by the friends and family whose lives he touched through his generosity and enthusiasm.

While he was always ready for a game of basketball or football, Jim was more of a math wiz than an athlete. He earned his degree in accounting at the University of Notre Dame before turning to politics and serving Ohio's 48th district as a State Representative from 1967 to 1972. But his service did not end there. He served on the Ohio Board of Regents and the Ohio Accountancy Board before becoming the Chairman of the City of Lakewood Financial Review Commission and the Charter Review Commission. Jim also served as a member of the Board of Revision for the Cuyahoga County Treasurer's Office and was the founding president of both the University of Notre Dame National Alumni Board and the St. James Parent Teacher Union.

As those closest to him know, even with his extensive community involvement, Jim's family was his true calling and passion, and was always a huge source of pride—and with good reason. His extensive family (33 grandchildren) known by many as "The Flan Clan," has had quite an effect on their community. Almost a dozen of his family members have followed his footsteps at St. Edward's High School to receive a Holy Cross education, and the family's local political involvement goes back three generations.

Mr. Speaker and Colleagues, please join me in honor and recognition of James Flannery and the family he leaves behind, for their outstanding service to their community. Jim's life of service will be remembered and he will be greatly missed by the many people whose lives were blessed by his presence.

INTRODUCTION OF THE TEACHER TRAINING EXPANSION ACT OF 2005

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. CUMMINGS. Mr. Speaker, currently, too many of our nation's "special needs" children are underserved due to inadequate training of general education teachers. It was recently reported that approximately 80 percent of students with learning disabilities receive the majority of their instruction in general education classrooms. According to the U.S. Department of Education, 50 percent of disabled students between the ages of 6 and 11, and 30 percent of disabled students between the ages of 11 and 12, are taught in regular classrooms.

These figures reflect the mandate under the Individuals with Disabilities Education Act (IDEA) that requires, to the maximum extent appropriate, children with disabilities . . . are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. IDEA 612(a)(5)(A).

As more children with disabilities enter general education classrooms, it is critical that general education teachers and personnel are adequately trained to adapt curricula to suit their needs. Regular education teachers and personnel must be equipped to collaborate with special education teachers to ensure that the best individualized approaches are utilized for the successful integration of disabled students into the classroom.

For these reasons, I am reintroducing the Teacher Training Expansion Act of 2005, legislation that would address this crucial area of teacher development. Specifically, this legislation would authorize the Secretary of Education to give preference, in the distribution of certain grants under IDEA, to local educational agencies and certain public or private nonprofit organizations that provide training to regular education personnel to meet the needs of children with disabilities.

Under current law, institutions of higher education are already granted such a preferential status in the distribution of these grants. However, I firmly believe local educational agencies and public or private nonprofit organizations that are at the forefront of training teachers who work with disabled students, must be eligible to receive equal consideration in provide this vital type of professional development and training.

Mr. Speaker, by supporting this legislation we will help our teachers gain the skills they need to work effectively with disabled students in general education classrooms and help make good on our promise to provide a quality education to all students.

Lastly, as we celebrate the 15th Anniversary of the Americans with Disabilities Act today, let us be ever mindful to continue to level the playing field for our disabled and special needs communities in any way that we can.

This bill would help in furthering this goal and I urge my colleagues to cosponsor the Teacher Training Expansion Act of 2005.

FIFTEENTH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. MORAN of Virginia. Mr. Speaker, today marks the fifteenth anniversary of the Americans with Disabilities Act (ADA). Signed into law by George H. W. Bush on July 26th in 1990, and enacted with bipartisan support in the Congress, the ADA served as the world's first comprehensive declaration of equality for people with disabilities.

Following in the footsteps of civil rights legislation from the 1960s, this landmark legislation has sought to end discrimination against people with disabilities in the workplace and encourage full integration into American society, particularly through enabling independent living.

In its fifteen years of existence, the ADA has accomplished much. Access ramps, curb cuts, Braille signs, and assistive listening devices at movie theaters now appear in communities around the country. Transit and communications systems have become more accessible. Indeed, the ADA has contributed to a greater awareness among Americans as to the needs and potential of people with disabilities.

Yet despite this progress, I remain deeply concerned that the promise of the ADA has not been fulfilled for many of America's 54 million citizens with disabilities. For example, empirical evidence demonstrates that there has been little change in the employment rate of people with disabilities. Only 32 percent of working-age people with a disability are employed. Today, people with disabilities are three times more likely than those without disabilities to live in poverty. There is much progress still to be made.

Unfortunately, in recent years the federal courts have narrowly interpreted the ADA and have not enforced key provisions of the Act, especially in regards to the workplace and the applicability of ADA to state law. Moreover, the Administration has proposed funding cuts to key programs—Section 8 housing, Medicaid, and vocational rehabilitation and assistive technology—which enable many people with disabilities to achieve self-sufficiency and live independently.

On this anniversary of the American with Disabilities Act, we must make sure that we fulfill the promise made to our disabled brothers and sisters fifteen years ago. Indeed, the goals of the ADA could not be more pertinent than they are today, when thousands of soldiers are returning home from Iraq and Afghanistan with severe injuries. It is my hope that we can move forward today to fully realize the goals of equality and integration set forth in the Americans with Disabilities Act.

IN HONOR OF THE REVEREND VASILIJE BUDIMIR SOKOLOVIC AND THE LEGACY OF HIS FATHER. SAINT BUDIMIR SOKOLOVIC

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor of the Reverend Vasilije Budimir Sokolovic, pastor of St. Sava Serbian Orthodox Cathedral in Parma, Ohio, for his thirty-five year ministry with the church. I also rise today to honor the life and spiritual legacy of his father, Priest martyr Saint Budimir Sokolovic of Dobrun, recently canonized by the Serbian Orthodox Church, who was executed by communist oppressors for his religious beliefs.

Tyranny and violence took the life of Saint Budimir Sokolovic, yet his legacy of strength, spirit, faith and ministry to others continues to live on in the life and works of his son, Reverend Vasilije Sokolovic. Reverend Sokolovic was just a young boy when his father was jailed and executed, shortly after the end of WWII. Saint Sokolovic's vocation directed him to the battlegrounds in Yugoslavia, where he provided spiritual guidance to Serbian freedom fighters battling the German occupation. He lived to see the Nazis expelled from his homeland, only to be felled under the violence of the ensuing communist regime.

Oppression and poverty dominated Eastern Europe after the war, magnifying the fear and loss for Saint Budimir Sokolovic's wife and two young boys. Rather than shrinking from his father's great legacy, young Vasilije carried his father's life and memory within his heart, following the path of ministry and service cultivated by Saint Budimir Sokolovic. Equipped with the spiritual guidance of his father and his own unwavering faith, Reverend Sokolovic entered the seminary, becoming the 42nd generation of Sokolovics to dedicate their lives to the priesthood.

Mr. Speaker and Colleagues, please join me in honor and tribute of Reverend Vasilije Budimir Sokolovic, whose ministry and leadership continues to provide faith and support to countless individuals and families of the St. Sava Serbian Orthodox Church, and serves as an instrument of spiritual connection to the life and works of his father, Priest martyr Saint Budimir Sokolovic of Dobrun. With courage and steadfast conviction in his faith, Saint Budimir Sokolovic paid the ultimate sacrifice in his quest for religious freedom.

Reverend Vasilije Sokolovic continues to carry the faithful torch of his father—a blazing legacy of freedom from tyranny, a burning reminder of the fragility of democracy, and a light of hope and inspiration for people around the world searching for the light of liberty.

COMMEMORATING THE FIFTEENTH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. CUMMINGS. Mr. Speaker, fifteen years ago today, our Nation enacted the Americans with Disabilities Act, giving civil rights protection to individuals with disabilities. This landmark legislation can be described as nothing less than monumental and groundbreaking for those with disabilities as it brought this community into the mainstream folds of our Nation.

The ADA has brought about many changes in workplaces, transportation, schools, public buildings, parks and telephone services. Closed captioning, sidewalk curb cutouts, accessible entrances and restrooms, equal employment opportunities—all are a direct result, making the ADA one of the most far-reaching pieces of legislation ever enacted by our Nation. Perhaps more important than removing physical barriers, the ADA has been successful in changing the way society views our members with disabilities. Society understands and now demonstrates that people with disabilities could, and should, fully participate in all aspects of life.

Mr. Speaker, despite the progress achieved through the ADA, there is still a long way to go before we truly achieve "full participation" for people with disabilities. In 1985, the widely regarded Harris poll determined that two-thirds of working age Americans with disabilities are unemployed, the highest unemployment rate by far of any group, and much of the impetus for enacting the ADA. The U.S. Census Bureau shows that little has changed in the last 20 years. Today, only 42% of working-age men, and 34% of working-age women, with disabilities are employed.

The ADA levels the playing field, but it cannot ensure that an individual with a disability is actually able to apply for that job, or to that university. As technological advances continue to close physical gaps for people with disabilities in and out of the workplace, let us also be mindful to provide the tools needed to cross the mental gaps they may face.

Confidence and recognition of self-worth are absolutely necessary to taking those big steps toward employment, or education. To promote this, we need legislation like the Medicaid Community-Based Attendant Services and Supports Act, H.R 910, a bill introduced by my colleague Rep. Danny Davis and which I have cosponsored. This bill would provide individuals with disabilities equal access to community-based attendant services and supports, taking many out of institutional care and placing them back into their homes, families and communities where they belong. In supportive and familiar environments, people with disabilities will be better prepared to take advantage of education and employment opportunities.

We must continue to educate the public, and help inspire employers to seek out qualified employees with disabilities. We must fight to broaden, not narrow, the scope of the ADA as we continually redefine the meaning of "disability." America has become more accessible to people with disabilities. This fact rightfully deserves 3 celebration today. However, Congress must continue to level the playing field and continue the promise to push for full, unrestricted access and participation for our disabled communities.

INTRODUCTION OF BILL DEALING WITH CLAIMS FOR RIGHTS-OF-WAY UNDER R.S. 2477

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. UDALL of Colorado. Mr. Speaker, I am today again introducing a bill to establish a process for orderly resolution of a problem that affects private property owners and the sound management of the Federal lands.

What is involved are claims for rights-of-way under a provision of the Mining Law of 1866 that later was embodied in section 2477 of the Revised Statutes, and so is usually called R.S. 2477. It granted rights-of-way for the construction of highways across Federal lands not reserved for public uses. It was one of many 19th-century laws that assisted in the opening of the West for resource development and settlement.

More than a century after its enactment, R.S. 2477 was repealed by the Federal Land Policy and Management Act of 1976, often called "FLPMA," and was replaced with a modern and comprehensive process for establishing rights-of-way on Federal lands. However, FLPMA did not revoke valid existing rights established under R.S. 2477—and, unfortunately, it also did not set a deadline for people claiming to have such rights to file their claims.

As a result, there is literally no way of knowing how many such claims might be filed or what lands might be affected—including not just Federal lands but also lands that once were Federal but now belong to other owners. But it is clear that R.S. 2477 claims could involve not only thousands of square miles of Federal lands but also many lands that now are private property or belong to the states or other entities.

This is obviously a serious problem. It also is the way things used to be with regard to another kind of claim on Federal lands—mining claims under the Mining Law of 1872. However, that problem was resolved by section 314 of FLPMA, which gave people 3 years to record those claims and provided that any claim not recorded by the deadline would be deemed to have been abandoned. The courts have upheld that approach, and I think it should have been applied to R.S. 2477 claims as well. If it had been, R.S. 2477 would be a subject for historians, not a headache for our land managers or a nightmare for private property owners. I think that now, finally—more than a quarter of a century since it was repealed—the time has come to let R.S. 2477 sleep in peace. And that is the purpose of the bill I am introducing today.

The bill is based on legislation proposed by the Secretary of the Interior in 1997, with changes and refinements based on extensive consultations with many interested persons and groups.

The bill follows the sound example of FLPMA by providing that any R.S. 2477 claim for which a notice is not filed with the government within 4 years will be considered to have been relinquished and void. I think this is more than reasonable, because people interested in claiming rights-of-way under R.S. 2477 have had ample time to decide whether they want to file a claim.

The bill also spells out what information a claimant is to provide, how claims are to be considered administratively, and the rules for judicial review of administrative decisions about claims.

Recognizing the potential threats to private or other non-Federal landowners from R.S. 2477 claims, the bill spells out that claims involving their lands will be considered to have been abandoned when the lands were transferred out of federal ownership unless the claimant can establish by clear and convincing evidence that at the time of transfer there was a well-established right-of-way whose use for highway purposes was intended to be allowed to continue. And it applies a similar standard to claims involving lands used for national defense purposes as well as National Parks, National Wildlife Refuges, wilderness and wilderness study areas, and other conservation areas.

Since last year, my staff and I have discussed this subject with many people, representing a wide range of views. In particular, we worked closely with Commissioners and staff members from many of Colorado's counties. The results of those discussions are reflected throughout the bill, which differs from the previous version in many respects.

Mr. Speaker, this is a fair, balanced bill. It gives anyone claiming to hold a valid right under R.S. 2477 ample opportunity to come forward and seek to have that claim upheld, with an opportunity to seek ultimate redress from the courts if necessary. At the same time, it gives private property owners and the American people—the owners of the Federal lands—assurance that the time will come when they will know what they own, without having to worry about new R.S. 2477 claims being made against their lands.

In my opinion, such legislation is long overdue.

I am attaching an outline of the main provisions of the bill.

OUTLINE OF R.S. 2477 BILL

SECTION 1

Section 1 provides a short title, has findings about the bill's background, and states its purpose, which is to provide certainty to affected private landowners, State and local governments, and the public by establishing a deadline for filing of claims for highway rights-of-way under R.S. 2477 and providing a process for consideration and resolution of such claims.

SECTION 2

Section 2 defines key terms used in the bill.

SECTION 3

Section 3 deals with the filing of notices of claims for rights-of-way based on R.S. 2477:

Subsection (a) sets a deadline of 4 years after enactment for filing notices of claims.

Subsection (b) specifies the information to be included in each notice of a claim.

Subsection (c) deals with the places for filing notices of claims and other aspects of filing

Subsection (d) requires publication and other steps to inform the public.

Subsection (e) provides that failure to timely file a notice of a claim shall be deemed to constitute a relinquishment of any rights purported to have been acquired under R.S. 2477 related to that claim. This parallels Section 314 of FLPMA, which required recordation of unpatented mining claims. A claimant would have 3 years to file a lawsuit challenging the effect of this provision on a claim. Claims already subject to final determination by any Federal court or agency are exempt.

SECTION 4

Section 4 addresses evidence to support claims.

Subsection (a) sets a deadline of 6 year after filing a notice of a claim for a claimant to submit evidence in support of the claim.

Subsection (b) requires submission of the following: 1) Name, address, and contact information of the claimant; 2) names and contact information of all persons or entities with property interests in lands affected by a claim, as shown on public records; 3) proof that notice of the claim has been provided to the persons and entities listed under (2); 4) identification of the entity that would have a property interest in the right-of-way for which a claim is being made; 5) a description of the highway on which the claim is based; 6) evidence of construction of a highway on the claimed route; 7) evidence that the claimed route constitutes a highway; 9) a statement regarding the availability of materials related to the claim; and 10) evidence that the claimed right-of-way traversed public land not reserved for other use at the time of construction of the highway

Subsection (c) requires additional evidence to support claims involving certain lands: 1) for claims involving conservation lands, tribal lands, or defense lands, evidence that prior construction and continuing use of the lands for highway purposes were so open and notorious on and after the date on which the lands acquired such status that management of the lands by the Federal government was intended to be subject to continuation of their use for highway purposes; and 2) For claims involving lands no longer in Federal ownership, evidence that prior construction and continuing use of the lands for highway purposes were so open and notorious on the date that the lands were transferred from Federal ownership that the transfer was intended to be subject to the continued use of lands for highway purposes.

Subsection (d) provides that a claimant who fails to submit all the required evidence to support a claim will have an additional 30 days to complete the submission, and that failure to submit all required evidence shall result in a determination that the claim is deemed abandoned and that any rights purported to be based on R.S. 2477 with respect to the claim have been relinquished. Such a determination is subject to judicial review pursuant to section 5(j).

SECTION 5

Section 5 addresses review of claims and determinations regarding them.

Subsection (a) requires the authorized officer to review timely-submitted evidence in order to determine whether a claim should be considered presumptively valid.

Subsection (b) provides that in all cases a claimant shall have the burden of proving by a preponderance of the evidence that a claimed right-of-way was validly accepted under R.S. 2477.

Subsection I requires the authorized officer to determine presumptively valid a claim involving private or other non-federal lands if the claimant has both met the burden of proof specified in subsection (b) and has also demonstrated by clear and convincing evidence that when the lands passed from Federal ownership the prior construction and continuing use of the lands for highway purposes were so open and notorious that transfer of the lands was intended to be subject to their continued use for highway purposes.

Subsection (d) requires the authorized officer to determine presumptively valid a claim involving conservation or defense lands if the claimant has both met the burden of proof specified in subsection (b) and has also demonstrated by clear and convincing evidence that when the lands acquired that status the prior construction and continuing use of the lands for highway purposes were so open and notorious that management of the lands for conservation of defense purposes was intended to be subject to their continued use for highway purposes.

Subsection (e) requires the authorized officer to determine presumptively valid a claim involving tribal lands if the claimant has both met the burden of proof specified in subsection (b) and has also demonstrated by clear and convincing evidence that when the lands acquired that status the prior construction and continuing use of the lands for highway purposes were so open and notorious that it was intended that use of the lands for highway purposes would continue.

Subsection (f) provides that if no portion of a claim involves former Federal lands, conservation lands, defense lands, or tribal lands, the authorized officer is to determine the claim presumptively valid if the claimant has met the burden of proof specified in subsection (b).

Subsection (g) provides that if the authorized officer is unable to determine a claim to be presumptively valid, the officer will determine it invalid and that any rights purported to have been acquired under R.S. 2477 with respect to the claim have been relinquished and therefore no further administrative action on it is required. It also provides for notification of such a determination and specifies that such a notification constitutes final agency action subject to judicial review, and sets a 3-year statute of limitation for initiation of such review.

Subsection (h) specifies the procedures to be followed if the authorized officer determines a claim is presumptively valid, provides an opportunity for filing an objection to such a determination, and allows a claimant to provide supplemental evidence to respond to such an objection.

Subsection (i) provides for a public hearing if an objection is filed to a determination of presumptive validity, upon the request of either a claimant or an objector.

Subsection (i) provides for review of information submitted by an objector to a finding of presumptive validity and for issuance of a determination of validity or invalidity.

Subsection (k) specifies the information to be included in determinations of validity, specifies that such a determination is a final agency action subject to judicial review, and establishes a statute of limitation for initiation of such review.

SECTION 6

Section 6 includes a variety of administrative provisions:

Subsection (a) prohibits charging a fee for filing of a claim by a State, County, or local government.

Subsection (b) sets priorities for reviewing and processing claims: 1) claims filed by a State, County, or local government; 2) claims filed by non-governmental parties and involving private or other non-federal lands, conservation lands, defense lands, or tribal lands; and 3) other claims.

Subsection (c) requires that to the extent practicable review of claims will be completed within a year after submission of evidence and requires periodic status reports on claims under review.

Subsection (d) provides—1) authorized officers reviewing claims are to seek and consider the views of affected States, counties, local governments, tribes, Federal agencies, and the public: 2) authorized officers reviewing claims are responsible for coordinating with appropriate Federal agencies; 3) authorizing officers reviewing claims involving lands in Alaska will also seek the views and consult with any affected Native Corporation.

Subsection (e) authorizes retention by the United States (with respect to claims involving conservation, defense, or tribal lands) or the owner of record (with respect to claims involving other lands) of exclusive possession or control of lands affected by claims held upon judicial review to be valid. The subsection specifies the United States or the owner of record shall seek to reach agreement with the claimant before exercising the authority to retain possession or control.

Subsection (f) requires filing of surveys of R.S. 2477 highway rights-of-way determined to be valid; provides that failure to file such a survey within 5 years after final administrative determination of validity shall be deemed to be a relinquishment of any rights purported to have been acquired under R.S. 2477 with respect to such right-of-way; and establishes a 3-year statute of limitations to challenge any such deeming of relinquishment.

Subsection (g) provides for consultation with relevant Federal agencies or tribes and requires concurrence of relevant Federal agencies before a determination of presumptive validity.

SECTION 7

Section 7 addresses the relationship between the bill and other law and prior determinations.

Subsection (a) provides that authorized officers are to apply Federal law and relevant State law to the extent that State law is consistent with Federal law.

Subsection (b) specifies that nothing in the bill will affect, change, alter, or modify Title V of FLPMA or Title IX of the Alaska National Interest Lands Conservation Act.

Subsection (c) provides—1) except as provided in this subsection, nothing in the bill applies to or affects the status of any judicial or administrative determinations made prior to its enactment regarding any claim or assertion based on R.S. 2477; 2) any final determination regarding an R.S. 2477 claim or assertion made sooner than 4 years after the enactment of the bill must be filed with relevant offices of the Bureau of Land Management and recorded on appropriate local land records; 3) failure to file or record in accordance with paragraph (2) shall be deemed a relinquishment of any rights purported to have been acquired under R.S. 2477; 4) a deeming of relinquishment for failure to file or record is subject to judicial review; but 5) any such judicial review must be initiated no later than 7 years after the date of enactment of the bill.

SECTION 8

Section 8 specifies that no Federal officer, agency, or court shall take any action to affirm the validity of any assertion of a property interest in a right-of-way under R.S. 2477 except with regard to a claim filed under the bill.

SECTION 9

Section 9 authorizes appropriations to implement the bill.

IN HONOR OF ROBERT HAWK

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. KUCINICH. Mr. Speaker. I rise today in honor and recognition of Robert Hawk—Vietnam War Veteran, public servant and protector of the citizens of Cleveland and beyond. Mr. Hawk's dedication and integrity throughout his career as a Special Agent with the Federal Government reflects a continuum of law enforcement excellence.

Mr. Hawk grew up in Western Pennsylvania and graduated with a Bachelor of Arts Degree from Geneva College in Beaver Falls, PA. After graduation, Mr. Hawk served in the infantry with the U.S. Army's Cavalry Division in the capacity of Team Leader in charge of a Reconnaissance Team.

In 1978, following his exemplary service to our country, Mr. Hawk began his service with the FBI as a Special Agent. His assignments included working out of the FBI's Cleveland and Detroit offices. For the next decade, Mr. Hawk garnered extensive experience on high-level assignments, including working in undercover capacities on narcotics and white-collar crime cases. Since 1989, Mr. Hawk has continued to serve with diligence and integrity as the Media Coordinator in the Cleveland FBI Office. Aside from media-related duties, Mr. Hawk is a Firearms Instructor, Defensive Tactics Instructor, and assists the Cleveland Organized Crime Squad on numerous cases.

Mr. Speaker and Colleagues, please join me in honor, gratitude and recognition of Mr. Robert Hawk, friend, mentor and leader within the FBI organization. His significant work continues to strengthen the vital bonds between law enforcement and the greater community, and also serves to strengthen the fabric of safety for every citizen of Cleveland and well beyond.

INTRODUCTION OF OAK PARK MEDICAL CENTER PROPERTY ACQUISITION

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. UDALL of Colorado. Mr. Speaker, I am introducing a bill today that will resolve a conflict between the Department of Commerce and a property owner along the perimeter of the Department of Commerce campus in Boulder, Colorado.

In 2004, the Department of Commerce determined that a security fence needed to be constructed around the Boulder campus that houses labs for both the National Institute for Standards and Technology, NIST, and the National Oceanic and Atmospheric Administration, NOAA. In preparation for the fence the current access road would need to be rerouted. This road is also the only access to the Oak Park Medical Center, that abuts the Department of Commerce property. NIST granted an easement to the medical center to allow access to the facility through the Boulder Campus. Current plans to open a new entrance to the campus will result in the closing of access to the medical center.

Significant discussions have occurred between the Oak Park Medical Center property owner and the Department of Commerce, principally through NIST. However, no compromise has been reached to provide alternative access to the medical center. The Department of Commerce contacted the Oak Park Medical Center property owner identifying an alternative access road which is unacceptable to both the owner and the tenants of the building. The property owner has expressed interest in selling the property to the Department of Commerce.

Unlike most government property, the Boulder Campus was purchased by the Department of Commerce, rather than the U.S. General Services Administration. As a result, my bill authorizes the Department of Commerce to purchase the land.

I have contacted the Department of Commerce urging the agency to administratively buy the property, however feel this legislation is helpful if an administrative solution is not worked out. I believe this is an equitable compromise, as the property owner is willing to sell the land, and NIST would have access to utilize the building. At the same time, plans for construction of the security fence will not need to be altered to provide access to the medical center.

I have included a letter from the property owner expressing his support for this bill as well as the purchase of his property by the Department of Commerce. I consider this a friendly condemnation and urge a speedy passage of the bill by the House of Representatives.

BOULDER, CO,
July 19, 2005.

Re Proposed Legislative Bill for the Purchase of 385 South Broadway, Boulder, Colorado.

Congressman MARK UDALL,
Mr. DOUG YOUNG,
Turnpike Drive,
Westminster, CO.

DEAR CONGRESSMAN UDALL AND MR. YOUNG: I am in support of the legislation that would authorize and direct the federal government to purchase my property at 385 South Broadway, Boulder, Colorado, referred to in the proposed Bill as the "Oak Park Medical Center."

Please understand that my preference would be to retain ownership and for NIST to honor its existing easement granting access to and from the Oak Park Medical Center. However, if that agreement is to be unilaterally rescinded by NIST, then I feel that this legislation to purchase my property is the appropriate course of action. Thank you.

Sincerely,

BRUCE TENENBAUM.

INTRODUCTION OF THE "PRESERVATION OF FEDERALISM IN BANKING ACT"

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. GUTIERREZ. Mr. Speaker, I am pleased to introduce legislation today that continues the long fight to maintain state consumer protections for customers of national banks. In January 2004, the Office of the Comptroller of the Currency (OCC), the primary regulator of national banks, introduced regulations to preempt the application of state laws and the authority of state officials over their regulated entities. Since that time, other banking regulators have joined this race to the bottom. My legislation will provide much-needed clarification in this area.

Last year, USA Today, the nation's newspaper, condemned the OCC's preemption rules in an editorial, claiming that they threaten "strong consumer protection laws that have been the responsibility of states for more than a century." The newspaper said the OCC rules will make "millions of consumers vulnerable" to illegal loan practices. The OCC's Chief Counsel irreverently characterized these concerns as "baloney."

Over the last year, we have worked together as a broad bipartisan coalition who sees state consumer protection as a bread and butter issue, rather than "baloney."

This legislation is merely the latest step to ensure that our states have the power to protect consumers.

And to stop the OCC from eroding strong safeguards that have been used by the states for more than a century to enforce consumer protection laws.

The preemption rules were a misguided, unprecedented, unchecked expansion of its authority, especially since the states, rather than the OCC, currently have the tools and resources to effectively enforce consumer protection and other important laws. This agency has repeatedly demonstrated that it is far more concerned with currying favor among the banks it regulates instead of fulfilling its regulatory responsibilities under the law.

Last year, I passed an amendment to the Financial Services Committees Budget Views expressing concern regarding the budgetary effects of the OCC's preemption rules. The budget views put the Financial Services Committee on record that the OCC's preemption rules represent an unprecedented expansion of authority, one that was instituted without Congressional authorization. Subsequently, I introduced legislation to reverse the preemption rules, and then, toward the end of last Congress, Mr. FRANK and I introduced a version of what we are again introducing today.

Our bill ensures that national banks will be bound by state consumer protection laws, including predatory mortgage lending statutes. It also prohibits banks from benefiting from part of a state law while refusing to comply with a consumer-friendly portion of the same law. For example, a bank in Ohio is currently using the state law mechanism for foreclosing properties, but failing to abide by another provision in the statute, which limits fees for consumers. This legislation also allows state attorneys general to enforce laws and bring suit against banks when appropriate. As a former City Council member, I believe that the accountability of local officials is crucial. Few consumers can sort through the alphabet soup of regulators and figure out whom to contact if they have a problem with their bank. But almost every consumer knows that their attorney general is there to protect them, so we must ensure that they retain authority over banks.

I am pleased to have been joined on this legislation by Representatives FRANK, LEE and McCARTHY as original cosponsors and I urge all of my colleagues to support this effort.

15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT: MUCH ACCOMPLISHED, BUT MORE PROGRESS NEEDED

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Ms. SCHAKOWSKY. Mr. Speaker, today I rise to celebrate the 15th anniversary of the Americans with Disabilities Act. When the ADA was signed on July 26, 1990, it promised "equality of opportunity, economic self-sufficiency, inclusion and independence" for people with disabilities. This landmark legislation—one of the most important civil rights bills of our generation—is designed to allow the disabled to be full and productive members of our society. The goal of the ADA is that no one should be isolated or denied the opportunity that is the American dream.

The motivating idea behind the ADA is the recognition that persons with disabilities deserve to enjoy true equality and independence, to be part of our Nation not isolated within it. The ADA says it is wrong that individuals cannot join their friends at a movie theater or restaurant or sports stadium simply because they are in a wheelchair. It is wrong that disabled individuals are not hired because employers refuse to make workplace accommodations. It is wrong that, because individuals must deal with a disability, they must also deal with the lack of accessibility to public buildings, transportation and services. That kind of discrimination goes against the fundamental principles of our Nation. It is those types of obstacles that the ADA has sought to eradicate. By integrating people with disabilities into the workforce and community, we have all benefited.

While there were many individuals who were instrumental in winning the passage of the ADA, I want to acknowledge and thank two leaders in the disability rights movement: Justin Dart and Marca Bristo. Justin Dart was an inspiration for all of us who care not just about disability rights but about human rights. Marca Bristo, a constituent and friend, continues to lead the effort to expand opportunities and respect for persons with disabilities. I have had the personal privilege of knowing and learning from them and, like so many others, have been profoundly influenced by them.

Justin Dart was born in Chicago in 1930, contracted polio in 1948 and spent the rest of his life in a wheelchair. Although he died in 2002, his legacy lives on both through the thousands of advocates he has inspired and through the work of Yoshiko Dart and the rest of his family. He was known for his grassroots activism, touring the Nation, rallying people to support disability rights. In 1981, Mr. Dart was appointed by President Reagan to be the vice-chair of the National Council on Disability. He and others on the Council drafted a national policy that called for national civil rights legislation to end the centuries-old discrimination against people with disabilities—what would eventually become the Americans with Disabilities Act of 1990. In 1988, he was appointed to lead the Congressional Task Force on the Rights and Empowerment of Americans with Disabilities. Mr. Dart toured the Nation, touting the ADA as "the civil rights act of the future." In 1990, Justin Dart received the first pen used by former President Bush at the signing ceremony for the Americans with Disabilities Act. For the reminder of his life, Justin Dart continued to work passionately to see that disabled persons were given the rights they deserve and to win "Justice for All."

Marca Bristo is a nationally and internationally acclaimed leader in the disability rights movement. In 1977, Ms. Bristo suffered a spinal injury in a car accident. Her new condition forced her to see life in a new way, and she has since been a passionate and tenacious advocate for disability rights. In 1980, she founded Access Living in Chicago, one of the Nation's first centers for independent living. Ms. Bristo served as the Presidentially-appointed chairwoman of the National Council on Disability from 1994 to 2002 and while heavily involved in the drafting of the ADA, has not been afraid to point out the need for improvements in it. As chairwoman of the NCD, she released a report on the ADA 5 years ago which focused specifically on implementation problems and has persistently argued that rights must be enforced in order to be real. Marca Bristo continues to work hard for disability rights and to improve the lives of people in Chicago and around the Nation.

Our Nation has come a long way in the 15 years since passage of the Americans with Disabilities Act. We have changed, we have become a more inclusive society, but we have not achieved our goal. The ADA has done much to break down barriers for the disabled, but we must recognize that we have far more to do to end discrimination. For 15 years now, it has been illegal for employers to discriminate against job applicants because of their disabilities. Yet, 2 of every 3 disabled persons are unemployed. It is illegal for state and local governments to deny disabled persons access to public services such as mass transit. Yet, funding constraints still leave persons with disabilities without accessible and convenient transportation options. Public and commercial buildings must be constructed and, where possible, modified to accommodate disabled persons. Yet, homes are still being built that lock people out instead of being built to be accessible and inconclusive. That is why I have introduced H.R. 1441, the Inclusive Home Design Act. Finally, too many people are still locked out of their communities because of the lack of home- and community-based services. We need to build upon the initial success of the ADA to solve these problems. Yet, today we are defending against Social Security privatization schemes that would slash disability benefits for 8 million people with disabilities and against Medicaid cuts that would jeopardize health and long-term care services.

The Americans with Disabilities Act has changed our society in these past 15 years. However, as with most civil rights issues, there is still so much more progress to be made. We must remember the vision of Justin Dart and listen to the message of Marca Bristo. While we take time to celebrate today's anniversary, we must never be content until the promise of the Americans with Disabilities Act becomes reality so that every person is guaranteed "equality of opportunity, economic self-sufficiency, inclusion and independence."

A TRIBUTE TO DR. EDMOND F. RITTER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. TOWNS. Mr. Speaker, I rise today in recognition of a distinguished academic surgeon, Edmond F. Ritter. It is an honor to represent Dr. Ritter in the House of Representatives and it behooves us to pay tribute to this outstanding leader in American Medicine.

Dr. Ritter received his Medical degree from Washington University in St. Louis, where he completed General Surgical Training. Dr. Ritter then underwent Plastic and Reconstructive Surgical Training at the University of California San Francisco. After completing his training, he was appointed to the faculty at Duke University Medical Center. He was later named, "The Duke Distinguished Physician," in recognition of his contributions to the institution and patient care.

Dr. Ritter is an influential member of the medical community. As a gifted surgeon with special expertise in reconstructive microsurgery, he is able to provide skilled, state-of-the-art care to patients with difficult problems. In particular, his results for patients with cancers of the head, breast, and neck are unsurpassed.

Dr. Ritter has had an integral role in the training and mentorship of over 30 young plastic and reconstructive surgeons. Many of these aspiring surgeons have accepted academic positions and have become leaders in their communities.

Currently, Dr. Ritter is an Associate Professor at the Medical College of Georgia. In addition to making multiple contributions to the surgical literature, he is leading an investigation of Tumor and Adult Stem cell interactions in order to advance our understanding of tumor biology.

As a result, Mr. Speaker, I believe that it is incumbent upon this body to recognize the accomplishments of Dr. Edmond Ritter for sharing his talents and services to improve the medical, physical, and emotional well-being of those in need.

A TRIBUTE TO REAR ADMIRAL ANTHONY W. LENGERICH, UNITED STATES NAVY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. LEWIS of California. Mr. Speaker, I rise today to honor Rear Admiral Anthony W. Lengerich, United States Navy, who is retiring after more than 34 years of faithful service to our Nation. A native of Redlands, California, Rear Admiral Lengerich received his commission in 1971 through a Naval Reserve Officer Training Corps scholarship at the University of Colorado, and has since served with great distinction both as a Surface Warfare Officer and an Engineering Duty Officer.

Rear Admiral Lengerich's impressive career has included sea duty aboard USS *GURKE* (DD 783) and USS *BADGER* (FF 1071), and on the afloat staffs of Commander U.S. Seventh Fleet, Commander Destroyer Squadron Thirteen, Commander Carrier Group Two and Commander Cruiser Destroyer Group Twelve. During these tours, he qualified as a Surface Warfare Officer and was designated as "Qualified for Command at Sea." He also served as Communications Operations Officer for the eastern Atlantic and Mediterranean on the staff of the Commander in Chief, U.S. Naval Forces Europe in London.

Following his selection as an Engineering Duty Officer in 1984, Rear Admiral Lengerich served as the Platform Integration Officer for the Joint Tactical Information Distribution System on the staff of the Naval Electronic Systems Engineering Command, Washington, DC. His next assignment included duties as Project Officer for the Command and Control Processor and Director of Force Systems Engineering within the Space and Naval Warfare Systems Command (SPAWAR). He later served as the Division Director for Afloat Mission Planning Systems within the Command and Control Program Office on the staff of the Program Executive Officer for Cruise Missile and Unmanned Aerial Vehicles. An exceptional leader, he has commanded the Naval Electronic Systems Engineering Center, Charleston, South Carolina, and "commissioned" the Naval Command, Control and Ocean Surveillance Center, In-Service Engineering, East Coast Division, also in Charleston. He subsequently commanded the Naval Command, Control and Ocean Surveillance Center, San Diego, California, with additional duty as Corporate Operations Officers and Corporate Information Office for SPAWAR.

In 1998, Rear Admiral Lengerich was nominated by the President and confirmed by the Senate for the rank of Rear Admiral (lower half). His initial flag assignments included Director of Installations and Logistics for SPAWAR, and next, on the staff of the Chief of Naval Operations as Director of Industrial Capability, Maintenance Policy and Acquisition Logistics, and as Deputy Director of the Fleet Readiness Division. He was nominated and confirmed for the two-star rank of Rear Admiral in 2001.

Rear Admiral Lengerich assumed his current duties as Vice Commander, Naval Sea

Systems Command in August 2002, effectively meeting the spectrum of demanding challenges in the daily operation of a command comprising nearly 50,000 employees and a $20 billion annual budget. His efforts have been instrumental in creating the foundation for an integrated organization with a single corporate focus that specifically aligned NAVSEA's mission in support of the Chief of Naval Operations, Secretary of the Navy, and Secretary of Defense initiatives. His visionary leadership and practical day-to-day approach during a period of unprecedented institutional transformation, has substantially and materially guided the execution of extremely complex acquisition, fleet maintenance and modernization programs to fulfill the needs of the Fleet today and the Navy of tomorrow.

Rear Admiral Lengerich has been indispensable in bringing the leading edges of technical thinking and management skills together to meet myriad Navy needs. A champion of sound fiscal methods, Rear Admiral Lengerich chaired a command review of major acquisition programs to identify and address shortfalls, and provided recommendations to reduce testing and evaluation costs, which were incorporated in the Department's investment process. Organizationally, he has fostered the improved communications and enhanced teamwork needed to produce desired "bottom line" results within the command and across the Navy. His vision led to the merger of the NAVSEA Warfare Centers into a single business unit, enabling process commonality between the NAVSEA Warfare Centers and Divisions, and the designation of Product Area Directors to ensure each Warfare Center customer received the best and most efficient combination of talent, facilities, and cost. Notably, Rear Admiral Lengerich chaired the Systems Command Integration Board to address the range of issues vital to the delivery of effective war fighting systems, and, has also chaired the Functional Naval Capabilities—Total Ownership Cost Integrated Process Team for the past six years, and led efforts which have yielded over $3 billion a year in ship, aircraft and ground vehicle maintenance cost avoidance.

Rear Admiral Lengerich has devoted significant energies to the command's civilian and military personnel. He has shaped the command's "roll out strategy" for transition to the National Security Personnel System and he developed the metrics to guide the command's Human Capital Strategy. Within the Navy's Engineering Duty Officer (EDO) Community he spearheaded efforts to pro-actively manage the community strategy in meeting Navy dynamic requirements. With the same focus on the future, he has been a personal mentor to nearly one-third of the entire Navy ED community and has worked with the Naval Postgraduate School to create a new accredited Master of Science in Systems Engineering curriculum and to create an advisory board on course curriculum critical to NAVSEA and SPAWAR.

For the past two months, Rear Admiral Lengerich has served superbly as NAVSEA's Acting Commander, answering the call of duty as he has done many times before. He is an individual of uncommon character and total professional whose presence will be sincerely missed but whose many contributions will certainly endure. I am proud, Mr. Speaker, to thank him for his honorable service in the United States Navy, to commend him for a job "well done," and to wish him "fair winds and following seas" as he closes his distinguished military career.

ON THE 15TH ANNIVERSARY OF THE INDIVIDUALS WITH DISABILITIES ACT

HON. KATHERINE HARRIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Ms. HARRIS. Mr. Speaker, I rise today to commemorate the 15th anniversary of the Americans with Disabilities Act (ADA), which we observe this week. This landmark piece of legislation continues to make a daily difference in the lives of the American people—not only in the lives of those with disabilities, but in all of our lives.

The Americans with Disabilities Act laid the groundwork to direct our nation toward equal opportunity for all. Today, the National Council on Disability, working with their federal partners, keeps up the hard work of striving to meet this vital goal. I am proud to have one of my Florida constituents serving as an appointee to the United States Access Board, which helps ensure accessibility in the design of Federal facilities. I applaud her commitment and dedication.

As Florida Secretary of State, I was fortunate to have the opportunity to apply the mission of the ADA to the cause of election reform. In Florida, we worked to remove the obstacles that were preventing individuals with disabilities from participating fully in the political process. With this legislation, Florida became the first state in the Nation to enact a law to secure the voting rights of individuals with disabilities.

We have fought hard to live up to the promise of our founding and to honor the dignity of every individual, and to extend the rights, privileges and opportunities of that promise to all our citizens. The Americans with Disabilities Act was part of a long line of landmark achievements that have expanded freedom and opportunity in the United States. Let us continue working toward the goals of this law—to remove the obstacles that prevent persons with disabilities from enjoying the full rights that too many Americans take for granted.

TRIBUTE TO LANCE ARMSTRONG

HON. RANDY NEUGEBAUER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. NEUGEBAUER. Mr. Speaker, Lance Armstrong won an unprecedented seventh Tour de France race over the weekend. His life, both on and off the race track, is a great example of hard work and perseverance. Albert Carey Caswell, a U.S. Capitol Tour Guide, who is also a prolific poet, wrote the following poem in tribute to Lance Armstrong and his accomplishments. I believe that reading this poem will provide encouragement and inspiration to my colleagues as we consider Mr. Armstrong's great accomplishments.

A REAL FINE TOUR DE FORCE OF LIFE

WITH HEART AND SOUL, BODY AND MIND . . .
AND LEGS AND ARMSTRONG

This force, this presence . . . which guides us along life's path and roads . . .
Directing us from deep down within . . . this burning force, which lasts in life we follow as we go.
As emanating, from so very deep within our very souls, this voice . . . of this our chosen goal, of this our life's Tour De Force of Life as shows!

While, riding along life's roads,
As there upon our paths as rode, embarking on this journey we call life . . . as ever onward we go . . .
To win the race of life, we all must follow a code of courage and sacrifice . . . until, approaching our final nights, upon this our earth as rode.

For in the game of life, there is but one thing which makes us bright . . . of which makes us all contenders.
Just one difference between winning and losing . . . for it's "The Heart" from which all great things are so rendered!
For True Champions come in all shapes and sizes . . . but, it's what's found within their hearts as where lies their true and golden splendor . . .

While, traveling through life's country sides,
As over her mountain tops we climb, as along life's rivers which we wind . . . as by her we glide . . .
In this our most valiant of quests, To Be The Best . . . as before us so lies the answer so . . . Of this great test, within our hearts inside . . .

Do we get up when we fall down?
While, upon each new stage in this race called life . . . do our hearts burn bright in our souls as found?
For in this our greatest of quests, To Be The Best . . . will we one day because of these our precious gifts, perhaps be so Heaven bound?

In Life . . . to go for the Gold!
To cheat death, to reach down inside of yourself as your soul stretch . . . until, none is left, oh, so very bold!
To be a true Champion, To be The Best, to rewrite history and the records books while upon our life's valiant quest . . . as Lance so-Gold.

A True Great Champion . . . among just mere men.
A winner, a man of courage . . . of passion . . . of fury and heart . . . from the start . . . to the middle . . . until, the very end!
A man who knows but only one creed . . . who knows no bounds . . . to push the envelope as he is found . . . as his quest for victory never so ends!

A Real Fine Tour De Force of Life . . . A Real Tour De France . . . as is this Tour De Lance!
A True Terminator, among his fellow athletes as a most historic creator . . . as ever onward he'll advance . . .
For there is no mountain too steep for him to climb, no cure too sharp for him to ride in time . . . with but one thing on his mind, that Golden Chance!

With Heart and Soul . . . Body and Mind . . . and Legs and Armstrong!
As this great American Hero, has shown to this our world . . . why, with his character he so belongs . . .
For in Sir Lancelot, we see this Valiant Knight of Courage's Quest . . . reaching deep down into our souls, as with his tests . . . his sweet life's song!

While, there looking into the very face of death!
Pedaling uphill, how Lance achieved the ultimate victory . . . while "cheating death". . . in his most valiant of all quests . . .
But not to lull, but to move ever forward somehow . . . on so courageously now . . . while, to this our world he's shown his very best!

And, as Lance rides onward into history. . .
My child, I bid you to learn and see . . . and glean from his life lessons, all about what's within a heart you need!
What it takes to wind and to succeed, about hope and faith, about character and courage and dedication within great hearts within you to succeed.

In traveling down the road of life.
For in Lance, we so see A Great Fine Tour De Force of Life, to so carry with us in our hearts about God and Faith and Sacrifice!
A true celebration of the Heart and Soul of Courage and Faith . . . and it's true fine worth in Gold, this his A Fine Tour De Force of Life!

INTRODUCTION OF A RESOLUTION CONDEMNING THE CUBAN REGIME'S MOST RECENT MEASURES OF EXTREME REPRESSION AGAINST MEMBERS OF CUBA'S PRO-DEMOCRACY MOVEMENT

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to introduce a resolution condemning the Cuban dictatorship's most recent measures of extreme repression against Cuba's pro-democracy movement.

Following Castro's condemnable, March 2003, crackdown against peaceful pro-democracy activists, the European Union correctly took measures against the Cuban regime. However, in January 2005, the European Union suspended these measures and resumed its policy of so-called "engagement" with the terrorist regime in Havana. This policy of appeasement includes inviting regime officials to diplomatic events and shamelessly disinviting Cuba's brave pro-democracy activists. Unfortunately, on July 14, 2005, the Government of France invited the dictatorship's Foreign Minister to the French Embassy in Havana for a Bastille Day celebration. And, the Government of France did not invite the heroic members of the democratic opposition to the same celebration.

To protest this cowardly policy, members of the pro-democracy opposition in Cuba sought, on July 22, to demonstrate in front of the French Embassy in a peaceful and orderly manner for the liberation of all Cuban political prisoners, and to denounce the current policy of the European Union.

In a viscous display of gangster-style repression, the Cuban regime mobilized its repugnant state security apparatus to try to intimidate and harass the peaceful demonstrators. Members of the Assembly to Promote Civil Society in Cuba, who were planning a peaceful demonstration in front of the French Embassy in Havana on the morning of Friday, July 22, were the victims of hate acts ("acts of repudiation"), their homes were ransacked, and at least 20 of them were arrested. Among those arrested were the leaders of the Cuban opposition Martha Beatriz Roque, Félix Bonne Carcassés and Rene Gómez Manzano. Mr. Gómez Manzano and other opposition members remain in prison as I speak.

This is one more example of the brutality of a dictatorship that does not allow freedom of expression for Cubans, and instructs its thugs to assault the members of the peaceful opposition for the "crime" of seeking freedom, democracy and respect for human rights in Cuba. The world needs to respond in the strongest possible terms to this latest violation of the most elemental human rights in Cuba. This resolution condemns the latest violations of human rights by the Cuban regime, a regime of gangsters, by gangsters and for gangsters, led by a gangster in chief.

HONORING THE 15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise this evening not only to celebrate the 15th Anniversary of the Americans with Disabilities Act, known as the ADA, but also to acknowledge my unwavering support of the ADA and of people with disabilities.

This Act has created positive changes, large and small, for disabled people everywhere. The access ramps we see leading into buildings are examples. Water fountains and sinks are more accessible. Services for the sight- and the hearing-impaired are more common. Employment discrimination is decreasing.

Another important development is that the Americans with Disabilities Act has mobilized the disabilities advocacy community. Since 1990, people with disabilities have grown into seasoned advocates. They have unified their voices and are being heard from the halls of Congress to the every city and town across America. Unity has added strength to their voice and confidence to their actions. And they are being heard, loud and clear. Every year, Congress has considered legislation affecting people with disabilities, whether it be concerning Social Security benefits, education, tax provisions, labor standards, or other issues. The Americans with Disabilities Act provided a comprehensive legislative starting point—but there is still so much more to be done.

Perhaps more than anything else, this legislation has given hope to disabled people here in Dallas and across this nation. The Americans with Disabilities Act affirmed that people with disabilities should have as many opportunities to succeed in life as any other citizen. Its message is one of equality. To the 14,589 disabled workers in Texas' 30th District, and others across the nation, the message is: "You belong."

HONORING THE 15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. RAMSTAD. Mr. Speaker, today marks the 15th anniversary of landmark civil rights legislation for Americans with disabilities—the passage of the Americans with Disabilities Act.

This landmark law was passed with strong bipartisan support and signed into law by President George H.W. Bush. As we mark the 15th anniversary of this historic event, we celebrate the tremendous progress and new doors that have been opened to individuals with disabilities as a result of the ADA.

The purpose of the ADA was to provide clear and comprehensive national standards to eliminate discrimination against individuals with disabilities. As a result, individuals with disabilities are now able to live in their homes and have access to new careers. Accessible busses and trains and better paratransit systems have made it possible for more people with disabilities to get to work and school, enjoy restaurants and theaters and travel.

The ADA has improved society, not only for the 14 percent of Americans over the age of five who have at least one disability. Commonsense accommodations like curb cuts and close captioning have also benefited Americans without disabilities.

On this important anniversary, we must remember that while we have come a long way in eliminating barriers, critical work remains to ensure all Americans can live up to their full potential. Tragically, we still have stereotypes and misconceptions that affect people with disabilities. Sadly, we still have examples like the boy in Pennsylvania who was the target of discrimination by his T-ball coach. This is not an isolated incident, as I have learned of another boy in Kansas who was denied the right to play T-ball like any other 7-year-old because he had cerebral palsy. Fortunately, because of the ADA, that boy was eventually allowed to play T-ball.

Giving people with disabilities the right to participate fully in society is what this landmark legislation is all about.

As co-chair of the Bipartisan Disabilities Caucus, I know that the ADA is a major achievement and much has been accomplished over the last 15 years. As we celebrate how far we've come, let us also recommit to creating a society in which no barrier stands in the way of fully participating in our society.

PERSONAL EXPLANATION

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mrs. MYRICK. Mr. Speaker, I was unable to participate in the following votes on July 22, 2005. If I had been present, I would have voted as follows:

Rollcall vote 415, on agreeing to the Velázquez of New York amendment No.4 to H.R. 3070—the National Aeronautics and Space Administration Authorization Act, I would have voted "no."

Rollcall vote 416, on passage of H.R. 3070—the National Aeronautics and Space Administration Authorization Act, I would have voted "aye."

TRIBUTE TO JUDGE ALPHONSO CHRISTIAN

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mrs. CHRISTENSEN. Mr. Speaker, the United States Virgin Islands has lost one of its outstanding success stories as prominent lawyer and Judge Alphonso Christian passed away Saturday, July 23, 2005.

With the passing of this Native son we have lost a premiere trail blazer. This outstanding Virgin Islander, born in Frederiksted, St. Croix, made substantial contributions to the Territory and in particular to the island of St. Thomas, the place he sailed to as a young man to begin his career. St. Thomas became his home, and it is where he began a flourishing and illustrious career, raising his children to be another generation of a progressive Family that is especially renowned in St. Croix for its industriousness, hard work and diligence.

Christian, 88, died of heart failure at Roy L. Schneider Hospital on St. Thomas. A jurist, attorney, government administrator, teacher and community activist, Christian had arisen from humble beginnings on St. Croix. Christian was born on August 2, 1916 to Peter and Wilhelmina Christian in Frederiksted. His well disciplined upbringing and strong will to succeed during his child hood set the tone for his achievements to come.

He graduated as the Valedictorian of the Commercial Class at St. Patrick's and started as Clerk Typist at the Agricultural Station at Anna's Hope. He later came to St. Thomas where his speed and accuracy in this position paved the way for his becoming the Stenographer to Mr. Herbert Lockhart of the A.H. Lockhart & Co., a company that was the hub of all commercial activity on St. Thomas.

He worked his way from stenographer to reporter, and served as secretary of the Virgin Islands Municipal Council, and all the while studied law by correspondence from the well know LaSalle School. Impressed by his legal intellect, although he had never practiced law, Christian was allowed to take the bar exam without having attended law school. He passed at his first attempt with high marks and was admitted to the V.I. Bar in 1949.

Christian became involved with civic and political organizations while studying law by correspondence with the well-known LaSalle School.

His activity in politics began with his involvement in the first political party, the V.I. Progressive Guide. That position was the springboard to other positions such as Executive Secretary to the Municipal Council and the Legislative Assembly.

He was named legal aide to the Municipal Council of St. Thomas and St. John and the Legislative Assembly in 1949 and Judge of the Police Court in 1951. For the three years he served as Judge of the police Court, he also served as Coroner Recorder of Deeds, Chairman of the Board of Elections, United States Commissioner and Chairman of the Fourth of July Celebrations.

In 1972, he was appointed Commissioner of Public Safety of the Virgin Islands and served in the position until 1975, when he practiced law full-time. In April 1978, he was named the first Senior Sitting Judge of the Territorial Court of the Virgin Islands, now known as the Superior Court, and served until April 1993.

Judge Alphonso Christian has served the Territory as a businessman, teacher, Attorney, Commissioner, Jurist, community activist and philanthropist. Judge Christian started his own business by opening and teaching at his own Commercial School, which he began in his living room and later transferred to his law office.

He was also the Commissioner of Public Safety at the time when that Department also included the Fire Service and the Prison System. His extensive community involvement also included being a Charter Member of the Lions Club, Chairman of the Virgin Islands Carnival Committee for several years, serving on various community Boards, and using his legal experience and business acumen to help the Catholic Church in many areas. While serving in these many capacities, Christian also taught legal assistants at the University of the Virgin Islands.

A man of many talents and blessed with wisdom, knowledge and persistence, Alphonso Christian will be long remembered and praised for his work in all areas in which he served his beloved home, but I am certain that he counts among his greatest contributions, as do we, those which have been made and will continue to be made through his children and grandchildren.

Judge Alphonso and my father Judge Almeric Christian who preceded him in death by several years were respected colleagues and good friends. On behalf of my family, staff, and the Members of the 109th Congress of the United States of America, I extend my heartfelt condolences to Mrs. Ruth Christian, their children, Rubina. Delano, Alicia, including my dear friends Attorney Alphonso, Jr., and Dr. Cora Christian, grandchildren, sister Ann Abramson, family and friends.

May God comfort and bless you during this time of loss and may you find peace and acceptance in knowing that Judge Christian left an admirable record of achievement and a stellar example for those of us to emulate when we want to reach for the stars and the world tells us we have nothing to stand on.

His faith, persistence and hard work overcame great obstacles, and now he rests in God's eternal peace.

INTRODUCTION OF A RESOLUTION RECOGNIZING THE CENTENNIAL OF SUSTAINED IMMIGRATION FROM THE PHILIPPINES TO THE UNITED STATES

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. CASE. Mr. Speaker, I rise today to introduce, together with 29 of my colleagues, a concurrent resolution to formally recognize the 2006 centennial of sustained Filipino immigration to the United States, acknowledge the many achievements of our Filipino-American community, and reflect on the productive and enduring relationship between the United States and the Philippines over the past century.

The Filipino-American experience and the evolving yet always close relationship between the Philippines and the United States began in earnest in 1906, when fifteen Filipino contract laborers arrived in the then-Territory of Hawaii to work on the islands' sugar plantations. This marked the start of an emigration from the Philippines to the United States which, during the subsequent century, has numbered upwards of 60,000 a year, making Filipinos our second-largest immigrant group from the Asia-Pacific region.

The year 1906 was also when the first class of two hundred "pensionados" arrived from the Philippines to obtain a United States education with the intent of returning to the Philippines. Many, however, stayed to become American citizens, forming, with the "sakadas" who emigrated to my Hawaii, the foundation of today's Filipino-American community.

The story of America's Filipino-American community is little known and rarely told. Yet it is the quintessential immigrant story of early struggle, pain, sacrifice, and broken dreams, leading eventually to success in overcoming ethnic, social, economic, political, and legal barriers to win a well-deserved place in American society.

Today, 2.4 million Americans of Filipino ancestry live throughout our Nation, including the two top states: California, where 1.1 million reside, and Hawaii, my home state, where some 275,000 live (140,000 in my Second Congressional District alone, making it home to the largest number of Filipino Americans of any congressional district).

Members of this community have made great contributions to America, and have achieved success and distinction in, among other things, labor, business, politics, media and the arts, medicine, and the armed forces. Filipino Americans have also served with distinction in the armed forces of the United States throughout the long U.S.-Philippines relationship, from World Wars I and II through the Korean War, the Vietnam War, the Gulf War, and today in Afghanistan, Iraq and elsewhere.

Many Filipino Americans retained their mother country's proud cultural traditions, which continue to enrich the diverse tapestry of today's American experience. Many have also maintained close ties to family and friends in the Philippines, and therefore played an indispensable role in maintaining the strength and vitality of the U.S.-Philippines relationship.

That relationship has evolved over the past century from the 1898–1946 period of U.S. governance, during which the then-Commonwealth of the Philippines was represented in the U.S. Congress by thirteen resident commissioners, to the post-independence period beginning in 1946, when the Philippines took its place among the community of nations and became one of this country's most reliable allies in the international arena.

In 2006, our Filipino-American community will join all Americans in pausing to recognize a century of achievement in the United States through a series of nationwide celebrations and memorials marking the centennial of sustained immigration from the Philippines. This centennial will provide every American of whatever ethnic heritage an opportunity to not only celebrate a century of Filipino immigration to the United States, but to celebrate, appreciate, and honor the struggles and triumphs common to the immigrant experience, which, of course, is also the American experience.

PERSONAL EXPLANATION

HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. BROWN of South Carolina. Mr. Speaker, I am writing to notify you that I was absent July 19, 2005. The reason for my absence was that I had to have an emergency appendectomy at the Bethesda Naval Hospital.

Regarding the votes that I missed please see below for the way that I would have voted had I been present:

Vote No. 383—previous question, "aye"; vote No. 384—adoption of the rule for H.R. 2601, "aye"; vote No. 385—Hyde amendment, "aye"; vote No. 386—Kennedy (MN)/Hooley/Osborne/Souder amendment, "aye"; vote No. 387—Hooley/Souder/Baird amendment, "aye"; vote No. 388—Souder #4 amendment, "aye"; vote No. 389—Smith (NJ) amendment, "aye".

PERSONAL EXPLANATION

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. OXLEY. Mr. Speaker, I was absent from the floor during rollcall 424 through rollcall 431 taken yesterday.

Had I been present, I would have voted "no" on rollcall 424 (the Kind Amendment to H.R. 525); "no" on rollcall 425 (the George Miller motion to recommit H.R. 525); "aye" on rollcall 426 (final passage of H.R. 525); "aye" on rollcall 427 (final passage of H.R. 2894); "no" on rollcall 428 (the Pence Amendment to H.R. 22); "no" on rollcall 429 (the Flake Amendment to H.R. 22); "aye" on rollcall 430 (final passage of H.R. 22); and "aye" on rollcall 431 (final passage of H.R. 3339).

TRIBUTE TO DR. WILLIAM W. TIPTON, JR.

HON. DORIS O. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Ms. MATSUI. Mr. Speaker, I rise in tribute to Dr. William W. Tipton, Jr., a man whose level of career achievement was matched only by his passion for living life to its fullest. Sadly, Dr. Tipton passed away on May 19, 2005 at the age of 64. As his friends and family gather to celebrate Bill's remarkable life, I ask all of my colleagues to join with me in saluting this outstanding citizen.

Born in San Francisco and raised in Sacramento, Bill's commitment to service began as he entered the Catholic Diocesan Seminary at age 14 to study for the priesthood. In 1967, he graduated from Creighton Medical School, an institution that would 36 years later recognize him with its alumni achievement award for his "distinguished service to his profession and humankind."

He first used his medical training to serve his country during the Vietnam War, first serving as a General Surgeon for Deployment on the U.S.S. *Ticonderoga*, and then as an Orthopedic Resident at Great Lakes Naval Hospital. After his honorable service, he returned to his native California to complete his orthopedic residency at the University of California, Davis.

Throughout his illustrious career in medicine, Bill enjoyed many personal accomplishments. However, his focus always remained on the health and well being of his patients.

For over two decades, Bill was an active member of the American Academy of Orthopedic Surgeons. From 1994–2003, he led the AAOS, serving as Executive Vice-President & Chief Executive Officer. He then served as AAOS Medical Director from 2003–2004.

One of Bill's proudest accomplishments at the Academy was the creation of "Healthy Athlete's Initiative," which provides medical screening for participants in the Special Olympics. He also, more recently, helped the Academy realize the program "Legacy of Heroes," a film chronicling the contributions of the surgeons of World War II and the influence they have had on modern medicine. The film was aired on PBS and was distributed through the Academy as a DVD.

Although Bill left us at far too young of an age, he made the most of every day that he spent on this earth. There was nothing in life that he wanted to do that he didn't do. All of us would do well to follow his example.

Mr. Speaker, as Dr. William W. Tipton's friends and family gather to honor this great American, I am honored to pay tribute to one of Sacramento's most honorable citizens. His achievements are truly a great inspiration. I ask all of my colleagues to join me in acknowledging Bill's invaluable contributions to Sacramento and the United States of America.

THE 52ND ANNIVERSARY OF THE START OF THE CUBAN REVOLUTION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. RANGEL. Mr. Speaker, I rise today to acknowledge the 52nd anniversary of the Cuban Revolution on July 26. It was on this day 52 years ago that Fidel Castro and a band of young men and women initiated a revolutionary struggle against the US-backed Batista regime. On this day in 1953, Fidel Castro led a small group of rebels in an attack on the Moncada military barracks in Santiago de Cuba. While the attack was a military failure, it signaled the beginning of the Cuban revolution which ultimately succeeded in overthrowing the Batista regime and establishing a communist regime led by Fidel Castro which, despite enduring hostility of the government of the United States has ruled the island for forty-six years.

Today, as we observe the new familiar pictures of Fidel Castro speaking to throngs in Revolutionary Square still in power after all these years, we need to examine the role U.S. policy has played in keeping him there.

I have long opposed U.S. policy towards Fidel Castro and Cuba, specifically the embargo, as I strongly believe that restricting travel and trade is a failed policy that harms the people of Cuba, and works against the promotion of democracy on the island. It also denies citizens of the United States the fundamental right and freedom to travel where they want and now denies Cuban Americans to visit their relatives living in Cuba.

In Cuba today, you will not find a Fidel Castro weakened by our 45-year embargo, but a Cuban leadership solidified by what can only be thought of as bullying tactics by the world's strongest superpower against one of our hemisphere's poorest nations which its people believe is being made to suffer because of its opposition to the United States.

I believe that the embargo has had the opposite of its intended effect. It has actually prolonged Fidel Castro's rule and continues today to be effectively used by him to distract the Cuban people from the failures of his policies by having them focus upon the embargo as the source of the hardships they are enduring. This will not be a happy anniversary for the Cuban people because of worsening economic conditions and increasing political repression, but Fidel will still receive applause when he blames the U.S. embargo.

Current United States policy toward Cuba is markedly out of touch with current world realities. Almost every nation has normal trade and diplomatic relations with Cuba, especially those nations in the Western Hemisphere.

Even in the Cuban-American refugee community, whose older members remain bitter about Fidel Castro and fiercely opposed to loosening sanctions, the younger members are beginning to support U.S. engagement with Cuba instead of confrontation. However, under the Bush administration the 45-year old embargo, has been further tightened, severely limiting travel to Cuba and the transfer of funds to family members on the island.

The new rules permit Cuban Americans to visit the island once every three years—and then only if they can get a license to travel from the Treasury Department. Additionally the White House has also restricted remittances. Under the changes, Americans are permitted to send cash only to a Cuban child, parent, sibling or grandparent—but not to cousins or nephews.

If you were to visit Cuba today you will not find people inspired by our embargo aimed at the removal of Fidel Castro from power, but rather you will find hungry families living in unnecessary poverty. In 2005 you will find a large constituency of Cuban Americans such as U.S. soldier Sgt. Carlos Lazo, who are angered and embittered by U.S. policies that limit visits with their family members to only once every three years.

You will find a Cuban-American constituency angered by the fact that in the wake of Hurricane Dennis (a disastrous force that wrecked havoc on the island and killed 16) they are powerless to help their family members still on the island because of remittance and aid restrictions.

Cuban people are well known for their strong sense of family values. It is therefore an outrage that a group of people who hold family bonds in such high esteem are prevented from assisting their families in a time of overwhelming need because of outdated and unreasonable U.S. policy.

Today marks the 52nd anniversary of the start of the Cuban-Revolution and for 46 years Cuba's government has remained the same. This is overwhelming evidence that U.S. policy towards Cuba must be reevaluated.

We should move towards a policy of active engagement with the people of Cuba, encouraging travel and visits to the island of all Americans who wish to go. The very presence of a significant number of U.S. citizens affluent and free will be an opponent to the Castro regime and will serve as a contrast that will sharpen the realization of the Cuban people of the failure of Communism to provide them with an economic system which can get them out of the poverty which afflicts most of the Cuban people. Visiting U.S. citizens will inevitably place enormous pressure on the Castro regime.

As it stands our policy toward Cuba is one that severely limits the availability of medicine and medical supplies to the Cuban people. It is a policy that denies U.S. Citizens the right to travel where they choose. It is a policy that prevents Cuban and American diplomats from establishing meaningful channels of communication to improve our relationship and prevent misunderstandings.

It is a policy that denies American companies and businesses access to an important and potentially enormous new market for American goods, services, and ideas. It is a policy that prohibits a country ninety miles from our shores from being a partner in our global effort to thwart terrorism, to counter drug traffickers, or protect our overlapping ecosystems. Most importantly however, it is a policy that has proven itself ineffective for more than 40 years.

The Cuban people are the ones who are suffering and it is time to put politics aside and work on developing a new foreign policy standard in regards to Cuba. Developing a relationship with Cuba is an important foreign policy goal and in order to achieve this goal a new and rational approach to relations between our countries is urgently needed, based on dialogue, open travel and increased trade.

I introduce in the RECORD an article from today's Miami Herald reporting on the circumstances in Cuba on the eve of the celebration of the 52nd anniversary of the start of the Cuban revolution.

[From the Miami Herald, July 26, 2005]

PATIENCE WEARS THIN ON EVE OF JULY 26

SEVERAL CUBAN DISSIDENTS REMAINED IN DETENTION AS THE GOVERNMENT SCALED BACK PLANS FOR FESTIVITIES COMMEMORATING THE START OF THE REVOLUTION.

(By Nancy San Martin)

When Cuban leader Fidel Castro takes to the microphone as expected today to commemorate the 52nd anniversary of an attack that marked the start of his revolution, many on the island will cling to words that promise relief from conditions exhausting the patience of an already exasperated population.

Human-rights activists on the island have said that "tempers are flaring" as the country continues to struggle with extended blackouts and a shortage of food, made worse by Hurricane Dennis.

Meanwhile, 10 of as many as 33 dissidents arrested last week spent their third day in custody Monday, opposition leaders in Havana reported. They were detained as they tried to participate in an anti-government protest in front of the French Embassy in Havana. And while the European Union joined the United States in condemning the arrests, leaders of the opposition movement on the island began plotting their next move to bring international attention to their plight.

"The detentions are completely arbitrary," said prominent dissident Martha Beatriz Roque, who was released from custody Saturday without charges. "We cannot allow the government to continue to treat us this way."

"There must be a response, not only from the opposition but from everybody," Roque told The Herald in a telephone interview, declining to reveal whether any new anti-government protests were planned in the coming days. However, she hinted they could be organized at a moment's notice.

"All I can say is that opposition groups all over the island are on alert," Roque said. "They are waiting for the call to take to the streets. I see the strong possibility of civil unrest."

Roque's determination to strike back comes as the government prepares to commemorate the July 26, 1953, assault led by Castro in a failed attempt to seize the Cuban army's Moncada Barracks in the eastern city of Santiago.

The event planted the seeds of a revolution that brought Castro to power in 1959. The anniversary usually is marked by big public events, but this year's planned celebration appears more subdued.

Castro is expected to give a speech, but as of late Monday, the location had not been announced. Other events were planned to take place indoors.

Several opposition leaders said the scaled-back festivities illustrate government fear that widespread discontent could escalate. Human-rights activists in Cuba have said patience is wearing thin as the island continues to struggle with blackouts that can last 12 or more hours a day, spoiling what little food there is in most refrigerators. Several anti-government incidents have been reported, and police presence has been boosted.

Besides the 10 in custody since last week, six others who tried to participate in a separate demonstration July 13 remain jailed on "public disorder" charges.

PERSONAL EXPLANATION

HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. BROWN of South Carolina. Mr. Speaker, I am writing to notify you that I was absent July 20, 2005. They reason for my absence was that I had to have an emergency appendectomy at the Bethesda Naval Hospital.

Regarding the votes that I missed please see below for the way that I would have voted had I been present: Vote No. 390—King (IA) No. 46 Amendment—"aye", Vote No. 391—Kucinich Amendment—"nay", Vote No. 392—Lantos Amendment—"aye", Vote No. 393—Rogers (MI) Amendment—"aye", Vote No. 394—Watson No. 38 Amendment—"aye", Vote No. 395—Berkley/Crowley Amendment—"aye", Vote No. 396—Rohrabacher Amendment—"aye", Vote No. 397—Ros-Lehtinen Amendment—"aye", Vote No. 398—Democrat Motion to Recommit—"nay", Vote No. 399—Final Passage of H.R. 2601—"aye", Vote No. 400—Rolled Suspension Vote on H. Res. 326—"aye".

HONORING THOSE WHO SERVED IN KOREA

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, 52 years ago today, on July 27, 1953, the United States, North Korea and China signed an armistice that officially ended the three-year Korean War. For too many Florida veterans, the Korean War has become known as "The Forgotten War," sandwiched between World War II and Vietnam. It was through the heroic efforts of our men and women in the Armed Forces, however, that helped maintain democracy and preserved the spirit of freedom for millions on the Korean Peninsula.

While the signing of the treaty may have ended the conflict, it did not end the United States' presence there. Thousands of brave men and women served in the U.S. Armed Forces during the three years of the war, as well as in the 52 years since the war ended. Today, my office is working hand in hand with local veterans groups to identify the thousands of 5th District constituents who served in Korea and deserve recognition.

To date, I have proudly presented more than 175 Korean Defense Service Medals (KDSM) and more than 400 Korean War Service Medals (KWSM) to my veteran constituents. The Department of Defense created these medals to recognize the sacrifices and tenure of those soldiers who served the United States cause on the Korean Peninsula. It has been an honor to present my constituent heroes with these medals and to formally thank their families and them for the commitment showed and time served.

This year's 52nd anniversary of the end of the War is an opportunity for all Americans and all Floridians to reflect on the sacrifices of the thousands of brave soldiers who died defending freedom and opportunity in a far away land. The Korean War saw 33,629 Americans give their lives for our country and for the sake of world peace. In addition to those brave heroes who made the ultimate sacrifice battling communism and oppression, another 103,824 soldiers were wounded, and 8,177 went missing in action.

As too many Florida families sadly know, 577 soldiers from our great state died during the Korean War. They made the ultimate sacrifice in the name of life, liberty and freedom. In addition to those brave heroes, we must not forget the more than 1.8 million Americans soldiers who have served in Korea since 1950. These are the men and women who I have met and presented the KDSM to and who deserve praise for advancing the causes of democracy and freedom.

It was these brave Americans who helped stem the Communist tide in Asia. The battle for Korea helped spare Japan from the threat of Communist invasion and showed the world that the United States and its allies were prepared to resist the Communist advance. This country paid a high price in blood for the defense of Korea, but those who fell contributed much to the security we enjoy today.

Today it is clear that the Americans who fought in Korea helped build a better world for the Korean people. South Korea has flourished spectacularly under U.S. protection while Communist North Korea is in dire straits, unable to even feed its people. Like we see today in the newly liberated countries of Iraq and Afghanistan, when people have the freedom and will to determine their own fate, they will embrace democracy and freedom and the right of self-determination.

As America commemorates the 52nd anniversary of the end of the War, residents of the 5th Congressional District can pay tribute to our veterans and fallen heroes by visiting Korean War Memorials throughout the district, including a brand new memorial that opened this spring in Groveland. Take the time to shake the hand of one of our brave soldiers and say thank you for defending my freedoms and for making the world a safer place. These men and women deserve no less for their sacrifices and commitment to freedom.

IN MEMORY OF CORPORAL TYLER SETH TROVILLION, USMC

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. SESSIONS. Mr. Speaker, I rise today to honor Marine Corporal Tyler Seth Trovillion, an American hero who lost his life in defense of liberty and freedom. He made the ultimate sacrifice so that others might know freedom, and I am humbled by his bravery and selflessness.

Corporal Tyler Trovillion was killed on June 15, 2005 when his vehicle hit an improvised explosive device while conducting combat operations near Ar Ramadi, Iraq. He was 23 years old. CPL Trovillion was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force at Camp Pendleton, CA and was operating with the 2nd Brigade Combat Team, 2nd Infantry Division of the U.S. Army, which was attached to 2nd Marine Division, II Marine Expeditionary Force. During his funeral service, CPL Trovillion was remembered as a fun-loving, hard working man who lived his life not for himself, but for others. He was a man filled with the joy of living, and we celebrate the life he lived as a son, brother and friend.

CPL Trovillion is survived by his parents, Mark and Gina Trovillion, sisters, Austin and Skye, brother Jazak and fiancée, Rachel Walker.

I can only imagine the immense pride they feel knowing that CPL Tovillion fought for what is just and right in our world. He leaves behind a legacy marked by courage, integrity and character. It was an honor and a privilege to represent this man in Congress. May God bless all those he loved, and may I convey to them my sincerest condolences and the gratitude of the American people.

PERSONAL EXPLANATION

HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. BROWN of South Carolina. Mr. Speaker, I am writing to notify you that I was absent July 21, 2005. The reason for my absence was that I had to have an emergency appendectomy at the Bethesda Naval Hospital.

Regarding the votes that I missed please see below for the way that I would have voted had I been present:

Vote No. 401—Previous Question—"aye."

Vote No. 402—Adoption of the Rule for H.R. 3199—USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005—"aye."

Vote No. 403—Flake/Schiff Amendment—"aye."

Vote No. 404—Issa Amendment—"aye."

Vote No. 405—Capito Amendment—"aye."

Vote No. 406—Flake/Delahunt/Otter/Nadler Amendment—"aye."

Vote No. 407—Delahunt/Flake/Otter Amendment—"aye."

Vote No. 408—Flake/Otter Amendment—"aye."

Vote No. 409—Berman/Delahunt Amendment—"nay."

Vote No. 410—Schiff/Coble/Forbes Amendment—"aye."

Vote No. 411—Hart Amendment—"aye."

Vote No. 412—Jackson-Lee Amendment—"nay."

Vote No. 413—Likely Democrat Motion to Recommit—"nay."

Vote No. 414—Final Passage of H.R. 3199—USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005—"aye."

A BILL TO MAKE THE ADVISORY COMMITTEE ON MINORITY VETERANS PERMANENT

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. GUTIERREZ. Mr. Speaker, today I am introducing legislation that is vital to the interests of minority veterans in our Nation. Current law mandates the termination of the Advisory Committee on Minority Veterans, ACMV, on December 31, 2009. My bill would simply repeal the provision of law that discontinues this important committee's mandate so that its critical work on behalf of minority veterans can continue.

The Advisory Committee on Minority Veterans operates in conjunction with the VA Center for Minority Veterans. This committee consists of members appointed by the Secretary of Veterans Affairs and includes minority veterans, representatives of minority veterans groups and individuals who are recognized authorities in fields pertinent to the needs of minority veterans.

The Advisory Committee on Minority Veterans helps the VA Center for Minority Veterans by advising the Secretary on the adoption and implementation of policies and programs affecting minority veterans, and by making recommendations to the VA for the establishment or improvement of programs in the department for which minority veterans are eligible.

The committee has consistently provided the VA and Congress with balanced, forwardlooking recommendations, many of which go far beyond the unique needs of minority veterans. In 2002, the committee met in my hometown of Chicago and warned that in the Chicago regional office "it was mentioned that it was much easier to deny benefits than to grant benefits because of stringent requirements of VBA and Court of Appeal for Veterans Claims."

Two years later, the Chicago Sun-Times exposed that Illinois veterans ranked 50th in disability benefit compensation. That information sparked a campaign by the Illinois congressional delegation to rectify the situation. Since then, the VA Inspector General has issued his report and recommendations and the Secretary has pledged additional staff and resources to the Chicago regional office.

The committee will also be needed in the future since the unique concerns of minority veterans will become increasingly important for our Nation during the next decade.

Currently, 18 percent of the troops serving in Iraq are African-American, while 10 percent are Hispanic. The concerns of these veterans and others will not go away on December 31, 2009, and neither should the committee created to ensure that they are represented. The Advisory Committee on Minority Veterans has helped our minority veterans from past wars with programs to address their concerns. We should not shortchange our newly returning soldiers by allowing this committee's tenure to expire.

Many specific issues of concern to minority veterans need to be addressed further. Minority veterans confront the debilitating effects of post-traumatic stress disorder, PTSD, and substance abuse in greater numbers. Minority veterans suffer from a higher incidence of homelessness. Access to health care for Native American veterans is also a common problem. In addition, access to adequate job training is a difficulty for many minority veterans, a high percentage of whom qualify as low-income, category A veterans.

Unfortunately, discrimination and cultural insensitivity remain problematic for minority veterans at many VA facilities. The Advisory Committee on Minority Veterans still has a lot of work to do, and I urge my colleagues to support this legislation to make this important committee permanent.

PERSONAL EXPLANATION

HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. BROWN of South Carolina. Mr. Speaker, I am writing to notify you that I was absent July 22, 2005. The reason for my absence was that I had to have an emergency appendectomy at the Bethesda Naval Hospital.

Regarding the votes that I missed please see below for the way that I would have voted had I been present: Vote No. 415—Velázquez No. 3 amendment—"nay" and vote No. 416—final passage of H.R. 3070—NASA Authorization Act of 2005—"aye."

CELEBRATING ANNE SPEAKE'S SERVICE TO THE CENTRAL VALLEY OF CALIFORNIA

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Anne Speake for the service she has given to the Central Valley of California and to recognize her 75th birthday on August 8, 2005. Mrs. Speake has dedicated much of her life to helping the citizens of Fresno and to promoting small business.

Anne Speake, the founder and President of International English Institute, is widely recognized as an authority on overseas marketing. For 22 years, she traveled extensively in Europe, the Middle East, Asia, and South America to promote IEI. During this time, the school enrolled over 40,000 students, some of whom are heads of state and leaders in worldwide businesses. In 2001, she joined her husband, Mike Hamzy, as President of Harbison International, Inc.

Currently, she serves on the Board, Executive Committee, and Air Quality Task Force of the Fresno Business Council. She is also Chair of the Fresno Revitalization Corporation and serves on the boards of FRESPAC and the CSUF Business Advisory Council. She is a member of the Fresno Rotary Club, the Forum, and the Owls Club.

She previously served as President on the boards of the Greater Area Chamber of Commerce; the Fresno Convention and Visitor's Bureau; and the CSUF Business Associates. She has served on the boards of the EDC, Fresno Art Museum, Compact, CSUF Alumni and Friends, and the New United Way. She was Vice President of the National Associate of Arab American and Co-Chair of the Commission on the Future of Education for Fresno County. I appointed Anne as a delegate to the California Republican Party, where she has served since 1995. In the same year, she was appointed as a delegate by Gov. Pete Wilson to the White House Conference on Small Business. He also appointed her to the California Council to promote Business Ownership by Women.

In 1990, IEI received the U.S. Small Business Administration's "Business of the Year in California" award. In 1991, IEI won the "Business Enterprise of the Year" award for outstanding contributions to Fresno's economy and for business excellence. In 1993, Mrs. Speake was presented the Baker, Peterson, & Franklin "Top 5 Award for Excellence." Mrs. Speake was awarded the CSUF Sid Craig School of Business "Alumni of the Year Award" for 1994. In 1998, the U.S. Small Business Administration recognized Mrs. Speake as the Central California Women in Business Advocate of the Year, and the National Honor Society made her an Honorary Beta Gamma Sigma. In February 2000, Mrs. Speake was the Leon S. Peters Award recipient for a career of outstanding business leadership in community service.

Mr. Speaker, I rise today to celebrate the achievements of Anne Speake. I urge my colleagues to join me in honoring this remarkable woman and the contributions she has made to small business and the city of Fresno.

TRIBUTE TO JAMES R. PARKER

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mrs. BLACKBURN. Mr. Speaker, it is a privilege to rise today to thank James R. Parker for more than three decades of service to the Nation.

A dedicated employee of the Federal Government, James will be retiring from the Social Security Administration at the end of July. For years now, we've been able to count on James to help make government work better for all of us.

While I'm thankful for James and his service, we'll miss the knowledge, compassion and tremendous work ethic he brought to every task.

Tennessee is proud of James, and we all wish him and his wife, Patricia, a wonderful retirement.

THE DEATH OF RYAN KOVACICEK

HON. TIM MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. MURPHY. Mr. Speaker, I would like to take this time to pay tribute to Lance Corporal Ryan J. Kovacicek of Washington, Pennsylvania, part of the 18th Congressional District. Lance Corporal Kovacicek was killed July 10th from a mortar attack in the town of Hit, located in western Iraq. He died alongside Sergeant Joseph P. Goodrich, another member of his unit from Pittsburgh.

Just 22 years old, Lance Corporal Kovacicek was a member of Kilo Company, a Marine Forces Reserve unit based in Moundsville, West Virginia. Like so many other young men and women in our reserves, Kovacicek was a student. A junior at Indiana University of Pennsylvania, he was studying criminology and played on the hockey team. He also lettered in hockey all four years he attended Bishop Canevin Catholic High School.

Following in a long tradition of military service in his family, Lance Corporal Kovacicek enlisted in the reserves to help defend his country. His father, Joseph, served in Vietnam as a Marine, and his grandfather, Paul Karpan, fought with the Army in Europe during World War II. Understanding the true meaning of patriotism, Lance Corporal Kovacicek paid the ultimate sacrifice. Our thoughts and prayers go out to his family. God bless them, and all the members of the armed forces fighting the war on terror, and their families.

HONORING DR. JOSE CELSO BARBOSA

HON. LUIS FORTUÑO

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. FORTUÑO. Mr. Speaker, today it is my special privilege to render tribute to a great American and a great Puerto Rican on the 148th commemoration of his birth. Dr. Jose Celso Barbosa was born in Bayamon, Puerto Rico on July 27, 1857, when Puerto Rico was still a colony of Spain. In 1876 he traveled to the United States to continue his studies, and in 1880 he graduated from the University of Michigan with a degree in medicine, first in his class and valedictorian of a very distinguished medical graduating class that included the Mayo brothers of Mayo Clinic fame. Dr. Barbosa was the first Puerto Rican to graduate from the prestigious University of Michigan.

Upon returning to Puerto Rico, Dr. Barbosa dedicated himself to his private medical practice, became a professor of medicine at one of the institutions of higher learning in Puerto Rico, and made his first incursion in political issues, becoming a firm defender of negotiating increased autonomy for Puerto Rico from Spain.

With the change in sovereignty in 1898, in which Puerto Rico was ceded to the United States after the Spanish-American War, Dr. Barbosa envisioned the Federalist system of the United States as the ideal solution to the colonial problem of Puerto Rico, declaring himself an advocate of admitting the Island as a state of the Union. With that lofty purpose in mind, he formed the Republican Party of Puerto Rico on July 4, 1899.

Dr. Barbosa was the founder of the newspaper "El Tiempo", for which he wrote numerous articles in defense of his goal to have

Puerto Rico become a state of the Union. When the United States allowed for the formation of a Senate at the local level in 1917, Dr. Barbosa was elected as a member of that legislative body. He was reelected in 1920. During his stint in the Senate, Dr. Barbosa introduced legislation allowing for trial by jury and introducing the writ of "Habeas Corpus" within the Judicial Penal System of Puerto Rico.

After a distinguished career as a doctor, teacher, politician, and humanitarian, Dr. Barbosa passed away on September 21, 1921, without reaching his dream of having Puerto Rico become a State of the Union, but proud to have become a citizen of the United States in 1917.

On statehood for Puerto Rico, Dr. Barbosa said: "Puerto Rico aspires to reach all the rights granted by U.S. Citizenship, in the same method, in the same manner, under the same form, and under the full integrity as the one enjoyed by the residents of any of the regions that are called States of the American Union. To that we aspire, that is what we want, that is what we shall have."

On the political relationship between Puerto Rico and the United States, Dr. Barbosa made the following statement: "We want, and we ask, for equality. Not colonialism or protection. Since the American Flag first waved over Puerto Rico, those have been the ideals that we have defended."

Dr. Barbosa's lifelong dream was to have Puerto Rico admitted as a State of the Union. I share that dream, and I find no better way of honoring him today, than to pledge to pursue his goal, to the best of my ability, of having Puerto Rico become an integral part of this great Nation.

IN HONOR OF THE MOSES AND AARON FOUNDATION SPECIAL FUND FOR CHILDREN

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. NADLER. Mr. Speaker, I rise today to honor the Moses and Aaron Foundation Special Fund for Children, a truly distinguished organization that assists children with disabilities and their families.

Created in the memory of Rabbi Dr. Maurice I. Hecht and Aaron Kaploun, the foundation has kept alive Dr. Hecht and Mr. Kaploun's commitment to community service through counseling, guidance, wheelchair assistance, and financial assistance to those families with special children.

I believe that the foundation's work is a shinning beacon of light for children in need. Examples of such work include providing educational scholarships, clothing and presents.

In addition, the Moses and Aaron Foundation under the direction of its President Rabbi Yaacov Kaploun, and Executive Vice President Yehuda Kaploun, in cooperation with Bally Fitness Centers, has established 27 therapy and physical fitness centers and has arranged for sound and musical equipment in other institutions.

As the foundation hosts its 9th annual Chazak Summer Concert for Special Children on August 20, 2005, we are again reminded of all that the Moses and Aaron Foundation has contributed to the greater American community. For the past 8 years, the Motzei Shabbat Nachamu Concert, at Sullivan Community College Field House in Loch Sheldrake, New York, has benefited special children and their families by offering them an enjoyable night of music, dancing and plain good fun.

The concert will honor and pay tribute to the special and outstanding children who will be the guests of honor and will perform with the entertainers on stage. More than 40 organizations and schools serving the physically and mentally disabled children will be represented.

The Chazak Concert in connection with the many other programs operated by the Moses and Aaron Foundation, demonstrate a caring and compassionate concern for the quality and dignity of life of those in need, and therefore merits appreciation.

I would also like to applaud the Honorary Chairman and Nobel Laureate Elie Wiesel, President Rabbi Yaacov Kaploun and Executive Vice President Yehuda Kaploun for their hard work and commitment to children of special needs and their families.

I pause to commemorate the recent passing of Mrs. Tzippora Kaploun of Jerusalem, Israel, wife of the late Aaron Kaploun. She instilled in her children, grandchildren and great grandchildren the importance of community service and a compassion for those individuals who require the assistance and support of those who are blessed with ability to provide and assist. She exemplified the principles upon which the Foundation is based.

I recognize Mr. Jerry Rothman, recipient of the Dr. Steven Stowe Acts of Kindness Award and remember fondly his late wife Anita Rothman, whose acts of charity impacted the lives of many in the course of their 65 years of marriage. We remember the social service and kindness of the late Issac Weinberger who recently passed, and his wife Anne Weinberger.

As the Moses and Aaron Foundation Special Fund for Children commemorates this special event, I urge my colleagues to join me in paying tribute to an organization that provides such an essential service to the community and truly exemplifies the generosity of Americans.

HONORING THE SERVICE OF TOMMY MAGGIO

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. DINGELL. Mr. Speaker, I rise today in honor of my friend Tommy Maggio, who, after 32 years of service to this institution, will be retiring at the end of the month.

Thomas P. Maggio was born April 28, 1929 and raised in Washington, DC. Tommy served our Nation in the Navy, from 1951 to 1955. Serving in Norfolk, VA and Green Coast Springs, FL, Tommy was stationed on the USS *Whitley*, and was part of a marching band. Tommy married his wife Anita in 1963; she too will be retiring, after many years of service in my colleague Congresswoman ILEANA ROS-LEHTINEN's office.

For many of us, Tommy provides a warm greeting in the morning, as well as wonderful conversation. Every morning when I see him, I call out to Tommy, "Bonjeourno Thomaso," to which he replies "Bonjeourno, bonjeourno." I cannot help but enjoy this warm Italian greeting. Tommy is loved by all of the members he serves. We wish Tommy well and we all deeply appreciate his dedicated and decent service. I will certainly miss him. I wish Tommy and his dear Anita many good years, filled with family, friends and good health. On behalf of my staff, myself and the lovely Deborah, and all my colleagues: Thank you, Tommy.

NASA LAUNCH

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. DELAY. Mr. Speaker, yesterday at 10:39 a.m. on the east coast, five men and two women were launched from Cape Canaveral, Florida, aboard the space shuttle *Discovery*, rocketing into low-earth orbit at 17,000 miles per hour. . . another small step for man, another giant leap for mankind.

Yesterday's successful launch will not simply pick up where America left off two years ago after the *Columbia* disaster.

Yesterday's launch instead opens a new era of space exploration—an era defined by President Bush's ambitious new vision and made possible by the courage and brilliance of the men and women of NASA.

Every resource of our space program will be dedicated to this new mission:

The shuttle has returned to flight and will work to complete the International Space Station now orbiting the earth 250 miles above our heads;

Scientists and astronauts aboard the station will conduct unprecedented research on the long-term exposure of human beings to microgravity and radiation, to test our endurance for prolonged space-travel;

Meanwhile, here on earth, engineers and scientists will design a new crew exploration vehicle that will eventually replace the shuttle and take mankind back to the moon, where more historic discovery and science can be pursued.

All of these endeavors will lead our space program toward our next giant leap—a manned mission to Mars.

The first step of that journey was taken yesterday morning, Mr. Speaker, and once again, NASA's army of geniuses has set us on a clear path toward our destiny.

I spoke with mission Commander Eileen Collins a few weeks back, and she said her crew was ready and eager to return the shuttle to flight.

I also spoke with NASA Administrator Mike Griffin today, to congratulate him and the entire NASA team on a successful launch, as well as to commend him on an incredible first 3-plus months on the job.

The country is lucky to have a man like him in public service heading up the finest space agency in the world.

Yesterday, Americans learned once again that we have the resources and the personnel to do the impossible, Mr. Speaker.

I commend every member of our space community for keeping the *Discovery* crew's appointment with history, and while we wait for their safe return next week, our hopes and prayers are with them all.

TRIBUTE TO POSTAL EMPLOYEES

HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. JOHNSON of Illinois. Mr. Speaker, I rise today to pay tribute to the hardworking postal employees around the country and especially in my district. In the wake of passing the first postal reform bill in three and a half decades, I believe it is only appropriate to acknowledge the hard work and tireless effort of postal employees.

The Postal Service has been around since 1775. It has come a long way since the days of the Pony Express and steamboats and despite the fact that e-mail and online bill paying are becoming increasingly popular, the United States Postal Service remains more vital than ever.

I stand here today to deliver a heartfelt thank you to the men and women of the United States Postal Service. I think sometimes we take their efforts for granted. Their work is not only stressful at times, but it is their efforts in keeping all of our correspondence flowing smoothly that provides the glue that hold our communities together. The closing of a Post Office can be devastating to a small rural community, so I understand the importance of the preservation of this service. I feel strongly that my colleagues and I did a good thing last night when we passed the Postal Accountability and Enhancement Act.

I urge all of my colleagues as well as every American to take the time out of the day and thank their local letter carrier or postmaster the next time they see them. In closing, I would like to thank all of the postal employees in the 15th district for their part in strengthening our communities. Their efforts are sincerely appreciated.

TRIBUTE TO GENERAL WILLIAM L. "SPIDER" NYLAND, U.S.M.C.

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. MILLER of Florida. Mr. Speaker, today I recognize and pay tribute to General William L. "Spider" Nyland, United States Marine Corps, on the occasion of his retirement from active duty. General Nyland has served our great Nation for more than 37 years. The departure of General Nyland marks not only the end of an illustrious career replete with many honors, it also marks the beginning of several initiatives which, by virtue of his strategic vision, dynamic leadership and accomplished diplomatic skills, will ensure that U.S. national strategy is prepared to meet the challenges of the 21st century.

General Nyland was commissioned a second lieutenant in the Marine Corps under the NROTC program upon graduation from the University of New Mexico in 1968. In addition to attaining a M.S. degree from the University of Southern California, his formal military education includes The Basic School (1968), Naval Aviation Flight Training (NFO) (1969), Amphibious Warfare School (1975), Navy Fighter Weapons School (TopGun) (1977), College of Naval Command and Staff, Naval War College (1981), and Air War-College (1988).

After being assigned to VMFA–531, General Nyland was ordered to Vietnam where he flew 122 combat missions with VMFA–314 and VMFA–115. General Nyland's other tours included Instructor RIO, VMFAT–101; Squadron Assistant Operations Officer and Operations Officer, VMFA–115; and Brigade FORSTAT and Electronic Warfare Officer, 1st Marine Brigade. He also served as Operations Officer and Director of Safety and Standardization, VMF A–212; Aviation Safety Officer and Congressional LiaisonlBudget Officer, Headquarters, U.S. Marine Corps, Washington, D.C.; and Operations Officer, Marine Aircraft Group–24, 1st Marine Amphibious Brigade. He commanded VMFA–232, the Marine Corps' oldest and most decorated fighter squadron, from July 1985 to July 1987.

General Nyland subsequently served as section chief for the Central Command section, European Command/Central Command Branch, Joint Operations Division, Directorate of Operations (J–3), Joint Staff, Washington, D.C. In July 1990, he assumed command of Marine Aviation Training Support Group (MATSG), Pensacola. Following his command of MATSG he assumed duties as Chief of Staff, 2nd Marine Aircraft Wing on July 5, 1992, and assumed additional duties as Assistant Wing Commander on November 10, 1992. He was promoted to Brigadier General on September 1, 1994 and was assigned as Assistant Wing Commander, 2nd MAW serving in that billet until December 1, 1995.

He served next on the Joint Staff, J–8, as the Deputy Director for Force Structure and Resources, completing that tour on June 30, 1997. General Nyland was advanced to I Major General on July 2, 1997, and assumed duties as the Deputy Commanding General, II Marine Expeditionary Force, Camp Lejeune, N.C. He served next as the Commanding General, 2d Marine Aircraft Wing, MCAS Cherry Point, North Carolina from July 1998 to June 2000. He was advanced to Lieutenant General on 30 June 2000 and assumed duties as the Deputy Commandant for Programs and Resources, Headquarters, U.S. Marine Corps. He next served as the Deputy Commandant for Aviation on 3 August 2001. He. was advanced to the grade of General on September 4, 2002 and assumed his current duties shortly thereafter.

General Nyland's personal decorations include: Defense Distinguished Service Medal, Legion of Merit, Defense Meritorious Service Medal, Meritorious Service Medal, the Air Medal with eight Strike/Flight awards, and Joint Service Commendation Medal.

Throughout his career as a United States Marine, General Nyland has demonstrated uncompromising character, discerning wisdom, and a sincere, selfless sense of duty to his Marines and members of other services assigned to his numerous joint commands. His powerful leadership inspired the Marines to tremendous success no matter the task, and achieved results which will assure the United States' security in this hemisphere and overseas.

General Nyland concludes his illustrious career as the Assistant Commandant of the Marine Corps. In this capacity, he has been the principal advisor to the Commandant of the Marine Corps on all decisions of major consequence. His extensive and diverse background in operational and joint planning, professional military education and training, and budgetary and programmatic policy issues have been given wide credibility by decision makers in the Department of the Navy, the Joint Staff, the Office of the Secretary of Defense, and the United States Congress.

General Nyland has made a lasting contribution to the capabilities of today's Marine Corps and the future shape of tomorrow's Corps. We are grateful for General Nyland's dedication, sense of duty, advice and counsel. The Marine Corps will miss him, but General Nyland leaves a tremendous legacy for others to follow and emulate. I wish General Nyland and his lovely wife, Brenda, daughters, Brandy and Leslie, and son, Matthew, congratulations and all best wishes as they enter this new chapter of their lives.

COMPELLING SERIES ABOUT VA FUNDING SHORTFALLS IN NORTHWEST PAPER

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. DEFAZIO. Mr. Speaker, I am placing an article from the July 25, 2005, Seattle Times newspaper into the Congressional Record because I think it is important that all of my colleagues understand the real world impact underfunding the VA is having on veterans suffering from mental disabilities.

To those who say that VA is adequately funded, I say read this article. Spending on VA mental health care services, adjusted for inflation, is $630 million below the level in 1996, despite an 11 percent increase in veterans seeking services. During that same 1996–2003 period, overall mental health staffing for the seriously mentally ill declined by 31 percent, and funding for drug and alcohol treatment dropped by 54 percent.

VA mental health professionals have been asked to cut back on the number of sessions offered to veterans on a monthly basis, to cut back on the time allotted for each session, lengthen the time between visits, and drop some patients altogether.

It is unacceptable to treat those who have served our country with such disdain. The President and Congress have found trillions of dollars to provide tax cuts to wealthy individuals and profitable corporations. And Congress and the President will send tens of billions of dollars to foreign governments this year. Clearly there is enough money to adequately provide for our veterans. The President and Congress have simply chosen not to make caring for veterans a priority. That has to change, immediately.

[From the Seattle Times, July 25, 2005]

VA Straining To Treat Post-Traumatic Stress

(By Hal Bernton)

ABERDEEN—During counseling, Vietnam veteran Rod Chenoweth always sits in the same place—a blue fabric couch carefully positioned in a corner to give his body the protective cover of a side and rear wall as he talks about his life.

He recounts an argument that left him seething in anger. He talks about an evening flashback to the grenade that wounded him in the leg and killed his 19-year-old buddy.

Chenoweth says the therapy, paid for by the Department of Veterans Affairs VA), has helped pull him back from thoughts of suicide and other self-destructive acts in a life scarred by post-traumatic stress disorder (PTSD)—a war injury that ranks among the most common and the most difficult to heal.

Starting in July, Chenoweth's sessions with Aberdeen therapist Jack Dutro have been reduced from twice to once a month, a cut that comes as thousands of Iraq war veterans join those of previous wars in seeking treatment from the strained VA.

"I can understand that the new veterans need to be dealt with," said Chenoweth, 56. "But it's going to be tough. Jack has been a lifesaver."

The agency is required by law to take care of the war wounds of all combat veterans.

But the agency's PTSD experts, in a report delivered last fall to Congress, warned that the VA "does not have sufficient capacity to meet the needs of new combat veterans while still providing for the veterans of past wars."

Internal reports show the VA's mental-health network has been frayed by years of staffing cuts and budgets that failed to keep pace with the growth in patients.

According to an internal review of the agency's budget, delivered to Congress in September, problems have been years in the making:

Between 1996 and 2003, annual spending for treatment of the serious mentally ill increased from $2.16 billion to $2.4 billion. But when those budgets were adjusted for inflation in medical costs—the increased costs of salaries and services—spending in 2003 was actually $630 million below the 1996 level. Meanwhile, the number of veterans seeking those services climbed by 11 percent.

During the same period, overall mental-health staffing for the seriously ill declined by 31 percent.

Drug and alcohol treatment for the seriously mentally ill, often a critical part of the program for those seeking PTSD therapy, has been the hardest hit. Annual funding, adjusted for inflation, dropped by 54 percent nationwide between 1996 and 2003.

"It's been a perfect storm of rising needs and tight resources," said Tom Schumacher, who directs a Washington state effort to assist PTSD veterans.

The Northwest VA network has fared better than most of the nation, avoiding many of the staff cuts that hit other regions.

But the four-state region that includes Washington, Oregon, Idaho and Alaska also is one of the busiest hubs of treatment. The PTSD patient load alone has increased from 3,194 in 1996 to 4,671 in 2004.

To help manage the crunch, the VA Puget Sound Health Care System earlier this year imposed new restrictions on PTSD therapy for veterans who already have undergone at least six months of treatment.

The VA guidelines now call for no more than once-a-month individual therapy, or twice-a-month group therapy. Those apply to Puget Sound-area clinics and a network of VA-funded private therapists who work around the state.

Dr. Miles McFall, director of PTSD programs at the VA Puget Sound, said that more frequent therapy does not necessarily help, and those in trouble are welcome to check into an inpatient VA hospital clinic.

"Even if money was not an issue, this is what we should be doing," he said. "We care about our Vietnam vets. We're not going to turn our backs on them."

Other therapists say while some veterans can handle less treatment, the more unstable ones may suffer setbacks.

"Some of them are devastated and feel like they have been abandoned one more time," said Jim Shoop, a Mount Vernon counselor. He said his office is reducing service to more than 50 vets with PTSD.

A LIFETIME OF TROUBLE

Soldiers have always suffered from the mental wounds of war.

But the diagnosis of post-traumatic stress disorder only emerged in 1979 in the aftermath of the Vietnam War as tens of thousands of distraught veterans, suffering from flashbacks, sleeplessness, anger and other symptoms, poured into VA hospitals.

By 1988, the VA estimated that 479,000 vets suffered PTSD symptoms.

For many of these vets, PTSD has meant a lifetime of trouble.

Chenoweth served with the Marines in Vietnam from 1968 to 1969, when the U.S. sustained some of its heaviest casualties. He turned 18 just before boarding the plane to Asia and soon found himself fighting in villages where anybody could be the enemy.

Chenoweth ended his tour of duty in a psychiatric hospital in Oakland. But it wasn't until the late '80s—after more than a dozen failed jobs, several more hospital stays and two broken marriages—that he was diagnosed with PTSD.

"The killing doesn't stop," Chenoweth said. "You taste it. You smell it. And you feel it. It uses all your senses."

The numbers of older veterans seeking mental-health treatment surged again in recent years, as new wars unfolding on television in Iraq and Afghanistan added to their stress.

That, coupled with the influx of soldiers returning from Iraq, has ratcheted up pressure on the VA system.

MORE BECOME ELIGIBLE

In the '90s, the VA went through a dramatic overhaul, moving away from a centralized hospital system as hundreds of new clinics opened up around the country. Congress also loosened eligibility requirements, so that more vets qualified for services, and increased the agency's overall health-care budget from $17 billion to more than $28 billion.

The transformation was lauded as a great success in an Annals of Internal Medicine article last year.

But mental-health services often lost out as regional administrators juggled budgets to pay for soaring caseloads, new services and pricey new drugs.

Managers also sometimes balked at pouring money into treatment for illnesses of the mind when compared with physical illnesses that are often easier to measure and cure.

"I regret to report that there are stigmas in the VA about the mentally ill," Thomas Horvath, a psychiatrist who serves as chief of staff at the agency's Houston medical center, told Congress in 2004.

"In this, we may be no worse than the rest of health care. VA needs to do better."

Sen. PATTY MURRAY, who worked as a college intern in the Seattle VA psychiatric ward, has helped lead the congressional effort to boost funding for VA programs, including mental health.

"I have talked to soldiers who are returning, and a number of them say 'my marriage is much more difficult . . . I am having trouble getting my head back in to work,'" said MURRAY. "It's the beginning of trouble. And the fallout from this 10, 15, 20 years from now is tremendous."

The issue of VA funding has been rife with partisan politics recently.

MURRAY, a Democrat, initially was rebuffed by the Republican majority in an effort to gain emergency funding for VA medical services.

VA administrators in June acknowledged a roughly $1 billion budget shortfall, prompting Senate Republicans to do an about-face and work with MURRAY to boost funding.

Congress is expected to approve an additional $975 million to $1.5 billion to help dig the agency out of the hole for this fiscal year.

If this money is equally divided within the agency, mental health would receive less than $300 million.

This emergency cash would fall short of shoring up the system.

To fully meet the needs of the seriously mentally ill, the VA would require an infusion of as much as $1.6 billion, according to a draft of the agency's strategic plan.

That estimate didn't assess the added costs of treating new Iraq veterans.

JUST GOOD-ENOUGH CARE

There is no fixed formula for treating PTSD.

Instead, the VA offers general guidelines for addressing the illness. This treatment may involve drugs that aid sleep and reduce anxiety or help fight depression. It may include classes in anger management and other coping skills.

Finally, there is therapy, which often enables the vet to recount and come to terms with combat experiences.

Some patients may benefit from just a few classes and counseling sessions. Others with chronic PTSD attend sessions for months or years. Some patients do fine in group; others do much better with individual therapy. But as budgets have shrunk, some VA mental-health workers say, they have been pressured to treat more people in less time.

In Portland, the VA mental-health clinic staff by January had shrunk by 25 percent due to budget freezes, according to an internal staff newsletter. The newsletter described the Portland program as "unquestionably underfunded."

Therapists in Portland earlier this year were asked to consider cutting individual sessions from 50 minutes to 30 minutes, and lengthen the time between visits, according to an internal VA memorandum.

They say they were also asked to consider dropping some patients altogether, after refilling their prescriptions and referring them back to primary-care physicians.

Megan Streight, a VA spokeswoman, said the Portland VA does not expect staff to cut back services for patients who need therapy. She also said that some jobs have been filled. "We are confident that veterans continue to receive high-quality mental-health care," Streight said.

But several Portland VA therapists expressed worries that expanding caseloads combined with a smaller staff threaten the quality of some care. All requested anonymity, concerned that speaking publicly could cost them their jobs.

These therapists say they have been asked to try to complete treatment of new patients in 10 or fewer counseling sessions, even those recently returned from Iraq. Some of these vets arrive at the VA with marriages already in turmoil or broken. Others have isolated themselves at home, and balked at returning to work. One, who came in after beating his wife, had penned a suicide note.

One therapist said she has been reluctant to stick several troubled Iraq vets in first-step classes of 20 or more that teach coping skills. But her own caseload already runs to several hundred patients, so she has no openings for more one-on-one counseling. To make room for the Iraq veterans, she asks some of her older veterans to come less often.

"But what kind of message is that—that you're not as important as the new guys coming in," she said.

The therapist says she needed to get used to the short-staffed conditions.

"I was told that there needed to be some changes made at the hospital due to the lack of resources, and I was going to have to adjust my thinking," said the therapist. "You need to give Just good-enough care.'"

The Puget Sound VA's mental-health programs also have been caught in the region-wide budget crunch, which included a partial hiring freeze that replaces only one worker for every five who leave their jobs.

"We have to make the best use of resources that we can," said John Park, Puget Sound VA's director of health-care planning, at an April 30 community meeting on mental health sponsored by U.S. Rep. JIM MCDERMOTT, D-Seattle. "You can only cut so much of the budget before things get dicey."

SHARING HOPES AND FEARS

Most PTSD patients in Puget Sound are seen in a specialized program that includes clinics and in-patient care. The program has a national reputation for research and treatment.

McFall, who heads that program, says he was able to snag a special grant that allows him to add several more positions to the 21-person clinic staff in the months ahead.

"I want to say that the sky isn't falling. We can get every Iraq veteran an appointment within a week," he said.

But the local VA policy to limit treatment for patients who have had six months of therapy has caused a backlash. The loudest protests have come from the state network of private-practice therapists who are paid by the VA to treat vets with chronic PTSD.

"I believe that in order to do long-term recovery, I have to do a lot of work," said Steve Akers, a Vietnam vet who is an Everett therapist. Akers offers weekly group sessions, as well as individual counseling.

At the group sessions, the vets spend 90 minutes sharing hopes, fears and a few laughs before ending with a healing circle where they all grasp hands on a wooden staff known as a "talking stick."

One veteran of both the Vietnam and Gulf wars still lives on a razor's edge. At his house, he has installed a perimeter trip wire that sounds an alarm to warn of intruders, and outside lights that can turn midnight into day along a 400-foot driveway. The house is full of loaded guns, weapons his wife fears might be inadvertently used in a combat flashback.

"She doesn't want the one under the bed, and in every room," the vet said during the session. "But I've got to live with myself. I don't feel secure."

Akers opted to take things one step at a time, focusing on a pistol in a bedroom drawer.

"So, at one point, would you be willing to put the pistol in one drawer, and the ammo in another? You'll still have your safety factor but have to think to react."

"I could do that," the vet responded. "But it will be really hard for me. When they break in that door, they're only going to do it once."

Under the new VA policy, the group's weekly meetings will be reduced from twice a month to once a month.

Among the vets, that's the subject of much bitter debate.

"I try not to take it personally," said the veteran with the loaded gun. "There is an intimacy here that is incredible. I want to save it. And the fear, you know, is that it's not going to last."

THE 2005 NEVADA CENTENNIAL RANCH AND FARM AWARD

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. GIBBONS. Mr. Speaker, forever memorialized on our state seal, ranching and farming are two of Nevada's traditions. The most storied of Nevada's ranches and farms, some dating back to the mid 1800's, are being honored this month with the 2005 Nevada Centennial Ranch & Farm Award. From Minden to McDermitt, these families represent the best in Nevada agriculture.

To qualify to receive this prestigious award, a family must have been ranching or farming on the same Nevada property for at least 100 years, and the property must be a working ranch or farm with 160 acres or with gross annual sales of at least $1,000.

I would like to take this opportunity to congratulate and honor the following recipients who have not only shown a commitment to land, but a commitment to family and our land. Blue Eagle Ranch, Tonopah; Bunker Farm, Inc., Bunkerville; Ferraro Cattle Company, Paradise Valley; Green Springs Ranch, Duckwater; Heise Family Ranch, Gardnerville; Krenka Ranch, Ruby Valley; Laura Springs Ranch, Gardnerville; Riordan Ranch, Jiggs; Snyder Livestock Company, Inc., Yerington; Stodieck Farm, Minden; Wilkinson Little Meadow Ranch, McDermitt.

The success, sustainability, and longevity of these ranches and farms stand as an example, to those in agriculture and beyond, of what commitment, determination, and hard work can accomplish.

LET YOUR DEEDS MATCH YOUR APOLOGIES

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. OWENS. Mr. Speaker, In politics apologies are always important. We need more apologies and less fiction among nations and groups. We need apologies that help to avoid wars. Apologies can never be adequate substitutions for restitution or reparations; however, apologies offer their own alternative satisfaction. The present German nation has apologized for the Nazi German Holocaust. But the Koreans and Chinese are not happy with the rather muddled apologies of the Japanese for the atrocities of World War II. And, of course, no one has ever apologized for the Atlantic Slave Trade and two hundred and fifty years of slavery in America. Despite the fact that there is still a huge apology gap in our civilization, we must applaud small apologies wherever they occur. We applaud Republican National Committee Chairman Mehlman for his recent statement to the NAACP apologizing for the "Republican Southern Strategy". This speech was given still more credibility when House Judiciary Committee Chairman Sensenbrenner, at that same NAACP Conference, pledged to lead the fight for the reauthorization of the Voting Rights Act. Mehlman's apology appears to perhaps be a sparkplug for the launching of a new Republican offensive to capture more Black votes. A suffering Black community challenges the Party of Lincoln to show us some concrete policy and program deeds to match the apologies. Listen to the plea of the following RAP poem:

APOLOGIES ARE REAL COOL

To apologize
Is real cool
But don't play
The Black agenda
For no eager fool.
Don't rush to play,
Delay thumping your chest,
Push your words
Into the action test:
Jobs right now we need,
Hungry mouths we have to feed,
Lots of ills But can't buy pills.
Prison terms often repeat
Homeless shelters
Are never neat.

Tax cuts we can't eat,
Iraq war dollars wasted
Spell school repair defeat.
Right now!
Take the action test.
Show us the Bush best.
For any apology
We grant a pat
On the Republican back;
From Democrats
The slavery apology
We desperately lack.
To apologize
Is real cool
But don't play
The Black agenda
For no eager fool.

HEALTH CARE WEEK

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Ms. BALDWIN. Mr. Speaker, I rise today to voice my disappointment in the bills that the House of Representatives is considering during this so-called "Health Care Week."

While I applaud House leaders for turning their attention to the health care crisis, I do not believe that the bills we are considering will solve the problem we face, and I fear that some of these measures may actually worsen the crisis. I look forward to the day when we will consider real solutions to ensure that all Americans have access to quality, comprehensive, affordable health care.

According to the latest figures released by the Census Bureau, 45 million Americans are uninsured. Millions more are underinsured. Just last month, the Commonwealth Fund released a study estimating that there are 16 million Americans who are underinsured—meaning their insurance would not adequately protect them in the event of catastrophic health care expenses. That means that 61 million Americans either have no health insurance or have insurance coverage that leaves them exposed to high health care costs. Sixty-one million is nearly 21 percent of all Americans, or one in five. Put simply, this is unacceptable.

Unfortunately, the health care legislation that the House will consider this week fails to address our nation's health care crisis. These bills will not do anything to provide quality, comprehensive, and affordable health care to these 61 million Americans or to the millions more who constantly worry about losing their health care.

As in years past, I remain opposed to proposals to create "association health plans" or AHPs. AHPs purport to offer affordable health care to small business owners and employees, but this is accomplished by exempting insurers from state insurance and consumer protection laws including benefit mandates, solvency standards, and pricing rules. This evasion of state laws could be devastating to the consumer who thinks that they have comprehensive coverage only to discover, after the fact, that their policy offers a bare bones minimum of benefits.

In addition, the Congressional Budget Office estimates that AHPs will cause 10,000 people to lose their health care coverage. Because AHPs are exempted from state insurance laws, AHPs can "cherry pick" the healthiest employees and deny coverage to those who are more costly to cover. This would drive up insurance premiums for everyone who remains in state-regulated insurance plans, making health insurance less affordable and forcing people to drop their insurance because of rising costs. I recognize the frustration and struggles faced by the self-employed and small business owners trying to provide health care to their employees, but AHPs are not the answer to the uninsurance crisis, if they will result in more people becoming uninsured.

Similarly, the House will consider a medical malpractice bill that will fail to lower health care costs for Americans. Proponents of this bill claim that rising costs of medical malpractice insurance and "excessive litigation" are driving up health care costs so much that caps must be instituted, placed on the amount of money a victim of malpractice can receive for a lifetime of pain and suffering or other non-economic damage.

Unfortunately, these caps will have little effect except to limit patient rights to sue for medical injury. Numerous studies have shown that medical malpractice awards, legal fees, and other costs account for less than one percent of the nation's health care spending. This bill represents nothing more than a false promise.

Soaring malpractice insurance rates need to be addressed with two principles in mind. First, do no harm to the victims of medical errors. Second, start addressing insurance abuses by focusing on the malpractice insurance industry, not the victims of medical malpractice. Narrow federal caps on non-economic damages are not the way to address the problems with malpractice insurance.

Health care costs are rising for many reasons. Given the relatively small role that medical malpractice verdicts and settlements play in rising health care costs, this bill is really more of a distraction that is keeping us from making headway on the real culprits. Congress should leave regulation of insurance and tort law to the states. Congress should not spend its time demonizing victims and their advocates.

Mr. Speaker, there are a number of underlying issues that come up when considering America's health care crisis: uninsurance, underinsurance, affordability, and quality, just to name a few. All Americans deserve quality, comprehensive, and affordable health care, and I look forward to the day when we will consider legislation that truly responds to these challenges.

INTRODUCTION OF A BILL TO EXEMPT HAWAII FROM THE ADJUSTED GROSS INCOME LIMITATION ON PARTICIPATION IN CONSERVATION PROGRAMS

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. CASE. Mr. Speaker, I rise today to introduce a bill that exempts my State of Hawaii from the adjusted gross income limitation on participation in Farm Bill conservation programs. These programs assist and incentivize producers and landowners to preserve and conserve the dwindling agricultural lands of our country.

These invaluable programs include the following:

Conservation Reserve Program (CRP), which provides annual rental payments to replace crops on highly erodible and environmentally sensitive lands with long-term plantings that protect the soil. Hawaii is attempting to access this program, the largest of all the conservation programs, by developing a Conservation Reserve Enhancement Program, which is awaiting approval by the USDA.

Conservation Security Program (CSP), which provides financial and technical assistance for improvements in conserving environmental resources on farmland that meets certain soil and water quality criteria standards.

Environmental Quality Incentives Program (EQIP), which provides cost share payments to producers and landowners to plan and install structural, vegetative, and land management practices on eligible lands to alleviate conservation problems, with 60 percent of funds allocated to livestock producers.

Farmland and Ranchland Protection Program (FRPP), which assists state and local governments to acquire easements to limit conversion of agricultural lands to non-agricultural uses.

Grassland Reserve Program (GRP), which retires acres from grazing under arrangements ranging from 10-year agreements to permanent easements and permits the delegation of easements to certain private organizations and state agencies.

Wetlands Reserve Program (WRP), which uses permanent and temporary easements and long-term agreements to protect farmed wetlands.

Wildlife Habitat Incentives Program (WHIP), which provides cost sharing and technical assistance for conservation practices that primarily benefit wildlife.

These programs have become increasingly important in Hawaii, where funding has risen from around $4.9 million in 2003 to $14.2 million in 2005. Unfortunately, especially in the case of the Conservation Reserve Program, Hawaii's ability to access these programs has been severely limited by the application of the adjusted gross income limitation (AGI) placed on the programs by the 2002 Farm Bill to Hawaii's unique conditions. As a result, many of the lands that would deliver the highest environmental benefits are excluded because of this provision.

In Hawaii's case, there are compelling reasons why an exemption from the AGI limitation is not only fair but necessary for these programs to achieve their desired goals. By way of background, during the writing of the 2002 Farm Bill some groups called attention to the fact that some very wealthy individuals were receiving payments under Farm Bill conservation programs. As a result, a limitation was put in place making individuals and corporations with annual incomes of $2.5 million or more ineligible for participation in Farm Bill conservation programs unless 75 percent of that income comes from farming, ranching, or forestry.

This adjusted gross income (AGI) provision seriously disadvantages Hawaii because the major portion of our agricultural lands are owned by families or corporations with diversified holdings. In many cases, these entities have remained engaged in ranching or farming, despite low profit margins, due to a connection to long traditions in ranching, farming, or other activities.

Large agricultural landholdings in Hawaii typically date back more than 100 years and follow the traditional Hawaiian land division of ahupua'a, where land parcels extend from the mountain to the sea, based on the ancient Hawaiian recognition of the interconnectedness of these environments. As a result, we have properties where the upper lands might be used for ranching, the middle lands for crops or residential development, and the lower, oceanside lands for hotels and business developments. Therefore, we have ranches where income from ranching is supplemented by a shopping center and restaurant. A portion of the ranch land may, and in many cases in Hawaii does, harbor endangered plant and animal species. Taking these marginal lands combined with a smaller staff threaten the quality of some care. All requested anonymity, concerned that speaking publicly could cost them their jobs.

These therapists say they have been asked to try to complete treatment of new patients in 10 or fewer counseling sessions, even those recently returned from Iraq. Some of these vets arrive at the VA with marriages already in turmoil or broken. Others have isolated themselves at home, and balked at returning to work. One, who came in after beating his wife, had penned a suicide note.

One therapist said she has been reluctant to stick several troubled Iraq vets in first-step classes of 20 or more that teach coping skills. But her own caseload already runs to several hundred patients, so she has no openings for more one-on-one counseling. To make room for the Iraq veterans, she asks some of her older veterans to come less often.

"But what kind of message is that—that you're not as important as the new guys coming in," she said.

The therapist says she needed to get used to the short-staffed conditions.

"I was told that there needed to be some changes made at the hospital due to the lack of resources, and I was going to have to adjust my thinking," said the therapist. "You need to give Just good-enough care.'"

The Puget Sound VA's mental-health programs also have been caught in the region-wide budget crunch, which included a partial hiring freeze that replaces only one worker for every five who leave their jobs.

"We have to make the best use of resources that we can," said John Park, Puget Sound VA's director of health-care planning, at an April 30 community meeting on mental health sponsored by U.S. Rep. JIM MCDERMOTT, D-Seattle. "You can only cut so much of the budget before things get dicey."

SHARING HOPES AND FEARS

Most PTSD patients in Puget Sound are seen in a specialized program that includes clinics and in-patient care. The program has a national reputation for research and treatment.

McFall, who heads that program, says he was able to snag a special grant that allows him to add several more positions to the 21-person clinic staff in the months ahead.

"I want to say that the sky isn't falling. We can get every Iraq veteran an appointment within a week," he said.

But the local VA policy to limit treatment for patients who have had six months of therapy has caused a backlash. The loudest protests have come from the state network of private-practice therapists who are paid by the VA to treat vets with chronic PTSD.

"I believe that in order to do long-term recovery, I have to do a lot of work," said Steve Akers, a Vietnam vet who is an Everett therapist. Akers offers weekly group sessions, as well as individual counseling.

At the group sessions, the vets spend 90 minutes sharing hopes, fears and a few laughs before ending with a healing circle where they all grasp hands on a wooden staff known as a "talking stick."

One veteran of both the Vietnam and Gulf wars still lives on a razor's edge. At his house, he has installed a perimeter trip wire that sounds an alarm to warn of intruders, and outside lights that can turn midnight into day along a 400-foot driveway. The house is full of loaded guns, weapons his wife fears might be inadvertently used in a combat flashback.

"She doesn't want the one under the bed, and in every room," the vet said during the session. "But I've got to live with myself. I don't feel secure."

Akers opted to take things one step at a time, focusing on a pistol in a bedroom drawer.

"So, at one point, would you be willing to put the pistol in one drawer, and the ammo in another? You'll still have your safety factor but have to think to react."

"I could do that," the vet responded. "But it will be really hard for me. When they break in that door, they're only going to do it once."

Under the new VA policy, the group's weekly meetings will be reduced from twice a month to once a month.

Among the vets, that's the subject of much bitter debate.

"I try not to take it personally," said the veteran with the loaded gun. "There is an intimacy here that is incredible. I want to save it. And the fear, you know, is that it's not going to last."

THE 2005 NEVADA CENTENNIAL RANCH AND FARM AWARD

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. GIBBONS. Mr. Speaker, forever memorialized on our state seal, ranching and farming are two of Nevada's traditions. The most storied of Nevada's ranches and farms, some dating back to the mid 1800's, are being honored this month with the 2005 Nevada Centennial Ranch & Farm Award. From Minden to McDermitt, these families represent the best in Nevada agriculture.

To qualify to receive this prestigious award, a family must have been ranching or farming on the same Nevada property for at least 100 years, and the property must be a working ranch or farm with 160 acres or with gross annual sales of at least $1,000.

I would like to take this opportunity to congratulate and honor the following recipients who have not only shown a commitment to land, but a commitment to family and our land. Blue Eagle Ranch, Tonopah; Bunker Farm, Inc., Bunkerville; Ferraro Cattle Company, Paradise Valley; Green Springs Ranch, Duckwater; Heise Family Ranch, Gardnerville; Krenka Ranch, Ruby Valley; Laura Springs Ranch, Gardnerville; Riordan Ranch, Jiggs; Snyder Livestock Company, Inc., Yerington; Stodieck Farm, Minden; Wilkinson Little Meadow Ranch, McDermitt.

The success, sustainability, and longevity of these ranches and farms stand as an example, to those in agriculture and beyond, of what commitment, determination, and hard work can accomplish.

LET YOUR DEEDS MATCH YOUR APOLOGIES

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. OWENS. Mr. Speaker, In politics apologies are always important. We need more apologies and less fiction among nations and groups. We need apologies that help to avoid wars. Apologies can never be adequate substitutions for restitution or reparations; however, apologies offer their own alternative satisfaction. The present German nation has apologized for the Nazi German Holocaust. But the Koreans and Chinese are not happy with the rather muddled apologies of the Japanese for the atrocities of World War II. And, of course, no one has ever apologized for the Atlantic Slave Trade and two hundred and fifty years of slavery in America. Despite the fact that there is still a huge apology gap in our civilization, we must applaud small apologies wherever they occur. We applaud Republican National Committee Chairman Mehlman for his recent statement to the NAACP apologizing for the "Republican Southern Strategy". This speech was given still more credibility when House Judiciary Committee Chairman Sensenbrenner, at that same NAACP Conference, pledged to lead the fight for the reauthorization of the Voting Rights Act. Mehlman's apology appears to perhaps be a sparkplug for the launching of a new Republican offensive to capture more Black votes. A suffering Black community challenges the Party of Lincoln to show us some concrete policy and program deeds to match the apologies. Listen to the plea of the following RAP poem:

APOLOGIES ARE REAL COOL

To apologize
Is real cool
But don't play
The Black agenda
For no eager fool.
Don't rush to play,
Delay thumping your chest.
Push your words
Into the action test:
Jobs right now we need.
Hungry mouths we have to feed.
Lots of ills But can't buy pills.
Prison terms often repeat
Homeless shelters
Are never neat.

Tax cuts we can't eat,
Iraq war dollars wasted
Spell school repair defeat.
Right now!
Take the action test.
Show us the Bush best.
For any apology
We grant a pat
On the Republican back;
From Democrats
The slavery apology
We desperately lack.
To apologize
Is real cool
But don't play
The Black agenda
For no eager fool.

HEALTH CARE WEEK

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Ms. BALDWIN. Mr. Speaker, I rise today to voice my disappointment in the bills that the House of Representatives is considering during this so-called "Health Care Week."

While I applaud House leaders for turning their attention to the health care crisis, I do not believe that the bills we are considering will solve the problem we face, and I fear that some of these measures may actually worsen the crisis. I look forward to the day when we will consider real solutions to ensure that all Americans have access to quality, comprehensive, affordable health care.

According to the latest figures released by the Census Bureau, 45 million Americans are uninsured. Millions more are underinsured. Just last month, the Commonwealth Fund released a study estimating that there are 16 million Americans who are underinsured—meaning their insurance would not adequately protect them in the event of catastrophic health care expenses. That means that 61 million Americans either have no health insurance or have insurance coverage that leaves them exposed to high health care costs. Sixty-one million is nearly 21 percent of all Americans, or one in five. Put simply, this is unacceptable.

Unfortunately, the health care legislation that the House will consider this week fails to address our nation's health care crisis. These bills will not do anything to provide quality, comprehensive, and affordable health care to these 61 million Americans or to the millions more who constantly worry about losing their health care.

As in years past, I remain opposed to proposals to create "association health plans" or AHPs. AHPs purport to offer affordable health care to small business owners and employees, but this is accomplished by exempting insurers from state insurance and consumer protection laws including benefit mandates, solvency standards, and pricing rules. This evasion of state laws could be devastating to the consumer who thinks that they have comprehensive coverage only to discover, after the fact, that their policy offers a bare bones minimum of benefits.

In addition, the Congressional Budget Office estimates that AHPs will cause 10,000 people to lose their health care coverage. Because AHPs are exempted from state insurance laws, AHPs can "cherry pick" the healthiest employees and deny coverage to those who are more costly to cover. This would drive up insurance premiums for everyone who remains in state-regulated insurance plans, making health insurance less affordable and forcing people to drop their insurance because of rising costs. I recognize the frustration and struggles faced by the self-employed and small business owners trying to provide health care to their employees, but AHPs are not the answer to the uninsurance crisis, if they will result in more people becoming uninsured.

Similarly, the House will consider a medical malpractice bill that will fail to lower health care costs for Americans. Proponents of this bill claim that rising costs of medical malpractice insurance and "excessive litigation" are driving up health care costs so much that caps must be instituted, placed on the amount of money a victim of malpractice can receive for a lifetime of pain and suffering or other non-economic damage.

Unfortunately, these caps will have little effect except to limit patient rights to sue for medical injury. Numerous studies have shown that medical malpractice awards, legal fees, and other costs account for less than one percent of the nation's health care spending. This bill represents nothing more than a false promise.

Soaring malpractice insurance rates need to be addressed with two principles in mind. First, do no harm to the victims of medical errors. Second, start addressing insurance abuses by focusing on the malpractice insurance industry, not the victims of medical malpractice. Narrow federal caps on non-economic damages are not the way to address the problems with malpractice insurance.

Health care costs are rising for many reasons. Given the relatively small role that medical malpractice verdicts and settlements play in rising health care costs, this bill is really more of a distraction that is keeping us from making headway on the real culprits. Congress should leave regulation of insurance and tort law to the states. Congress should not spend its time demonizing victims and their advocates.

Mr. Speaker, there are a number of underlying issues that come up when considering America's health care crisis: uninsurance, underinsurance, affordability, and quality, just to name a few. All Americans deserve quality, comprehensive, and affordable health care, and I look forward to the day when we will consider legislation that truly responds to these challenges.

INTRODUCTION OF A BILL TO EXEMPT HAWAII FROM THE ADJUSTED GROSS INCOME LIMITATION ON PARTICIPATION IN CONSERVATION PROGRAMS

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. CASE. Mr. Speaker, I rise today to introduce a bill that exempts my State of Hawaii from the adjusted gross income limitation on participation in Farm Bill conservation programs. These programs assist and incentivize producers and landowners to preserve and conserve the dwindling agricultural lands of our country.

These invaluable programs include the following:

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These programs have become increasingly important in Hawaii, where funding has risen from around $4.9 million in 2003 to $14.2 million in 2005. Unfortunately, especially in the case of the Conservation Reserve Program, Hawaii's ability to access these programs has been severely limited by the application of the adjusted gross income limitation (AGI) placed on the programs by the 2002 Farm Bill to Hawaii's unique conditions. As a result, many of the lands that would deliver the highest environmental benefits are excluded because of this provision.

In Hawaii's case, there are compelling reasons why an exemption from the AGI limitation is not only fair but necessary for these programs to achieve their desired goals. By way of background, during the writing of the 2002 Farm Bill some groups called attention to the fact that some very wealthy individuals were receiving payments under Farm Bill conservation programs. As a result, a limitation was put in place making individuals and corporations with annual incomes of $2.5 million or more ineligible for participation in Farm Bill conservation programs unless 75 percent of that income comes from farming, ranching, or forestry.

This adjusted gross income (AGI) provision seriously disadvantages Hawaii because the major portion of our agricultural lands are owned by families or corporations with diversified holdings. In many cases, these entities have remained engaged in ranching or farming, despite low profit margins, due to a connection to long traditions in ranching, farming, or other activities.

Large agricultural landholdings in Hawaii typically date back more than 100 years and follow the traditional Hawaiian land division of ahupua'a, where land parcels extend from the mountain to the sea, based on the ancient Hawaiian recognition of the interconnectedness of these environments. As a result, we have properties where the upper lands might be used for ranching, the middle lands for crops or residential development, and the lower, oceanside lands for hotels and business developments. Therefore, we have ranches where income from ranching is supplemented by a shopping center and restaurant. A portion of the ranch land may, and in many cases in Hawaii does, harbor endangered plant and animal species. Taking these marginal lands out of cattle production and assisting with reforestation of native species can have a tremendous impact on the prospects of survival for Hawaii's endangered species. But regrettably, the AGI provision has meant that federal funds to assist in these efforts cannot be used to provide what could be enormous environmental benefits. Thus, as a result of our particular history, we in Hawaii are denied access to a very valuable tool to encourage conservation on many of these marginal agricultural lands.

In addition, as one of the most isolated land masses in the world, Hawaii has a wealth of unique animal and plant species; regrettably we are also the endangered species capital of the United States. Our 255 listed plant species represent approximately one-fourth of the total number of endangered species in the United States. They also comprise more than one-fifth of the entire Hawaiian flora. An Hawaii's endemic birds make up one-third of the list of endangered bird species. Our unique and beautiful endangered birds would benefit greatly from restoration and protection of native forests using funding from the Farm Bill programs. These programs would also help to control runoff into streams and coral reefs providing habitat for more unique endemic species.

Finally, Hawaii should receive special consideration out of simple fairness. Hawaii, especially my Second district, is a rural agricultural state. Despite this, in part because of the AGI limitation, Hawaii comes in dead last of all the states in terms of federal assistance received as a percentage of agricultural production. In fact, we receive less than 1 cent per dollar of production value compared with 17 cents for North Dakota and an average of 6 cents nationwide.

As a prime example, Hawaii has only ever had 21 acres enrolled in the Conservation Reserve Program, which covers some 39.2 million acres nationwide. The Conservation Reserve Program (CRP) was enacted in 1985 and has grown to become the biggest USDA conservation program, costing just under $2 billion annually in recent years. Under this program, producers bid to retire highly erodible or environmentally sensitive land from production during national signup periods. The Farm Service Agency ranks bids based on their estimated environmental benefits and cost to the government. (I have no doubt that Hawaii would deliver very high environmental benefits, especially when one considers the impact on coral reefs and endangered species.) Successful bidders receive annual rental payments, as well as cost sharing and technical assistance, to install conservation practices. Almost all the enrolled land is retired for 10 years. Enrollment is limited to 25 percent of the crop land in a county.

In July 2004, Hawaii's Governor Lingle submitted the "Hawaii Conservation Reserve Enhancement and Coordinated Conservation Plan." The proposal is currently under review by the Farm Service Agency.

If approved, the plan will restore 30,000 acres of native forest—10,000 acres in riparian buffers along streams and 20,000 acres in large blocks in groundwater recharge and sediment source areas. The plan covers the islands of Maui, Hawaii, Molokai, Lanai, Kauai, and Oahu. The principal goals of the project are to improve water quality in streams, reduce flow of polluted runoff to near shore waters and coral reefs, and restore terrestrial and aquatic wildlife habitat.

Unfortunately, the proposal has been stalled because of concerns that not enough suitable land will be eligible under AGI limitations.

Hawaii's agriculture has many unique characteristics due to our isolated location, land use patterns dating from the days of the Kingdom of Hawaii, tropical climate, and year-round growing season. Few USDA programs address our special needs, and we do not benefit from any of the general commodities programs. Hawaii has traditionally received relatively little assistance from the Farm Bill conservation programs, although they seek to address problems that are central to our islands: protecting water quality, preserving endangered species, and controlling invasive pests.

An AGI exemption for Hawaii would remove a barrier that effectively eliminates roughly 80 percent of Hawaii's agricultural land from participation in conservation programs. I ask my colleagues for their support for this exemption to help to protect Hawaii's special environment and vulnerable endangered wildlife both on the land and in our nearshore waters and to provide Hawaii with equal and fail access to the great benefits of these programs.

50TH ANNIVERSARY OF THE PARISH OF ST. LOUIS THE KING

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. STUPAK. Mr. Speaker today to honor the parish of St. Louis the King Roman Catholic Church for 50 years of serving the communities of Marquette, Harvey, Lakewood, Hiawatha Shores, Sand River, Beaver Grove, Mangum, West Branch, Skandia, Dukes and Sands. The parish has provided opportunities for thousands of people to seek faith, conduct outreach, and engage in fellowship and worship.

On June 30, 1954, Most Reverend Thomas L. Noa D.D. announced the formation of the new parish, St. Louis the King. That day, Rev. David Harris was appointed Administrator. Less than a month later on July 18th Father Harris said his first mass in Chocolay Township Hall beginning one of many "firsts" to take place for the young congregation.

That first year, St. Louis the King would rejoice in their first baptism of Eileen Marie Williams, daughter of Albert Williams and Frances Casimir; mourn their first death of Larry Wayne Lajeunesse, son of Mr. and Mrs. Lawrence Lajeunesse; witness their first marriage of Leonard Lemieux, son of Wilfred Lemieux and Lorette Gauthier, and Marion Tousignant, daughter of Alfred and Lucelle Santamore; and celebrate their first Holy Communion of thirteen boys and seven girls.

After a year of memorable firsts, the parish would also celebrate the ground breaking for the new church on July 20th, 1955 on land obtained from Fred Greenleaf, a member of the parish. While the congregation patiently waited for the completion of the new church, St. Louis the King would continue to evolve confirming their first class of fourteen boys, twelve girls and nine adults by Bishop Thomas Noa on November 5th, 1956.

The fruits of their labor and reward of their patience was realized on December 25th, 1959 when members of St. Louis the King heard their first mass in the new church. Solemn High Mass of the Nativity was delivered with a sermon given by Rev. Mr. Allen Mayotte of the parish. He would be ordained six months later becoming the first parish son ordained to the priesthood from the St. Louis the King Parish.

Many improvements have been made to the church through the years, but the most important development has been the learning experience parish members have gained from the past 50 years of growing together. As people who started as individuals and families bound together by their faith, they have now created a larger body of Christ united in their Catholic faith. Mr. Speaker, I ask the United States House of Representatives to join me in congratulating the St. Louis the King Roman Catholic Church on their first 50 years as a parish and in wishing them success in the future as they continue to grow, love, and live their faith.

THE 40TH ANNIVERSARY OF THE VOTING RIGHTS ACT OF 1965

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. RANGEL. Mr. Speaker, I rise to recognize the significance of the Voting Rights Act of 1965. Next week will mark the fortieth anniversary of the passage of that historic act of Congress and there will be commemorations and remembrances of this anniversary throughout the nation, including a march in Atlanta being led by our colleague, the Honorable John Lewis—a civil rights legacy in his own right. While August 6th will signify prominent strides that this country has made in terms of equal rights, the 40th anniversary of the Act's passage will also highlight considerable room for improvement and work to truly guarantee that right to vote to all Americans.

The Act is a reminder of the oppression suffered by the Black community between Reconstruction and the Civil Rights Movement that Blacks could be utterly denied the most basic constitutional right to vote without any recourse to assert and obtain that from any of the branches of the United States government, including the Judiciary. The right to vote is fundamental to political empowerment under our Constitution and democratic form of government. Its denial effectively deprived citizenship to African-Americans in the Jim Crow era.

Despite the promises of the Fifteenth Amendment, most Black Americans were routinely denied the right to cast ballots in federal and state elections, particularly in the South. This denial was a function of both the state government and of local individuals determined to maintain their hold on political power in this country. It was another element of the fear and torture that existed throughout this country to intimidate and discourage Blacks from pursing their most basic rights in this country.

Individuals were denied the opportunity through official and unofficial channels to cast their ballots. Literacy tests, poll taxes, grandfather clauses, and gerrymandering were but a few of the mechanisms used by the state to prevent Black Americans from voting and electing leaders to represent their interests while lynchings, threats and intimidations, and Ku Klux Klan marches asserted the will of bigots to oppose the equal treatment of all Americans.

Faced with these startling realizations and a mobilized Black community, President Lyndon Johnson advocated for the Voting Rights Act of 1965. Despite the perceived political disadvantages for himself and his party, Johnson's efforts were important to securing the rights of Black Americans throughout the country. His efforts opened the doors of electoral influence and power for Black Americans in this country.

Thanks to the efforts of the Voting Rights Act, poll taxes that charged certain Americans for their right to vote were eliminated. Literacy tests which were selectively applied to Blacks were banned. Individuals who stood in polling sites intimidating minorities from voting were committing federal crimes. Federal agents were deployed to protect and guarantee the rights of these Americans to vote.

Today, we can enjoy the fact that African-Americans, Hispanic Americans, and other minorities are guaranteed the right to vote in every state and federal election, that the legislative bodies of this country are more representative of the diversity of the nation than of the rich and powerful, and that the power of the people to elect their leaders is guaranteed in both the 15th Amendment and the Voting Rights Act.

Nevertheless, Mr. Speaker, the right to vote—the most important obligation of our citizens—is not universal to our citizens. There remain a number of barriers to full voting rights of this country and this Congress should look into addressing those challenges when we renew the Voting Rights Act next year. Some of these barriers are intentional; others less so. Regardless, the right to vote should be undeniable to a democracy's citizens. It should be undeniable to the citizens of the United States.

As we approach the 40th anniversary of the Voting Rights Act, an ever-increasing number of Americans are being permanently denied their right to vote in federal elections for their past criminal behavior. Based on Justice Department figures from 2000, an estimated 1.6 million ex-offenders in 14 states are denied the right to vote after paying their debt to society. These ex-offenders are continually denied their right to cast votes for these past actions. We should allow these individuals who have fulfilled their sentences to vote in federal elections.

Purging of voting records, targeting and intimidation in minority voting sites, the absence of reliable voting machines, circulation of false and misleading information, and long lines in polling sites have all been recent examples of the challenges to creating a fair and justice electoral system. There is clearly more work that needs to be done and I look forward to working with my colleagues in securing legislation that will tackle this challenge.

For today, we can look back on the hopes and promises of a more open society and see the fruits of our labor: A citizenry that participates at all levels, a Congress that reflects and represents the country's diversity, and a country that is opening doors and opportunities for the voices of all Americans. Tomorrow, we should take up the challenges of opening this society even more to the inclusion of all our citizens.

A TRIBUTE TO ST. RITA OF CASCIA HIGH SCHOOL HONORING OF ITS 100TH ANNIVERSARY CELEBRATION

HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. LIPINSKI. Mr. Speaker, I rise today to honor a fine educational institution in my district, St. Rita of Cascia High School, as the community, families and friends of the high school gather to celebrate its 100th Anniversary.

Founded in 1905 by the Very Reverend James F. Green, O.S.A. on the south side of Chicago, St. Rita's High School was founded in the spirit of St. Augustine and of the Catholic Tradition. The mission of this institution was to form the whole student—spiritually, intellectually, emotionally, physically, and socially—to excel beyond the classroom and in their life experiences.

With the rapid growth of its student body population, St. Rita's quickly became recognized as one of Chicago's outstanding secondary schools. St. Rita's commitment to providing a well-rounded education, based on ancient knowledge which still holds true today, has created an environment in which the students experience fulfillment and exemplify the qualities of truth, honesty, integrity, moderation, responsibility, self-discipline, self-worth and a desire to serve society.

It is my honor to recognize the community of St. Rita of Cascia High School for its many achievements both academic and athletic, and for fostering the growth of those individuals who will help create change and promote progress in today's society.

CONGRATULATING THE LAKE HOPATCONG HISTORICAL SOCIETY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. FRELINGHUYSEN. Mr. Speaker, today to honor the Lake Hopatcong Historical Society, in my Congressional District. The Historical Society is celebrating fifty years of protecting documents and artifacts for the community and promoting education and historic preservation.

The actual creation of the Lake Hopatcong Historical Society occurred on August 10, 1955, at the Langdon Arms Restaurant with eight people in attendance. From the beginning, the members' goal was to establish a museum for the lake.

From the original eight individuals who attended the first meeting in 1955, the society grew to 150 members by the time the museum opened in 1965. In the early 1960s the State of New Jersey moved forward with plans for a new administration building at Hopatcong State Park. The park was on land which was previously owned by the Morris Canal and Banking Company. When the canal was abandoned in the 1920s, the 98 acres around the Lake Hopatcong dam were set aside as a state park.

Today, with nearly 800 members, the organization continues to follow its mission "to collect, house, and preserve artifacts and documents relating to the civil, political, social and general history of Lake Hopatcong and to encourage the education and dissemination of information about Lake Hopatcong's history."

Mr. Speaker, I urge you and my colleagues to join me in congratulating the Lake Hopatcong Historical Society, its trustees and all of its outstanding members and volunteers, upon celebrating its 50th Anniversary.

INTRODUCTION OF THE HAWAII INVASIVE SPECIES PREVENTION ACT

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. CASE. Mr. Speaker, I rise today to introduce a crucial and long-overdue measure to address directly what is far and away the most serious threat to my Hawaii's unique and treasured environment: The escalating introduction and establishment of invasive species.

Non-endemic species have done great damage to Hawaii's exposed and non-resistant plants and animals for a long time now. But the sheer rate at which it is now accelerating presents a true crisis, threatening now to completely overwhelm and permanently preclude our ability to provide any modicum of protection, and demanding that we go in a whole different direction of affirmative prevention.

Hawaii is the most remote populated land mass on our planet. Our islands' native species thus evolved in isolation, which led to the generation of species entirely unique to particular islands and found nowhere else in the world. In fact, such species are still being discovered in Hawaii. For example, the current issue of the journal Science reports on a unique web-spinning caterpillar recently discovered in Hawaii that stalks and eats snails

But more than 5,000 species of non-native plants and animals have become established in the Hawaiian islands in the past 200 years, a rate of successful colonization of a new specie every 18 days. This is in astonishing contrast to the estimated rate of introduction to Hawaii through natural evolution of one specie every 25,000 to 50,000 years.

Not all of these new species become pests, but too many do and the consequences are devastating given Hawaii's globally unique and fragile natural environment. As a result, non-native invasive species and diseases represent the single greatest threat to Hawaii's endangered species and the health and viability of our natural systems. Because of the islands' geographic isolation, many species do not have natural predators, and so defense mechanisms like thorns, odors, or toxins have disappeared through the process of evolution. If an aggressive non-native specie becomes established in Hawaii, it can easily overwhelm native species and be very difficult to eradicate because of our hospitable climate and lack of natural competitors.

Thus, Hawaii is most regrettably the undisputed endangered species capital of the United States, if not the world. Our 255 listed plant species represent approximately one-fourth of the total number of endangered species in the United States. They also comprise more than one-fifth of the entire Hawaiian flora. And Hawaii's beautiful endemic birds make up one-third of the list of U.S. endangered bird species. Many of these birds only exist on one island. What's more shocking is that this disproportionate situation exists in a state with a land area that represents less than two-tenths of one percent of the entire Nation's land mass.

Just 10 years ago, in 1994, the Federal Office of Technology Assessment declared Hawaii's alien pest species problem as the worst in the Nation. Since then, however, the problem of alien pests—from the Formosan termite to the Oriental fruit fly to marine species brought in with bilge water—has worsened considerably, not only costing Hawaii government and business millions of dollars each year in both prevention and remediation, but assuring that many of the world's most unique and endangered lifeforms will not survive. At this point, the introduction and establishment of even one new pest, such as the brown tree snake, which has eliminated the native birdlife of Guam, would change the character of Hawaii forever.

This is obviously a grim picture, but nothing like the future picture if we don't wake up and change our entire approach. For the escalation of travel, commerce and defense activity across the Asia-Pacific region, combined with Hawaii's position as the crossroads of the Pacific and the gateway between Asia and the Pacific and the United States, makes it critical, from not only an environment/conservation perspective but one of economic and human health, that new pests be stopped before they come to Hawaii. Thus, Hawaii must be far better protected from pests and diseases moving west to east, but also those that have become established on the U.S. mainland, such as the red imported fire ant and the West Nile virus.

Our tropical climate and lack of a cold season mean that introduction of a disease such as West Nile virus would be especially severe, with devastating effects not only on our endangered birds but on our visitor industry, which is essential to our economy. The entry of biting sand flies, for instance, would greatly damage Hawaii's appeal as a visitor destination and forever alter our quality of life. The introduction into Hawaii of Africanized honeybees would not only represent a human health hazard, but would endanger Hawaii's pure, undiseased (though non-native) bees. (Hawaii's honeybees are also free of Varroa mites, which are common throughout the U.S. and much of the world.)

The current poster child for invasive species in Hawaii is an animal that hitchhiked from Puerto Rico in uninspected tropical plants. The coqui frog now threatens the viability of Hawaii's vital nursery export industry as well as threatened and endangered species in our native ecosystems. Its extremely loud mating call (90 decibels, equivalent to a lawnmower) is now seriously impacting our tourist industry and depressing land values in some areas. And the list goes on.

It's not as if we can't all see the problem, and we have had some nominal measures in place for decades aimed at controlling the introduction of unwanted alien species (at least under some entry conditions). Obviously, however, what amounts largely to an honor system, combined with inadequate resources devoted to inspection and enforcement, is not sufficient to do what must be done.

We have two things going for us. First, our location in the middle of the ocean, provides us with far better control over movement of invasives across our borders than, say, a landlocked midwest state. Second, we have a solution, which has proven effective, staring us in the face.

For more than 40 years, a Federal quarantine has been imposed in Hawaii on the movement of all passengers and cargo from Hawaii to the U.S. mainland to protect the U.S. mainland from identified insect pests in Hawaii, such as the Mediterranean fruit fly. Ironically, these pests are themselves invasive to Hawaii, causing millions in agricultural losses and added treatment costs for our export crops. Under this system, passenger baggage and cargo is physically inspected by USDA inspectors using advanced inspection equipment; most passengers don't give the process a second thought.

A similar, more comprehensive, system is already in place for a whole country—New Zealand—which as a remote island nation with disproportionately high and exposed endemic species bears striking similarities to Hawaii. New Zealand "white lists" designate permissible import species, say no to everything else, and then inspect on arrival for enforcement.

But ironically Hawaii, which has a much more acute overall problem than either the U.S. mainland or New Zealand, has found it very difficult to fashion and implement a similar prevention regime. Part of the problem has been general denial and naysaying. But a more tangible obstacle has been federal laws that arguably preempt State of Hawaii efforts to control the movement of goods. These arise under the Commerce Clause, which requires a state to consider the burdens its regulations may impose on interstate commerce, and the Supremacy Clause, which may preempt state regulation in an area where Congress has already legislated.

My bill—the Hawaii Invasive Species Prevention Act—may be condensed into this simple statement: what is good for the U.S. mainland should be good for Hawaii. The bill basically establishes certain federal findings and authority under which Hawaii may institute an incoming quarantine and inspection regime comparable to that existing for the movement of people and cargo from Hawaii to the mainland.

Specifically, the bill starts by expressing the clear sense of Congress that there exists a pressing need for improved and better coordinated control, interdiction, and eradication of invasive species and diseases to prevent their introduction into Hawaii. The bill states that it is the policy of the United States to fund and support coordinated and concerted programs and activities to control, interdict, and prevent the introduction and spread of invasive species into Hawaii, and that no federal agency may authorize, fund, or carry out actions that would cause or promote the introduction or spread of invasive species and disease into Hawaii.

The bill goes on to direct the Secretaries of Agriculture and Interior to impose a quarantine on the State of Hawaii in order to prevent the introduction of invasive species and diseases in Hawaii. The Secretaries are directed to establish a system of post-arrival protocols for all persons, baggage, cargo, containers, packing materials, and other items traveling or being shipped to Hawaii from domestic or foreign locations. The Secretaries are further directed to establish an expedited process for the State of Hawaii to seek approval to impose general or specific prohibitions on the introduction or movement of invasive species or diseases that are in addition to any prohibitions or restrictions imposed by the Secretaries, which may encompass at white list approach. And in cases of imminent threat, the State of Hawaii is authorized to impose, for not longer than 2 years pending approval by the Secretaries, general or specific prohibitions or restrictions upon the introduction or movement of a specific invasive specie or disease.

Actual implementation of the Federal quarantine would be subject to funds being specifically appropriated, or designation of a means to finance the system (for example, a means of financing similar to that now utilized by the USDA for its outgoing quarantine). However, the design of the system and the expedited process under which the State of Hawaii can seek approval for additional protections would not be subject to appropriations. Finally, the bill authorizes Federal quarantine, natural resource, conservation, and law enforcement officers and inspectors to enforce Hawaii state and local laws regarding the importation, possession, or introduction of invasive species or diseases.

Mr. Speaker, I end my remarks where I started: this bill is not only light years overdue, but crucial, if not indispensable, to the preservation and enhancement of my Hawaii as we know it. I ask for my colleagues' expedited support.

100TH ANNIVERSARY OF THE CITY OF CHARLEVIOX

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. STUPAK. Mr. Speaker, I rise today to honor a community in my district that is celebrating its 100th anniversary as a city. On

June 1, 2005, the residents of Charleviox, Michigan, honored their history that began as an early settlement for Native American Tribes, and grew into an essential regional shipping port and remains a major center for tourism in northern Michigan.

Michigan State University archeological digs have uncovered evidence that indicated Michigan's early Native American Tribes established seasonal settlements in the Charleviox area dating back to 1500 B.C. The area, then known as Pine River, also became a seasonal home to Beaver Island fishermen during the mid-19th century. This development would begin the long-time fishing trade that would later position Charleviox as the largest exporter of fish of any port on the Great Lakes during the early 1900's.

It was a Mormon family that left Beaver Island in 1854 for more tranquil life that planted the seeds of the city. After starting a farmstead nearby what is now the downtown, many families followed suit by establishing their own farms, fishing businesses and lumbering mills. With the bountiful natural resources, the new community quickly grew.

Upon the channel opening in 1869 that created a connection between Round Lake to Charleviox Lake allowing navigation to Charleviox from Lake Michigan. This new access "opened up the entire northwest comer of the Lower Peninsula of Michigan to national and subsequently international commerce," according to local historians. The Federal Government was charged with the maintenance of the channel due to the increasing economic importance Charleviox was having on the area as a principal shipping port in the area.

As years went on, travelers to Pine River began referring to this area as the "town in Charleviox County" and then simply as Charleviox. In 1879, the village was chartered under the county name of Charleviox.

With a long standing maritime history that included canoes, yachts, passenger liners, lake freighters, pleasure crafts and a U.S. Coast Guard Cutter, Charleviox has been considered one of the finest harbors on the Great Lakes. During the late 1800's, the harbor's easy access, beautiful scenery and reputation for a healthy atmosphere made Charleviox an attraction for tourists and resorters from around the country. The establishment of a railroad in 1892 and three of the finest resorts in America made Charleviox a national vacation destination drawing tens of thousands of guests each summer.

As the influx of out-of-towners grew each year, the numbers those who stayed in Charleviox increased. The village of Charleviox was charted as an official city by the State of Michigan in 1905 but maintained its quaint small town feel and the appeal of a major harbor resort area.

Mr. Speaker, due to the influence of Native American settlements, trades that were based on the bountiful natural resources and the beauty of the region, the history of Charleviox is unique. Charleviox, known to its residents as "Charleviox, The Beautiful" was able to capitalize on its unique attributes which have drawn visitors from every State in the Union and countries from around the world to its little comer of Michigan. I ask the United States House of Representatives to join me in congratulating Charleviox and its residents on their first 100 years and in wishing them well through the next century.

IN RECOGNITION OF THE CONGRESSIONAL BLACK CAUCUS FOUNDATION INTERNS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. RANGEL. Mr. Speaker, I rise today in acknowledgment and appreciation of the Congressional Black Caucus Foundation interns as they complete their internships with the 43 members of the Congressional Black Caucus.

This summer, the members of the Congressional Black Caucus have enjoyed the benefit of working with college students from all over the country through the Congressional Black Caucus Foundation's Congressional Internship Program. The program has provided the interns with housing and stipends to allow them to work in our offices and gain knowledge and experience in the legislative process, affording them an opportunity that they might not otherwise have been able to take advantage of.

In a society where African-American youth are usually characterized by negative stereotypes, it is refreshing to see such promising individuals. These young people have shattered negative stereotypes by accepting the challenge to become America's future leaders. The 43 CBCF interns have done more than just answer phones and sort mail, they have become active participants in the legislative process. They have worked on substantive issues and evidenced the potential to become proficient in public policy research, analysis and advocacy. Their presence has definitely been felt throughout the nine short weeks they have been on the Hill. From organizing receptions to starting petitions for the Darfur crisis, they have made an impact in our offices and on Capitol Hill.

The CBCF internship program and the interns it has produced are very special to me. My wife, Alma, was one of the first co-chairs of the Congressional Black Caucus Spouses and was instrumental in creating the foundation's internship program. Since then, the internship program has flourished and we have gone on to providing wider support for young African-American students, offering fellowships and conducting summer enrichment programs.

I would like to take this opportunity to formally recognize the CBCF interns and thank them for the valuable work they have done this summer. In particular, I want to recognize and praise Jackeline Stewart for the contributions she made to my office this summer during her CBCF internship; she was a terrific addition to my staff. I would also like to thank the program coordinators Troy Clair, Erin Miles and Jason Goodson of the Congressional Black Caucus Foundation staff for all of their hard work in the planning and implementation of this summer's CBCF internship program.

I would like to submit to the RECORD the 2005 Congressional Black Caucus Foundation intern roster:

Byron Adams, Representative DAVID SCOTT (GA), Pomona College.

Kara Akins, Representative ROBERT SCOTT (VA), Howard University.

Elizabeth Bakanic, Representative G.K. BUTTERFIELD (NC), University of South Carolina—Columbia.

John Lewis Baker III, Representative BENNIE G. THOMPSON (MS), Tougaloo College.

Joseph Bastian, Representative CORRINE BROWN (FL), Florida A&M University.

Michele Bradley, Representative DIANE WATSON (CA), Spelman College.

Wesley Brunson, Representative KENDRICK MEEK (FL), University of Florida.

Robert Cary, Representative STEPHANIE TUBBS JONES (OH), Columbia University.

La Mont Chappell, Representative JUANITA MILLENDER-MCDONALD (CA), University of New Mexico.

Sharonda Childs, Representative ARTUR DAVIS (AL), Columbia University.

Christopher Cody, Representative HAROLD FORD, JR. (TN), Boston College.

Christopher Coes, Representative SANFORD BISHOP (GA), St. John's University.

Lesley Coleman, Representative BOBBY RUSH (IL), Georgetown University.

Nicholas Colvin, Representative CAROLYN KILPATRICK (MI), University of Michigan.

Lawrence Crockett, Representative ALBERT WYNN (MD), University of Pittsburgh.

Sophia Davis, Representative JULIA CARSON (IN), Miami University.

Kory Davis, Del. DONNA CHRISTENSEN (VI), Johnson C. Smith University.

Phallan Davis, Representative SHEILA JACKSON-LEE (TX), Baylor University.

Jeffrey Delaney, Representative DONALD PAYNE (NJ), Williams College.

Jonathan Fong, Representative AL GREEN (TX), University of Texas-Austin.

Omari French, Representative MAXINE WATERS (CA), University of Miami.

Andre Gray, Representative GREGORY MEEKS (NY), University of Maryland, College Park.

James Guster, Representative CYNTHIA MCKINNEY (GA), Tennessee State University.

Jaira Harrington, Representative DANNY DAVIS (IL), Spelman College.

Nija Leek, Representative CHAKA FATTAH (PA), Bethune-Cookman College.

April Love, Representative EMANUEL CLEAVER (MO), University of Arkansas.

Willie Lyles III, Representative JAMES CLYBURN (SC), Winthrop University.

Whitney Marshall, Representative MELVIN WATT (NC), Wake Forest University.

Ryshelle McCadney, Representative EDOLPHUS TOWNS (NY), Harvard College.

Stephanie McGary, Representative EDDIE BERNICE JOHNSON (TX), Dillard University.

My'Ron McGee, Sen. BARACK OBAMA (IL), University of Illinois at Urbana-Champaign.

Nicholas Paul, Representative MAJOR OWENS (NY), Medgar Evers (CUNY).

MarQuita Petties, Representative BARBARA LEE (CA), UC Berkeley.

Stefanie Rhodes, Representative WILLIAM JEFFERSON (LA), Louisiana State University.

Jennifer Rush, Representative JESSE JACKSON, JR. (IL), University of Illinois at Urbana-Champaign.

Jackeline Stewart, Representative CHARLES RANGEL (NY), American University.

Rachel Tanner, Representative JOHN CONYERS, JR. (MI), University of Michigan.

Nzingha Thompson-Bahaudden, Representative GWEN MOORE (WI), Howard University.

Mimi Tsige, Representative WILLIAM LACY CLAY (MO), St. Charles Community College.

Charisma Williams, Del. ELEANOR HOLMES-NORTON (DC), Temple University.

Isaiah Wilson, Representative JOHN LEWIS (GA), Morehouse College.

Erin Wilson, Representative ALCEE HASTINGS (FL), University of Pennsylvania.

Darryl Yates, Representative ELIJAH CUMMINGS (MD), Morgan State University.

HONORING ROSALIE PLATT, AWARD RECIPIENT "YES I CAN! INTERNATIONAL AWARD PROGRAM"

HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. LIPINSKI. Mr. Speaker, I rise today to honor a young constituent of Illinois, Miss Rosalie Platt of Chicago. Rosalie was recently selected as one of the winners in the "Yes I Can! International Awards Program."

The Yes I Can! Foundation is a national foundation committed to improving the lives of children and youth with special exceptionalities. Created as a nonprofit organization in June of 1971, the mission of the Yes I Can! Foundation is to encourage, enhance, and empower children with disabilities, as well as young individuals with special gifts or talents, in the pursuit of their individual goals and dreams.

For the past 31 years, the Foundation's mission has been to design and implement programs that help to improve the quality of life of children with disabilities. Yes I Can!, through the administration of several national programs, has been dedicated to building interdependent communities that value and support these children.

The Foundation recognizes the accomplishments of extraordinary children and youth, widely sharing stories of their successes, and activating a supportive network of strategic partners and activities.

It is my honor to recognize Miss Rosalie Platt for her exceptional contributions to the community and for having great confidence in herself to overcome adversity. In addition, I commend the Yes I Can! Foundation for its commitment to giving those who are challenged the hope and means to overcome those challenges.

CONGRATULATING THE VOLUNTEERS OF THE SOMERVILLE CENTRAL HOOK AND LADDER COMPANY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Somerville Central Hook & Ladder Company, in the Borough of Somerville, New Jersey, a patriotic community that I am proud to represent! On August 27, 2005, the good citizens of Somerville will celebrate the Hook & Ladder Company's One Hundred and Twenty-fifth Anniversary with special festivities.

For one hundred and twenty-five years, the Somerville Central Hook & Ladder Company has been protecting and serving the residents of their community. In celebration of their anniversary, festivities will include an apparatus judging contest during which invited neighboring fire companies will show off their rigs for a trophy prize. They will also introduce a new truck, the newest addition to their company.

The Hook & Ladder Company was created when, in the summer of 1880, several members of the Somerville Engine Company #1 recognized the need for a hook and ladder truck. They resigned from the Engine Company, and with several other volunteers created the Central Hook & Ladder Company. Funds for the purchase of their three-story brick building were raised by using their team, who refer to themselves as "Hooks," and a dump truck to collect garbage in town at the cost of 25¢ a week per customer. The Division Street Building was built in 1902, to house the hand-drawn "Wonder" fire truck. In 1909, the company upgraded to a horse-drawn Seagrave truck.

Currently the Central Hook & Ladder Company is led by Deputy Chief Todd Stamer and has about 50 members of which about a dozen are second generation or more Central Hook & Ladder families.

Mr. Speaker, I urge you and my colleagues to join me in congratulating the volunteers of the Somerville Central Hook & Ladder Company on the celebration of 125 years of a rich history in the protection of one of New Jersey's finest municipalities!

INTRODUCTION OF THE CORAL REEF CONSERVATION AND PROTECTION ACT OF 2005

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. CASE. Mr. Speaker, in introducing an earlier version of this bill into the 108th Congress (2003–2004), I remarked that I was grateful for being able to take an action both long overdue and truly needed. I still feel that way as I reintroduce the Coral Reef Conservation and Protection Act of 2005, except that this proposal is now far longer overdue and far more needed.

As I said last Congress, my childhood was spent among the rich diversity of the coral reef ecosystems of my native Island of Hawaii. It was a time of budding wonder at what nature had wrought, the living corals and other reef life existing in mutual dependency and sustainability. But just weeks ago, when I returned, as I often do, now with my children, to those same reefs, they're not what they were. Still beautiful, yes; still wondrous. But there is not the same diversity of coral nor the same luster; the fish and other marine life not as plentiful nor diverse; the presence of new, alien species is apparent.

Of course, there are simply more of us in those marine environments than there were, and so our cumulative impact over my fifty years in those waters has become apparent, even at the level of recreational and subsistence use. But it's more, for these reefs have become a significant business, their coral exoskeletons, their living creators, and the shells and fish that live in and among them valuable collectors' items for the aquariums and curio shops of the world. And the purposeful and accidental introduction of marine invasives in isolated instances over the last decades have magnified into a critical mass of statewide presence and threat.

In relevant terms, though, we in Hawaii are among the lucky ones, for at least we still have living, albeit threatened, coral reefs, with declining but at least remaining marine life. At least we have marginally protective state laws, and a culture of arguable sustainability.

But in much of the rest of the marine world, especially throughout the temperate zones of the Pacific and beyond, the world of the coral reef is past endangered and into destroyed, wiped out by a wave of commercial overfishing, overcollecting, dynamiting, cyanide poisoning, and other forms of ecological pillage. In these worlds, laws do not exist to provide even minimum protections or, if they do, they are spurned.

Some say that that's their business; what do we care if they wreck their marine ecosystems? First, of course, in today's interdependent world, our global environment is everyone's business. But beyond that, we can't turn our backs because we are the chief facilitator; ours is the largest market for the products of this stripping of the world's coral reefs.

None of this is new: we've known all of this for decades. We've even set out to do something about it. In 1973, we became a party to the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES), which sought to clamp down on endangered species trafficking. But although some of our world's coral reef life has been designated as covered under it, the enforcement mechanisms are frankly ineffective.

More recently, in 1998 President Clinton issued the Coral Reef Protection Executive Order (No. 13098) establishing the U.S. Coral Reef Task Force. That entity was directed to strengthen our stewardship and conservation of our country's reef ecosystems, and to assess our role in the international coral reef products trade with the goal of taking actions to promote conservation and sustainable use of coral reefs worldwide.

The Task Force conducted its evaluations, made its reports, and outlined what was needed. That was in large part comprehensive legislation to institute common protective standards for our nation's coral reefs, but, equally important, rules to discourage international coral reef abuse and encourage sustainable practices by allowing imports only of non-endangered products collected by sustainable practices and pursuant to integrated management plans.

The Coral Reef Conservation and Protection Act of 2005 I gratefully reintroduce today embodies the principal directions of the Task Force and more. It establishes a comprehensive scheme for the domestic and international protection of our world's coral reef ecosystems. The regime's key ingredients are the disallowal of any domestic taking, transport in interstate commerce, or import of the endangered marine life of our coral reefs, unless that life is collected in non-destructive ways or subject to sustainable management plans or otherwise exempted from coverage by administrative actions.

Mr. Speaker, we have to start somewhere; our world's coral reefs are crying out for our help. This bill is that start, and I urge its prompt deliberation and passage.

Mahalo, and aloha!

100TH ANNIVERSARY OF ROSE CITY

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. STUPAK. Mr. Speaker, I rise today to honor a community in my district that is celebrating its 100th anniversary as a city. On September 3rd, 2005 the residents of Rose City, Michigan will partake in their annual end-of-summer ox roast and pay tribute to its citizens and their city's history that consists of the All-American boom town tales as well as those more tragic stories.

The first settlers to the area worked their way from Saginaw Bay along the Rifle River to what would become Ogemaw County in the 1870s. Ogemaw County, named after local Chippewa Chief Ogemaw-Ke-Ke-To, was home to several family names including Beck, Rose, Zettle, Rau and many others still residing in the region. Among those original settlers was William Rose who founded Rose City, then known as Churchill.

Lumber and agriculture brought droves of people to the area where several lumber mills and a flour mill were amongst the more than 30 businesses in the Rose City downtown district. Son of the Churchill founder William Rose, Allen S. Rose partnered with banker M.H. French to establish the French and Rose Land and Lumber Company. According to the local newspaper, in 1893 Rose was instrumental in bringing the first commercial railway, the Mackinaw & Detroit Railroad, to Rose City to service the area's lumber operations. The railroad made its first stop to Rose City that year on Christmas day.

The eventual Mayor of Rose City and Michigan State Senator, H.S. Karcher, worked to incorporate the city on April 13, 1905. The city was named after Allen Rose who was also the local Postmaster at the time. During the peak of the lumber period, Ogemaw County contained 30 post offices. Of the many cities incorporated in the region by the State of Michigan in that same year, only two have survived, Rose City and West Branch. This year on April 13th, Rose City's current mayor, William Schneider, and Rodney Mason, the great-great-grandson of Allen Rose, reenacted the signing of Rose City's charter.

Rose City has not survived the past 100 years unscathed, however. The famous fire that broke out in D.W. Benjamin's grocery store on April 3rd, 1910 would scar the city's economy and morale for years. The fire that began in the grocery store was not discovered until 3:00 a.m. when flames had engulfed the building. The small town "bucket brigade" was not able to fight the fierce fire and one hour later the entire business district was destroyed.

That night, 30 of 32 businesses were lost causing an estimated $175,000 worth of damage. The few items salvaged from the businesses were stolen. In his valiant effort to save all the U.S. mail, Postmaster O.F. Honeywell lost all of his personal belongings aside from the clothes on his back and two dollars in his pocket to the fire.

Mr. Speaker, Rose City has experienced an All-American history with tales of the best of times and the worst of times. As the entire city gathers this September to celebrate the end of summer with their annual ox roast, it is quite apparent that they have risen from the ashes of their most tragic event to embrace their best assets—one another. I ask the United States House of Representatives to join me in congratulating Rose City and its residents on their first 100 years and in wishing them well through the next century.

COMMEMORATING THE EFFORTS OF PASCAL MORETTI IN HONORING OUR WORLD WAR II VETERANS

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. DELAHUNT. Mr. Speaker, as we prepare next month to commemorate the 60th anniversary of the end of World War II, Americans will again turn their thoughts to those who sacrificed on the battlefield and the home front.

The Greatest Generation of soldiers came from cities and towns all across our Nation. They were ordinary men called to a great crusade. Their mission was nothing short of making the world safe for democracy.

Six decades ago, the soldiers of the 95th Infantry Division slogged their way through German-occupied France—one field, one bridge, one city at a time. They went to Europe, not as part of a conquering army, but as liberators to restore freedom to the land of Lafayette.

Some of the men in the 95th Infantry Division never made it home. They rest in fields once made infamous by the fury of war, and now where peace holds its gentle sway. These men made the ultimate sacrifice for a noble idea. A simple, immutable truth as old as our Republic: That all people, everywhere, have the right to life and liberty.

We're reminded of their sacrifice whenever we see children in a cemetery planting small flags near the headstones of our fallen soldiers; or in the expression of an aging veteran summoning all his strength to stand at respectful attention during the national anthem.

They offered the last full measure of devotion to ensure our liberty for posterity.

However, we are not the only ones who are grateful for their sacrifice. All around the globe, monuments and plaques recount the acts of bravery that secured for an oppressed people freedom from their Nazi occupiers. No where is this more evident—and appreciated—than in the villages of France.

These commemorations have taken on a new significance this year as the world celebrates the 60th Anniversary of V–E Day.

In one particular French town, Metzervisse, the Police Chief, Pascal Moretti, has made it his personal mission to remind succeeding generations about the critical role of American troops in liberating the community. When asked why he was interested in organizing these celebrations, "Our children must understand the price of liberty," Moretti said. "The blood they shed. What they did for us is wonderful. They gave us the most beautiful gift in the world: freedom."

Toward this end, he created the Moselle River 1944 Organization to honor the Allied soldiers who liberated the cities and towns that border the East Bank of the Moselle River. Last month, more than 50 veterans returned to Metzervisse. This time instead of being met with a hail of gunfire or the thundering sounds of artillery, they were greeted with bands and a chorus of thank-you.

For his work, Chief Moretti has been recognized with the Freedom Award at the America's Freedom Festival in Provo, Utah. Yet perhaps his greatest reward comes from the satisfaction of knowing that a new generation of French children is learning about a time when it seemed that liberty in their country was about to be eradicated by the Nazi regime, and the world responded to beat back the darkness.

American school children learn that in the 18th century it was Lafayette and the French who helped secure the establishment of the United States. It seems altogether fitting that French school children in the 21st century should learn that the Smiths and Messinas of the United States returned the favor during World War II.

I commend Chief Moretti for his efforts to honor our veterans of World War II and doing his part to sustain the historic bonds of friendship between our two nations.

With preparations underway to commemorate the 60th anniversary of V–E and V–J Day next month at the National World War II Memorial, this admirer of the Greatest Generation, reminds us all that we should take a moment and thank those who served—and are now serving. And we must never forget those 400,000 Americans who gave their lives during the War so that the lamp of liberty would continue to shine.

HONORING COLONEL BILL GUINN

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. SHUSTER. Mr. Speaker, I rise today to honor Colonel Bill Guinn, Commander of Letterkenny Army Depot in Chambersburg, Pennsylvania. Colonel Guinn, hailing from San

Bernardino, California has served for an unprecedented 3 years as Commander of the base.

July 29th 2005, will complete his command duty, after which he will undoubtably enter into yet another endeavor that will highlight his talents as a true patriot and courageous defender of freedom. He has commanded the 123rd Main Support Battalion, 1st Armored Division in Bosnia, Croatia, and Germany, and has been honored with the Defense Superior Service Medal, the Legion of Merit Medal, the NATO Medal, and the Army Achievement Medal with Oak Leaf Cluster.

During his tenure Colonel Guinn supported NATO missions in Bosnia of utmost importance for the Implementation Force and Stabilization Force. During his time in Bosnia, Colonel Guinn was given the task of supporting and protecting units and outposts spread across the terrain assigned to Task Force Eagle, of NATO. This would prove a perilous job, as much of the land was still active with mines.

With unwavering courage and spirit, Colonel Guinn deployed his troops on numerous occasions through dangerous territory in order to defend and support others, all in the name of protecting freedom and liberty. After 26 months of tough command duty, Colonel Guinn was chosen to attend the Industrial College of the Armed Forces. He spent the year furthering his already vast knowledge and expertise in military service.

This education would come in handy in June of 1999, when he assumed responsibility of coordinating the United States' support in the fledgling nation of East Timor. A daunting task, the region was strife with civil unrest and armed conflict due to its newly found independence. In addition to the civil aggregation, matters were made more complicated due to the fact that National Command Authority did not want the United States to lead the mission. However, due to Colonel Guinn's impeccable diplomatic ability and statesman attributes, he was able to plan and execute the first major deployment of contracted support to military forces. The mission was a success due to the Colonel's personal involvement from inception to conclusion, and helped to create a more stable region.

In July of 2002, Colonel Guinn took command of Letterkenny Army Depot in Chambersburg, Pennsylvania. At the time of his entrance, Letterkenny was at a point of its lowest workload and staffing levels in history, due to his expertise, skill and command, Letterkenny's workload, efficiency and output as more than doubled. His superior military ability, strong patriotism, and unyielding sense of duty give me great pride in calling him one of my constituents. The citizens of Chambersburg would join me in giving him my proud congratulations on his vast accomplishments.

HONORING MR. CARL RICCOBONO

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mrs. McCARTHY. Mr. Speaker, I rise today to honor an outstanding educational leader, Carl Riccobono.

Today, The Creative Coalition and The American Federation of Teachers honor Mr. Riccobono with a 2005 Spotlight Award for Teaching Excellence.

The Creative Coalition is the leading nonprofit, nonpartisan, social and public advocacy organization of the arts and entertainment community. Founded in 1989 by prominent members of the creative community, The Creative Coalition is dedicated to educating and mobilizing its members on issues of public importance, primarily public education, the First Amendment, arts advocacy, and runaway production. Headquartered in New York City, The Creative Coalition also has offices in Washington, DC, Los Angeles and San Francisco.

The Creative Coalition's partner in presenting this award, The American Federation of Teachers, represents 1.3 million teachers, paraprofessionals and other school-related personnel, higher education faculty and staff, healthcare workers, and state and local government employees.

Joining Mr. Riccobono in Washington, DC, to accept his award is one of his former students, actor and member of The Creative Coalition, Steve Buscemi. Mr. Buscemi was a student in Mr. Riccobono's fourth grade class at Shaw Avenue Elementary School, a public school in Valley Stream, New York, over 30 years ago. Mr. Riccobono profoundly influenced Mr. Buscemi as well as countless other students over the past three decades. He has shown a tremendous commitment to the field of teaching.

I join Mr. Riccobono's family, friends, and colleagues in congratulating him today on this achievement and wishing him well. I also recognize both The Creative Coalition and The American Federation of Teachers for their dedication in promoting public education. Public schools and the teachers in them play an essential role in the guidance of our children and shaping of our future. As such, I commend The Creative Coalition and The American Federation of Teachers for their support of public schools and for honoring the achievements of educators like Mr. Riccobono.

HONORING THE ACCOMPLISHMENT OF LUKE A. HOCHEVAR

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mrs. MUSGRAVE. Mr. Speaker, I rise today to congratulate Mr. Luke A. Hochevar on being chosen by the Los Angeles Dodgers as the 40th pick in the 2005 Major League Baseball draft. Being drafted by a Major League Club is a rare accomplishment achieved by only about 1,500 high school and college ballplayers across the country each year. To be selected in the first five rounds means this talented young man is considered one of the top 150 or so prospects in the entire nation.

Luke was born September 15, 1983 in Denver, Colorado, to Brian and Carmen Hochevar. He has one brother, Dylan, and a sister, Brittany. Mr. Hochevar attended Fowler High School in Fowler, Colorado, where he was coached by his father. He was drafted by the Los Angeles Dodgers in the 39th round following his senior season of 2002. Luke, however, chose to attend the University of Tennessee and play baseball there.

Mr. Hochevar's college baseball career was successful, playing three years for the Tennessee Volunteers. He pitched 273 strikeouts and ranks second on Tennessee's career list. As a student he studied Sport Management and made the Academic Honor Roll his sophomore year. I commend his athletic and academic achievements.

Mr. Speaker, I am proud of the hard work and great accomplishments of Luke Hochevar. I applaud Luke for his dedication to the game and to his studies. I also commend his family for their support. I wish Luke the best of luck as he starts his professional career with the Los Angeles Dodgers.

PERSONAL EXPLANATION

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. GIBBONS. Mr. Speaker, I rise today to explain why I was not present during votes on July 25 and July 26, 2005 during the first session of the 109th Congress. Due to the Base Realignment and Closure (BRAC) Commissioner Anthony Principi's visit to the Reno Air Guard and Hawthorne Army Depot, I was unable to return to Washington, DC for votes.

I first would like to explain how I would have voted on July 25, 2005 during rollcall votes Nos. 417, 418, and 419. The first vote was on H.J. Res. 59, the second was H. Con. Res. 181 and the third was H. Res. 376. I respectfully request that it be entered into the CONGRESSIONAL RECORD that if present, I would have voted "yea" on these rollcall votes.

If present on July 26, 2005, I would have also voted during rollcall votes Nos. 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, and 431.

The first series of rollcall votes Nos. 420, 421, 422, and 423 were on H.R. 3200, H.R. 3283, a Motion to Instruct Conferees on H.R. 2361, and H.R. 2977. I respectfully request that it be entered into the CONGRESSIONAL RECORD that if present, I would have voted "yea" on these rollcall votes.

The second series of rollcall votes Nos. 424, 425, 426, and 427 were on the Kind of Wisconsin Substitute Amendment on H.R. 525, a Motion to Recommit with Instructions on H.R. 525, Final Passage of H.R. 525, and finally on H.R. 2894. I respectfully request that it be entered into the CONGRESSIONAL RECORD that if present, I would have voted "no" on rollcall votes Nos. 424 and 425, but would have voted "yea" on rollcall votes Nos. 426 and 427.

The third series of rollcall votes, Nos. 428, 429, 430, and 431 were on the Pence of Indiana Amendment to H.R. 22, the Flake of Arizona Amendment to H.R. 22, a vote on the Final Passage of H.R. 22 and finally a vote on H.R. 3339. I respectfully request that it be entered into the CONGRESSIONAL RECORD that if present, I would have voted "no" on rollcall votes Nos. 428 and 429, but would have voted "yea" on rollcall votes Nos. 430 and 431.

Thank you for your time and careful consideration of this important matter.

HONORING SRA JOHN A. LOCKHEED. AIR NATIONAL GUARD "OUTSTANDING AIRMAN"

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. WALDEN of Oregon. Mr. Speaker, colleagues, I rise to honor an esteemed member of the United States Air Force, Senior Airman John A. Lockheed, an Air Traffic Control Journeyman with the 270th Air Traffic Control Squadron stationed at Kingsley Field in Oregon's Second Congressional District.

The United States Air Force has presented Airman Lockheed with their most prestigious award and the Force's highest honor for an enlisted member of the Air National Guard by selecting him as 2005's most "Outstanding Airman," an honor given to only one enlisted Air National Guard member each year.

The Air Force boasts a long tradition of talent, service and dedication, so to be recognized as one of the elite speaks volumes of Airman Lockheed's abilities and outstanding performance.

After volunteering for deployment to Iraq in support of Operation Iraqi Freedom, Airman Lockheed was quickly certified to control air traffic. The Air Force so trusted his skill, they selected him to be the facility trainer for incoming personnel. His duties ranged from rapidly securing airspace clearances for aircraft evacuating wounded troops to controlling aircraft returning from completed missions, and he was the watch supervisor's choice for handling even the most complex traffic issues.

Ever ready and capable of tackling challenging situations as they arose, Airman Lockheed immediately assumed control of half of Iraq's airspace on one occasion when another center lost radio and radar coverage.

In addition to volunteering for a 120-day extension of his tour in Iraq, Airman Lockheed extended his spirit of service beyond traditional roles. He was active in a program that delivered school supplies to children called "Operation Crayon," served on the Kingsley Field Honor Guard, was the unit Combined Federal Campaign Representative, and volunteered with the local Boy Scouts.

Most impressive is that this record of accomplishment has been built in a short amount of time. Airman Lockheed, 21, enlisted in the Oregon Air National Guard in 2002 and just completed basic training and air traffic control school in 2003.

America's men and women in uniform are truly the finest in the world, and this tradition of excellence continues through the service of patriots like Senior Airman John Lockheed. A simple thank you cannot fully express my gratitude for his commitment and dedication.

I would like to extend my heartfelt congratulations to Airman Lockheed on this prestigious award. The United States Air Force and the entire United States of America are extremely fortunate to benefit from his service. It is an honor to represent him in the United States Congress.

WE BECOME SILENT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. KUCINICH. Mr. Speaker, the following is an abridged transcript of a film entitled "We Become Silent," written and produced by Cleveland resident, Kevin Miller. The topic is the potential effects of the Codex Alimentarius Commission's guidelines on vitamin and mineral supplement safety.

NARRATOR: FEAR.

Its' darkness causes humanity to make awful choices. With dreadful power, fear can rule our lives—and paralyze lofty hopes and dreams . . . in an instant.

It is the antithesis of god, fear is—a destructive dark side—the ghost that haunts the brain. It is a universal trait—a global affliction—and a tool deployed all-too-often by those intent on inflicting control over the masses.

Robert Verkerk, Ph.D.—Fear preys on the most vulnerable among us. Fear sells. And Nowhere is fear peddled more shamelessly than in the fields of medicine and human nutrition.

Narrator: Fear anesthetizes us . . . it coerces us . . . making us believe that we can do little on our own to prevent or treat disease . . . and forces entire NATIONS to kneel at the altars of orthodox medicine.

Robert Verkerk, Ph.D.—And of course, the fear-mongers are also preying on the fear of disease. And the solution the fear-mongers give us are drugs, yet drugs are the single most dangerous thing we can put in our mouths.

Narrator: It's a sad fact that Pharmaceuticals have become the dope of modern man—and make no mistake, we are addicted. Last year, between 3–5 billion prescriptions were written in the U.S. alone. And for all of its' miracles and heroism, western medicine has also left disaster in its' wake. The burdens of drug side effects are being exposed daily: Prozac, Vioxx, Celebrex, Baycol, Lariam, and Zoloft—just to name a few—are deeply uncomfortable reminders that secrecy and sales have often circumvented safety.

There's also the crippling burden of health insurance, and the MILLIONS who are debilitated by a wave of red ink, bankrupted as a result of an unexpected illness that they could not afford. As if by design, health choices are limited, information is frightfully scarce, lives are ruined . . . and the truth be damned.

Scott Bukow: Business is business, and people don't like competition. Smart business people may not always do something that's best for the people or for someone's health.

Narrator: In addition to these painful realities of life, however, an abundance of evidence now suggests . . . that this holy reverence towards modem medicine—may be killing us.

Carolyn Dean, MD—I wrote Death by Modern Medicine, inspired actually after writing a paper called Death by Medicine . . . And what I found after analyzing government databases and peer-reviewed journal articles . . . I found that 784,000 people are dying annually, prematurely, due to modem medicine intervention. When I added up the figures I could get my hands on, I came up with that astounding number, and also found studies that said we're only capturing 5–20 percent of the actual deaths . . .

Simmon Wilcox, MD—We're clear that the status quo is equal to a premature death in this country . . . Someone needs to stand up and scream "FOUL, SOMETHING'S GONE AWRY." Somebody needs to stop this madness, and say to the public, "There's a better option . . . We will no longer accept the status quo."

Narrator: But the fear machine is well oiled by petrochemical dollars and a near worldwide monopoly in medicine. It works overtime to prevent the truth about dietary supplements from getting out to the public. Governments, particularly in Europe and the United States, seem all-too-eager to comply with the robber barons of healthcare. It has always been so . . . as evidenced by this forty-year-old government film . . . which is but one of many in their arsenals.

'FDA Film: 1966: But it's still the same old snake oil . . .

Title appears: "Health Fraud Racket—Presented by FDA"

Narrator: During the 1990s, however—despite generations of institutional bias—American consumers won critical battles against the FDA and the medical/pharmaceutical establishment.

Joseph BASSETT: In the mid-90s, there were movements to put all supplements on prescription basis and in all of the countries where they've done that it more than doubled the cost and made them not available and it's really a freedom of choice issue . . . it's a consumers issue . . . (1:30) so we were fighting for the right to access for our own use, our family's use, and for our businesses. And fortunately, the health consumer agreed. (1:40) . . . we were actually able to marshal, one day in a period of hours, one million phone calls to their government . . . (5:08) It was really a citizens' uprising.

Narrator: This massive consumer movement for medical freedom was invigorated when the FDA became enveloped in controversy of its' own making. The agency approved a guns drawn raid at the clinic of Dr. Jonathan Wright, and also raided dozens of health food stores in a pre-meditated power-grab. Consumer outrage fueled Hollywood to become immersed in the debate, and actors like James Earl Jones and Sharon Stone became part of a national campaign for medical freedom of choice. When Mel Gibson came aboard, he documented his views in memorable fashion:

Police: "Freeze"

Mel Gibson: Hey guys . . . guys . . . it's only vitamin C! You know, vitamin C, like in oranges?"

Narrator: The result of the consumer outcry was that DSHEA—the dietary supplement health education act—passed overwhelmingly in 1994. This became the only national law that linked the use of nutrients in dietary supplements to reduced risk of disease. And since DSHEA helped ensure relatively free access to a wide range of dietary supplements for consumers, activists pulled back from the front lines, thinking that their struggles were over. Others like Joe Bassett knew better . . .

Joseph Bassett: We're in a particular industry . . . the health food industry, that's always been under attack. It's never stopped, it still isn't stopping because you have vested interests. In our country you have everybody using vested interests and the one's who are really entrenched use the government.

Gerald Kessler: I believe that DSHEA has always been under attack except for the first few years after DSHEA was passed. And the present attacks are very broad . . . which means worldwide, and some of the attacks are just specific to the Unites States.

Narrator: Now, a bureaucratic shadow called Codex Alimentarius threatens to silence the medical opposition forever, both here and abroad. But Codex began innocuously enough in 1963, as a creation of two arteries of the United Nations: The Food and Agricultural Organization and the World Health Organization. Back then, nearly everyone endorsed their two major goals: to provide nutritious foods for developing nations—and to shape guidelines for dangerous industrial chemicals in the food supply.

Within the past decade, however, Codex Alimentarius has altered its' mission dramatically—many say negatively so—to include a wide swath of products including dietary supplements and genetically modified organisms.

Mr. Scott Tips began serving as a U.S. delegate to Codex in June of 2000. During the first meetings, he did everything he could to communicate with the head of the US Delegation.

Scott Tips, National Health Federation: I, in a flurry of notes, passed comments and suggestions (and the like) to Elizabeth Yetley, who was the American delegate there—it made no impact. In fact, the only impact I had was collar her during a break and basically be very tough with her about a particular clause that she was trying to remove from the final report, that particular sentence or clause basically said that the United States supports the right of consumers to have free access to vitamins and minerals, and she unilaterally yanked that from the final report.

Narrator: This attitude by Ms. Yetley, who is an employee of the U.S. Food and Drug administration, is reflective of codex meetings in general. In an attempt to shine light on those who are unilaterally making public policy private, health freedom advocate John Hammell took a small video camera into two Codex meetings in 1998. These grainy videos are all that remain of the tapes, which mysteriously disappeared.

Yetley: moving right along, agenda No. 5 on vitamins and minerals

Hammell: are you going to strike that second paragraph?

Yetley: well this is a draft positions . . . they're only draft positions, they're not the final version or formal position.

Hammell: you've seen the letter from Ron Paul, then? This was signed by Ron Paul, Congressman Stump and Congressman Cool.

Yetley: we have received alot of mail and we've looked at all of it.

Hammel: so you acknowledge this is the will of congress and of the American people correct?

Yetley: there's a wide range of opinions this one . . .''

Narrator: Despite multiple written requests—and the intervention of a US Congressman—the FDA refused to answer any questions about Codex, dietary supplements—or even labeling—for this documentary. But judging from this rare interview with Michael R. Taylor, then-deputy commissioner for policy at FDA, it is obvious that the agency is unaccustomed to honest intellectual inquiry from the media.

Kevin P. Miller: You stated your concern and the FDA certainly has on L-Tryptophan. What about your concern about something like Prozac, very well documented, 28,000 adverse reports, 1600 suicides associated with that drug.

Michael R. Taylor, deputy commissioner for policy, FDA: Drugs that go thru our very rigorous testing and review process are very well understood chemicals. And drugs are recognized to have both risks and benefits, that's why they go through a rigorous evaluation. And when those products are put out on the market, we have a good scientific understanding of the risks and benefits. And that's laid out in very detailed labeling that physicians then use to decide whether to prescribe those products for their patients. Side effects are part of pharmaceuticals, that's recognized, and that's why we're so careful scientifically. There's just no comparison between that situation and dietary supplements, which have not been subjected to that kind of study . . . have not been evaluated by FDA, and a large part of the problem with these supplements is that we simply don't know about their safety, we don't know about their benefits, yet there being marketed in some cases for serious disease-related purposes. "THERE'S A BIG DIFFERENCE."

Kevin P. Miller: Well obviously they would respond by saying that it was the only natural alternative to some of these kinds of drugs, and that's a concern to people who want natural alternatives. And since the cases against Prozac have been so high, people would question whether L-Tryptophan is being judged under the same standard, if you will.

Michael R. Taylor: Well . . .

FDA Employee Interrupts: Kevin, that wasn't on the list of things we were going to go over.

Kevin P. Miller: Well, he mentioned L-TRYPTOPHAN and I thought I would follow-up.

Narrator: As the Producer tried to get an answer from the deputy commissioner of the FDA, Mr. Taylor seemingly lost his patience with the tone of the interview.

Michael R. Taylor: Why don't you turn the camera off so we can talk . . . (LONG PAUSE). You know, I'm happy to talk about this but I don't want to spend the whole morning on it. . .

Narrator: But of course, Mr. Taylor was anything BUT happy to discuss the safety record of Prozac versus the amino acid L-TRYPTOPHAN—which the FDA banned outright when Prozac was approved by the agency. And it is important to note that the Food and Drug Administration has assigned Mr. Taylor's wife—Christine Lewis-Taylor—to World Health Organization, where she is now chairwoman of the "the Nutrient Risk Assessment" project.

Jim Turner: I don't think you can say that anybody from the FDA has ever been a friend of dietary supplements. Anybody . . . They are friends of the classical reductionist scientific system that is based on cause and effect and doing a bunch of huge costly studies which are the backbone of the pharmaceutical industry which are the driving of the force of our health care system which is driving us into bankruptcy and killing between 200,000–700,000 people a year.

FDA Film, Health Fraud Racket (1966): Some of them honestly believe in the useless medication. More, however, are the bunkum artists, without pity or conscience, willing to risk the lives of fellow human beings to line their own pockets."

Narrator: Institutional hypocrisy and bias are endemic at the Agency. In fact, the FDA has made no secret of its' intentions to harmonize the U.S. vitamin and mineral standards with Codex, thereby reducing the dosages of common vitamins and minerals to ridiculously low levels. They've said so before Congress, in the National Register, and even on their own Web site.

Turner: That system is not a good system and the dietary supplement guideline the vitamin and mineral guideline mimics the ideas of that system and tries to push them onto the international stage for vitamins and minerals. Bad thinking all the way around.

Robert Verkerk, Ph.D: We are at a stage in society when a large number of people, consumers and patients, are waking up to the fact that the healthcare system that they've placed their trust in for decades, is not delivering the healthcare they need. They're beginning to appreciate that very often if they have major diseases, like cancer or heart disease, that the so-called "solution" to these diseases is, in fact, killing them.

FDA Film, Health Fraud Racket (1966): Today, all new drugs must be proved safe and effective (Vioxx, Celebrex images) before they can be marketed. In other words, the medicine must be safe—and do what's claimed for it."

Robert Verkerk, Ph.D: And this is why we see this incredible growth in consumer demand for natural products. And of course, just as the consumer is starting to make decisions about what they want to do in healthcare, the regulators have decided, with a lot of pressure from big industry to say, "You can't have it—it's reserved for us."

Narrator: When the WTO—the world trade organization, became a reality in the 1990s, the power of codex was heightened immeasurably. This new worldwide body—devoted solely to the hannonization of trade standards, gave Codex the enforcement capability that had eluded it for decades. Two U.S. Congressmen—a Democrat and a Republican—have a philosophical divide on free trade, but agree completely on the dangers of the WTO and Codex.

Rep. Ron Paul: The WTO is said to be set up for free trade. I happen to like free trade. I like low tariffs and I like goods and services flowing across borders.

Rep. Peter DeFazio: Since economics in college I was always skeptic of the whole theory of free trade and it always crystallized around the NAFTA and WTO Agreements.

Rep. Ron Paul: I am a champion of national sovereignty, so I do not like the idea of getting involved with what the Founders called 'entangling alliances.'

Rep. Peter DeFazio: I remember talking to Mickey Cantor the President's special trade representative and I studied a little bit and I said I can not understand how we are going to bind ourselves to this agreement which has a secret dispute resolution process, which has no rules regarding conflict of interest and they will essentially pre-empt U.S. laws

Rep. Ron Paul: But then when you go to the next step of becoming a member of the World Trade Organization, it means to me that we as a people and as a Congress, we give up too much of our responsibilities and prerogatives.

Rep. Peter DeFazio: And he said no no no you don't understand. They can't pre-empt our laws. I said, you're right, they just can fine us for having our laws and we can pay for perpetual fines because we have laws that protect consumers of the environment or we can repeal our laws.

Rep. Ron Paul: But now we are talking about turning over to a world organization that is going to force harmonization.

Rep. Peter DeFazio: And so it's working as designed as far as they're concerned, which is to protect corporate interests and overrule governments and stick it to consumers.

Rep. Ron Paul: And they'll do under the name of free trade and globalization and pretend that they are on the side of freedom. But actually they are not—they are on the side of regulations and special interests and protection of certain big corporations.

Rep. Peter DeFazio: If there is a higher corporate good to be served by breaking the law and having the FDA work with the CODEX and drag the U.S. into this nightmare then they're all for it and they are doing it.

Rep. Ron Paul: So we do what the WTO tells us and that's why I am very leery of the WTO and I just soon we get out of the WTO.

Rep. Peter DeFazio: This would be the ultimate of government reaching into our health lives which would be unbelievable, not even our government, some bureaucratic, diffuse, multinational secretive government.

Rep. Ron Paul: It's the power in the WTO that we have to deal with ultimately . . . and I don't like the trend.

Narrator: On Capitol Hill, legislators are now debating the merits of yet another trade agreement called CAFTA—the Central American Free Trade Agreement. This latest Trojan Horse was wheeled into Washington as a saviour for a faltering economy. But as consumers in Europe could confirm, it will only lead to more backroom deals—deals that could spell the end of health freedom as we know it.

John Hammell, IAHF: Now, people think that that could never happen here. Probably at one time people in England thought that would never happen there, and yet their government ignored over a million signatures on petitions on this issue saying, "Sorry guys, we are now a member of the European Union, and we must harmonize to European law." If we aren't careful in our hemisphere the same thing will happen as a result of the free trade area of the Americas (FTAA).

Narrator: But the trend towards the WTO, NAFTA, and now CAFTA being used to harmonize laws and regulations to favor pharmaceutical interests, has long been a reality in the European Union. German representatives at Codex began to push the idea of creating "safe upper limits" on vitamins and minerals, and this was favored in the UK until Dr. Robert Verkerk and numerous others began orchestrating a precise legal, scientific and public relations strategy to stop it. His organization, the Alliance for Natural Health brought a landmark legal challenge to the EU Food Supplements Directive. In April 2005, The Advocate General in the European Courts declared that the EU Directive should be declared 'invalid' under EU law. In July of 2005, UK and European consumers will discover the fate of this legal battle—and it is anything but a sure win.

Julian Whitaker, MD: What's coming down the line from Codex and from Europe is very disturbing. First, you've got 450 million people over there. Secondly, they have the most restrictive nutrient access of any of the free world. Third, you just had a woman in France arrested . . . and is now undergoing trial . . . for selling 500 mg vitamin C tablets.

Narrator: Between the draconian regulations of the EU Supplement directive and the ominous Codex guidelines which will be voted on in July 2005, there is little doubt that health freedom lies in the balance—in Europe, in America, and throughout the world.

Julian Whitabker, MD: The Whitaker Health Freedom Foundation is supporting this movement in Europe . . . because there's no question (that if) we stop it in Europe, its effect on the United States will be less. And anyone who thinks that Codex or the European Union or the World Trade Organization . . . when it comes to their restrictive policies in Europe is not going to have an effect on the United States is crazy . . . You've got 450 million people over there. They have enormous trade with us. They deal in steel, in textiles, et cetera, and if they are upset with our libertarian policies regarding nutrient supplements, it's going to affect other economic systems. Now, we might have sovereign protection, but good gosh that will fly away at an instance with the stroke of a pen if a trade agreement is challenged . . . What's happening in Europe, just like the trade winds, is coming our way. And no one can argue in a reasonable fashion why that is not going to happen. That is happening.

Narrator: It has been said many times that democracy is the dream of all who are oppressed . . . the hope of those imprisoned by fear or injustice. But the sad truth . . . that which is almost too sad to acknowledge . . . is that the betrayal of democracy began long ago when profit replaced the will of the people . . . and corporate lobbyists became the masters of the universe.

Rep. Peter DeFazio: Alarm bells are going off everywhere. The American people are way ahead of the Congress and figured this out and it is only a matter of time until congress is beaten into coming around on these issues. But if we don't do it soon it may be too late.

Narrator: If it is true what a great leader once said, that "Our lives begin to end the moment we become silent about things that matter," then freedom has already begun to atrophy because of our inaction. Slowly, sovereign rights fade away, as surely as the ink on an old Declaration is removed by time.

The pursuit of Happiness . . . the promise of equality . . . of personal choice . . . are chipped away by complacency . . . and, over time, become barely visible in the world around us. If we had treasured it more, some say, if we demanded government cooperation—not interference—if we had exercised our freedoms every day, every week—just like the forces of power and money have done . . . If . . .

If only.

Gerald Kessler: I think we should all get together and fight for our rights. I think that these are God-given rights. I think that this was a legacy that was given to us at the beginning of time . . . and we should fight like crazy so that people can maintain their rights, from now and forever.

Robert Verkerk, PhD: There are some who say that this is a battle that cannot be won, we are David—they are the Goliath. But it is too important to sit this out and let multinational corporations and regulatory agencies decide which freedoms we will be able to enjoy. From Africa to Asia to Europe to the Americas we must stand together now for future generations.

Narrator: This, then, is your call to action . . . it is one of enlightened self-interest . . . a righteous cause that even the high priests of profit cannot defeat. It is a real drug war . . . a fight for medical freedom . . . a struggle for human rights.

Joseph Bassett—And so you get the government you deserve if you don't speak up . . . the only way to have good government . . . is if the citizens stand up, and they're not doing it. They have to stand up and be counted . . . and if you put enough effort, the good guys win. It needs to be done . . .

Narrator: Modern medicine has led us to Babylon . . . and a wasteland of expensive and often ineffective options. If we do not act—if we become silent—governments will be free to replace the teachings of all ages with toxic lies. Timeless medicines—foods and herbs with which we have evolved—culled from thousands of years of collected wisdom—will be swept away—crushed under the myopic weight of corporate greed.

Yet we often forget how much power we actually wield—and that we are the creators of our own place on this planet. Amid the sea of faces, there is an honorable cartel forming . . . forming one for the benefit of mankind.

FDA Film, Health Fraud Racket (1966): You must join the battle by protecting yourself—and your family from health fraud. When you're in trouble that's not always easy. But in the end, being victimized can be far worse. It can mean not only your money, but your life . . .

Credits: Kevin P. Miller, Writer/Producer.

CONGRATULATIONS TO COMMANDER PETE RIEHM, ON THE OCCASION OF HIS RETIREMENT

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to pay tribute to Commander Pete Riehm on the occasion of his retirement as Commanding Officer of the Navy and Marine Corps Reserve Center in Mobile, Alabama.

For the past three years, Commander Riehm has commanded this facility, with its complement of 200 Navy Reserve personnel and 250 Marine reservists, with an incomparable level of leadership and professionalism.

A graduate of the University of Houston, Commander Riehm received his master's degree in military arts and sciences from the Command and General Staff College at Fort Leavenworth, Kansas. Following his commissioning in 1985, Commander Riehm was assigned to the USS *DAHLGREN* (DDG 43) as Missiles Officer and Damage Control Assistant. Following that assignment, he was transferred in 1989 to a new assignment as an officer recruiter in College Station, Texas. In 1991, during Operation Desert Storm, he was stationed in Riyadh, Saudi Arabia, as the staff liaison to the Royal Saudi Naval Forces.

In 1996, he was transferred to Naples, Italy, and was attached to the North Atlantic Treaty Organization's (NATO) Naval Forces Southern Europe Command. Between 1997 and 1998, he served four months; temporary active duty as naval liaison officer to the Stabilization Force stationed in Sarajevo, Bosnia, and was attached to the staff of the fleet commander during the Kosovo campaign. Just prior to receiving his command in Mobile, Commander Riehm completed more military education courses in Newport, Rhode Island, and then served as Damage Control Assistant on board the USS *IWO JIMA* (LHD 7) during its precommissioning, transfer, and shakedown cruises.

Commander Riehm has been recognized for his outstanding performance and career with several awards and decorations, including two

Defense Meritorious Service Medals, four Navy and Marine Corps Commendation Medals, and three Navy and Marine Corps Achievement Medals.

Along with his tremendous involvement in the activities and mission of the Navy and Marine Corps Reserve Center, Commander Riehm is also actively involved in his community. A resident of Mobile, Alabama, he has been involved with numerous local organizations, including the Mobile Bay Area Veterans Day Commission, the Gulf Coast Chapter of the Korean War Veterans Association, Operation Home Front, the Navy League, and the Alabama Chapter of the Military Officers Association. He also serves as a member of the Mobile Area Chamber of Commerce's Military Affairs Committee, and was part of a group of Navy personnel which worked with Mobile's Forest Hill Elementary School as part of the Partners in Education program.

Mr. Speaker, I ask my colleagues to join me today in recognizing Commander Pete Riehm for his tremendous contributions to the citizens of the First Congressional District of Alabama, the Navy and Marine Corps Reserve Center in Mobile, and the entire United States Navy. The experience and enthusiasm he has brought to his job and the professionalism he has displayed throughout his career are unquestioned and unparalleled.

He has indeed been a genuine asset both to his office and to the United States military, and I am proud and honored to call him my friend. I wish him and his family—his son, Justin, and his daughters, Jessica and Jennifer—much happiness and success as they enter this new phase of their lives.

IN HONOR OF SPECIALIST JAMES O. KINLOW

HON. CHARLIE NORWOOD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. NORWOOD. Mr. Speaker, I rise today to pay tribute to Specialist James O. Kinlow who died while serving our country in the war in Iraq.

Specialist Kinlow's family resides in Thomson, Georgia and his family resides in Lincolnton, Georgia. This brave soldier was assigned to A company, 2nd Battalion, 121st infantry regiment, Army National Guard, Valdosta, Georgia.

His life was taken by an improvised explosive device that detonated near his vehicle on July 24, 2005.

Our heartfelt condolences and prayers go out to Mr. Kinlow's family and friends. His service and commitment to freedom will never be forgotten.

HONORING JOEY ANDERSON FOR HIS RECENT HEROISM

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. GORDON. Mr. Speaker, I rise today to honor Joey Anderson of Pea Ridge, Tennessee, for his life-saving actions during a recent trip to Dale Hollow Lake.

On June 17th, two Kentucky youths were visiting the Pleasant Grove Swimming Area. While in the water, one teenager slipped on an unseen ledge and fell into the lake. Her friend went underwater to retrieve her, but he did not resurface.

Joey Anderson quickly responded. In an act showing unwavering courage, he rushed to pull the two drowning victims from underneath the water. After bringing the two youths to the shore, Mr. Anderson administered CPR and revived them. Soon after, emergency workers arrived on the scene and transferred the victims to an area hospital. The youths arrived in serious condition but made a full recovery, thanks to Mr. Anderson's heroic actions.

Joey Anderson's quick thinking and swift action saved the lives of two young people on that day. Middle Tennessee is fortunate to have upstanding citizens like Mr. Anderson. I commend him for his heroism and tremendous service to the community.

THE REPORTING REQUIREMENTS BY THE INTERNATIONAL TRADE COMMISSION

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. ENGLISH. I rise to provide clarifying remarks about the reporting requirements by the International Trade Commission, related to China's exchange rate regime. The intention is that Congress be provided with a report that will better inform us in the exercise of our policy-making responsibilities on these issues.

Section 8 calls for a study from the U.S. International Trade Commission within 12 months, regarding the trade and economic relations between the United States and the People's Republic of China. We want the ITC to look closely at the effect of China's economic policies on our trade with China, as well as other factors that affect U.S.-China trade, with a focus on key U.S. industries that compete with Chinese producers or service providers.

Among other things, we would like the ITC to examine the relationship of China's foreign exchange rate regime to its financial, trade, foreign investment, and industrial policies. We believe these policies are all interrelated and would like an explanation of how they operate and how they are related to one another. The ITC should discuss not only the regime of a fixed peg to the U.S. dollar that China has maintained in recent years, but China's recently announced revaluation and peg to a basket of currencies, as well as any further modifications in their foreign exchange rate regime.

The ITC should also describe the range of expert opinion concerning China's foreign exchange rate regime and U.S. and Chinese trade patterns and the U.S. economy in general. We expect the ITC to focus on the area of its expertise, i.e. trade issues, and leave questions related to appropriate currency policy to those institutions better suited to answer such questions, such as the U.S. Department of Treasury.

However, we want the Commission to provide additional analyses, to the extent feasible, that may help us better understand the nature of the relationship between the currency regime and U.S. China trade flows, particularly if the ITC thinks such analysis might help other institutions provide better analysis of broader policy questions. The ITC should certainly consult with the Department of the Treasury, the President's Council on Economic Advisors, and the Congressional Budget Office, all of which have performed economic analyses on currency matters.

IN SUPPORT OF H.R. 358

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in strong support of H.R. 358, commemorating the 50th anniversary of the desegregation of Little Rock Central High School, in Little Rock, AK. At a time when racial intolerance and ignorance were openly embraced as a way of life, nine courageous African-American youth took a stand, and in doing so, ushered in the civil rights era.

On September 23, 1957, this brave group of students entered the halls of Little Rock Central High School with one goal in mind: to obtain an education. This objective, universal to all parents and children worldwide, was far from easily accomplished. Central High School, a product of the Jim Crowe sentiment, had never seen an African-American student in any of its classrooms. These nine individuals would be the first.

The students stood face-to-face with mobs of irate citizens, all staunchly opposed to integration, and armed National Guardsmen who were ordered by the governor to prevent their entrance. The student body too was unwelcoming, spiteful of the racial invasion into their school. Despite such unconcealed prejudice and cruelty, these nine students persevered and served as an inspiration to us all. One member of this group would later become the first African-American graduate of Little Rock Central High School.

The story of the students who would later be referred to as the "Little Rock Nine," gave Americans hope that we could overcome the racial oppression, struggle and strife that had become endemic in our culture.

All around the Nation, organizations such as the Southern Christian Leadership Conference led by Dr. Martin Luther King, the Student Nonviolent Coordinating Committee led by student activists, and the National Association for the Advancement of Colored People, worked together to create large-scale changes through seemingly small proactive actions.

It would be a disservice for this body to not take a moment to individually recognize each member of this remarkable group. Ernest Green, Elizabeth Eckford, Jefferson Thomas, Dr. Terrence Roberts, Carlotta Walls Lanier, Minnijean Brown Trickey, Gloria Ray Karlmark, Thelma Mothershed-Wair and Melba Pattillo

Beals have each equally contributed to the movement that has helped us all be where we are today.

Mr. Speaker, the story of the Little Rock Nine remains one of the most powerful illustrations of triumph over adversity within our modem history. It is our duty as leaders to ensure that the past is not only remembered but also distinguished and honored as it so rightly deserves. On the 50th anniversary of this milestone in the battle to gain equality both under law and in life, we are given the opportunity to bring national recognition to these modem day heroes. I urge my colleagues to support this resolution.

MR. TONY RAYMONDO, LIFETIME OF SERVICE

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Ms. LINDA T. SÁNCHEZ of California. I want to recognize and congratulate one of the most distinguished constituents in the 39th Congressional District, Mr. Tony Raymondo. I commend him for his invaluable contribution to his family, and to his company—Granitize Products, Inc. In fact, I also want to commend Mr. Tony Raymondo for his involvement with the community. As Granitize prepares to celebrate its 75th birthday in 2005, we want to honor Mr. Tony Raymondo for his excellent contribution and outstanding service to Granitize Products, Inc.

Mr. Tony Raymondo has been a great patriarch to his family members. Raymondo has been a devoted husband to his wife Betty, and a supportive father of two sons, and one daughter, Marty, Tony, and Lisa. Mr. Raymondo has been a role model to his children by displaying hard work and dedication to his family and to his company. His family has blossomed to include fifteen grandchildren in his immediate family. Though committed to his work, he has always put family first. This commitment has helped to create a strong immediate and extended family.

Furthermore, Mr. Raymondo has made the most of his leisure time by refining his many passions. For instance, Mr. Raymondo has a vast knowledge of making and producing his own wine. In fact, this activity goes hand-in-hand with his other passion, cooking. Mr. Raymondo is known for his distinguished Italian cooking among his friends and family. Mr. Raymondo also enjoys working with his hands by taking part in other activities such as woodworking and photography. Thus, Mr. Raymondo has a wood shop and a photography lab within his house.

Mr. Raymondo has volunteered countless hours for school fundraisers to gather funds to purchase school utensils for schools. He is known as a very generous person that enjoys helping people. The fire and police department has also benefited from Mr. Raymondo generosity. He has volunteered his time to these two agencies.

Professionally, Mr. Raymondo broke through barriers within the Granitize Products, Inc. Mr. Raymondo began his career/profession with Granitize Products, Inc., as a cleaner in the chemical room in 1954. Having excelled as a cleaner, Mr. Raymondo moved up the ranks quickly and worked his way through every job in the company until holding the title of President and CEO, the position he holds today. Mr. Raymondo was the one responsible in venturing out into different markets other than just the automotive market.

He took the initiative thirty years ago to seek other potential markets. As a result, he found fiberglass manufacturing beneficial to society and lacking the proper wax to combat molds. Thus, he worked to create a new product to combat various types of molds that would allow manufacturers to make more products, more efficiently, and with fewer problems, and he showed them how. He created the formulas that are still used today in the TR Division of Granitize. Today Granitize and TR combine to serve and sell.

SUPPORTING GOALS AND IDEALS OF NATIONAL HEALTH CENTER WEEK

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 2005

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in support of H. Res. 289, a resolution supporting the goals and ideals of National Health Center Week. From August 7–13, numerous organizations will collectively promote quality and preventative medical care through local health centers.

It has become increasingly apparent that our healthcare system is not only lacking, but also failing those it is meant to serve. There are currently an estimated 45 million uninsured individuals living in America. This group not only includes 8.4 million children, but also homeless and migrant populations across the country. Of those that do have health coverage, studies have estimated that as many as 65 million individuals remain underinsured. Countless others lack easy and affordable access to quality care providers.

Health centers are an indispensable component of the continuing effort to secure medical care for underserved individuals. These community-based, non-profit organizations bring health services to impoverished areas, which are disproportionately affected by these ever-present health care disparities. Through partnerships with churches, businesses and other community initiatives, health centers are able to touch those that are typically unreachable or marginalized by existing healthcare conglomerates.

Health centers have become American institutions and fundamental elements our daily lives. These organizations, operating with minimal resources and small, committed staffs are able to serve hundreds within their communities. In the state of Florida alone, approximately 500,000 residents are annually served through local health centers.

Mr. Speaker, this weeklong celebration of health centers brings recognition to the unsung heroes of the healthcare industry. By raising awareness we are not only showing our appreciation to those that contribute to these efforts, but we are also bringing attention to the healthcare alternatives that are available to our communities. I urge my colleagues to lend their support to this resolution.

U.S. TREASURY DEPARTMENT REPORT ON SECTION 40 OF THE BRETTON WOODS AGREEMENTS ACT

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. ENGLISH. Mr. Speaker, my colleague, Chairman OXLEY, and I have discussed section 6 of my bill that requires the Department of the Treasury to provide a report on how Section 40 of the Bretton Woods Agreements Act "can be better clarified administratively to provide for improved and more predictable evaluation."

We share the understanding that the Bretton Woods Agreements Act implements the international agreements that established the International Monetary Fund (IMF) and the World Bank Group. As such, there is limited scope of action for the United States Government acting "administratively" to change how the IMF and the World Bank Group operate internally in order to achieve "improved and more predictable evaluation."

Therefore, to clarify this provision, our intent here is that any report prepared by the Treasury Department would respect these limits. It is also our understanding and intent that any report by the Treasury Department pursuant to this section should provide insight regarding how the Treasury Department and the United States Executive Directors to the IMF and the World Bank Group seek to promote U.S. exchange rate policies within those organizations.

I note that substantially similar language has been considered by the Secretary of the Treasury in the past and those limitations were respected. The Department of the Treasury currently provides some of this information to the United States Congress in other forms. We believe that a discussion of U.S. policy and actions within the IMF and the World Bank Group would be a helpful addition to the policy debate in the U.S. Congress. However, we are not requesting that the Treasury Department submit a report suggesting that the United States Government alone can work administratively to improve IMF and World Bank Group analysis and policy.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. BECERRA. Mr. Speaker, on Monday, July 25, 2005, I was unable to cast my floor votes on rollcall numbers 417, 418 and 419.

The votes I missed included a motion to suspend the rules and pass, as amended H.J.

Res. 59, expressing the sense of Congress with respect to the establishment of an appropriate day for the commemoration of the women suffragists who fought for and won the right of women to vote in the United States; a motion to suspend the rules and pass, as amended H. Con. Res. 181, Supporting the goals and ideals of National Life Insurance Awareness Month, and for other purposes; and a motion to suspend the rules and pass, as amended H. Res. 376, Expressing the sense of the House of Representatives that the Federal Trade Commission should investigate the publication of the video game "Grand Theft Auto: San Andreas" to determine if the publisher intentionally deceived the Entertainment Software Ratings Board to avoid an "Adults-Only" rating.

Had I been present, I would have voted "aye" on rollcall votes 417, 418 and 419

CONGRATULATIONS TO NIALL CASEY, NEW AMERICAN CITIZEN

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. PAYNE. Mr. Speaker, I would like to ask my colleagues here in the U.S. House of Representatives to join me in congratulating Mr. Niall Casey of Ballyheigue, County Kerry, Ireland, as he becomes a fellow American citizen. It is a pleasure to extend a warm welcome to him.

Mr. Casey's journey to America began when he traveled to the beautiful island of Nantucket, Massachusetts in September 1994. Soon he was a part of the Nantucket community, working diligently and earning a reputation as an outstanding carpenter/craftsman. He is well-liked for his engaging personality, warm sense of humor, and impressive knowledge of American history and current events.

Mr. Speaker, America and Ireland have enjoyed a strong and enduring bond of friendship over the years. Those who have come here to begin a new chapter of their lives have enriched America tremendously by sharing their ideas, their literature, their music and their traditions. One of our most beloved Presidents, JOHN F. KENNEDY, drew us closer to his ancestral homeland through his wit and wisdom and made all Americans proud. As we continue to strengthen our ties with the people of Ireland, we are pleased to open our hearts and our doors to Mr. Niall Casey.

After taking his citizenship oath, Mr. Casey will celebrate with neighbors and well-wishers, including Carrol F. White III, a friend and colleague.

Mr. Speaker, we are all fortunate to live in this land of opportunity, and Mr. Casey embodies the qualities that have made our nation great: a spirit of entrepreneurship, industriousness, devotion to community, and love of country. I know my colleagues join me in congratulating Mr. Casey on becoming an American citizen and in wishing him continued success.

IN LASTING MEMORY OF JACKSON T. STEPHENS

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. ROSS. Mr. Speaker, I rise today to honor the life and legacy of a charitable and respected Arkansan, Jackson T. Stephens. Mr. Stephens passed away on July 23, 2005 at the age of 81. He was a businessman and philanthropist who lived an exemplary life of tremendous accomplishments and I wish to recognize his life and achievements.

Born in Grant County on August 9, 1923, Mr. Stephens grew up on a farm near Prattsville, Arkansas, the youngest of six children. A child of the Great Depression and humble beginnings, Mr. Stephens learned the importance of hard work and how to earn his keep. Prior to attending college, Mr. Stephens joined his father on the family farm, and by the age of fifteen, held numerous jobs at the Barlow Hotel in Hope. Upon graduation from high school, Mr. Stephens attended the University of Arkansas in Fayetteville and graduated from the U.S. Naval Academy in 1946.

After graduation from the naval academy, Mr. Stephens joined his brother, Witt, in Little Rock at a municipal bond house. By 1956, Mr. Stephens and his brother bought the Fort Smith Gas Company, calling it Arkansas Oklahoma Gas Company, and an oil and gas exploration firm, renaming it the Stephens Production Company. Stephens, Inc. became the umbrella organization for the businesses, and later Stephens Media Group. Mr. Stephens served as Chief Executive Officer of Stephens, Inc. for 29 years, until 1986.

In addition to becoming one of the world's most successful entrepreneurs, Mr. Stephens was extraordinarily charitable. In 2002, he donated $48 million dollars to the University of Arkansas for Medical Sciences, the largest donation the University of Arkansas has ever seen. Mr. Stephens also gave $20 million to the Episcopal Collegiate School, $20.4 million to the University of Arkansas at Little Rock, $5 million to Harding University, and $10 million to his alma mater, the U.S. Naval Academy. Mr. Stephens once said, "There are only two pleasures associated with money. Making it and giving it away." For 20 years, Mr. Stephens was the primary contributor for The Delta Project, a program aimed at educating underprivileged children in the Arkansas Delta. Mr. Stephen's immense generosity did not end with education. Mr. Stephens was also a remarkable supporter of the arts, and permanently donated to the Arkansas Arts Center in Little Rock his personal collection of artwork that include the likes of Degas, Monet, Picasso and Wyeth.

Mr. Stephens also had a tremendous love for golf as evidenced by his enviable handicap of five. He was invited to join the prestigious Augusta National Golf Club in Georgia in 1962, and served as the chairman of the institution from 1991–1998.

Mr. Stephens's contributions to his community and the state of Arkansas did not go unnoticed. In 1965, Mr. Stephens was honored with the Distinguished Alumnus Citation from the University of Arkansas and in 1985, was bestowed an honorary law degree by the University. He received the Horatio Alger Award in 1980 and the J. William Fulbright Award for international trade development in 1989. Mr. Stephens was not only a proud member of the Arkansas State Golf Hall of Fame, but also the Arkansas Business Hall of Fame and the Arkansas Sports Hall of Fame.

From a Grant County farm boy raised during the depression, Mr. Stephens turned a small business acquisition into a global enterprise. Mr. Stephens will not only be remembered for his savvy business entrepreneurial skills, but also for his tremendous generosity to underprivileged children, education, and a tremendous appreciation of the arts.

I extend my deepest and sincerest sympathies to Mr. Stephens's wife, Harriet, their sons, Steve and Warren, their six grandchildren, Caroline, Jackson, Mason, Miles, John, and Laura; two great grandchildren, Sydney and Bruce; and two adopted children, Kerry LaNoche and James.

COOK COUNTY LEADS THE NATION IN SUPPORT OF IMMIGRATION REFORM

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Ms. SCHAKOWSKY. Mr. Speaker, last week, the Cook County Board of Commissioners passed unanimously an historic resolution in support of S. 1033 and H.R. 2330, the Secure America and Orderly Immigration Act of 2005. The resolution urges the passage of common sense and realistic legislation that gives a path to citizenship for America's hardworking immigrants. This is the first resolution of its kind in the nation and was supported by the Illinois Coalition for Immigrant and Refugee Rights, leaders from business, labor, community organizations and diverse faith traditions, as well as Governor Blagojevich.

America is a nation of immigrants. Nowhere is that more evident than in the 9th Congressional District of Illinois. We rely on the labor and other contributions of immigrant workers, especially undocumented immigrants. Twenty percent of jobs in Chicago's growing restaurant, hotel, and manufacturing sectors function because of immigrants who support our economy. I believe this diversity is a source of incredible strength. Immigrants who come to this country work hard to provide for and educate their children and have a better life.

The Cook County resolution recognizes the need for immigration reform. The current immigration system separates families, reduces the effectiveness of national security programs, allows labor abuses, and neglects the hard work and taxes that immigrants contribute to this county. In order for immigrants to succeed, they need immigration laws that make sense, that keep families together, that allow them to send their kids to college, that help them get better jobs and that ease their way to citizenship.

The Secure America and Orderly Immigration Act is our opportunity to enact comprehensive immigration reform. Sponsored in the Senate by Senators McCain and Kennedy and in the House by my Illinois colleague Rep. Gutierrez, it would provide opportunities for immigrants to earn legal status and fully realize their American dream, while protecting our borders.

I support this bipartisan immigration reform plan because it includes access to earned legalization and citizenship, guarantees protections for immigrant and U.S. workers, and addresses the current backlogs of family members who have wiated up to ten years to reunite with their families in the United States. Immigrants have historically and continue to this day to contribute to our economy and to the diversity and well-being of our communities. It is time for a comprehensive immigration reform.

I am pleased that the Cook County Board of Commissioners has unanimously passed this historic resolution. I urge my colleagues to look at the resolution, which I hope is the first of many, and support H.R. 2330.

COOK COUNTY BOARD OF COMMISSIONERS RESOLUTION—RESOLUTION SPONSORED BY THE HONORABLE ROBERTO MALDONADO, COOK COUNTY COMMISSIONER

Whereas, the United States were founded by immigrants, who have traveled from around the world to seek a better life; and

Whereas, the United States has a undocumented population of eleven million immigrants, including a half a million in Illinois, more than 300,000 of which reside in Cook County; and

Whereas, Cook County's undocumented immigrants fill key roles in our economy such as paying taxes (including contributions to Social Security that they cannot receive back), raising families, and contributing to our schools, churches, neighborhoods, and communities; and

Whereas, our current immigration system contributes to long backlogs, labor abuses, countless deaths on the border and vigilante violence and is in dire need of reform to meet the challenges of the 21st Century; and

Whereas, any comprehensive reform must involve a path to citizenship for these hardworking immigrants, as well as reunification of families and a safe and orderly process for enabling willing immigrant workers to fill essential jobs in our economy and ensure full labor rights; and

Whereas, U.S. Representative Luis Gutierrez has joined with U.S. Senators Edward Kennedy of Massachusetts and John McCain of Arizona to offer a comprehensive U.S. immigration reform law known as The Secure America and Orderly Immigration Act; and

Whereas, the immigration initiative severely punishes illegal employment practices while creating a path to earned permanent legal status for individuals who have been working in the United States, paying taxes, obeying the law and learning English and protecting workers by ensuring the right to change jobs, join a union and report abusive employment situations; and

Whereas, modernizing our antiquated and dysfunctional immigration system will uphold our nations basic values of fairness, equal opportunity, and respect for the law: Now, therefore, be it

Resolved, that we, the President and the members of the Cook County Board of Commissioners do hereby support comprehensive immigration reform and memorialize the Illinois Congressional delegation to urge the passage of The Secure America and Orderly Immigration Act of 2005 (SB 1033 and HB 2330) that allows every hardworking, law-abiding individual to achieve the American Dream; and be it further

Resolved, that a suitable copy of this Resolution be delivered to the President of the United States, the Speaker of the House of Representatives, the President of the Senate, and the Illnois Congressional Delegation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 28, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 7

Time to be announced

Homeland Security and Governmental Affairs

To hold hearings to examine NASA passenger aircraft.

SD–562

SEPTEMBER 20

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.

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